

PUBLIC BUILDING COMMISSION OF CHICAGO
MINUTES OF THE REGULAR MEETING OF THE
BOARD OF COMMISSIONERS HELD ON JULY 12, 2016

The regular meeting of the Board of Commissioners of the Public Building Commission of Chicago was held at the Board Meeting Room, 2nd Floor, Richard J. Daley Center on July 12, 2016 at 2:30 P.M.

The following Commissioners were present:

Rahm Emanuel, Chairman
Martin Cabrera, Jr.
Thomas J. Kotel
Jose G. Maldonado, Jr.
Toni Preckwinkle
Arnold L. Randall
Jesse H. Ruiz
Samuel Wm. Sax
Mariyana T. Spyropoulos
David Todd Whittley

Also present were:

Felicia S. Davis

J. Beatty	T. Later	A. Quathamor
A. Del Muro	L. Lypson	L. Renward
R. DeVaughn	C. McClenahan	D. Garcia-Rico
P. Doyle	L. McGuire	K. Robinson
Q. Edward	A. Marti	V. Robinson
D. Flanagan	S. Menta	J. Rodriguez
A. Fredd	C. Miller	V. Sapozhnikov
K. Galvin	M. Moore	E. Scanlan
L. Giderof	L. Neal	B. Fisk-Smith
R. Giderof	K. Newman	K. Smith
R. Gonzalez	B. Newmark	M. Sullivan
J. Hodge	A. O	D. Trevino
F. Hundson	B. Payne	S. Triel
A. Islas	K. Pensack	T. Foucher-Weekly
G. Johnson	H. Perez	A. Wiggins
G. Klinzman	N. Perez	R. Williams
K. LaJeune	B. Pirok	M. Witry

The meeting was called to order by Chairman Rahm Emanuel and the presence of a quorum was established.

Following the roll call, a public participation period was conducted pursuant to Section 2.06(g) of the Open Meetings Act. Kenneth Newman, Kathryn Pensack and George Blakemore had each previously registered to provide comments under the guidelines established by Resolution No. 7611 approved by the Board of Commissioners on January 11, 2011. Kenneth Newman provided comments regarding the need for the Public Building Commission to construct more athletic facilities for the Chicago Park District and the Chicago Public Schools using Tax Increment Financing and private donations to fund the costs of construction. Kathryn Pensack provided comments regarding the cost of constructing the Albany Park Library and other public facilities by the Public Building Commission and other agencies, and the need for the Board to monitor the budgets and costs of construction projects. George Blakemore provided comments on the need for African Americans to get more jobs in the construction industry and the decrease in the population of African Americans in the City of Chicago.

At the conclusion of the public participation period, Chairman Emanuel reconvened the meeting and presented to the Board of Commissioners for consideration of approval the minutes of the meeting held on June 14, 2016. The reading of said minutes, which had previously been distributed, was dispensed with and upon motion duly made and seconded, the minutes of the June 14, 2016 meeting were unanimously approved.

The next item on the agenda was the administration of the oath of office of David Todd Whittley, appointee of the City of Chicago, as a Commissioner of the Public Building Commission of Chicago for a term ending September 30, 2019. Upon motion duly made and seconded, the following resolution was adopted:

RESOLUTION NO. 8301

BE IT RESOLVED that the Board of Commissioners of the Public Building Commission does hereby accept the appointment of David Todd Whittley, appointee of the City of Chicago, as a board member of the Public Building Commission for a term ending on September 30, 2019.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
Thomas J. Kotel, Jose G. Maldonado, Jr.
Toni Preckwinkle, Arnold L. Randall,
Jesse H. Ruiz, Samuel Wm. Sax,
and Mariyana T. Spyropoulos - 9

Commissioners voting in the negative:

None

The next item on the agenda was a report by the Audit Committee regarding the meeting held on June 29, 2016. Commissioner Cabrera presented the report, which is summarized as follows:

The PBC's Comptroller reported the Commission's Basic Financial Statements as of and for the Years Ended December 31, 2015, and 2014. The PBC's assets exceeded liabilities by \$74.1 million on December 31, 2015. The PBC's total net position decreased by \$3.9 million and \$5.4 million for the years ended December 31, 2015 and 2014 respectively, due to decreases in project revenue that directly impact the Commission's administrative fee. The Comptroller's Report was accepted by the Audit Committee.

Representatives from Deloitte and Touche (Deloitte) provided the required auditor communications related to the PBC's Audited Financial Statements for the year ended December 31, 2015. Of note, there were no audit adjustments, recorded or unrecorded. Deloitte further reported that there were no material weaknesses or significant deficiencies in the internal controls over financial reporting. The report by Deloitte was accepted by the Audit Committee.

The PBC's Chief Operating Officer reported on the proposed Amendment of the PBC's Remedial Program for MBE and WBE Firms, the proposed adoption of the MBE/WBE Graduation Phase Out Program and the proposed Amendment of the Canvassing Formula. The Chief Operating Officer's Reports were accepted by the Audit Committee.

The Chief Performance Analyst from the Office of the Inspector General for the City of Chicago presented the PBC's First Quarter 2016 Report as follows: the OIG received one complaint regarding the PBC during the preceding quarter and declined this complaint but referred the matters to its audit and program review section; the OIG did not open or conclude any investigations regarding the operations of the PBC and reported a total of four active

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investigations; and one investigation has been open for at least twelve months. The Audit Committee accepted the report from the Office of the Inspector General.

An Executive Session was convened pursuant to 5 ILCS 120/2(29) for the purpose of presentation of Reports by the Independent Monitor. The Audit Committee reconvened and accepted the reports of the Independent Monitor.

Next, Commissioner Maldonado presented the report of the Administrative Operations (AO) Committee meeting held on June 29, 2016, which is summarized as follows:

The Chief Operating Officer advised the AO Committee regarding a Specialty Consultant Task Order issued to Terracon Consultants to provide Material Testing Services for the Malcolm X Demolition Project. **Exhibit A.** She also provided a status report regarding the evaluation of firms who responded to the PBC's solicitation for Photographic Documentation Services. The reports were accepted.

The PBC's Comptroller provided status reports on the Q1 2016 PBC Administrative Budget and the Q1 2016 Richard J. Daley Center Budget. She advised the AO Committee regarding PBC's continuing efforts for cost savings in the PBC Administrative Budget that resulted in total expenses for Q1 2016 of \$2,015,022 or 17% of the total board approved budget. Also, favorable YTD budget variances were reported for the following line items:

- personnel services;
- professional service fees; and
- office and computer maintenance expenses

Direct billable charges were a further reduction to overall costs resulting in net actual expense for Q1 2016 Administrative Budget of \$1,506,897.

She also advised the AO Committee regarding the Q1 2016 Daley Center Operating Budget as follows: total revenues for Q1 of \$4,086,328 are in line with the approved budgeted amount, and total expenses which were \$4,067,278 yielding a net income of \$19,050. The AO Committee accepted the reports provided by the PBC Comptroller.

The AO Committee accepted the following recommendations and reports by the Managing Architect:

Recommendation to approve a proposed Change Order for mechanical system modifications at the Richard M. Daley Branch Library in the sum of \$78,801.50. This is the final close-out change order for the project.

The AO Committee was advised that twelve field orders were issued involving seven school projects.

Following consideration of the AO Committee report and upon motion duly made and seconded, the following resolution was adopted by the Board of Commissioners:

RESOLUTION NO. 8302

BE IT RESOLVED by the Board of Commissioners of the Public Building Commission of Chicago that the Executive Director is hereby authorized to issue a Change Order for the Richard M. Daley Branch Library Project as indicated on the document entitled, “Summary of Proposed Change Orders” and attached to the minutes of this meeting as **Exhibit B**.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
 Thomas J. Kotel, Jose G. Maldonado, Jr.
 Toni Preckwinkle, Arnold L. Randall,
 Jesse H. Ruiz, Samuel Wm. Sax,
 Mariyana T. Spyropoulos, and David Todd Whittley -10

Commissioners voting in the negative:

None

The next item on the agenda was a report by the Executive Director regarding regular reports, development status and other matters. The Executive Director advised the Commissioners that the Public Building Commission submitted the Comprehensive Annual Financial Report (CAFR) for the fiscal years ended 2015 and 2014 in a timely manner to the Government Finance Officers’ Association and is being considered for its Certificate of Achievement for Excellence in Financial Reporting. She noted that the CAFR report provides information regarding the financial position and operations of the Commission and is a testament to its commitment to improving transparency with its partners, stakeholders and the general public. She commended the entire finance team of the Commission for its work in preparing the CAFR. The Executive Director also reported that the Public Building Commission received the 2016 Illinois Emerald Award (Intent to Matter – Green Building Innovation) for the Chinatown

Branch Library project from the US Green Building Council. Formerly, the Commission received the award for the Sarah E. Goode STEM Academy project. Finally, the Executive Director introduced the following student interns who were working for the Commission as a means of furthering their education and getting a head start on preparing for their careers, namely: Daniel Garcia; Rodrigo Gonzalez; Joshua Hodge; Adalith Islas; Sachin Mehta; Angeli O; Shardonay Tzul; Carlos Villanueva (not present).

The Executive Director's reports were accepted.

Next, the Commissioners were presented with consideration of approval of the appointment of Multivista to provide Photographic Documentation Services to the Public Building Commission. The Commission requires the services of a firm to document the entire construction process as well as manage and store the photographs in a database. Two responses were received in response to a Request for Qualifications and Proposals to provide the required services. Following review of the responses, the Evaluation Committee recommended the appointment of Munsterman Services, LLC d/b/a Multivista on a task order basis to provide Photographic Documentation Services. Upon motion duly made and seconded, the following resolution was adopted:

RESOLUTION NO. 8303

BE IT RESOLVED that the Board of Commissioners of the Public Building Commission of Chicago hereby approves the appointment of Munsterman Services, LLC d/b/a Multivista to provide Photographic Documentation Services to the Public Building Commission in an amount not to exceed \$500,000 for a term of two years with a one-year extension option.

BE IT FURTHER RESOLVED that the Executive Director and the appropriate officials of the Public Building Commission are hereby authorized and directed to undertake such actions and to execute such documents, upon approval by Legal Counsel as to form and legality, as may be necessary and appropriate in order to implement this Resolution.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
Thomas J. Kotel, Jose G. Maldonado, Jr.
Toni Preckwinkle, Arnold L. Randall,
Jesse H. Ruiz, Samuel Wm. Sax,
Mariyana T. Spyropoulos, and David Todd Whittley – 10

Commissioners voting in the negative:

None

The next item on the agenda was consideration of approval of a proposed amendment of the Public Building Commission Remedial Program for Utilization on Minority-owned Business Enterprises (MBE) and Women-owned Business Enterprise (WBE) firms. The Executive Director provided a summary of the Commission's MBE/WBE program dating to its inception in 2004 as a means of remedying the ongoing effects of past racial and gender discrimination in the award of construction contracts. She noted that the City Council of the City of Chicago passed an ordinance on February 10, 2016 to update its MBE/WBE program based upon a study by renowned econometrician, Dr. David G. Blanchflower, who determined that there was a compelling need to continue the program which had expired on December 31, 2015, as a means of combating racial and gender discrimination against minorities and females in the Chicago construction industry. Based upon Dr. Blanchflower's findings of continuing discrimination, and the amendment of the Municipal Code to update the City's MBE/WBE program, the Executive Director recommended that the Public Building Commission amend its Remedial Program for MBE and WBE firms, substantially in the form attached hereto as Exhibit B, by increasing the aspirational goals from 24% to 26% for MBE firms, and from 4% to 6% for WBE firms, and also extending the "sunset" date of the MBE/WBE Program from December 31, 2016 to December 31, 2020 with an interim review by the Board of Commissioners on December 31, 2017. Upon motion duly made and seconded, the following resolution was adopted:

RESOLUTION NO. 8304

BE IT RESOLVED that the Board of Commissioners of the Public Building Commission of Chicago does hereby approve the proposed amendment of the Remedial Program for Utilization of Minority-owned Business Enterprises and Women-owned Business Enterprises, substantially in the form of resolution entitled, “Amended Resolution Authorizing Remedial Program for Utilization of Minority-owned Business Enterprise (“MBE”), Women-owned Business Enterprise (“WBE”) and Economically Disadvantaged Firms (“PBC MBE/WBE Program”), attached to the minutes of this meeting and incorporated herein by reference as **Exhibit C**.

BE IT FURTHER RESOLVED that the Executive Director of the Public Building Commission is hereby authorized and directed to establish such administrative rules, regulations and procedures governing the PBC MBE/WBE Program as may be necessary and appropriate in order to implement this Resolution.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
 Thomas J. Kotel, Jose G. Maldonado, Jr.
 Toni Preckwinkle, Arnold L. Randall,
 Jesse H. Ruiz, Samuel Wm. Sax,
 Mariyana T. Spyropoulos, and David Todd Whittley - 10

Commissioners voting in the negative:

None

The next item presented to the Commissioners for consideration of approval was the proposed adoption of the MBE/WBE Graduation Phase-Out Program for the Public Building Commission. The Graduation Phase Out Program was established by the City of Chicago to allow minority and women-owned businesses to retain credit for their MBE/WBE certification status as a means of sustaining their growth over three consecutive years before they are no longer eligible for the credit afforded by MBE/WBE certification. It also provides an opportunity for such firms to have a smooth transition as an “Established Business” after they have a track record of average annual gross receipts in excess of a threshold amount, which is

currently \$27,500,000. Under the Graduation Phase-Out Program, contractors using Established Businesses certified as MBEs and WBEs receive 75% credit for participation during the first year, then 50% credit for participation during the second year, and 25% credit for the third year. Following discussion, upon motion duly made and seconded the following resolution was adopted:

RESOLUTION NO. 8305

BE IT RESOLVED by the Board of Commissioners of the Public Building Commission of Chicago does hereby approve the proposed Graduation Phase-Out Program with respect to the utilization of Minority-owned Business (MBEs) Enterprises and Women-owned Business Enterprises (WBEs), substantially in the form of resolution entitled, “MBE/WBE Graduation Phase-Out Program” attached to the minutes of this meeting and incorporated by reference herein as **Exhibit D**.

BE IT FURTHER RESOLVED that the Executive Director of the Public Building Commission is hereby authorized and directed to establish such administrative rules, regulations and procedures as may be necessary and appropriate in order to implement this Resolution.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
 Thomas J. Kotel, Jose G. Maldonado, Jr.
 Toni Preckwinkle, Arnold L. Randall,
 Jesse H. Ruiz, Samuel Wm. Sax,
 Mariyana T. Spyropoulos, and David Todd Whittley - 10

Commissioners voting in the negative:

None

The next item on the agenda was consideration of approval of a proposed amendment of the Canvassing Formula to increase bid credits for Minority and Female Workers on construction projects undertaken by the Public Building Commission of Chicago. The City of Chicago and the Public Building Commission have previously adopted a Canvassing Formula to promote economic development throughout the City of Chicago by hiring minority and female employees

on public construction projects. In order to promote equality of opportunity for minority and female personnel on Public Building Commission projects, it was recommended that the bid incentives that may be applied under the Canvassing Formula for evaluation of proposals and awarding of contracts be increased as follows: the maximum bid credit for total hours worked by minority journey workers, laborers and apprentices, an increase from 50% to 70%; and the maximum bid credit for total hours worked by female journey workers, laborers and apprentices, an increase from 10% to 15%. Following discussion, upon motion duly made and seconded, the following resolution was adopted:

RESOLUTION NO. 8306

BE IT RESOLVED by the Board of Commissioners of the Public Building Commission of Chicago does hereby approve the proposed amendment to the Canvassing Formula to be used in the evaluation of proposals and award of contracts by the Public Building Commission, substantially in the form or resolution entitled, "Amendment of Canvassing Formula", attached to the minutes of this meeting and incorporated herein as **Exhibit E**.

BE IT FURTHER RESOLVED that the Executive Director of the Public Building Commission is hereby authorized and directed to establish such administrative rules, regulations and procedures governing the PBC MBE/WBE Program as may be necessary and appropriate in order to implement this Resolution.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
 Thomas J. Kotel, Jose G. Maldonado, Jr.
 Toni Preckwinkle, Arnold L. Randall,
 Jesse H. Ruiz, Samuel Wm. Sax,
 Mariyana T. Spyropoulos, and David Todd Whittley - 10

Commissioners voting in the negative:

None

The next item on the agenda was consideration of approval of the adoption of a Revised

Undertaking Request from the City of Chicago's Department of Fleet and Facility Management

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and the Office of Budget and Management for the Malcolm X Demolition Project located at 1900 West Van Buren Street. The original undertaking budget was approved by the Public Building Commission on February 9, 2016 in the amount of \$10,000,000.00 for a preliminary scope of work with the intent to complete a site remediation/assessment, removal of discovered underground storage tanks as well as demolition and backfill of approximately 60% of the facility. Upon completion the site assessment, a revised undertaking budget of \$15,044,225.00 was approved by the City Council on June 22, 2016 pursuant to the First Amendment of the Intergovernmental Agreement between the Public Building Commission and the City of Chicago. Inasmuch as the original scope of work has been revised and expanded based upon the completion of the site assessment and remediation, it was recommended that the Public Building Commission approve a revised project undertaking budget in the sum of \$15,044,225.00. Upon motion duly made and seconded, the following resolution was approved:

RESOLUTION NO. 8307

BE IT RESOLVED that the Board of Commissioners of the Public Building Commission of Chicago hereby approves the Revised Undertaking Request from the City of Chicago' Department of Fleet and Facility Management and the Office of Budget and Management for the Malcolm X Demolition Project located at 1900 West Van Buren Street in the amount of \$15,044,225.00.

BE IT FURTHER RESOLVED that the Executive Director and the appropriate officials of the Public Building Commission are hereby authorized and directed to undertake such actions and to execute such documents, upon approval by Legal Counsel as to form and legality, as may be necessary and appropriate in order to implement this Resolution.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
 Thomas J. Kotel, Jose G. Maldonado, Jr.
 Toni Preckwinkle, Arnold L. Randall,
 Jesse H. Ruiz, Samuel Wm. Sax,
 Mariyana T. Spyropoulos, and David Todd Whittley - 10

Commissioners voting in the negative:

None

Next, the Board of Commissioners convened an Executive Session for the purpose of discussing an undertaking request from the Office of Emergency Management and Communications (OEMC) for the OEMC Camera Infrastructure Program under Section 2 (c) (8) of the Open Meetings Act. Upon motion duly made and seconded, the following resolution was adopted:

RESOLUTION NO. 8308

BE IT RESOLVED that an Executive Session of the Board of Commissioners is hereby convened for the purpose of consideration of approval of undertaking requests by the Office of Emergency Management and Communications for the OEMC Camera Infrastructure Program under Section 2 (c)(8) of the Open Meetings Act.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
 Thomas J. Kotel, Jose G. Maldonado, Jr.
 Toni Preckwinkle, Arnold L. Randall,
 Jesse H. Ruiz, Samuel Wm. Sax,
 Mariyana T. Spyropoulos, and David Todd Whittlely - 10

Commissioners voting in the negative:

None

Following the Executive Session, the meeting was reconvened and the following resolution was adopted upon motion duly made and seconded:

RESOLUTION NO. 8309

BE IT RESOLVED that the Board of Commissioners of the Public Building Commission hereby approves Undertaking Request No. 111 from the Office of Emergency Management and Communications (OEMC) and the Office of Budget and Management for the OEMC Camera Infrastructure Program in the sum of \$29,500.00.

BE IT FURTHER RESOLVED that the Executive Director and appropriate officials of the Public Building Commission are authorized and directed to execute, upon approval as to form and legality by Legal Counsel, and to undertake such actions as may be necessary and appropriate in order to implement this resolution.

Commissioners voting in the affirmative:

Rahm Emanuel, Martin Cabrera, Jr.,
Thomas J. Kotel, Jose G. Maldonado, Jr.
Toni Preckwinkle, Arnold L. Randall,
Jesse H. Ruiz, Samuel Wm. Sax,
Mariyana T. Spyropoulos, and David Todd Whittley – 10

Commissioners voting in the negative:

None

There being no further business to come before the meeting, the meeting was adjourned.

Secretary

APPROVED:

Chairman



TASK ORDERS AWARDED AGAINST TERM CONTRACTS

Public Building Commission of Chicago | Richard J. Daley Center | 50 West Washington Street, Room 200 | Chicago, Illinois 60602 | (312) 744-3090 | pbcchicago.com

JULY 2016						
TASK ORDERS AWARDED AGAINST TERM CONTRACTS						
Project Name	Service	Type	M/WBE	Firm	Task Order Amount	Total Term Commitment To-Date
Malcolm X College Demolition	Material Testing	R		Terracon Consultants, Inc.	\$ 64,000.00	\$ 64,000.00

Specialty Consultant	Terms/Limits Not To Exceed
Environmental - Category A, B, C	\$ 1,500,000.00
Environmental - Reno/Demo	\$ 1,000,000.00
Geotechnical	\$ 750,000.00
Material Testing	\$ 1,500,000.00
Surveying	\$ 200,000.00
Traffic Study	\$ 600,000.00
Commissioning	\$ 500,000.00

Type - Legend
R - Rotation
RMW - MWBE Deficiency
C - Cradle to Grave (Environ)
D - Directed Task Orders
AT - Amendment to Task Order
A - Additional Services

PUBLIC BUILDING COMMISSION OF CHICAGO

REGULAR BOARD MEETING – JULY 12, 2016

CHANGE ORDERS

PUBLIC BUILDING COMMISSION
SUMMARY OF PROPOSED CHANGE ORDERS
FOR PBC BOARD MEETING
July 12, 2016

PROJECT	CONTRACT #	CONTRACTOR	ORIGINAL CONTRACT VALUE	PREVIOUSLY APPROVED BOARD CHANGES	CURRENT CONTRACT VALUE <small>(Including Previously Approved Changes)</small>	PROPOSED CHANGE ORDERS	ADJUSTED CONTRACT VALUE <small>(Including Approved Current Proposed Change Orders)</small>	APPROVED BOARD CHANGES % <small>(of Original Contract)</small>
Closeout								
West Humboldt Branch Library (Richard M. Daley Branch Library) 733 North Kedzie Project Manager: Darin Triplett	C1491	Leopardo Construction Company	\$6,384,175.00	\$51,161.55	\$6,435,336.55	\$78,801.50	\$6,514,138.05	1.23%

PUBLIC BUILDING COMMISSION OF CHICAGO

CHANGE ORDER

West Humboldt Park Branch Library

(Richard M. Daley Branch Library)

733 North Kedzie

July 12, 2016

Leopardo Construction Company
333 W. Wacker Drive, Suite 200
Chicago, IL 6060

CHNG	BULL	CONTRACT NUMBER 1491	
ORDR	NUM	ORIGINAL CONTRACT PRICE	\$6,384,175.00
NUM		APPROVED CHANGE ORDERS	\$51,161.55
ADJUSTED CONTRACT PRICE TO DATE			\$6,435,336.55
008	1491-051	Mechanical System Modifications. Other.	\$78,801.50

TOTAL CHANGE ADDITION	\$78,801.50
<hr/>	
ADJUSTED CONTRACT PRICE AFTER APPROVAL	\$6,514,138.04

All interested parties are hereby notified that the Change Order listed above shall apply to Contract No. 1491 heretofore issued by the Public Building Commission.

All parties shall apply the change as indicated above.

Resolution Number _____

Changes as specified above authorized for the Public Building Commission of Chicago by:

Reviewed By

Executive Director

EXHIBIT C
MBE AMENDMENT

RESOLUTION NO.

June 2016

**Amended Resolution Authorizing Remedial Program for
Utilization of Minority Business Enterprise ("MBE"), Women Business Enterprise
("WBE") and Economically Disadvantaged Firms ("PBC MBE/WBE Program")**

Recitals

WHEREAS, in February 1992 the Board of Commissioners (the "Board") of the Public Building Commission of Chicago (the "Commission") adopted a Remedial Program for Utilization of MBE and WBE firms (the "Program") as a means of providing open access to the award of Commission Contracts and to remedy the effects of racial and sexual discrimination which have placed such firms at a competitive disadvantage in the award of Commission Contracts.

WHEREAS, in 2003, District Judge James B. Moran in the case *Builders Association of Greater Chicago v. City of Chicago*, No. 96 C 1122 (N.D. Ill) held that the evidence introduced at trial demonstrated that past and current discriminatory practices continue to place MBE and WBE firms at a competitive disadvantage in the award of governmental contracts and such practices have continued to impede the growth and success of MBE and WBE firms.

WHEREAS, on October 1, 2004, the Commission determined that the February 1992 Program adopted by the Commission had not been sufficient to ameliorate the effects of racial and gender discrimination in the marketplace and passed, by Resolution No. 6741, Special Conditions Regarding Remedial Program for Utilization of Minority Business Enterprise ("MBE"), Women Business Enterprise ("WBE") and Economically Disadvantaged Firms (the "2004 Special Conditions").

WHEREAS, Section 13.1 of the 2004 Special Conditions states that the Special Conditions "shall expire on October 31, 2009 unless the Commission finds that its remedial purposes have not been fully achieved and there is a compelling interest in continuing narrowly tailored remedies to redress discrimination against MBE/WBE firms so that the Commission will not function as a passive participant in a discriminatory marketplace."

WHEREAS, on May 24, 2004, the City Council of the City of Chicago (the "City Council") amended Chapter 2-92 of the Municipal Code (the "2004 Ordinance") to redress discrimination in the Chicago construction industry which provided for its expiration on December 31, 2009 unless the remedial purposes set forth in the 2004 Ordinance have not been fully achieved by such date.

WHEREAS, the City of Chicago (the "City") commissioned a comprehensive review of the relevant data by Dr. David G. Blanchflower with assistance by social science experts Dr. Ana Aparicio, Dr. Cedric Herring and Dr. Yvonne Lau to determine whether the City's 2004

Ordinance should expire, or continue the narrowly tailored remedies to redress discrimination against MBE and WBE firms.

WHEREAS, Dr. Blanchflower concluded his review and provided a detailed report (the "2009 Blanchflower Report") of his conclusions to the City, which concluded that MBE and WBE firms in the Chicago area continue to face discrimination in the construction industry and that there was no evidence that the discrimination had diminished over time.

WHEREAS, on July 29, 2009, the City Council passed a Substitute Ordinance in view of the Final Report which extended the 2004 Ordinance until December of 2015 subject to an interim review to be concluded by the Chief Procurement Officer in December of 2012.

WHEREAS, following a review of the relevant data as summarized in the Final Report presented to the City and the Substitute Ordinance, the Commission by Resolution No. 7406 adopted on October 8, 2009 determined that there was a compelling interest and continuing need to remedy discrimination against MBE and WBE firms in the award of construction contracts by the Commission and extended the 2004 Special Conditions until December 31, 2015 with an interim review to be conducted in 2012.

WHEREAS, in 2012, the Commission conducted an extensive review of the 2004 Special Conditions which culminated in the adoption of Resolution No. 7810 on June 12, 2012 and additional controls to the remedial program limiting the number of certifying agencies and imposing additional requirements on credits available for the utilization of suppliers.

WHEREAS, the 2004 Special Conditions were further reviewed by the Commission and amended on May 13, 2014 by Resolution No. 8052, by requiring additional controls with respect to the utilization of manufacturers, distributors and suppliers.

WHEREAS, on November 18, 2015 an Ordinance was introduced into the City Council which proposed an extension of the City's MBE/WBE construction program until December 2020, based upon the findings and recommendations contained in report prepared by Dr. David G. Blanchflower and others (the "2015 Blanchflower Report") to determine if there is a compelling interest and continuing need for the program.

WHEREAS, on January 12, 2016, the Commission adopted Resolution No. 8262 which extended the 2004 Remedial Program until a reasonable time after the reports and data prepared on behalf of the City including the 2015 Blanchflower Report have been reviewed and analyzed and the City Council has determined whether to amend the City's MBE/WBE Program.

WHEREAS, the City Council adopted an Ordinance on February 10, 2016 further extending the City's Minority and Women-Owned Business Enterprise Program to December 31, 2020 and increasing the bi-annual aspirational goals for contracts awarded by the City to 26 percent of the annual dollar value of all construction contracts to qualified MBEs and 6 percent of all construction contracts to qualified WBEs.

WHEREAS, Legal Counsel for the Commission has conducted an extensive review of the reports and data relied upon by the City including the 2015 Blanchflower Report and applicable legal authorities and determined that there is a compelling need and continuing interest in extending the 2004 Special Conditions based upon continuing widespread discrimination against minorities and women in the construction industry throughout the Chicago area.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS THAT RESOLUTION NO. 6741 HERETOFORE ADOPTED ON OCTOBER 1, 2004 ENTITLED, "SPECIAL CONDITIONS REGARDING REMEDIAL PROGRAM FOR UTILIZATION OF MINORITY BUSINESS ENTERPRISE (MBE), WOMEN BUSINESS ENTERPRISE (WBE) AND ECONOMICALLY DISADVANTAGED FIRMS" (THE "2004 SPECIAL CONDITIONS") (PREVIOUSLY AMENDED BY RESOLUTION NO. 7406 ON OCTOBER 8, 2009, RESOLUTION NO. 7810 ON JUNE 12, 2012 AND RESOLUTION NO. 8052 ON MAY 13, 2014 AND RESOLUTION NO. 8262 ON JANUARY 12, 2016) IS HEREBY FURTHER AMENDED AS FOLLOWS:

(The underscored language is hereby inserted and the struck-through language is hereby deleted. Omitted text is unaffected by this Resolution)

SECTION 1. For purposes of this Resolution, the Introduction of the 2004 Special Conditions is hereby deleted in its entirety and the foregoing recitals are hereby substituted in lieu thereof.

SECTION 2. For purposes of this Resolution, SECTION 4, ASPIRATIONAL AND CONTRACT SPECIFIC GOALS, Sub-section 4.1 of the 2004 Special Conditions is hereby deleted in its entirety and the following SECTION 4.1 is substituted in lieu thereof:

SECTION 4.1. Upon the effective date of these Special Conditions, as amended, the bi-annual aspirational goals shall be to award ± 4 26 percent of the annual dollar value of all Commission Construction Contracts to certified MBEs and 4 6 percent of the annual dollar value of all Commission Construction Contracts to qualified WBEs and 25 percent of the annual dollar value of all other Commission Contracts to certified MBEs and 5 percent of the annual dollar value of all other Commission Contracts to certified WBEs.

SECTION 3. For purposes of this Resolution, SECTION 13, REVIEW AND SUNSET, Sub-Section 13.1 is hereby deleted in its entirety and the following SECTION 13.1 is substituted in lieu thereof:

SECTION 13.1. These Special Conditions shall be subject to an interim review by the Commission to be concluded by December of 2012 reviewed by the Commission on or before December 31, 2017 and shall expire on December 31, 2020 unless the Commission finds that its remedial purposes have not been fully achieved and there is a compelling interest in continuing narrowly tailored

remedies to redress discrimination against MBEs and WBEs so that the Commission will not function as a passive participant in a discriminatory marketplace.

BE IT FURTHER RESOLVED that the Executive Director is hereby authorized and directed to establish administrative rules and regulations governing the implementation of the MBE/WBE Special Condition and to publish such rules and regulations to the Administrative Operations Committee and the Board of Commissioners of the Commission.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its approval.

EXHIBIT D
GRADUATION M/WBE

RESOLUTION NO. _____

(MBE/WBE Graduation Phase-Out Program)

WHEREAS, the Board of Commissioners ("Board") of the Public Building Commission ("Commission") has adopted a Remedial Program for Utilization of Minority Business Enterprise ("MBE"), Women Business Enterprise ("WBE") and Economically Disadvantaged Firms (the "MBE/WBE Remedial Program") as a means of remedying the current effects of past racial and sexual discrimination in the award of Commission contracts; and

WHEREAS, pursuant to Municipal Code Section 2 -92-470, the City of Chicago (the "City") has established a program which provides that firms with annual average gross receipts in excess of certain limits (i.e., an "Established Business" as defined in Section 2-92-420 of the Code) may graduate from the MBE/WBE program with the objective of continued growth and success in government contracting or the private sector; and

WHEREAS, in order to maximize diversity in contracts awarded by the Commission, and to assist MBEs and WBEs that no longer require participation in the MBE/WBE Remedial Program in growing from small businesses to self-sustaining medium or large businesses that have succeeded beyond the program, the Board hereby deems it necessary and appropriate to adopt the following MBE/WBE Graduation Phase-Out Program.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Public Building Commission as follows:

Section 1. Definition of Established Business. "Established Business" means a business entity which, by virtue of its size and capacity for competing in the markets in which it operates, does not need to be a full participant in the MBE/WBE Remedial Program in order to effectuate the purposes of the program pursuant to regulations adopted by the Department of Procurement Services of the City. For calendar year 2000, a business entity shall be presumed to be an Established Business if the business entity and its affiliates have had annual average gross receipts in excess of \$27,500,000 over the previous three fiscal years. For calendar year 2001 and beyond, this sum shall be adjusted upwards or downwards by applying to it a rate equal to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) published by the United States Bureau of Labor Statistics for that calendar year. Such adjustment shall be made for a given year in January of the following year and shall remain in effect for that given year until the following year's adjustment is made.

Section 2. Participation by Established Businesses in the MBE/WBE Remedial Program. Established Businesses are eligible to receive credit toward determining MBE/WBE utilization requirements in the Remedial Program as determined by the anniversary date as follows: for the firm's first year as an Established Business, the prime contractor will receive 75% credit for participation by the Established Business in the contract; for the firm's second year as an Established Business, the prime contractor will be credited with 50% participation by the Established Business; and for the firm's third year as an Established Business, the prime contractor will receive 25% credit for participation by the Established Business.

Section 3. Rules and Regulations. The Executive Director of the Public Building Commission is hereby authorized and directed to undertake such action and to establish parameters and procedures, upon approval by Legal Counsel as to form and legality, as may be necessary in order to implement the policy guidelines set forth in this Resolution.

Section 4. This resolution shall take effect after its passage and approval and shall apply to contracts advertised after the effective date of this Resolution.

EXHIBIT E
CANVASSING

RESOLUTION NO.

(Amendment of Canvassing Formula)

WHEREAS, pursuant to the Public Building Commission Act of the State of Illinois (50 ILCS 20/1 et. seq.) (the "Act"), the Public Building Commission of Chicago (the "Commission") was created by the City Council of the City of Chicago (the "City Council") as a means of facilitating the construction of buildings, facilities and improvements for use by governmental agencies in the furnishing of essential public services; and

WHEREAS, the Commission is responsible for the bid, award and administration of contracts for the construction of buildings, facilities and improvements in the discharge of its statutory duties under the Act to undertake projects on behalf of various governmental agencies that promote the convenience and welfare of the public; and

WHEREAS, the City of Chicago (the "City") and the Commission have previously adopted policies designed to promote, to the extent permitted by law, economic development and revitalization in the areas throughout the City where public buildings, facilities and improvements are constructed and to encourage increased employment opportunities for minorities and females in the construction industry; and

WHEREAS, the City and the Commission have heretofore instituted the practice of providing bid incentives for contractors to employ minorities and females on construction projects by utilizing a formula to credit the percentage of labor hours performed by minority and female laborers, apprentices and journey workers (the "Canvassing Formula"); and

WHEREAS, currently the maximum percentage that can be applied as a bid incentive under the Canvassing Formula, when bidding on Commission construction contracts, is 50 percent for minority laborers, apprentices and journey workers and 10 percent for female laborers, apprentices and journey workers; and

WHEREAS, on March 16, 2016, the City Council adopted an Ordinance, at pages 19974 through 19978 of the Journal of Proceedings of such date, amending Section 2-92-390 of the Municipal Code (the "Amended Ordinance"), which increased the maximum bid incentives that may be credited pursuant to the Canvassing Formula on City contracts from 50 percent to 70 percent for laborers, apprentices and minorities, and from 10 percent to 15 percent for female laborers, apprentices and journey workers; and

WHEREAS, the Board of Commissioners hereby finds that it is necessary and appropriate, and in the interests of the citizens of the City, to amend the Canvassing Formula with respect to contracts awarded by the Commission by increasing the maximum percentages that can be applied as bid incentives for employment of minority and female laborers, apprentices and journey workers to the same percentages as set forth in the Amended Ordinance:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE PUBLIC BUILDING COMMISSION OF CHICAGO AS FOLLOWS:

Section 1. In order to promote equality of opportunity for minority and female personnel on construction projects undertaken by the Commission, the bid incentives that may be applied under the Canvassing Formula for purposes of evaluating proposals and awarding Commission contracts are hereby increased as follows:

- a. The maximum bid credit for total hours worked by minority laborers, apprentices and journey workers is hereby increased from 50 percent to 70 percent; and
- b. The maximum bid credit for total hours worked by female laborers, apprentices and journey workers is hereby increased from 10 percent to 15 percent.

Section 2. The Executive Director is hereby authorized to adopt rules and regulations for the proper administration of this Resolution.

Section 3. This Resolution shall take effect after its passage and approval and shall apply to contracts advertised after the effective date of this Resolution.