

PUBLIC BUILDING COMMISSION OF CHICAGO



**REQUEST FOR QUALIFICATIONS
FOR
GEOTECHNICAL SERVICES
FOR
VARIOUS PROJECT SITES
PS1558**

Issued on Monday, July 6, 2009
RESPONSES ARE DUE ON TUESDAY, JULY 28, 2009

Responses must be submitted in sealed envelope(s) or package(s). The outside of each must clearly indicate the name of your firm and the name of the Submittal.

**SUBMIT ONE (1) ORIGINAL AND FIVE (5) COPIES (3 PAPER COPIES, 1 UNBOUND COPY AND 1 CDROM) OF
THE SUBMITTAL**

TO:

Public Building Commission of Chicago

Richard J. Daley Center, Room 200

50 W. Washington Street

Chicago, Illinois 60602

www.pbcchicago.com

Mayor Richard M. Daley

Chairman

Erin Lavin Cabonargi

Executive Director

SUBMISSION CHECKLIST

Please review submission and ascertain that all applicable forms are complete and additional required documentation is attached. The submission must be signed by an authorized officer of the firm.

1. _____ Transmittal Letter
2. _____ Table of Contents
3. _____ Executive Summary
4. _____ Copy of Joint Venture Agreement (if applicable)
5. _____ Project Organization Chart
6. _____ Detailed Organization Chart
7. _____ Financial Statements
8. _____ Quality Assurance/Quality Control Plan
9. _____ Copy of each applicable license and resume
10. _____ Copy of current MBE/WBE certification letter (if applicable)
11. _____ ATTACHMENT A – General Information
12. _____ ATTACHMENT B – Relevant Experience
13. _____ ATTACHMENT C - Legal Actions (Attach additional information as necessary.)
14. _____ ATTACHMENT E - Insurance (Provide proof of Insurance)
15. _____ ATTACHMENT F - Disclosure of Retained Parties

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I. KEY INFORMATION ABOUT THIS RFQ

1. **RFQ CONTACT:** The RFQ Contact, identified below, is the sole point of contact regarding the RFQ from the date of issuance until selection of the successful Consultant.

Contract Officer

Gary S. Bell

Public Building Commission of Chicago

50 West Washington, Room 200

Chicago, Illinois 60602

Fax (312) 744-3572

garybell@cityofchicago.org

2. **QUESTIONS:** Please direct all written questions (and requests for American Disabilities Act accommodations) to the RFQ Contact. Questions received less than seven calendar days prior to the due date and time may be answered at the discretion of the Public Building Commission ("PBC"). We will post the answer in the PBC website, which may be viewed at www.pbcchicago.com.

3. **SUBMISSION DEADLINE AND PROCUREMENT TIMETABLE:** The following dates are set forth for informational and planning purposes; however, the Public Building Commission reserves the right to change the dates. Notice of any changes will be provided via addendum.

Issue RFQ July 06, 2009

Due Date and Time for Submissions..... July 28, 2009 at 12:00 PM Local Time

4. **NUMBER OF COPIES:** Submit a signed original copy, three (3) copies, plus one (1) additional copy without binding and one (1) compact disk (CD) of the electronic (PDF) copy of the submittal in a sealed envelope or container.

5. **SUBMIT QUALIFICATION TO:**

Gary S. Bell, Contract Officer

Public Building Commission

50 West Washington Street, Room 200

Chicago, Illinois 60602

6. **RIGHT TO CANCEL:** The PBC reserves the right to cancel this procurement process whenever the best interest of the PBC is served. The PBC shall not be liable for costs incurred by Consultants associated with this procurement process.

PUBLIC BUILDING COMMISSION OF CHICAGO

REQUEST FOR QUALIFICATIONS GEOTECHNICAL SERVICES PS1558 FOR VARIOUS PROJECT SITES

II. DEFINITIONS

2.1 Definitions

Throughout this RFQ these terms have the following meanings:

"PBC" means the Public Building Commission of Chicago.

"Agreement" means the contract for Geotechnical Consultant that is to be entered into between the PBC and the selected Respondent pursuant to this RFQ.

"Authorized Commission Representative" means one or more persons designated in writing by the Executive Director for the purposes of assisting the PBC in managing the Project. As specifically directed by the PBC, the Authorized Commission Representative will act on behalf of the PBC.

"Include." Whenever the term "include" (in any of its forms) is used, it means "include, without limitation."

"Respondent" means the firm(s), individual(s), corporation(s), partnership(s) and joint venture(s) that submit responses pursuant to this RFQ.

"RFQ" means this Request for Qualifications, including all Exhibits and Addenda.

"Selected Respondent" or "Consultant" means the individual, partnership, corporation or joint venture that the PBC selects for award of a contract pursuant to the RFQ.

"Services" means all the tasks for which the PBC engages the Selected Respondent.

"Sub-consultant" means individual(s), partnership(s), corporation(s), or joint venture(s) that the Respondent engages to provide specialized services required by the Agreement.

"Submittal" means all materials submitted in response to this RFQ.

2.2 Interpretations

- 2.2.1** Any headings in this RFQ are for convenience of reference only and do not define, limit, control or affect the meaning of the RFQ's provisions. In this RFQ, unless the context otherwise requires, the terms "hereby," "herein," "hereof," "hereto," "hereunder" and any similar terms used in this RFQ refer to this RFQ. All section references, unless otherwise expressly indicated, are to sections of this RFQ. Words of any gender shall be deemed and construed to include correlative words of the other gender. Words indicating the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to

any such exhibits or documents entered into in accordance with the terms and conditions of this RFQ and such documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this RFQ.

2.2.2 Unless a contrary meaning is specifically noted elsewhere, the words “as required,” “as directed,” “as permitted” and similar words used in the RFQ mean that requirements, directions of and permission of the Executive Director are intended; similarly, the words “approved,” “acceptable,” “satisfactory” or words of like import mean “approved by,” “acceptable to” or “satisfactory to” the Executive Director. Words such as “necessary,” “proper” or words of like import mean that the Services must be performed in a manner or be of character which is “necessary” or “proper” in the sole opinion of the Commission.

2.2.3 Unless a contrary meaning is specifically noted elsewhere, the words “approved,” “reasonable,” “suitable,” “acceptable,” “properly,” “satisfactory” or words of like effect and import used in the RFQ means reasonable, suitable, acceptable, proper or satisfactory in the sole judgment of the Commission .

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III. NATURE OF SERVICES

3.1 Intent:

The PBC is soliciting qualification / proposals from firms or teams interested in performing Geotechnical Investigation and Reporting which shall consist of but not limited to Field Investigation, Laboratory Analysis and Evaluations, Foundation Engineering Evaluations, Project Coordination, and providing recommendations and reporting on **all** phases of various public projects. The PBC will select five (5) to ten (10) of the most highly qualified Consultants for inclusion in a pool of Pre-Qualified firms on various projects from the planning phase through the design and construction phase for the next six (6) years.

3.2 General Scope of Services:

The pre-qualified pool of Geotechnical Engineering Consultants (referred to in this Attachment as the "Respondent") will enter into Task Order agreements with the PBC. They will provide, on a Task Order basis, all Services required to complete Geotechnical Investigation and Reporting of the assigned project or projects during the planning, design and construction phase. The PBC will utilize the task order process to select a single Consultant to perform **all** related Services for each project. Section III., Subpart 3.6, Task Order Services Request and Award Process, Page 10, delineates the task order assignment process to be followed.

Respondents will be responsible for the professional, technical accuracy and completeness of the Geotechnical Report and any other reports deemed necessary by the PBC.

The Geotechnical Consultant shall attend a coordination meeting with the PBC and Architect of Record prior to proceeding with the work. Further, the consultant shall make themselves available for Special Meetings as deemed necessary by the PBC.

Project specific information shall be provided by PBC Project Manager to the Consultant to include, but not limited to, the following:

- a. Basic Project Information (Project Name, Location, Description, etc.)
- b. Existing Site Survey
- c. Site Aerial Photo
- d. Proposed Soil Boring Location Map (by Engineer of Record if required)

3.3 Field Investigation:

The Consultant must verify permitting requirements and secure permits as required.

The Consultant must comply with local regulations and codes.

Prior to commencing with initial geotechnical screening and any field investigation activities, the Consultant and its selected drilling sub-Geotechnical Engineering Consultant will contact DIGGER to mark underground utilities in public rights-of-way. The Consultant shall verify the locations of any utilities on site. The Consultant shall be responsible for any damage done to utilities.

Benchmark: The Consultant shall establish one (1) permanent benchmark with a description and elevation to the nearest 0.01 feet and reference its elevation to the official City of Chicago datum.

Percolation Test: The Consultant shall develop a percolation test plan based on the actual site characteristics and basic project information. The proposed test locations shall be indicated on a sketch accompanying the Consultant's proposal. The percolation tests should refer to guidelines for BMPs in City of Chicago Stormwater Management Ordinance Manual. Locate tests at proposed parking and landscaped areas. Indicate proposed percolation test procedures.

Boring Location Plan: The Consultant shall develop an initial geotechnical screening boring location plan based on the actual site characteristics and basic project information. The location and depth of proposed borings shall be indicated on a sketch accompanying the Consultant's proposal. If the Consultant finds it necessary to change the location and depth of any of the proposed borings, the PBC Project Manager shall be notified and a new location or depth shall be agreed upon between the PBC Project Manager and the Consultant.

Borings: The following are suggested guidelines for number and depth of soil borings for the initial project geotechnical screening purposes. The Consultant is responsible for developing/ recommending his/her own plan based off real-time site information.

- a. Number of Soil Borings
 - 1) Building: Drill a minimum of one (1) boring per 3,000 square feet of proposed building.
 - 2) Parking / Site: Drill a minimum of one (1) boring per 6,000 square feet of proposed parking area and/or site development.
- b. Depth of Soil Borings
 - 1) Building: Drill a minimum of two (2) borings to 50 feet depth or to refusal (50 blows/6 inches of penetration), whichever occurs first; the remaining soil borings shall be drilled to 15 feet depth.
 - 2) Parking / Site: Drill all borings to 10 – 15 feet depths or to refusal (50 blows/6 inches of penetration), whichever occurs first.

Soil borings shall be drilled in accordance with the American Society for Testing and Material (ASTM) Standard D 1586, Penetration Test and Split-Barrel Sampling of Soils. Soil borings shall not be terminated in loose and/or soft soils, consult with PBC Project Manager prior to the termination of that soil boring to ensure that the available data collected will provide adequate design information. If cohesive soils are encountered, undisturbed soil samples shall be obtained with Shelby Tube sampler in accordance with ASTM Standard D 1587, Thin-Walled Tube Sampling of Soils. Obtain one undisturbed sample for each 10 feet of cohesive soil encountered. Record groundwater level measurements during drilling, at completion of boring, and 24 hours following the completion of the boring, and at completion of entire work, as applicable, and record any cave-ins. Install two (2) piezometers for checking ground water table. Provide infiltration and exfiltration data. Take readings on a weekly basis for two (2) months.

Borings should be pushed until resistance is encountered. The Consultant shall advise the PBC Manager as to any further exploration and testing required to obtain information that the engineer may require for a professional interpretation of subsoil conditions at the building site. Retain a surveyor to stake out the boring locations and accurately establish, by engineer's level or transit, the ground surface elevation of each boring.

Soil borings, to confirm the feasibility of infiltration designs or refine their design or locations, are to be located at the proposed infiltration device location. Provide data / information per City of Chicago Stormwater Management Guidance Manual Section 3.2.1.1 Geotechnical Investigations (go to <http://www.cityofchicago.org> and follow these links: City Departments>Environment>Initiates & Programs>Water Quality & Stormwater Management).

Drilling and Sampling Methods: The Consultant shall perform drilling and sampling in accordance with ASTM Standards D 1586 and D 1587, as applicable. Standard Penetration Test N values shall be recorded, as a minimum at 2.5, 5.0, 7.5, and 10.0 feet depths and then at 5.0-foot intervals there onwards. Soil samples shall be classified in accordance with ASTM Standards D 2487 and D 2488. Samples shall be preserved and field logs prepared by either a Consultant or an experienced soils technician under the supervision of a Consultant. The depth of the borings is to be determined by the Consultant based on the anticipated foundation loads given above and the expected soil profile in the area. Unconfined compressive strength values of cohesive soil samples, using a pocket penetrometer, shall be obtained in the field and recorded on the field logs as applicable.

Protection of Property: The Consultant shall contact the PBC Project Manager and all utility companies for information regarding buried utilities and structures, shall take all reasonable precautions to prevent damage to property both visible and concealed, and shall restore the site to the conditions existing prior to the Consultant's entry.

3.4 Laboratory Testing:

The Consultant shall perform laboratory work in accordance with recognized tests and procedures. Perform only those tests outlined in the letter of authorization or specifically requested as a result of fieldwork.

Building Area Soil Samples: At a minimum, assume one (1) representative soil sample from each soil layer encountered in each soil boring for laboratory testing as follows:

- a. Cohesionless (granular) Soils: Particle size distribution (ASTM D 422) and Unified Soil Classification (USCS) per ASTM D 2487/D 2488; relative density test.
- b. Cohesive (clayey) Soils: -#200 Sieve Size (ASTM D 1140), Atterberg Limits (Liquid Limit and Plastic Limit) per ASTM D 4318, USCS per ASTM D 2487/D 2488, Unconfined Compressive Strength of Cohesive Soils (ASTM D 2166) (one test per boring), and One-Dimensional Consolidation Properties of Soils (ASTM D 2435) (0 to 2 tests for the entire project depending on the soil types encountered), water content test, modified proctor test.
- c. Obtain organic content for top soil and fill materials.
- d. Obtain the lateral pressure and soil bearing capacity of soil at borings within the proposed building footprint.

3.5 Geotechnical Reporting

3.5.1 *Field and Laboratory Reporting Requirements:* Prepare reports in accordance with the following:

- a. Report immediately any unusual conditions encountered such as peat, rock outcroppings, cattails, soil stockpiles, etc.
- b. Record all data in accordance with the latest ASTM standards.
- c. Include with the report a chart illustrating the soil classification criteria and the terminology and symbols used on the boring logs.
- d. Identify the ASTM standards utilized. For percolation tests, describe test procedures.
- e. Provide a site plan giving dimensioned locations of test borings and percolation tests.
- f. Provide vertical sections for each boring plotted and graphically presented showing number of borings, sampling method used, date of start and finish, surface elevations, description of soil and thickness of each layer, depth to loss or gain of drilling fluid, hydraulic pressure required or number of blows per foot, and depth and elevation of ground water. Note the location of strata containing organic materials, wet materials or other inconsistencies that might affect engineering conclusions.
- g. Describe the existing surface conditions, and provide a figure showing generalized subsurface as well as summarize the subsurface conditions.
- h. Report all laboratory determinations of soil properties.
- i. Report results of borings (in minutes per inch) for infiltration practices and of percolation tests per Chicago Stormwater Management Guidance requirements to support on-site storm water management strategies.

3.5.2 *Disposition of Samples:* Retain samples at the Consultant's office until foundation installation is complete, and then dispose all remaining soil samples at a Subtitle D Landfill Facility.

3.5.3 *Evaluation and Recommendations:* The Consultant shall analyze the information developed by investigation and submit a professional evaluation and recommendations for the necessary areas of consideration, including, but not limited to, the following:

- a. Method of lateral force transfer between footing and supporting soil, foundation support of the structure and slabs, including allowable bearing capacity, recommended foundation depths/elevations, foundation design recommendations (shallow and/or deep foundations) and anticipated settlements (max total settlement and differential settlement).
- b. Anticipation of, and management of, groundwater for design of structures and pavements.
- c. Material and compaction requirements for site fill, construction backfill, and for the support of structures and pavements.
- d. Vertical subgrade modulus for design of pavements or slabs.
- e. Recommendations for any further testing required. (i.e. shear vane test for caissons)

3.5.4 *Presence at Meetings:* The Consultant shall be available for two (2) meetings to discuss the investigation results

to the PBC Project Manager and assigned Civil and Structural Engineering team members.

- 3.5.5 *Deliverables:* Provide draft electronic report along with the text in Word for first draft review. After incorporating comments, submit five (5) hard copies of the Final Report (including Soil Borings Location Plan, Soil Borings Logs, and Soil Report and Analysis) and one electronic PDF file on CD to the PBC Project Manager within 30 days following the authorization to begin work or one week after receiving comments. During construction, submit single copies of rough field boring logs (submitted daily).

3.6 TASK ORDER SERVICES REQUEST AND AWARD PROCESS

Pre-Qualified Geotechnical Consultants must perform all of the ordered and required Services in a satisfactory manner consistent with the standard of performance stated in Section 3, Subpart B of the Agreement. Such Services will be determined on an as-needed basis and as described in a Task Order Services Request. Consultants will be responsible for the professional and technical accuracy and completeness of all reports.

3.6.1. Issuance of Task Orders

3.6.1.1. All Services must be authorized by a written Task Order. Pre-Qualified Geotechnical Consultants acknowledge and agree that the PBC is under no obligation to issue any Task Orders for Services.

3.6.1.2. The PBC may issue a Task Order Request specifically referencing this Agreement, identifying the project, and setting forth the Services to be performed pursuant to the proposed Task Order and a desired completion date.

3.6.1.3. The PBC has the discretion to issue a task order to the Pre-Qualified Geotechnical Consultants one of the following manners:

(a) Rotational Basis: In an effort to ensure equitable distribution of the task orders, the PBC may opt to assign the work on a rotational basis

(b) Solicit competition for a limited number of Geotechnical Consultants: In an effort to ensure competition, the PBC reserves the right to solicit pricing from a subset of the pre-qualified pool of vendors on a rotational basis.

(c) Sole Source: The PBC reserves the right to award a task order to an individual Environmental Consultant. A sole source assignment may be the option of choice when:

- 1) The project requires specific expertise;
- 2) The PBC is attempting to meet the PBC's M/WBE bi-annual aspirational goals;
- 3) The emergency nature of the assignment.

Pre-Qualified Geotechnical Consultants must respond to the Task Order request by proposing a time schedule, budget, deliverables and a list of key personnel, all of which must conform to the terms of the Task Order Request and the terms and conditions of the Agreement.

Costs associated with the preparation of Task Orders are not compensable under the Agreement and the PBC is not liable for any additional costs.

3.6.2. Acceptance of Task Orders

3.6.2.1 Upon acceptance of Pre-Qualified Geotechnical Consultant's response to the Task Order Services Request, the PBC may, by written Task Order signed by the Executive Director, direct the Pre-Qualified Geotechnical Consultant to perform the Task Order Services.

3.6.2.2. Pre-Qualified Geotechnical Consultants must not commence Services under the Task Order until the written approval of the Executive Director has been obtained, and the PBC is not liable for any cost incurred by the Pre-Qualified Geotechnical Consultant without such approval.

3.7 TERM OF CONTRACT

The contract is effective on the date of execution for a period of six (6) years with no options to renew.

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IV. INSTRUCTIONS FOR PREPARING AND SUBMITTING SUBMISSIONS

4.1 GENERAL INSTRUCTIONS:

- a. These instructions prescribe the format and content of the Submission. They are designed to facilitate a fair and uniform review process. Failure to adhere to this format will affect the PBC's evaluation and may result in disqualification of the Submission. However, the PBC reserves the right to reject or accept any submittals for any reason whatsoever.
- b. Submittals should be bound on the long side and prepared on standard 8½" x 11" letter size paper, with two-sided material only. Separate each section by labeled tabs and organize in accordance with submittal requirements listed below. Expensive papers and bindings are discouraged since no materials will be returned. Of the six (6) submittals, at least one (1) must contain original signatures and be marked **ORIGINAL**, one (1) must be submitted without any binding so as to facilitate additional copying by the PBC as required and one must be in electronic format on a CD-ROM. Failure to submit the required number of copies may prevent the Submission from being evaluated within the allotted time.
- c. The PBC reserves the right to seek clarification of information submitted in response to this RFQ during the evaluation and selection process. The Evaluation Committee (the "Committee") may solicit from previous clients (including the PBC, the City of Chicago, other government agencies, or any other available sources) relevant information concerning the firm's record of past performance.
- d. Attachments must be referenced in the Submission.
- e. Failure to submit the required documents may deem your firm non-responsive.
- f. **The outside of each envelope or package must be addressed and returned to:**

Public Building Commission of Chicago
Re: GEOTECHNICAL SERVICES for
Various Project Sites

PS1558

Richard J. Daley Center, Room 200
50 W. Washington Street
Chicago, Illinois 60602
Attention: Gary S. Bell – Contract Officer

4.2 SUBMITTAL REQUIREMENTS

4.2.1 RESPONSIVENESS. Respondent's compliance with all submission requirements.

4.3 TECHNICAL SUBMISSION: The following documents and responses will be included in the Technical Submission and tabbed as such in the order given below:

4.3.1 TRANSMITTAL LETTER: An individual authorized to legally bind the Respondent must sign the transmittal letter. The person who signs the transmittal letter will be considered the contact person for all matters pertaining to the Submittal unless the Respondent designates another person in writing. The letter must include the Respondent's mailing address, e-mail address, fax number and telephone number.

The Transmittal Letter must identify all firms in the project team composition, as well as must indicate the Respondent is prepared to enter into an agreement in the form being offered. Attachment G – Form of Agreement contains the standard Terms and Conditions of the agreement which are not subject to negotiation.

4.3.2 **TABLE OF CONTENTS:** The Respondent shall include a table of contents in its Submission. Submissions must be page numbered sequentially from front to back.

4.3.3 **EXECUTIVE SUMMARY:** The Geotechnical Engineering Respondent's must prepare an Executive Summary and overview of the services it is proposing including all of the following information:

4.3.3.1. Demonstrate that the Respondent understands the services as specified in RFQ, "Project Overview". Please limit to one page.

4.3.3.2. Statement of qualifications. Please limit to two pages.

4.3.3.3. Project Approach. Describe your approach to managing a typical project from planning through design and construction phase. Please limit to one page.

4.3.3.4. Provide an organization chart illustrating the structure of the Respondent's proposed team and demonstrate an understanding of the services required and ability to identify appropriate personnel for the services required.

4.3.3.5. Provide an explanation of how the Respondent satisfies the evaluation criteria. Please limit to one page.

4.3.3.6. Minority and Women Owned Business Enterprises

The PBC affirmative action requirements are set forth with particularity in Attachment D, "Special Conditions Regarding the Utilization of Minority and Women Owned Business Enterprises". The Respondent is required to make a statement of understanding and commitment to comply with the aforementioned Special Conditions on assigned task orders. The attachment includes various affidavits, certifications and other reporting forms, for the Respondent's review.

4.3.4 **PROJECT ORGANIZATION CHART**

4.3.4.1. Provide a organization chart that indicates your proposed management and personnel structure for a typical project.

4.3.5 **KEY PERSONNEL**

4.3.5.1. Demonstrate the availability and strengths of personnel and staffing to be dedicated to the services requested.

4.3.5.2. Provide no less than six (6) resumes of local key personnel that will be working on PBC projects.

4.3.5.3. Provide a summary list of the individuals for which résumés have been provided, and the years that those individuals have been with their current firms.

4.3.5.4. Copies of current licenses for the on-staff Geotechnical consultants, project managers and key personnel.

4.3.6 **FINANCIAL STRENGTH**

The Respondent shall furnish financial statements, such as balance sheets and/or profit and loss statements, for the last three (3) years demonstrating that the Respondent has the financial viability and ability to perform the Services. The Respondent shall also submit annual reports and a written disclosure advising of any pending litigation against the Respondent that may have a material effect in Respondent ability to provide the Services.

4.3.7 **QUALITY ASSURANCE / QUALITY CONTROL (QA/QC) PLAN**

The Respondent must provide a QA/QC Plan, as well as references for each prior engagement.

4.3.8 **INSURANCE REQUIREMENTS**

The selected Respondent must maintain the types of insurance coverage described in Attachment

E – Insurance Requirements. As such, each submission must be accompanied by written evidence of the Respondent's ability to procure the insurance specified in Attachment E and must include a certificate of insurance showing required limits. Indemnification requirements are contained in the Agreement. Indemnification obligations are independent of and unlimited in any manner by the Selected Respondent's insurance coverage. The limits will depend upon the type of activity involved and will be as prescribed by the PBC's Risk Manager. The limits set forth in Attachment F – Form of Agreement, are required by the PBC's intergovernmental agreement with its User Agency client, and are not negotiable.

The PBC reserves the right to require the selected Respondent to furnish certificates of insurance or, if the PBC so requires, certified copies of the original policies of all insurance required by the RFQ. The receipt of any certificate of insurance does not constitute agreement by the PBC that the insurance requirements of the RFQ have been fully met, or that the insurance policies indicated on the certificates are in compliance with all requirements of the RFQ. Failure of the PBC to request or obtain certificates or other evidence of insurance from the selected Respondent shall not be deemed to be a waiver by the PBC.

4.4 REQUIRED FORMS:

4.4.1 ATTACHMENT A - FORM A. – GENERAL INFORMATION ABOUT THE RESPONDENT

4.4.1.1 Copy of Joint Venture Agreement (if applicable)

4.4.1.2 Copy of each applicable license

4.4.1.3 Copy of current MBE/WBE certification letter (if applicable)

4.4.1.4 Copy of sample insurance certificate or statement of ability to comply with insurance requirements identified in Attachment A, Section IV.

4.4.1.5 Anti-Collusion.

4.5 ATTACHMENT B – SECTION A - RELEVANT EXPERIENCE

4.5.1 Attach resumes of Key Personnel. Complete Attachment B – Relevant Experience.

4.6 ATTACHMENT C – LEGAL ACTIONS

4.6.1 Attach additional information as necessary.

4.7 ATTACHMENT D – SPECIAL CONDITIONS FOR M/WBE UTILIZATION

4.8 ATTACHMENT E – INSURANCE REQUIREMENTS

4.9 ATTACHMENT F - DISCLOSURE OF RETAINED PARTIES

4.10 ATTACHMENT G - FORM OF AGREEMENT

4.11 REJECTION OF SUBMITTALS: Submittals that do not comply with the submittal requirements of the RFQ, or that contain omissions, erasures, alterations or additions not called for, or that are irregular in any way, may be rejected as informal and insufficient. The PBC, however, reserves the right to waive any or all informalities when it considers a waiver to be in its and the public's best interest.

4.12 OWNERSHIP OF SUBMITTALS: The PBC owns all submitted materials. Submittals will not be returned to Respondents. During the evaluation and selection period and after the Selected Respondent(s) sign the Agreement(s), all Submittals remain the property of the PBC. The PBC shall not be responsible for expenses incurred in preparing and submitting the Submittal. Such costs shall not be included in the Submittal.

4.13 IMPROPER PRACTICES: The Respondent shall not offer any gratuities, favors, or anything of monetary value to any member of the Board of Commissioners of the PBC, official, or employee of the PBC for the purpose of influencing consideration of the Submittal. The Respondent shall not collude in any manner or engage in any practices with any other Respondent(s) or potential Respondent(s) that may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause the Respondents' response to this RFQ to be rejected by the PBC. Notwithstanding the foregoing, this prohibition is not intended to preclude joint ventures, licenses or subcontracts.

- 4.14 COMPLIANCE WITH LAWS:** The Selected Respondent must comply with all laws, statutes, ordinances and regulations of any governmental body, including the PBC and Federal, state, local and city governments. Respondents' attention is directed to the provisions of Article 33E of the Illinois Criminal Code, 720 ILCS 5/33E-1 et seq. (as amended), but Respondent'ss must comply with any other provisions that apply to or in any manner affect any Services performed under the Agreement.

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V. EVALUATION CRITERIA

5.1 SELECTION PROCESS

An Evaluation Committee (the "Committee") will review the Respondent's qualifications in accordance with submittal requirements and evaluation criteria set forth below and may recommend a short list of Respondents to the PBC Executive Director. At the Executive Director's discretion, short-listed Respondents may be invited to make oral presentations to the Committee after which the Committee will then summarize the evaluation process and results and submit its recommendation to the Executive Director. The Executive Director will make a final determination and request approval from PBC Board of Commissioners to select five (5) to ten (10) of the most highly qualified Consultants for inclusion in the Geotechnical Consultant Services pre-qualified pool.

The PBC reserves the right to seek clarification of information submitted in response to this RFQ and/or request additional information during the evaluation process. The PBC reserves the right to accept or reject any or all qualifications and selections when it is determined, at the sole discretion of the Executive Director, to be in the best interest of the PBC.

Cancellation: The PBC reserves the right to terminate this procurement at any stage if the Executive Director determines it to be in the best interest of the PBC. In no event is the PBC liable to Respondents for any cost or damages incurred by Respondents, sub-consultants, sub-Geotechnical Engineering Consultants or other interested parties in connection with the selection process, including but not limited to any and all costs of preparing the Request for Qualification/Proposal and participation in any conferences, oral presentations or negotiations.

5.2 EVALUATION CRITERIA

The Evaluation Committee will review the qualifications in accordance with the following criteria:

5.2.1 EXPERIENCE AND PAST PERFORMANCE

- a) The depth, breadth and relevance of Respondent's recent experience (past 6 years), capabilities and resources, at both the corporate and individual levels, in: (i) Laboratory services including available equipment and type of tests, (ii) Field services including quantity, type and adequacy of equipment, type of tests, and quality control, (iii) Design and Management services including analysis, design recommendations, CADD proficiency, and resource management and (iv) general knowledge of Chicago geology and subsurface conditions, as evidenced by the documents furnished in Respondent's submittal and **ATTACHMENT B – Relevant Experience**.
- b) Respondent's demonstrated ability to meet reporting, schedule, oversight and cost parameters in its prior engagements, as evidenced by the documents furnished, including, but not limited to, the Executive Summary and **ATTACHMENT B – Relevant Experience**.
- c) Evidence of Respondent's current and valid business and professional licenses as evidenced in the Executive Summary and **ATTACHMENT A – General Information about the Respondent**.

5.2.2 ORGANIZATION

- (a) Qualifications of key staff, including education, training, job performance in similar capacities on comparable projects and previous experience in providing services, including laboratory services, field services, design and management services.
- (b) Respondent's demonstrated understanding of the services required and ability to identify appropriate personnel for the services required as evidenced by an organization chart indicating key personnel who will be assigned to the PBC's project and the responsibility each will have in the performance of the services.
- (c) Respondent's description of their approach to managing the needs of a typical project from planning through design and construction.

5.2.3 FINANCIAL STRENGTH

The PBC will evaluate the Respondent's ability to attract and retain a highly qualified staff, as well as Respondent's demonstrated financial stability, as evidenced in the documents and references provided in Respondent's submittal.

5.2.4 MBE/WBE UTILIZATION PLAN

The quality of the Respondent's statement of understanding and commitment to comply with the PBC's Special Conditions found in Attachment D as evidenced in the Executive Summary. In addition, The PBC will evaluate the Respondent's past performance in meeting and/or exceeding the MBE and WBE goals on projects as indicated in Attachment B.

5.2.5 QUALITY ASSURANCE / QUALITY CONTROL (QA/QC) PLAN

The PBC will assess each Respondent's understanding of quality assurance and quality control, and their demonstrated ability to provide effective quality assurance and quality control services as evidenced by the QA/QC Plan. Respondent needs to specifically describe its QA/QC process for reviewing all reports prior to submission to the PBC. The quality of responses received from the QA/QC Plan references will be evaluated.

5.2.6 CONTRACT TERMS AND CONDITIONS

Evidence of the Respondent's understanding of the PBC's standard terms and conditions found in Attachment G, "Form of Agreement" to this RFQ. These terms and conditions are required by the PBC's intergovernmental agreement with its User Agency client, and are not negotiable.

5.2.7 INSURANCE REQUIREMENTS

The PBC will assess each Respondent's ability to procure and comply with the amounts of insurance coverage that is indicated in Attachment E - Insurance Requirements.

5.2.8 PROJECT ORGANIZATION CHART

The quality of the Respondent's proposed management and personnel structure for a typical project will be assessed as depicted in the Project Organization Chart.

5.2.9 RFQ COMPLIANCE / RESPONSIVENESS

PBC will review the quality, completeness and comprehensiveness of response to this RFQ and compliance with each of the submittal requirements.

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SECTION 1. FOR PROFIT CORPORATION OR LIMITED LIABILITY COMPANY (LLC)

a. State of Incorporation or organization _____

b. Authorized to do business in the State of Illinois: Yes [] No []

c. Names of all officers of corporation or LLC		Names of all directors of corporation	
(or attach list):		(or attach list):	
Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

d. If the corporation has fewer than 100 shareholders indicate here or attach a list of names and addresses of all shareholders and the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

e. If the corporation has 100 or more shareholders, indicate here or attach a list of names and addresses of all shareholders owning shares equal to or in excess of seven and one-half percent (7.5%) of the proportionate ownership of the corporation and indicate the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

f. For LLC's, state whether member-managed or identify managing member:

_____.

g. For LLC's identify each member:

Name (Print or Type)	Address	Ownership Interest
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

- h. 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.

SECTION 2. PARTNERSHIPS

- a. 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 of Partners (Print or Type)	Percentage Interest
_____	_____ %
_____	_____ %
_____	_____ %

SECTION 3. SOLE PROPRIETORSHIP

- a. 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 NO, complete items b. and c. of this Section 3.

- b. 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). (Print or Type)

- c. 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(s)	Address(es)
_____	_____
_____	_____
_____	_____

SECTION 4. LAND TRUSTS, BUSINESS TRUSTS, ESTATES & OTHER ENTITIES

If the bidder/proposer or Contractor is a land trust, business trust, estate or other similar commercial or legal entity, identify any representative, person or entity holding legal title as well as each beneficiary in whose behalf title is held including the name, address and percentage of interest of each beneficiary.

Name(s)	Address(es)
_____	_____
_____	_____
_____	_____

SECTION 5. NOT-FOR-PROFIT CORPORATIONS

- a. State of incorporation _____
- b. Name of all officers and directors of corporation (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: The Public Building Commission of Chicago may require additional information from any entity or individual to achieve full disclosure relevant to the transaction. Further, any material change in the information required above must be provided by supplementing this statement at any time up to the time the Public Building Commission of Chicago takes action on the contract or other action requested of the Public Building Commission.

II. MBE/WBE INFORMATION

Is Company a certified minority or woman business enterprise? Yes ___ No _____
 If yes, check one: MBE ___ WBE _____

Certified by: _____
 (Governmental Body or Agency)

Date of Certification _____

III. LICENSING

Is your firm licensed to do business in the City of Chicago, Cook County, Illinois?

Yes _____ No _____

List categories in which the firm or venture is licensed to do business and indicate registration or license numbers, if applicable. Please indicate which government entity issued the license.

Category	Registered License (or license number)	Organization issuing License	Intend to Perform? Yes/No

IV. INSURANCE

Attach a sample Certificate of Insurance which demonstrates the ability to obtain the coverages specified in **ATTACHMENT E - INSURANCE REQUIREMENTS.**

COMMITMENT TO COMPLY WITH THE INDEMNIFICATION PROVISIONS IN THE AGREEMENT AND ALL OTHER REQUIREMENTS.

I/We _____ an authorized representative of the Respondent agree to comply with indemnification provisions and all other requirements.

Signed by: _____

Title: _____

V. ANTI-COLLUSION

The Respondent, its agents, officers, or employees have not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this submittal or contract. Failure to attest to this section as part of the bid will make the bid non-responsive and not eligible for award consideration.

I declare that this Statement of General Information about Respondent has been examined by me and to the best of my knowledge and belief is a true, correct, and complete statement of the business organization.

Signature of Authorized Officer

Name of Authorized Officer (Print or Type)

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 or Contractor)

ATTACHMENT B (Continued)

6. Project Name: _____
 Project Location: _____
 Role on Project: Prime Subconsultant
 Owner: _____
 Contact Name: _____
 Owner's Current Phone Number: _____
 Total value of the project: \$ _____ Total fee received by Respondent: \$ _____
 Completed: Mo/Yr: _____
 MBE Goal: _____ MBE Goal Attainment: _____
 WBE Goal: _____ WBE Goal Attainment: _____

Key Personnel – Proposed Licensed Professional Engineers

Provide the names of licensed professional key personnel, such as but not limited to Project Engineer currently employed by the Respondent who worked on the projects listed above. Attach resumes of all individuals listed.

Name	Role	Project

Key Personnel – Proposed Quality Control/Assurance Individual

Provide the names of key personnel currently employed by the Respondent who worked on the projects listed in Part II sections A&B of this statement of qualifications. Attach resumes of all individuals listed.

Name	Role	Project

ATTACHMENT C – LEGAL ACTIONS

**REQUEST FOR QUALIFICATIONS
GEOTECHNICAL SERVICES
PS1558
FOR
VARIOUS PROJECT SITES**

If the answer to any of the questions below is **YES**, provide a brief description or explanation on a separate sheet following this page.

1. Has the firm or venture been issued a notice of default on any contract awarded to it in the last 3 years?

Yes _____, **Explain.** **No** _____

2. 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?

Yes _____, **Explain.** **No** _____

3. If the answer to the preceding question is “Yes”, enter the dollar amount of claims or judgments and the contract value of the contract on which the claim was filed. \$ _____

4. Within the past 3 years has the firm or venture been a party to any lawsuits or arbitration proceedings with regard to any contracts?

Yes _____, **Explain.** **No** _____

5. 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?

Yes _____, **Explain.** **No** _____

6. 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?

Yes _____, **Explain.** **No** _____

7. Has the firm or venture ever been temporarily or permanently debarred from contract award by any federal, state, or local agency?

Yes _____, **Explain.** **No** _____

8. Within the last 3 years, has the firm or venture been investigated or assessed penalties for any statutory or administrative violations?

Yes _____, **Explain.** **No** _____

9. Has the firm or venture ever failed to complete any work awarded to it?

Yes _____, **Explain.** **No** _____

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 (“COMMISSION”) 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 PBC 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 PBC 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 PBC Construction Contracts to certified MBEs and 5% of the annual dollar value of all PBC Construction Contracts to qualified WBEs.
- b. 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..
- c. 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 PBC 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, County of Cook, Metropolitan Water Reclamation District, Chicago Minority Business Development Council, Central Management Service of the State of Illinois, METRA, and Women’s Business Development Center.
 - (2) “Certified Women’s Business Enterprise” means a person or entity granted certification by the City of Chicago, County of Cook, Metropolitan Water Reclamation District, Chicago Minority Business Development Council, Central Management Service of the State of Illinois, METRA, and Women’s Business Development Center.
 - (3) “Professional Service Contract” means a contract for professional services of any type.
 - (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 and anticipated scope of work of the contract and the PBC’s progress towards meeting the aspirational goals.
 - (5) “Professional Service Provider” means any person or business entity that seeks to enter into a Professional Service Contract with the PBC and includes all partners, affiliates and joint ventures of such person or entity.
 - (6) “Executive Director” means the Executive Director of the PBC or his duly designated representative as appointed in writing.

(7) "Good faith efforts" means actions undertaken by a Professional Service Provider 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.

(8) "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.

(9) "Minority" means:

- a. Any individual in the following racial or ethnic groups, members of which are rebuttably presumed to be socially disadvantaged:
 - i. African-Americans or Blacks, which includes persons having origins in any of the Black racial groups of Africa;
 - ii. Hispanics, which includes persons of Spanish culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race; and
- b. Individual members of other groups, including but not limited to Asian-Americans, Arab-Americans and Native-Americans, found by the PBC to be socially disadvantaged by having suffered racial or ethnic prejudice or cultural bias within American society, without regard to individual qualities, resulting in decreased opportunities to compete in Chicago area markets or to do business with the PBC..

(10) "Minority-owned business enterprise" or "MBE" means a small local business enterprise which is at least 51% owned by one or more economically disadvantaged minority persons, or in the case of a publicly held corporation at least 51% of all classes of the stock of which is owned by one or more economically disadvantaged minority persons whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more economically disadvantaged minority persons.

(11) "Program" means the minority- and women-owned business enterprise construction procurement program established in this special condition.

(12) "Women-owned business enterprise" or "WBE" means a small local business enterprise which is at least 51% owned by one or more economically disadvantaged women or in the case of a publicly owned business, at least 51% of all classes of the stock of which is owned by one or more economically disadvantaged women, whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more economically disadvantaged women.

4. Determining MBE/WBE Utilization

The methodology for determining MBE and WBE utilization will be determined for purposes of analysis with respect to this contract as follows:

- a. 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.
- b. 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.
- c. 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.
- d. 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 PBC 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 certification by the City of Chicago, County of Cook, Metropolitan Water Reclamation District, Chicago Minority Business Development Council, Central Management Service of the State of Illinois, METRA, and Women's Business Development Center.
- (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 PBC. The Proposer agrees to provide, upon request, earnest and prompt cooperation to the Executive Director or his 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 PBC's review of a Proposer's proposal concludes that the MBE or WBE proposal was deficient, the PBC 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 PBC) a modification of the MBE or WBE Proposal, in proper format, which remedies the deficiencies cited. Failure to correct all deficiencies cited by the PBC 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 PBC. Therefore, all terms and conditions stipulated for prospective MBE and WBE consultants or suppliers should be satisfactorily negotiated prior to the submission to the PBC 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.

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-proposal conference;
 - (2) The Proposer'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;
 - (3) Advertisement in trade association newsletters and minority and woman-oriented and general circulation media for specific sub-consultants;
 - (4) Timely notification of specific sub-consultants to minority and woman assistance agencies and associations;
 - (5) Description of direct negotiations with MBE and WBE firms for specific sub-consultants, 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.
 - (6) 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.
 - (7) As to each MBE and WBE contacted which the Proposer considers to be not qualified, a detailed statement of the reasons for the Proposer's conclusion.
 - (8) Efforts made by the Proposer to expand its search for MBE and/or WBE firms beyond usual geographic boundaries.
 - (9) 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 Proposer, 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 Proposer;
 - (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. Failure To Achieve Goals

- a. If the Professional Service Provider 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 Professional Service Provider has made such good faith efforts, the performance of other Professional Service Providers in meeting the goals may be considered. The Executive Director or his designee shall consider, at a minimum, the Professional Service Provider'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 proposals. 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 Professional Service Provider'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 a 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 proposals to meet the goals.
 - (5) Making a portion of the work available to MBE or WBE sub=consultants and suppliers and to select those portions of the work or material consistent with the available MBE or WBE sub-consultants and suppliers, so as to facilitate meeting the goals.
 - (6) Making good faith efforts despite the ability or desire of a Professional Service Provider to perform the work of a contract with its own organization. A Professional Service Provider 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 PBC or Professional Service Provider.
 - (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 PBC ; minority or women community organizations; minority or women 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 Professional Service Provider did not make a good faith effort to achieve the goals, the Professional Service Provider may file a Dispute to the Executive Director as provided in Section 18.02. Disputes Book 2.

9. 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 PBC and/or its designees, on 5 business days' notice in order for the PBC 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-Consultants.

10. Disqualification of MBE or WBE

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.

- a. 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.

11. Prohibition On Changes To MBE/WBE Commitments

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 PBC, 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.

12. MBE/WBE Substitution Requirements and Procedures

- a. Arbitrary changes by the Professional Service Provider 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 Professional Service Provider 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 Professional Service Provider 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) The Professional Service Provider 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, if needed in order to sustain the fulfillment of the MBE/WBE contract requirements.

(2) The Professional Service Provider'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 sub-consultant to honor the 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 sub-consultant to meet insurance, licensing or bonding requirements; g) the sub-consultant's withdrawal of its proposal; or h) decertification of the sub-consultant as MBE or WBE.

(3) The Professional Service Provider'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 Professional Service Provider; 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.

The Profession Service Provider'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.

(4) The Executive Director will evaluate the submitted documentation, and respond within fifteen (15) working 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.

(5) 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) working 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.

- b. The Executive Director will not approve extra payment for escalated costs incurred by the Professional Service Provider when a substitution of sub-consultants becomes necessary for the Professional Service Provider in order to comply with MBE/WBE contract requirements.
- c. 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 Professional Service Provider to locate specific firms, solicit MBE and WBE proposals, seek assistance from technical assistance agencies, and other good faith efforts undertaken to achieve compliance with the MBE/WBE goals.

13. 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 PBC 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 PBC may disqualify the Professional Service Provider from entering into future contracts with the PBC.

14. Severability

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.

SCHEDULE B - Joint Venture Affidavit (1 of 3)

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

1. Name of joint venture _____

2. Address of joint venture _____

3. Phone number of joint venture _____

4. Identify the firms that comprise the joint venture

A. 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.)

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

5. Nature of joint venture's business

6. Provide a copy of the joint venture agreement.

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

8. Specify as to:

A. Profit and loss sharing _____%

B. Capital contributions, including equipment _____%

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

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

SCHEDULE B - Joint Venture Affidavit (2 of 3)

9. 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:

A. Financial decisions

B. Management decisions such as:

1) Estimating

2) Marketing and Sales

3) Hiring and firing of management personnel

4) Other

A. Purchasing of major items or supplies

B. Supervision of field operations

C. Supervision of office personnel

D. 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 therefore be reimbursed; the authority of each joint venturer to commit or obligate the other. Describe the estimated contract cash flow for each joint venturer.

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

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

free act and deed.

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
Subconsultant, Subconsultant, and/or Material Supplier (2 of 2)**

PARTIAL PAY ITEMS

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

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 Consultants.

_____ % of the dollar value of the MBE/WBE subcontract will be sublet to MBE/WBE Consultants.

If MBE/WBE subconsultant 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 subconsultant's scope of work will be sublet, a brief explanation and description of the work to be sublet must be provided.

The undersigned will enter into a formal agreement for the above work with the General 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.

By:

Name of MBE/WBE Firm (Print)

Signature

Date

Name (Print)

Phone

IF APPLICABLE:

By:

Joint Venture Partner (Print)

Signature

Date

Name (Print)

MBE _____ WBE _____ Non-MBE/WBE _____

Phone

SCHEDULE D - Affidavit of Professional Service Provider Regarding MBE/WBE Participation
(2 of 2)

If MBE/WBE subconsultant 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% of the value of the MBE/WBE subconsultant's scope of work will be sublet, a brief explanation and description of the work to be sublet must be provided.

The undersigned will enter into a formal agreement for the above work with the above-referenced MBE/WBE firms, conditioned upon performance as Professional Service Provider 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.

By:

Name of Professional Service Provider (Print)

Signature

Date

Name (Print)

Phone

IF APPLICABLE:

By:

Joint Venture Partner (Print)

Signature

Date

Name (Print)

Phone/FAX

MBE ____ WBE ____ Non-MBE/WBE ____

STATUS REPORT OF MBE/WBE (SUB) CONTRACT PAYMENTS
(2 of 2)

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

(Affiant)

(Date)

On this _____ day of _____ 20 _____,

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

In witness thereof, I hereunto set my hand and official seal.

Notary Public
Commission Expires

(Seal)

ATTACHMENT E – INSURANCE REQUIREMENTS

REQUEST FOR QUALIFICATIONS GEOTECHNICAL SERVICES

PS1558

FOR

VARIOUS PROJECT SITES

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

E.1. INSURANCE TO BE PROVIDED:

E.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.

E.1.2. Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for municipal facilities and/or \$5,000,000 per occurrence for Board of Education facilities insuring 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, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Commission, User Agency, and Owner designated in the scope of work must be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

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

E.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 Consultant must provide Automobile Liability Insurance, with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The Commission, User Agency and Owner designated in the scope of work must be named as additional insureds on a primary, non-contributory basis.

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

E.1.4. Professional Liability

When Consultant performs work in connection with the Agreement, Professional Liability Insurance must be maintained with limits of not less than \$2,000,000 for municipal projects and/or \$5,000,000 for Board of Education projects, covering acts, errors, or omissions. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede the, start of work on the Agreement. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

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

E.1.5. Property

The Consultant is responsible for all loss or damage to the Commission, the User Agency and/or the Owner's property at full

replacement cost. The Consultant 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 Consultant

E.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.

E.1.7 Contractors Pollution and/or Asbestos Abatement Liability

Contractors pollution coverage is required with limits of not less than \$2,000,000 per occurrence for any portions of the services, which may entail, exposure to any pollutants, whether in the course of sampling, remedial work, or any other activity under the agreement. Coverage must include bodily injury, property damage, and other losses caused by pollution conditions that arise from the agreement scope of services, completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years. The Public Building Commission, User Agency, and/or the property Owner are to be named as additional insureds on a primary, non-contributory basis.

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

E.1.8 Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Consultant must provide or cause to be provided, with respect to the operations that Consultant or subcontractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than the requirement of the operating railroad/transit entity for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

ADDITIONAL REQUIREMENTS

The Consultant 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 Consultant must submit evidence of insurance to the Commission prior to Agreement award. The receipt of any certificate does not constitute agreement by the Commission 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 Commission to obtain certificates or other insurance evidence from Consultant is not a waiver by the Commission of any requirements for the Consultant to obtain and maintain the specified insurance. The Consultant will advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Consultant 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 Commission retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

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

The insurance must provide for 60 days prior written notice to be given to the Commission if coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Consultant.

The Consultant thereby waives and agrees that their insurers waive their rights of subrogation against the Commission, the User Agency, their respective Board members, employees, elected officials, or representatives, and/or the property Owner designated

in the scope of the work.

If Consultant 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 Consultant in no way limit the Consultant's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the Commission, User Agency, and/or Owner do not contribute with insurance provided by the Consultant 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 Consultant must require all its subcontractors to provide the insurance required in this Agreement, or Consultant may provide the coverage for its subcontractors. All subcontractors are subject to the same insurance requirements of Consultant unless otherwise specified in this Agreement.

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

The Commission's Risk Management Department maintains the rights to modify, delete, alter or change these requirements.

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ATTACHMENT F – DISCLOSURE OF RETAINED PARTIES
REQUEST FOR QUALIFICATIONS
GEOTECHNICAL SERVICES
PS1558
FOR
VARIOUS PROJECT SITES

A. Definitions and Disclosure Requirements

1. As used herein, “Consultant” means a person or entity who has any contract or lease with the Public Building Commission of Chicago (“Commission”).
2. Commission bids, leases, contracts, and/or qualification submittals 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 or lease. 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.
3. “Lobbyists” means any person (a) who 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.

B. Certification

Consultant hereby certifies as follows:

1. This Disclosure relates to the following transaction: _____
Description of goods or services to be provided under Contract: _____

2. Name of Consultant: _____
3. **EACH AND EVERY** lobbyist retained or anticipated to be retained by the Consultant with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary.

Retained Parties:

Name	Business Address	Relationship (Attorney, Lobbyist, etc.)	Fees (indicate whether paid or estimated)

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

4. 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 G
FORM OF AGREEMENT

TERMS AND CONDITIONS – ENVIRONMENTAL CONSULTING

1. Definitions. The following phrases have the same meanings for purposes of this Agreement.

a. **Agreement** means this professional services agreement for Geotechnical consulting services, including all exhibits or documents attached hereto and/or incorporated by reference herein, and all amendments, modifications, or revisions made in accordance with the terms hereof.

b. **Commission** as herein referred to shall include the Public Building Commission of Chicago, the Commission's Chairman, Secretary, Assistant Secretary, Executive Director, Director of Construction, Managing Architect, Project Manager, or designated consultant or consultants, acting on behalf thereof, as designated by the Commission in writing, for the purpose of giving authorizations, instructions, and/or approval pursuant to this Agreement.

c. **Contract Documents** consists of all of the component parts of the Contract between the Commission and the General Consultant for the construction and improvement of the Project including, without limitation, the general and special conditions, technical specifications, drawings, addenda, bulletins and modifications thereto.

d. **Consultant** means the company or other entity identified in this agreement, and such successors or assigns, if any, as may be authorized by the terms and conditions of this Agreement.

e. **Key Personnel** means those job titles and persons as identified in those positions as identified in Consultant's proposal and accepted by the Commission .

f. **Project** means the construction and/or improvement of the facility or facilities specified in this Agreement.

g. **Services** means, collectively, the services, duties and responsibilities that are necessary to allow the Consultant to provide the Services required by the Commission under this agreement.

h. **Sub-consultant** means a firm hired by the Consultant to perform professional services related to the construction and/or improvement of the Project.

i. **Technical Personnel** as herein referred to include partners, officers and all other personnel of the Consultant, including technical typists assigned to the Project, exclusive of general office employees.

j. **User Agency** means the municipal corporation that requested the Commission to undertake the construction and/or improvement of the Project.

2. Incorporation of Documents. The documents identified below in this paragraph are hereby incorporated in and made a part of this Agreement. By executing this Agreement, Consultant acknowledges and agrees that Consultant is familiar with the contents of each of such documents and will comply fully with all applicable portions thereof in performing the Services.

a. Project Documents. The plans and specifications for the Project, to the extent that plans and specifications for the Project have been prepared, as set forth and described in this Agreement (the "Project Documents").

b. 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.

3. Engagement and Standards for Performing Services.

a. Engagement. The Commission hereby engages the Consultant, and the Consultant hereby accepts such engagement, to provide the Services described in this agreement, as the same may be amended, in writing, from time to time by mutual agreement of the Commission and the Consultant.

b. Performance Standard. The Consultant represents and agrees that the Services performed under this 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 geotechnical consulting professionals performing services of a scope, purpose, and magnitude comparable with the Services to be provided under this Agreement. If in the course of performing the Services, Consultant identifies any geotechnical condition, situation, issue or problem that may impact the performance of the Services or the Project, Consultant shall promptly provide notice to the Commission. The Consultant 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 Consultant to perform the Services in the manner required by the Agreement.

In as much as Consultant will be performing design services, Consultant acknowledges and agrees that Consultant is liable for any and all of its errors and omissions that may be found in the construction documents that are issued to bid for the construction of the Project.

c. Consultant's Personnel. Consultant 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. Consultant must maintain current copies of any such licenses and provide these copies upon request by the Commission. Consultant remains responsible for the professional and technical accuracy of all Services furnished, whether by the Consultant 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.

d. Confidentiality. Consultant acknowledges that it is entrusted with or has access to valuable and confidential information and records of the Commission and User Agency. Consultant must at all times use its best efforts on behalf of the Commission to assure timely and satisfactory rendering and completion of its Services. Consultant must at all times act in the best interests of the Commission and User Agency consistent with Consultant's professional obligations assumed by Consultant in entering into this Agreement. Consultant promises to cooperate with the officials, employees and agents of the Commission and User Agency in furthering the Commission's and User Agency's interests. Consultant must perform all Services in accordance with the terms and conditions of this Agreement, to the reasonable satisfaction of the Commission.

e. Independent Consultant. In performing the Services under this Agreement, Consultant shall at all times be an independent Consultant, and does not and must not act or represent itself as an agent or employee of the Commission or the User Agency. As an independent Consultant, Consultant is solely and wholly responsible for determining the means and methods for performing the Services. The Agreement will not be construed as an agreement of partnership, joint venture, or agency.

f. Limitations on Sub-Consultants. Consultant 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.

g. Failure to Meet Performance Standard. If the Consultant fails to comply with its obligations under the standards of the Agreement, the Consultant 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 Consultant 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 Consultant, either under the Agreement, at law or in equity.

h. Changes to the Services. The Commission may from time to time, request changes to the terms of the Agreement or in the Scope of Services of the Consultant to be performed hereunder. 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 Consultant, shall be incorporated in a written amendment to this Agreement. The Commission shall not be liable for any changes absent such written amendment.

4. Duties and Obligations of Consultant

a. Nondiscrimination. The Consultant agrees that in performing this Agreement it shall not discriminate against any worker, employee or applicant for employment, or any member of the public, because of race, creed, gender, color, national origin or disability, or otherwise commit an unfair labor practice. Attention is called to applicable provisions of the Civil Rights Act of 1964, 88-352, July 2, 1964, 78 Stat. 241 et. Seq. the Americans with Disabilities Act of 1990, 42 U.S.C. 12010 et. Seq. the Illinois Human Rights Act 775 ILCS 5/1-101 et. Seq. and the Public Works Employment Discrimination Act 775 ILCS 10/0.0 1 through 10/20, inclusive and a Resolution passed by the Board of Commissioners of the Public Building Commission of Chicago on October 1, 2004, concerning participation of Minority Business Enterprises and Women Business Enterprises on contracts awarded by the Commission. The Consultant will furnish such reports and information as requested by the Commission and the Illinois Department of Human Relations or any other administrative or governmental entity overseeing the enforcement, administration or compliance with the above referenced laws and regulations.

b. Employment Procedures, Preferences and Compliances. Salaries of employees of Consultant performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory or permitted by the applicable law or regulations. Attention is called to Illinois Compiled Statutes, 1992 relating to Wages and Hours including 820 ILCS 130/0.01 through 130/12 thereof (Prevailing Wage Act), 30 ILCS 570/1 through 570/7 (Employment of Illinois Workers on Public Works Act) and 30 ILCS 560/0.01 through 560/7 (Public Works Preference Act). The Consultant shall comply with all applicable "Anti-Kickback" laws and regulations, including the "Anti-Kickback" Act of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; 40 U.S.C. § 276c) and the Illinois Criminal Code of 1961 720 ILCS 5/33E-1 et. seq. If, in the performance of this Agreement, there is any direct or indirect kickback, the Commission shall withhold from the Consultant, out of payments due to it, an amount sufficient to pay employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the Commission for and on account of the Consultant to the respective employees to whom they are due.

c. Compliance with Policies Concerning MBE and WBE. Without limiting the generality of the requirements of the policies of the Commission referred to in paragraph 2 above, the Consultant agrees to use best efforts to utilize minority business enterprises for not less than twenty five percent (25%) for MBE and five percent (5%) for WBE of the value of the Services, in accordance with the Resolution passed by the Board of Commissioners of the Commission on October 1, 2004, concerning participation of minority business enterprises and women business enterprises on 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.

d. Delays. The Consultant 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.

e. Records. The Consultant shall maintain accurate and complete records of expenditures, costs and time incurred by Consultant in connection with the Project and the Services. Such records shall be maintained in accordance with recognized commercial accounting practices. The Commission may examine such records at Consultant's offices upon reasonable notice during normal business hours. Consultant shall retain all such records for a period of not less than five calendar years after the termination of this Agreement.

f. Time of Essence. The Consultant acknowledges and agrees that time is of the essence in the performance of this Agreement and that timely completion of the Services is vital to the completion of the Project by the Commission.

Consultant agrees to use its best efforts to expedite performance of the Services and performance of all other obligations of the Consultant under this Agreement and any other agreements entered into by the Commission which are managed or administered by the Consultant as a result of the Consultant's engagement hereunder.

g. Compliance with Laws. In performing its engagement under this Agreement, the Consultant shall comply with all applicable federal, state and local laws, including but not limited to, those referenced in subparagraphs (a) and (b) above and in the documents referred to in paragraph 2 of this Agreement.

h. Progress Meetings. Meetings to discuss the progress of the Project and/or to review the performance of the Consultant may be scheduled upon the Commission's request, at mutually agreeable times and locations, and the Consultant agrees to cause such meetings to be attended by appropriate personnel of the Consultant engaged in performing or knowledgeable of the Services.

i. Defects in Project. The Consultant shall notify the Commission immediately in the event the Consultant obtains knowledge of a defect in the Project or circumstances which could result in a Project delay or cost overrun.

5. Term.

a. The term of this Agreement shall begin upon the final execution of this Agreement, and, subject to the provisions of subparagraph (b) below, shall expire upon completion of the Services and acceptance thereof by the Commission or, if the Services are of an ongoing nature, on the completion date specified in such Request for Services. The Commission and the Consultant may, from time to time, by mutual agreement, extend the term of this Agreement by amending this Agreement.

b. The Commission shall have the right, at any time, to terminate the term of this Agreement, with or without cause, by written notice given to the Consultant at least thirty (30) days prior to the effective date of termination. In addition, the Commission shall have the right, at any time and from time to time, with or without cause, to suspend the performance of the Consultant hereunder with respect to all or any part of the Services, by written notice given to the Consultant at least five (5) days prior to the effective date of suspension. Termination or suspension of this Agreement shall not relieve the Consultant from liability for the performance of any obligation of the Consultant under this Agreement performed or to have been performed by the Consultant on or before the effective date of termination or suspension. Provided the Consultant is not in default under this Agreement at the time of termination or suspension, the Commission agrees to pay to the Consultant, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Consultant for periods up to the effective date of termination or suspension. In no event shall the Commission be liable to the Consultant for any loss, cost or damage which the Consultant or any other party may sustain by reason of the Commission terminating or suspending this Agreement as provided herein; provided, however, that the Commission may, in its sole discretion, reimburse the Consultant for actual expenses approved by the Commission.

c. If the Project, in whole or substantial part, is stopped for a period longer than thirty (30) days under an order of any court or other governmental authority having jurisdiction of the Project, or as a result of an act of government, such as a declaration of national emergency making materials unavailable, through no act or fault of the Consultant, or if the Commission fails to make any payment or perform any other obligation hereunder, the Consultant shall have the right to terminate this agreement, by written notice given to the Commission at least seven (7) days prior to the effective date of termination, and shall have the right to recover from the Commission all compensation and reimbursements due to the Consultant for periods up to the effective date of termination.

6. Compensation of Consultant; Reimbursement for Expenses. The Commission shall compensate the Consultant for the Services in the manner set forth Schedule C of this Agreement. In addition, the Commission shall, upon submission of detailed invoices by the Consultant, no more frequently than once every 30 days, and approval by the Commission of those invoices, reimburse the Consultant for all Reimbursable Expenses. As used in this paragraph, the term

"Reimbursable Expenses" shall mean those expenses identified as such in this Agreement.

7. Rights and Obligations of Commission. In connection with the administration of the Project by the Commission and the performance of this Agreement by the Consultant, the Commission shall have the following rights and obligations, in addition to those provided elsewhere in this Agreement:

a. Information. The Commission shall provide the Consultant all reasonably requested information concerning the Commission's requirements for the Project and the Services.

b. Review of Documents. Subject to the provisions of subparagraph 4 (d) above, the Commission agrees to make a reasonable effort to examine documents submitted by the Consultant and render decisions pertaining thereto with reasonable promptness.

c. Site Data. To the extent the Commission determines to be necessary for the Consultant to perform the Services, the Commission may furnish, or may authorize the Consultant to obtain from a company or companies approved by the Commission as Reimbursable Expenses: (i) a certified survey of the site or sites; (ii) information concerning locations, dimensions and data pertaining to existing buildings and other improvements; (iii) title information; (iv) information concerning available service and utility lines; and (v) results of test borings and other information concerning subsoil conditions.

d. Tests and Reports. To the extent required for the Consultant to perform the Services, the Commission may furnish structural, civil, chemical, mechanical, soil mechanical and/or other tests and reports; however, the Commission may authorize the Consultant to procure such tests and reports from Sub-Consultants, which must be approved by the Commission. The costs of such Sub-Consultants shall be payable as Reimbursable Expenses.

e. Legal, Auditing and other Services. The Commission shall 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 shall not include legal or auditing expenses arising out of or relating to any errors or omissions, or claimed errors or omissions, of Consultant.

f. Designated Representatives. The Commission may designate, at its sole discretion, one or more representatives authorized to act in its behalf.

g. Ownership of Documents. All documents, data, studies and reports prepared by the Consultant or any party engaged by the Consultant, pertaining to the Project and/or the Services shall be the property of the Commission including copyrights.

h. Audits. The Commission shall have the right to audit the books of the Consultant on all subjects relating to the Project and/or the Services.

8. Indemnification of Commission. The Consultant hereby agrees to indemnify, keep and save harmless the Commission and the User Agency and their respective Commissioners, board members, officers, agents, officials and employees from and against all claims, demands, suits, losses, costs and expenses, including but not limited to, the fees and expenses of attorneys, 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 an error, omission or act of the Consultant or any person employed by the Consultant to the maximum extent permitted by applicable law.

9. Insurance to be Maintained by Consultant. The Consultant shall purchase and maintain at all times during the performance of Services hereunder, for the benefit of the Commission, the User Agency and the Consultant, insurance coverage as set forth in Schedule D of this agreement.

10. Default.

a. Events of Default. Any one or more of the following occurrences shall constitute an Event of Default under this Agreement:

i. Failure or refusal on the part of the Consultant duly to observe or perform any obligation or agreement on the part of the Consultant contained in this Agreement, which failure or refusal continues for a period of ten (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 ten (10) day period) after the date on which written notice thereof shall have been give to the Consultant by the Commission;

ii. Failure of Consultant to perform the Services to the standard of performance set forth in this Agreement;

iii. Any representation or warranty of the Consultant set forth herein or otherwise delivered pursuant to this Agreement shall have been false in any material respect when so made or furnished;

iv. The Consultant 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 shall take any action in furtherance of any of the foregoing; or

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

b. Remedies. If an Event of Default shall occur and be continuing, then the Commission may exercise any right, power or remedy permitted to it by law or in equity and shall have, in particular, without limiting the generality of the foregoing, the right to terminate this Agreement upon written notice to the Consultant, in which event the Commission shall have no further obligations hereunder or liability to the Consultant except as to payment for Services actually received and accepted by the Commission through the effective date of termination. No course of dealing on the part of the Commission or delay or failure on the part of the Commission to exercise any right shall operate as a waiver of such right or otherwise prejudice the Commission's rights, powers or remedies.

c. Remedies not Exclusive. No right or remedy herein conferred upon or reserved to the Commission is exclusive of any right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

11. Disputes.

a. General. All disputes arising under, related to or in connection with the terms of this Agreement or its interpretation, whether involving law or fact or both, including without limitation questions concerning permissibility of compensation, and all claims for alleged breach of contract, shall be presented in writing to the Executive Director for final determination.

b. Procedure. Requests for determination of disputes will be made by the Consultant in writing specifically referencing this Section, and will include: 1) the issue(s) presented for resolution; 2) a statement of the respective positions of the Consultant and the Project Manager; 3) the facts underlying the dispute; 4) reference to the applicable provisions of the Agreement by page and section; 5) identify any other parties believed to be necessary to the resolution; and 6) all documentation which describes and relates to the dispute. Consultant will promptly provide the Executive Director with a copy of the request for determination of the dispute. The Project Manager will have thirty (30) business days to respond in writing to the dispute by supplementing the submission or providing its own submission to the Executive Director. Failure by the Project Manager to respond will not be deemed to be an admission of any allegations made in the request for dispute resolution, but will be deemed to constitute a waiver of the opportunity to respond to such allegation(s), if any. The Executive Director's decision may thereafter be reached in accordance with such other information or assistance as she or he may deem reasonable, necessary or desirable.

c. Effect. The Executive Director's final decision will be rendered in writing no more than forty-five (45) business days after receipt of the response by the Project Manager was filed or was due unless the Executive Director notifies the Consultant that additional time for the decision is necessary. The Executive Director's decision will be conclusive, final, and binding on all parties. Consultant must follow the procedures set out in this Section and receive the Executive Director's final decision as a condition precedent to filing a complaint in the Circuit Court of Cook County or any other court.

The Consultant will not withhold performance of any Services required by the Commission under this Agreement during the dispute resolution period. The Executive Director's written determination will be complied with pending final resolution of the dispute.

12. Confidentiality. All of the reports, information, or data prepared or assembled by the Consultant under this Agreement are confidential, and the Consultant agrees that such reports, information or data shall not be made available to any party without the prior written approval of the Commission. In addition, the Consultant shall not, without the prior written consent of the Commission, prepare or distribute any news releases, articles, brochures, advertisements or other materials concerning this Agreement, the Project or the Services.

13. Assignment. The Consultant acknowledges that the Commission is induced to enter into this Agreement by the personal qualifications of the principals, staff and employees of the Consultant and agrees, therefore, that neither this Agreement nor any right or obligation hereunder may be assigned by the Consultant, in whole or in part, without the prior written approval of the Commission. The Commission expressly reserves the right to assign or otherwise transfer all or any part of its interests hereunder without the consent or approval of the Consultant.

14. Personnel. The Consultant further acknowledges that the Consultant has represented to the Commission the availability of certain members of the Consultant's staff who will be assigned to the Project, and agrees, therefore, that in the event of the unavailability of such members, the Consultant shall so notify the Commission in writing, and, upon the approval of the Executive Director, shall assign other qualified members of the Consultant's staff, to the Project.

15. Relationship of Parties. The relationship of the Consultant to the Commission hereunder is that of an independent Consultant, and the Consultant, except to the extent expressly provided to the contrary in this agreement, shall 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. This Agreement shall not be construed as an agreement of partnership, joint venture, or agency.

16. Miscellaneous.

a. Counterparts. This Agreement may be executed in any number of counterparts, any of which shall be deemed an original.

b. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties hereto 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 herein. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

c. Force Majeure. Neither of the parties shall 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 shall 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 Consultant under this Agreement for the duration of the force majeure. The Commission shall not be obligated to pay for Services to the extent and for the duration that performance thereof is delayed or prevented by force majeure, but, provided the Consultant is not in default of any obligation of the Consultant hereunder, the Commission shall pay to the Consultant, according to the terms hereof, all compensation and reimbursements due to the Consultant for periods up to the effective date of suspension.

d. Governing Law. This Agreement has been negotiated and executed in the State of Illinois and shall be construed under and in accordance with the internal laws of the State of Illinois.

e. No Waiver. The waiver by either party of any breach of this Agreement shall not constitute a waiver as to any succeeding breach.

f. Notices. All notices required to be given hereunder shall be given in writing and shall be hand delivered or sent by United States certified or registered mail, postage prepaid, addressed to Commission and to the Consultant at their respective addresses set forth above. If given as herein provided, such notice shall be 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 Consultant may, from time to time, change the address to which notices hereunder shall be sent by giving notice to the other party in the manner provided in this subparagraph.

g. Reimbursable Expenses. Reimbursable expenses includes those actual expenditures, as identified in Schedule C to this Agreement, which are made by the Consultant and payable by the Commission

h. Severability. In the event that any provisions of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

i. Successors and Assigns. Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

j. Consultant's Authority. Execution of this Agreement by the Consultant 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 Consultant have been made with complete and full authority to commit the Consultant to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained or incorporated by reference in it.