

**CITY OF CHICAGO
PARTICIPATION CONTRACT
BETWEEN
CHICAGO HOUSING AUTHORITY
AND
CDW GOVERNMENT LLC**

This Participation Purchase Agreement (the "Agreement") is made as of August 1st, 2016 (the "Effective Date") by and between The Chicago Housing Authority ("CHA") and CDW Government LLC ("Vendor"). CHA and Vendor are collectively referred to herein as ("Parties").

WHEREAS, The CHA is engaged in the development and operation of safe, decent and sanitary housing throughout the City of Chicago for low income families in accordance with the United States Housing Act of 1937, 42 U.S.C. §1437 *et seq.*; regulations promulgated by the United States Department of Housing and Urban Development ("HUD"), and the Illinois Housing Authorities Act. 310 ILCS 10/1 *et seq.*, as amended, and other applicable laws, regulations and ordinances;

WHEREAS, the Vendor entered into that certain Agreement No. 29659 with the City of Chicago (referred to herein as "Parent Contract"), pursuant to a solicitation and award issued by City of Chicago's Department of Innovation and Technology under its Specification #105081, which Parent Contract was first effective on or about October 1, 2014, and which remains in effect and is attached and incorporated by reference as Exhibit A as if fully and originally set forth herein. The Parent Contract was procured pursuant to an open and competitive solicitation and award by the City of Chicago, and contemplates participation rights for other state and local 'Sister Agencies' of the City of Chicago to participate in and utilize Vendor's services and offerings subject to certain established conditions, procedures and limitations; and

WHEREAS, the CHA and the Vendor desire to enter into this Agreement to facilitate the provision of Services by the Vendor to the CHA upon the same prevailing terms, conditions and prices as established in the Parent Contract.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties, agree as follows:

The terms and conditions of this Agreement shall incorporate the terms of the Parent Contract, except to the extent expressly provided herein. Each capitalized term used herein and not otherwise defined shall have the same meaning attributed to it in the Parent Contract.

The following terms and conditions are in addition to the Parent Contract

1. COMPLIANCE.

Section 3 – Compliance: The CHA determined that the contract awarded under this solicitation is subject to the requirements of Section 3 of the Housing and Urban Subchapter B, Part 135 – Economic Opportunities for Low- and Very Low-Income Persons, 24 CFR 135.3. To comply Vendor is offering under this Agreement a contribution to the Section 3 Fund in an amount equivalent to Three Percent (3%) of the amount of services actually hired by CHA under this Agreement, which is attached hereto as Exhibit I.

2. MBE/WBE/DBE COMPLIANCE.

Vendor agrees to comply with the CHA's Minority and Women Disadvantaged Business Enterprise ("MBE/WBE/DBE") requirements in accordance with the Vendor's MBE/WBE/DBE Utilization Plan, which is attached hereto as Exhibit II and incorporated by reference herein, and otherwise comply with the CHA's M/W/DBE Policy (see <http://www.thecha.org/doing-business/compliance-requirements/>).

3. COMPENSATION AND PAYMENT.

In consideration of the Vendor's performance and provision of the Services, hardware and software supplies, deliveries and related activities herein, CHA shall pay the Vendor an amount not-to-exceed Three Million Six Hundred Thousand and 00/100 Dollars (\$3,600,000.00).

4. TERM.

This Agreement begins on execution date of this Agreement and shall run concurrently with the Parent Contract, including any option exercises and extensions applicable thereto; provided however, that the full term of this Agreement shall not exceed five (5) years as measured from the effective date of the Parent Contract.

5. INSURANCE.

Vendor and the CHA agree that Vendor's insurance obligations under the Parent Contract shall apply to this Contract, and that the CHA shall be named as an "additional insured" to that same extent that the City is so designated in the Parent Contract.

6. EQUAL EMPLOYMENT OPPORTUNITY.

Vendor and the CHA agree that Vendor's performance of and compliance with those certain Equal Employment Opportunity provisions and terms under the Parent Contract shall apply to Vendor's performance and compliance under this Agreement.

7. BUSINESS DOCUMENTS AND CERTIFICATIONS.

Vendor has provided to the CHA various documentation, certifications and representations, including evidence of its authority to conduct business in the State of Illinois, including without limitation, registrations of assumed names or limited partnerships and certifications of good standing with the Office of the Secretary of the State of Illinois. Vendor's Contractor's Affidavit and Vendor's Certifications and Representations of Offerors – Non-Construction Contracts (HUD Form 5369-C), are

collectively attached hereto as Exhibit B and incorporated by reference as if fully set forth herein.

Except as specifically modified herein, all other terms of the Parent Contract shall remain in full force and effect. This Agreement in no way modifies or alters the Parent Contract.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives as of the date and year set forth below.

CDW Government LLC

By: 
(Authorized signature)

Tara K. Barbieri
Name Director, Program Sales

Title: _____

Date: 2 Aug 2014

The Chicago Housing Authority


By: 

Name: Dionna Brookens

Title: Chief Procurement Officer

Date: 8/19/14

Approved as to From
Chicago Housing Authority
Office of the General Counsel


By: James L. Bebley
Title: Chief Legal Officer

Contract Summary Sheet

Contract (PO) Number: 29659

Specification Number: 105081

Name of Contractor: CDW GOVERNMENT, LLC

City Department: DEPT OF INNOVATION & TECHNOLOGY

Title of Contract: PROVISION OF SOFTWARE, APPLE PRODUCTS, PANASONIC RUGGEDIZED NOTEBOOKS, NETWORK EQUIPMENT, SERVERS, STORAGE SOLUTIONS , AND RELATED MAINTENANCE AND INSTALLATION SERVICES

Term of Contract: Start Date: 10/1/2014

End Date: 9/30/2017

Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):

\$33,100,000.00

Brief Description of Work: PROVISION OF SOFTWARE, APPLE PRODUCTS, PANASONIC RUGGEDIZED NOTEBOOKS, NETWORK EQUIPMENT, SERVERS, STORAGE SOLUTIONS , AND RELATED MAINTENANCE AND INSTALLATION SERVICES

Procurement Services Contract Area: PRO SERV CONSULTING \$250,000orABOVE

Please refer to the DPS website for Contact information under "Doing Business With The City".

Vendor Number: 1064105

Submission Date:

Oct 15, 2014

Spec. No. 105081
P.O. No. 29659
Vendor No. 1064105A

AGREEMENT

BETWEEN

THE CITY OF CHICAGO
DEPARTMENT OF INFORMATION AND TECHNOLOGY

AND

CDW GOVERNMENT LLC



PROVISION OF SOFTWARE, APPLE PRODUCTS, PANASONIC RUGGEDIZED
NOTEBOOKS, NETWORK EQUIPMENT, SERVERS, AND STORAGE SOLUTIONS
(Subject of Agreement)

RAHM EMANUEL
MAYOR

PROFESSIONAL SERVICES AGREEMENT
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List of Exhibits

- EXHIBIT 1 SCOPE OF SERVICES AND TIME LIMITS FOR PERFORMANCE
- EXHIBIT 2 SCHEDULE OF COMPENSATION
- EXHIBIT 3 SPECIAL CONDITIONS REGARDING MBE/WBE COMMITMENT
- EXHIBIT 4 ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
- EXHIBIT 5 INSURANCE REQUIREMENTS AND EVIDENCE OF INSURANCE
- EXHIBIT 6 BUSINESS ASSOCIATE AGREEMENT
- EXHIBIT 7 LIST OF KEY PERSONNEL
- EXHIBIT 8 PROTOCOLS FOR ORDERS, IT ORDER REQUESTS and SOWs
- EXHIBIT 9 CONTRACTOR PRODUCT RETURN POLICY
- EXHIBIT 10 TRAVEL GUIDELINES
- EXHIBIT 11 CITY DATA SECURITY POLICY

AGREEMENT

This Agreement is entered into as of the 1st day of October, 2014 ("Effective Date") by and between CDW Government LLC, an Illinois limited liability company ("Contractor" or "CDWG"), and the City of Chicago, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois, acting through its Department of Information and Technology ("City"), at Chicago, Illinois. The City and Contractor agree as follows:

TERMS AND CONDITIONS

ARTICLE 1. DEFINITIONS

1.1 Definitions

The following words and phrases have the following meanings for purposes of this Agreement:

"Additional Services" means those services which are within the general scope of Services of this Agreement, but beyond the description of services required under Section 2.1, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services requested by the Department require the approval of the City in a written amendment under Section 9.3 of this Agreement before Contractor is obligated to perform those Additional Services and before the City becomes obligated to pay for those Additional Services.

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

"Chief Information Officer" means the Chief Information Officer of the City and any representative duly authorized in writing to act on her behalf.

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

"CSC" means the distribution warehouse operated by CDWG in the greater Chicagoland area. For any particular Order, CDWG may be required by the terms of such Order to take delivery at such facility of Products ordered by the City and to perform at such facility various services described herein.

“CDWG Catalog” means the catalog published by CDWG, of general applicability to commercial customers of CDWG, containing item descriptions and prices of Products that CDWG routinely offers for sale.

"Commissioner" means the commissioner of the Department, and any representative authorized in writing to act on the Commissioner's behalf.

"Department" means the City Department of Information and Technology. The Department may also be referred to herein as DOIT.

“Documentation” means any and all operator's and user's manuals, training materials, guides commentary, listings, drawings, specifications and other materials for use in conjunction with the Software or Equipment. CDWG shall ensure, as applicable, the delivery to the City of a copy of the Documentation for each licensed user identified of the Software.

“Equipment” means those Products that are computer hardware, or other network or server equipment.

“Order” means an order issued under this Agreement for Products that are included in the CDWG Catalog. The protocols for Orders, including lists of persons authorized to make Orders, are included in Exhibit 8.

“Product” means the multi-manufacturer computer software, and including software as a service (“Saas”), Apple hardware, Panasonic ruggedized notebooks, multi-manufacturer network equipment, multi-manufacturer servers, and storage solutions generally described in Exhibit 1. Products may be those that (1) CDWG routinely offers for sale as part of its catalog, or (2) those that CDWG does not routinely offer for sale, i.e. those for which the City requests CDWG approach a manufacturer or licensor on behalf of the City. This Agreement does not include the sale to the City of desktop computer hardware or peripherals, except as expressly provided in this Agreement with respect to Apple or Panasonic hardware. For purposes of this Agreement, servers and storage solutions refer to hardware devices.

“IT Order Request” means a request for Products that are not included in the CDWG Catalog that may be issued by the City to CDWG subject to the terms of this Agreement. The protocols for IT Order Requests, including lists of persons authorized to initiate them, are included in Exhibit 8. In Exhibit 1 Scope of Services, “IT Order Request” shall mean the request for Products as described here, or “SOW Services”, as defined below, depending upon whether the context refers to the purchase of products or services.

"Services" means, collectively, the services, duties and responsibilities described in Article 2 and Exhibit 1 of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

“Sister Agencies” means Cook County, Chicago Public Schools, Chicago Transit Authority, Chicago Housing Authority, Chicago Park District, Chicago Board of Education, City Colleges of Chicago, Chicago Board of Elections, Metropolitan Pier and Exposition Authority and the Municipal Courts.

“Software” means commonly used productivity software, specialized line of business software and software as a service (SaaS) and any related licenses or warranties issued by the manufacturer.

"Statement of Work" or “SOW” means a document drafted by Contractor and signed by both parties that sets forth the details of the SOW Services to be provided by Contractor for the City, and any additional terms applicable to such SOW Services. The protocols for entering into an SOW, including lists of persons authorized to initiate them, are included in Exhibit 8.

“SOW Services” means those Equipment installation, training or break-fix warranty services, as described in Section 1.6 of Exhibit 1 of this Agreement, and which are compensated pursuant to the rate card fees set forth in Exhibit 2. For clarification, break-fix warranty services are those services that are not covered under a manufacturer warranty or under a regular maintenance program purchased by the City. In Exhibit 1 Scope of Services, “IT Order Request” shall mean the request for Products as described in IT Order Request, defined above, or “SOW Services”, as defined here, depending upon whether the context refers to the purchase of products or services.

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

1.2 Interpretation

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

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

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

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

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

(f) All references to a number of days mean calendar days, unless indicated otherwise.

1.3 Incorporation of Exhibits

The following attached Exhibits are made a part of this Agreement:

Exhibit 1	Scope of Services and Time Limits for Performance
Exhibit 2	Schedule of Compensation
Exhibit 3	Special Conditions Regarding MBE/WBE Commitment
Exhibit 4	Economic Disclosure Statement and Affidavit
Exhibit 5	Insurance Requirements and Evidence of Insurance
Exhibit 6	Business Associate Agreement
Exhibit 7	List of Key Personnel
Exhibit 8	Protocols for Orders, IT Order Requests and SOWs
Exhibit 9	Contractor Product Return Policy
Exhibit 10	Travel Guidelines
Exhibit 11	Data Security Policy

1.4 Order of Precedence

In the event of a conflict or inconsistency between terms within the component parts of the Agreement, the following order of precedence shall govern:

- (1) Articles 1 through 11
- (2) Exhibits
- (3) SOW
- (4) Any CDWG documentation that is generally made available to the public or to similarly situated CDWG customers and that is incorporated by reference, either directly or indirectly, in this Agreement.

Further, any provision in any CDWG documentation that is incorporated by reference directly or indirectly in this Agreement with regard to which the City is prohibited by law from agreeing to or abiding by is deemed to be of no effect as applied to the City.

ARTICLE 2. GENERAL CONDITIONS

2.1 General Purpose

The terms of this Agreement will govern, and will establish the terms and conditions applicable to, the provision of the Services and Products under this Agreement. Under this Agreement, Contractor will sell to the City, as requested in Orders to be issued by the City, Products that appear in the CDWG Catalog, and will assist the City in its purchase of Products that do not appear in the CDWG Catalog, as requested by the City. Contractor understands and acknowledges that it does not have an exclusive right to sell Products to the City, and that the City accordingly may buy Products, during the term of this Agreement, from other sources. Exhibit 1 contains a more detailed Scope of Services, which covers, in addition to the obligations to sell Products to the City, such ancillary Services related to such sales, including, as requested by the City, services relating to tagging of Equipment, installation of Products, training and warranty maintenance services with respect to the Products. The description of Services in Exhibit 1 is intended to be general in nature and is neither a complete description of Contractor's Services nor a limitation on the Services that Contractor is to provide under this Agreement. This Agreement does not involve the purchase of hardware or peripherals except as expressly provided otherwise in this Agreement, with respect to certain Apple or Panasonic Equipment. For purposes of this Agreement, "computer hardware and peripherals" does not mean servers, network equipment, or storage solutions.

2.2 Intentionally deleted.

2.3 Orders

A. CDWG Catalog Products

Orders for Products Contained in the CDWG Catalog will be in the form of a written City of Chicago Blanket Release (also known as "purchase order release" or "sub-order" and may be referenced as "Orders" in this Agreement) that will be issued by the City and sent to the Contractor. Blanket Releases will indicate the specification number, Contract/purchase order number, product description, quantities ordered for each line item, unit cost based upon the CDWG Catalog, total cost, shipping address, delivery date, fund chargeable information, and other pertinent instructions regarding delivery. The Contractor must not honor any verbal orders or make deliveries without receipt of a written Blanket Release issued by the City. With the exception of the Department of Innovation and Technology, departments of the City may place orders under this Agreement only when the value of such order is less than \$50,000 and only when the items ordered have been pre-approved for such purchase by the Chief Information Officer, and Contractor must not honor orders from City departments (other than the Department of Innovation and Technology) that exceed these restrictions. For orders over \$50,000, departments of the City must obtain approval from the Chief Information Officer prior to placing order with Contractor.

Any items provided by Contractor without a signed Blanket Release are made at the Contractor's risk. Consequently, in the event a written Blanket Release is not provided by the City in accordance with the requirements set forth in this Agreement, the Contractor releases the City from any liability whatsoever to pay for any items provided without a signed Blanket Release. Any Blanket Releases modified by Contractor must be signed by the City prior to Contractor's fulfillment of the Order.

B. Non-CDWG Catalog Products

From time to time, the City may issue IT Order Requests to CDWG to assist the City in the purchase of Products that are not listed in the CDWG Catalog. The City will do so by issuing a written request from the Chief Information Officer to CDWG for such Products. Upon its written consent, CDWG may then undertake the Services, set forth in this Agreement, including in Exhibit 1, with respect to such Non-CDWG Catalog Products, which may involve, as requested by the City, advising the City regarding suitable Products for City's requirements, obtaining bids from authorized distributors of such products and advising the City on issues pertaining to pricing. If the City decides to purchase the Product, it will request CDWG to place the order on its behalf. If CDWG is able and agrees to provide such Product to the City, CDWG will include such Product in its catalog, subject to pricing requirements set forth in Exhibits 1 and 2, and the City may place orders for such Products pursuant to the process set forth in Section 2.3A. The City may also request that CDWG store such products in its storage facilities and deliver to the City as required by the City. In the Services pertaining to City's procurement of Products not included in the CDWG Catalog, CDWG shall owe a fiduciary duty to the City.

C. Additional Terms. The City reserves the right to procure any Product, including Products included in the CDWG Catalog, through an IT Order Request, if the City determines that it is in the best interests of the City to negotiate terms that are more protective of the City with respect to the Product identified in the IT Order Request.

D. SOW Services. The City may procure SOW Services from Contractor pursuant to an SOW, entered into by the parties in accordance with the procedures set forth in Exhibit 8 Protocols for Order and IT Order Requests. Contractor shall perform or cause to be performed the SOW Services for no more than the hourly rates set forth in Exhibit 2. Unless alternate SOW terms are expressly provided for in this Agreement, any terms and conditions in a SOW that conflict with, are inconsistent with, or shift the allocation of risk contemplated in this Agreement, are void and of no effect, unless accepted in writing as an amendment to this Agreement pursuant to Section 9.3 in this Agreement. If the SOW Services to be performed under an SOW are to be funded from a fund other than that identified by the number set forth in Section 4.3, the applicable fund number must be included in the SOW. For clarification, SOW Services with regard to which legal or business provisions of this Agreement are deficient, may be entered into only pursuant to Section 9.3 of this Agreement.

E. Protocols for Orders and IT Order Requests. Contractor agrees to accommodate and abide by the regulations related to ordering procedures, as may be promulgated by the Chief

Procurement Officer, from time to time. The procedures currently in effect are set forth in Exhibit 8 Protocols for Orders and IT Order Requests. Any volume discounts applicable to the City's procurement of the Products shall be calculated based upon the volume of the City's orders aggregated together with the orders of any Sister Agencies for the respective Products during the term of this Agreement.

2.3.1 Electronic Ordering and Invoices

The Contractor shall cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to catalogs, purchase orders, releases, and invoices. Contractor shall accept electronic purchase orders and releases upon request of the Chief Procurement Officer. Contractor shall provide the City electronic catalogs, copies of invoices and other electronic documents upon request. The electronic ordering and invoice documents shall be in a format specified by the City and transmitted by an electronic means specified by the City. Such electronic means may include, but are not limited to, disks, e-mail, EDI, FTP, web sites, and third party electronic services. The Chief Procurement Officer reserves the right to change the document format and/or the means of transmission upon written notice to the Contractor. Contractor shall ensure that the essential information, as determined by the Chief Procurement Officer, in the electronic document, corresponds to that information submitted by the Contractor in its paper documents. The electronic documents shall be in addition to paper documents required by this contract, however, by written notice to the Contractor, the Chief Procurement Officer may deem any or all of the electronic ordering and invoice documents the official documents and/or eliminate the requirement for paper ordering and invoice documents.

2.4 Delivery and Acceptance

2.4.1 Delivery of CDWG Catalog Products

Unless otherwise agreed to in an IT Order Request, Contractor must deliver CDWG Catalog Products in accordance with the following terms. Standard overnight delivery shall be provided at no charge to the City. Other expedited delivery options, including Priority Overnight, same day delivery, and Saturday delivery are available upon request, and additional charges may apply.

Order-to-delivery timeframe will as set forth in the Service Level requirements in Exhibit 1, Scope of Services. Contractor must deliver CDWG Catalog Products under the applicable shipping terms to the location specified in the Blanket Release, and must comply with any requirements pertaining to delivery set forth in Exhibit 1. All deliveries will be F.O.B. destination (City of Chicago).

2.4.2 Delivery of Non-CDWG Catalog Products

Delivery of Non-CDWG Catalog Products will be made as agreed upon in an IT Order Request by the parties in accordance with Section 1.10 and 1.11 of Exhibit 1 Scope of Services.

2.4.3 Inspection and Defects and Returns

The City will have the right to inspect any Products provided under this Agreement. Upon delivery of the Product, the City will conduct an in-depth initial visual examination solely for the purpose of identifying gross and obvious damage, defects or non-conformance with specifications. This does not limit the City's right to conduct subsequent inspection of the Product delivered, including inspections conducted after the Product is installed. The City acknowledges that any opened or downloaded software will be subject to the warranty and return policies of the manufacturer, along with the return policy of CDWG.

If defects or omissions are discovered in the initial or subsequent inspections of Product, the City may exercise any or all of the remedies set forth in Exhibit 9 Contractor Product Return Policy, or set forth elsewhere in the Agreement, including Exhibit 1.

The City may return non-defective Products in accordance with the terms set forth in Exhibit 9 Contractor Product Return Policy.

Notwithstanding any terms in this Agreement, including within Exhibit 9, to the contrary, the City will not be subject to re-stocking charges for any reason under this Agreement.

Contractor shall be responsible for picking up from the City, at its expense, any defective Products, with regard to which the City had notified Contractor of the defect during the defective Product return period set out in Exhibit 9. Any terms regarding return of Products set forth in this Agreement, including in the exhibits, that are more advantageous to the City than those set forth in Contractor's return policy, attached as Exhibit 9, shall take precedence over the terms of such Return Policy.

2.4.4 Shipment Errors

The Contractor will be responsible for any errors in shipments that are the fault of the Contractor. The Contractor must make arrangements with their common carrier or company personnel to pick-up, at Contractor's expense, any un-ordered Product, over-shipments of Product, or Product that otherwise does not comply with the applicable Order within forty-eight (48) hours after notification by the Department. Contractor must promptly supply any under-shipment of Products promptly after notification by the Department.

The City of Chicago will not be subject to restocking charges due to shipment errors. Repeated errors in shipments will be an event of default under this Agreement.

2.4.5 Acceptance

Products provided under this Agreement will be deemed to be accepted by the City upon delivery. The parties may negotiate a longer period for acceptance in an IT Order Request or SOW. The Department may perform compliance testing as set forth in Exhibit 1.

2.5 Warranties

(a) Software. CDWG warrants that with respect to Software, CDWG is an authorized distributor/reseller, that the Software is new and complies with the Documentation, and that the City will acquire the Software license and warranty rights established by the Software manufacturer. It is the City's intent to procure SaaS applications that conform with the City's Data Security Policy, as it may be modified by the City from time to time. Consequently, upon request from the City, CDWG will forward a copy of the City's Data Security Policy, as provided to CDWG by City at the time of such request by City, to any SaaS provider from which City has indicated an intent to procure SaaS Software, and CDWG will notify the SaaS provider to identify to City any aspects of the Data Security Policy that the SaaS provider is unable to meet.

(b) Equipment. CDWG warrants that with respect to all Equipment supplied under this Agreement, at a minimum and in addition to all warranties that may be implied by law, Equipment will be new and shall conform with the manufacturers' specifications, drawings and other Documentation for such Equipment, unless otherwise agreed to by the parties in an IT Order Request or SOW. Upon payment in full, all Equipment provided hereunder shall be free and clear of all liens and encumbrances, and clean title shall pass to the City upon the City's acceptance of the Equipment. CDWG further represents and warrants that it is an authorized distributor/reseller and that Equipment will carry all original product warranties, including manufacturer's genuine parts/product information, recall notices, manuals, licenses, assemblies and accessories.

(c) Products not included in CDWG Catalog. CDWG agrees to act as a fiduciary to the City with respect to Services in connection with the City's procurement of Products that are not included in the CDWG Catalog.

(d) SOW Services.

(i) Contractor must perform all SOW Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a contractor performing services of a scope and purpose and magnitude comparable with the nature of the SOW Services to be provided under this Agreement. Contractor acknowledges that it may be entrusted with or have access to valuable and confidential information and records of the City and with respect to that information, Contractor agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or payment for any of the Services by the City does not relieve Contractor of its responsibility for the professional skill and care and technical accuracy of its

Services.

(ii) The Contractor warrants that with respect to the SOW Services, SOW Services will conform with the functional requirements of the SOW. This performance warranty shall be limited in time to thirty (30) calendar days following completion of each portion of the SOW Service. CDWG will either reperform or issue a refund for, at the City's option, any defective portion of service. The parties may agree to a longer warranty period in an SOW. This provision in no way limits the City's rights against Contractor under this Agreement, at law or in equity.

(e) Contractor must be appropriately licensed to perform the SOW Services, if required by law, and 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 as may be required by law. To the extent applicable, Contractor must provide copies of any such licenses. Contractor remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Contractor or its Subcontractors or others on its behalf. All Deliverables must be prepared in a form and content satisfactory to the Department and delivered in a timely manner consistent with the requirements of this Agreement.

(f) In the case of Third Party Services (meaning services where Contractor acts as a sales agent, for example, for extended warranty protection), the City will look to the third party and not Contractor for the performance of such services and any related warranty protection.

2.6 Deliverables

In carrying out its Services, Contractor may be required to prepare or provide to the City various Deliverables. "**Deliverables**" include work product, such as written reviews, recommendations, reports and analyses, produced by Contractor for the City under this Agreement.

The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that Contractor has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Contractor of its failure. If Contractor does not correct the failure, if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement under Section 8.1.

Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the City and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve Contractor of its obligations under this Agreement.

2.6A City's Policies and Procedures

Contractor covenants that it, the Contractor personnel, Subcontractors of Contractor and their respective employees, and all other agents and representatives of Contractor, shall at all times comply with and abide by all policies and procedures of City (as such may exist or be revised or established by City from time to time and as provided to Contractor in writing) that reasonably pertain to Contractor in connection with Contractor's performance of SOW Services hereunder, including all such policies that pertain to conduct on City's premises, use or possession of contraband, or the access to, or security and confidentiality of, City's information technology, data, or resources, or related systems, networks, equipment, property, or facilities. No such policies shall override the express provisions of this Agreement relating to ownership of Contractor's proprietary information. Written copies of such policies and procedures shall be provided to Contractor by City upon request. Prior to performing SOW Services hereunder, each of the Contractor personnel who will have access to City's data, software, or Confidential Information shall execute City's standard form confidentiality agreements. Contractor shall issue to each Contractor personnel appropriate access mechanisms (e.g., access IDs, passwords, and access cards), which mechanism shall be used only by the specific individuals to whom issued. Contractor shall provide each Contractor personnel with only the level of access that is appropriate and required to perform the tasks and functions for which such person is responsible. Contractor shall, from time to time, and promptly upon City's request, provide City with an undated list of those Contractor personnel who have the highest level of access to City's systems, software and data. Contractor shall maintain and ensure the confidentiality and security of City's information systems, networks, software and data in accordance with the terms of this Agreement, and shall, in any event, treat all such materials with a level of security at least equivalent to that then being maintained by: (i) City with respect to such materials; and (ii) Contractor with respect to its own similar systems and data. Contractor shall cooperate with City in ensuring Contractor's compliance with the policies and procedures described in this Section 2.6A, and any violations or disregard of such policies or procedures shall, in addition to all other available rights and remedies of City, be cause for denial of access or use by the applicable Contractor personnel to City's information systems, networks, equipment, property and facilities.

2.7 Personnel

(a) Adequate Staffing

Contractor must, upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension of it an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the Services. Contractor must include among its staff the Key Personnel and positions as identified below. The level of staffing may be revised from time to time by notice in writing from Contractor to the City and with prior written consent of the City.

(b) **Key Personnel**

Contractor must not reassign or replace Key Personnel without the written consent of the City. "Key Personnel" means those job titles and the persons assigned to those positions in accordance with the provisions of this Section 2.4(b). The Department may at any time in writing notify Contractor that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Contractor must immediately suspend the key person or persons from performing Services under this Agreement and must replace key personnel in accordance with the terms of this Agreement. Key Personnel, if any, are identified in Exhibit 7.

(c) **Salaries and Wages**

Contractor and Subcontractors must pay all salaries and wages due all employees performing Services under this Agreement as required by applicable law.

2.8 Minority and Women's Business Enterprises Commitment

In the performance of this Agreement, including the sale of Products and the provision of the other Services described herein, Contractor must abide by the minority and women's business enterprise commitment requirements of the Municipal Code of Chicago ("Municipal Code"), Sec. 2-92-420 *et seq* (1990), except to the extent waived by the Chief Procurement Officer and the Special Conditions Regarding MBE/WBE Commitment set forth in Exhibit 3. Contractor's completed Schedules C-1 and D-1 in Exhibit 3, evidencing its compliance with this requirement, are a part of this Agreement, upon acceptance by the Chief Procurement Officer. Contractor must utilize minority and women's business enterprises in accordance with the terms set forth in Exhibit 3.

2.9 Insurance

Contractor must provide and maintain at Contractor's own expense, during the term of this Agreement and any time period following expiration if Contractor is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverages and requirements specified in Exhibit 5 of this Agreement, insuring all operations related to this Agreement.

2.10 Indemnification and Limitation of Liability

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

- (i) injury, death or damage of or to any person or tangible personal property;

(ii) any infringement or violation of any property right (including any patent, trademark or copyright) with respect to the Services, to the extent that the alleged violation relates to intellectual property originating from or created by Contractor and not a third party;

(iii) Contractor's failure to perform or cause to be performed Contractor's promises and obligations as and when required under this Agreement, including Contractor's failure to perform its obligations to any Subcontractor, provided that such failure of performance would constitute an event of default under the Agreement;

(iv) the City's exercise of its rights and remedies under Section 8.2 of this Agreement; and

(v) injuries to or death of any employee of Contractor or any Subcontractor under any workers compensation statute.

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

(c) At the City Corporation Counsel's option, Contractor must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Contractor of any of its obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

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

(e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during Contractor's performance of Services beyond the term. Contractor acknowledges that the requirements set forth in this section to defend, indemnify, and hold harmless the City are apart from and not limited by the Contractor's duties under this Agreement, including the insurance requirements in Exhibit 5 of this Agreement.

(f) NEITHER PARTY TO THIS AGREEMENT, INCLUDING ALL AFFILIATES, PERSONNEL, DIRECTORS, VENDORS, AND SUBCONTRACTORS SHALL BE LIABLE TO ANY OTHER PARTY FOR ANY CONSEQUENTIAL, PUNITIVE, SPECIAL, OR ANY OTHER INDIRECT DAMAGES. IN THE EVENT OF ANY DAMAGES UNDER THIS AGREEMENT, ALL SUCH DAMAGES SHALL BE LIMITED TO THE GREATER OF (i) \$1 MILLION, or (ii) AMOUNTS PAID BY THE CITY TO CONTRACTOR OVER THE PREVIOUS TWELVE (12) MONTH PERIOD. Notwithstanding any provision to the contrary contained elsewhere in this Agreement, the disclaimer of damages and limitations on monetary liability set forth in this Section 2.10(f) shall not apply in connection with: (i) Contractor's gross negligence or intentional or willful misconduct; (ii) third-party claims relating to Contractor's indemnification obligations under this Agreement, and (iii) claims for damages for bodily injury or death and damage to real or tangible personal property.

2.11 Ownership of Documents

Except as provided below in this Section 2.11, all Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to Contractor under this Agreement are property of the City, including, as further described in Section 2.12 below, all copyrights inherent in them or their preparation. During performance of its Services, Contractor is responsible for any loss or damage to the Deliverables, data, findings or information while in Contractor's or any Subcontractor's possession. Any such lost or damaged Deliverables, data, findings or information must be restored at the expense of Contractor. If not restorable, Contractor must bear the cost of replacement and of any loss suffered by the City on account of the destruction, as provided in Section 2.7. Notwithstanding any terms to the contrary in this Section 2.11, Contractor shall retain ownership of its "Pre-Existing Work" (defined below), and the City is granted an irrevocable, non-transferable, royalty-free, perpetual license to use Pre-Existing Work in conjunction with the Services or Products.

2.12 Copyright Ownership

(a) Contractor and the City intend that, to the extent permitted by law, the Deliverables to be produced by Contractor at the City's instance and expense under this Agreement are conclusively deemed "**works made for hire**" to the extent that they are (a) uniquely prepared for the City; and (b) identified with the capitalized term "Deliverable" in an SOW ("Work for Hire Deliverables"), within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. Sec. 101 *et seq*, and that the City will be the sole copyright owner of the Work For Hire Deliverables and of all aspects, elements and components of them in which copyright can subsist, and of all rights to apply for copyright registration or prosecute any claim of infringement.

To the extent that any Work For Hire Deliverable does not qualify as a "work made for hire," Contractor hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the City, its successors and assigns, all right, title and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals

for them, and other intangible, intellectual property embodied in or pertaining to the Work For Hire Deliverables prepared for the City under this Agreement, and all goodwill relating to them, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. Contractor will, and will cause all of its Subcontractors, employees, agents and other persons within its control to, execute all documents and perform all acts that the City may reasonably request in order to assist the City in perfecting its rights in and to the copyrights relating to the Work For Hire Deliverables, at the sole expense of the City. Contractor warrants to the City, its successors and assigns, that on the date of transfer Contractor is the lawful owner of good and marketable title in and to the copyrights for the Work For Hire Deliverables and has the legal rights to fully assign them. Contractor further warrants that it has not assigned and will not assign any copyrights and that it has not granted and will not grant any licenses, exclusive or nonexclusive, to any other party, and that it is not a party to any other agreements or subject to any other restrictions with respect to the Work For Hire Deliverables. Contractor warrants that the Work For Hire Deliverables are complete, entire and comprehensive, and that the Work For Hire Deliverables constitute a work of original authorship. Contractor reserves the right to make work product similar to, or based on the Work For Hire Deliverables for other customers.

(b) "Pre-existing Work" shall mean the proprietary technology, processes, know-how or tools used by Contractor in the creation of Deliverables, including, but not limited to the systems, technology, website design, policies and procedures and data layouts . The City will not obtain any ownership interest in the Pre-existing Work. Contractor grants to City all rights necessary to access and use the Pre-existing Work such that the City may utilize and have the quiet enjoyment of the Services, Products and Deliverables that Consultant is obligated to provide pursuant to this Agreement. Additionally, to the extent any of the Deliverables include, in whole or in part, Pre-existing Work, the Contractor hereby grants the City, including City's agents, a perpetual, irrevocable, fully-paid up, non-exclusive license for the use of any such Pre-existing Work as part of the Deliverables, including the right to reproduce, display, make copies of and prepare derivative works based on the Pre-existing Work.

(c) With regard to Deliverables that are Products, ownership and licensing rights shall apply as set forth in the end user license agreement for each Product.

2.13 Records and Audits

(a) Records

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

(ii) Contractor must maintain any such records including Deliverables not delivered to the City or demanded by the City for a period of 5 years after the final payment

made in connection with this Agreement. Contractor must not dispose of such documents following the expiration of this period without notification of and written approval from the City in accordance with Article 10.

(b) Audits

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

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

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

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

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

- A. If, the audit has revealed overcharges to the City representing 5% or more of the total value, based on the Agreement prices, of the goods, work, or

Services provided in the audited period, then Contractor must reimburse the City for the full, commercially reasonable cost of the audit.

Failure of Contractor to reimburse the City in accordance with the subsection above is an event of default under Section 8.1 of this Agreement, and Contractor will be liable for all of the City's costs of collection, including any court costs and attorneys fees.

2.14 Confidentiality

(a) All Deliverables and reports, data, findings or information in any form prepared, assembled or encountered by or provided by Contractor under this Agreement are property of the City and are confidential, except as specifically authorized in this Agreement or as may be required by law. Contractor must not allow the Deliverables to be made available to any other individual or organization without the prior written consent of the City. Further, all documents and other information provided to Contractor by the City are confidential and must not be made available to any other individual or organization without the prior written consent of the City. Contractor must implement such measures as may be necessary to ensure that its staff and its Subcontractors are bound by the confidentiality provisions in this Agreement. Contractor agrees to abide by the terms of the City Data Security Policy, attached as Exhibit 11, as may be applicable to the performance of the Services, including SOW Services.

(b) Contractor must not issue any publicity news releases or grant press interviews, and except as may be required by law during or after the performance of this Agreement, disseminate any information regarding its Services or the project to which the Services pertain without the prior written consent of the Chief Information Officer.

(c) If Contractor is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data or documents which may be in Contractor's possession by reason of this Agreement, Contractor must immediately give notice to the Chief Information Officer and the Corporation Counsel for the City with the understanding that the City will have the opportunity to contest such process by any means available to it before the records, data or documents are submitted to a court or other third party. Contractor, however, is not obligated to withhold the delivery beyond the time ordered by a court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

(d) HIPAA and AIDS Confidentiality Act. To the extent not defined here the capitalized terms below and in Exhibit 6 will have the same meaning as set forth in the Health Insurance Portability and Accountability Act (Act). See 45 CFR parts 160, 162 and 164. Contractor and all its Subcontractors must comply with the Act and all rules and regulations applicable to it including the Privacy Rule, which sets forth the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164 subparts A and E; the Standards for Electronic Transactions, which are located at 45 CFR parts 160 and 162 and the Security Standards, which are located at 45 CFR parts 160, 162 and 164. Contractor must also comply with the Illinois AIDS Confidentiality Act (410 ILCS 305/1 through 16) and the rules and regulations of the Illinois Department of Public Health promulgated under it. If

Contractor fails to comply with the applicable provisions under the Act or the Illinois AIDS Confidentiality Act, such failure will constitute an event of default under this Agreement for which no opportunity for cure will be provided.

Additionally, if Contractor is a Business Associate it must comply with all requirements of the Act applicable to Business Associates including the provisions contained in Exhibit 6.

2.15 Assignments and Subcontracts

(a) Contractor must not assign, delegate or otherwise transfer all or any part of its rights or obligations under this Agreement: (i) unless otherwise provided for elsewhere in this Agreement; or (ii) without the express written consent of the Chief Procurement Officer and the Department. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of no effect as to the Services or this Agreement. No approvals given by the Chief Procurement Officer, including approvals for the use of any Subcontractors, operate to relieve Contractor of any of its obligations or liabilities under this Agreement. For clarification, a change in ownership of publicly traded shares of the Contractor in an amount less than 7.5% shall not be deemed an assignment, delegation or transfer of Contractor's rights or obligations under this Agreement.

(b) All Subcontractors are subject to the prior approval of the Chief Procurement Officer. Approval for the use of any Subcontractor in performance of the Services is conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Agreement. If any Subcontractor fails to perform the Services in accordance with the terms and conditions of this Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this Agreement by Contractor personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this Agreement under no circumstances operates to relieve Contractor of any of its obligations or liabilities under this Agreement.

(c) Contractor must ensure that all subcontractors with which Contractor has contracted for performance under this Agreement have agreed to provisions substantially similar to those contained in this agreement as applicable to the performance of services. If the agreements do not prejudice any of the City's rights under this Agreement, such agreements may contain different provisions than are provided in this Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) Contractor must not transfer or assign any funds or claims due or to become due under this Agreement without the prior written approval of the Chief Procurement Officer. The attempted transfer or assignment of any funds, either in whole or in part, or any interest in them, which are due or to become due to Contractor under this Agreement, without such prior written approval, has no effect upon the City.

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

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

ARTICLE 3. DURATION OF AGREEMENT

3.1 Term of Performance

This Agreement takes effect as of the Effective Date and continues, except as provided under Sections 4.4 or Article 8, for a period of three (3) years, as that date may be extended under Section 3.3.

3.2 Timeliness of Performance

(a) Contractor must provide the Services and Deliverables within the time limits required under any request for services pursuant to the provisions of Section 2.1 and Exhibit 1 or as set forth in any SOW.

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

3.3 Agreement Extension Option

The Chief Procurement Officer may at any time before this Agreement expires elect to extend this Agreement for up to two additional two-year periods, under the same terms and conditions as this original Agreement, by notice in writing to Contractor.

ARTICLE 4. COMPENSATION

4.1 Basis of Payment

A. CDWG Catalog Products

For CDWG Catalog Products, Contractor must supply such Products for no more than the percentage discount/cost plus mark-up set forth in Exhibit 2.

B. Non-CDWG Catalog Products. Contractor shall provide the Products identified in the IT Order Request, for the lesser of the price (a) as described in Exhibit 2, as applicable to the manufacturer of the Non-CDWG Catalog Product, or (b) if the manufacturer of such Product is not included in Exhibit 2, then the price shall be as agreed upon in the IT Order Request, subject to any pricing limitations set out in this Agreement.

C. Facility. The City, in an Order or IT Order Request, may specify various Services to be performed at the CSC for the items covered in the Order or IT Order Request. Such eligible Services are listed in Exhibit 1, and the prices for such Services are contained in Exhibit 2. If the Contractor receives such an Order or IT Order Request, it must perform the Services described at the prices contained in Exhibit 2.

D. SOW Services. City will compensate Contractor based upon the rates set forth in Exhibit 2, as applicable. The rates shall remain fixed throughout the term of the Agreement. If provided for in an SOW, Contractor may be compensated for any travel in accordance with Exhibit 10 Travel Guidelines.

4.2 Method of Payment

Contractor must submit monthly invoices (in triplicate) to the City for labor and other direct costs as billed, as outlined in the Schedule of Compensation in Exhibit 2. The invoices must be in such detail as the City requests. The City will process payment within 60 days after receipt of invoices and all supporting documentation necessary for the City to verify the Services provided under this Agreement.

4.3 Funding

The source of funds for payments under this Agreement are Fund numbers 014.0100.0062005.0446.220446. Payments under this Agreement must not exceed \$33,100,000.00 without a written amendment in accordance with Section 9.3. Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the City.

4.4 Non-Appropriation

If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, then the City will notify Contractor in writing of that occurrence, and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payments for Services completed to the date of notification will be made to Contractor except that no payments will be made or due to Contractor under this Agreement beyond those amounts appropriated and budgeted by the City to fund payments under this Agreement.

4.5 Taxes

Federal Excise Tax does not apply to materials purchased by the City of Chicago by virtue of Exemption Certificate No. 36-6005820 and State of Illinois Sales Tax does not apply by virtue of Exemption Certificate No. E9998-1874-07. Illinois Retailers Occupation Tax, Use Tax, and Municipal Retailers Occupation Tax do not apply to materials or services purchased by the City of Chicago by virtue of Statute. The price or prices quoted herein shall include all other Federal and/or State, direct and/or indirect taxes which apply. The prices quoted herein shall comply with all Federal laws and regulations.

4.6 Subcontractor Payments

The Contractor will be responsible for reporting payments to all Subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the City to the Contractor for services performed, on the first day of each month and every month thereafter, e-mail and/or fax audit notifications will be sent out to the Contractor with instructions to report payments that have been made in the prior month to each Subcontractor. The reporting of payments to all Subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

Once the Contractor has reported payments made to each MBE and WBE, including zero dollar amount payments, the MBE and WBE will receive an e-mail and/or fax notification requesting them to log onto the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and Subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at <https://chicago.mwdbe.com>.

4.7 Contractor Credits

To the extent the Contractor gives credits toward future purchases of goods or services, financial incentives, discounts, value points or other benefits based on the purchase of the materials or services provided for under this Contract, or to the extent such credits arise in connection with any service level agreements set forth in the Contract, such credits belong to the City and not any specific department of the City. Contractor shall reflect any such credits on its invoices and in the amounts it invoices the City. Contractor must reflect any such credits on the next invoice issued to the City following the City's incurring the credit. The amount of any credits remaining after City has paid all invoices under this Agreement shall promptly be remitted to the City.

ARTICLE 5. DISPUTES

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

ARTICLE 6. COMPLIANCE WITH ALL LAWS

6.1 Compliance with All Laws Generally

(a) Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later and whether or not they appear in this Agreement, including those set forth in this Article 6, and Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Contractor must require all Subcontractors to do so, also. Further, Contractor must execute an Economic Disclosure Statement and Affidavit ("EDS") available online at the City of Chicago Department of Procurement Service's webpage. Notwithstanding acceptance by the City of the EDS, Contractor's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Contractor must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate. Contractor agrees that Contractor's failure to maintain current throughout the term and any extensions of the term, the disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, shall constitute an event of default.

(b) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

6.2 Nondiscrimination

(a) Contractor

Contractor must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups. If this Agreement is federally funded in whole or in part, following the Effective Date, additional provisions related

to nondiscrimination may apply, upon agreement of the parties pursuant to Section 9.3.

(i) Federal Requirements

Contractor must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions, or privileges of the individual's employment, because of the individual's race, color, religion, sex, age, handicap/disability or national origin; or (2) limiting, segregating or classifying Contractor's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §§ 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. §§621-34; Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794 (1981); Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

(ii) State Requirements

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code § 750 Appendix A. Furthermore, Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended, and all other applicable state statutes, regulations and other laws.

(iii) City Requirements

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Chicago Human Rights Ordinance, ch. 2-160, Section 2-160-010 *et seq.* of the Municipal Code of Chicago (1990), as amended, and all other applicable City ordinances and rules.

(b) Subcontractors

Contractor must incorporate all of this Section 6.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Contractor must furnish and must cause each of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

6.3 Inspector General

It is the duty of any bidder, proposer or Contractor, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Contractor, Subcontractor or such applicant to cooperate with the Legislative Inspector General or the Inspector General in any investigation or hearing, if applicable, undertaken pursuant to Chapters 2-55 or 2-56, respectively, of the Municipal Code. Contractor understands and will abide by all provisions of Chapters 2-55 and 2-56 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

6.4 MacBride Ordinance

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with Section 2-92-580 of the Municipal Code of the City of Chicago, if Contractor conducts any business operations in Northern Ireland, the Contractor must make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

The provisions of this Section 6.4 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

6.5 Business Relationships with Elected Officials

Pursuant to Sec. 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any

City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. **Violation of Section 2-156-030(b) by any elected official with respect to this Agreement is grounds for termination of this Agreement.** The term business relationship is defined as set forth in Sec. 2-156-080 of the Municipal Code.

Section 2-156-080 defines a "**business relationship**" as any contractual or other private business dealing of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (ii) the authorized compensation paid to an official or employee for his office or employment; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; or (v) an endowment or insurance policy or annuity contract purchased from an insurance company. A "contractual or other private business dealing" shall not include any employment relationship of an official's spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

6.6 Chicago "Living Wage" Ordinance

(a) Section 2-92-610 of the Municipal Code provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers ("**Covered Employees**"). Accordingly, pursuant to Section 2-92-610 and regulations promulgated under it:

(i) If Contractor has 25 or more full-time employees, and

(ii) If at any time during the performance of this Agreement, Contractor and/or any Subcontractor or any other entity that provides any portion of the Services (collectively "**Performing Parties**") uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then

(iii) Contractor must pay its Covered Employees, and must ensure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the "**Base Wage**") for all Services performed under this Agreement.

(b) Contractor's obligation to pay, and to ensure payment of, the Base Wage will begin at any time during the term of this Agreement when the conditions set forth in (a)(i) and (a)(ii) above are met, and will continue until the end of the term of this Agreement.

(c) As of July 1, 2014, the Base Wage is \$11.93 per hour, and each July 1 thereafter, the Base Wage will be adjusted using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. The currently applicable Base Wage is available from the Department of Procurement Services. At all times during the term of this Agreement, Contractor and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required by applicable law for Services done under this Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then Contractor and all other Performing Parties must pay the prevailing wage rates.

(d) Contractor must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. ~~To the extent applicable,~~ Contractor agrees to provide the City with documentation acceptable to the Chief Procurement Officer demonstrating that all Covered Employees, whether employed by Contractor or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit Contractor and/or Subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.

(e) Not-for-Profit Corporations: If Contractor is a corporation having federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions of subsections (a) through (d) above do not apply.

6.7 Environmental Warranties and Representations

In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Contractor warrants and represents that it, and to the best of its knowledge, its subcontractors have not violated and are not in violation of the following sections of the Code (collectively, the Waste Sections):

- 7-28-390 Dumping on public way;
- 7-28-440 Dumping on real estate without permit;
- 11-4-1410 Disposal in waters prohibited;
- 11-4-1420 Ballast tank, bilge tank or other discharge;
- 11-4-1450 Gas manufacturing residue;
- 11-4-1500 Treatment and disposal of solid or liquid waste;
- 11-4-1530 Compliance with rules and regulations required;
- 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

During the period while this Agreement is executory, Contractor's or any subcontractor's

violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under the Agreement, at law or in equity.

This section does not limit Contractor's and its subcontractors' duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Agreement.

Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Agreement, and may further affect Contractor's eligibility for future contract awards.

6.8 Prohibition on Certain Contributions

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Contractor, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Contractor represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Contractor or the date the Contractor approached the City, as applicable, regarding the formulation of this Contract, no Identified Parties have made a contribution of any amount to the Mayor or to the Mayor's political fundraising committee.

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

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Contract resulting from this specification, the CPO may reject Contractor's bid.

For purposes of this provision:

"Other Contract" means any agreement entered into between the Contractor and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

"Contribution" means a "political contribution" as defined in MCC Ch. 2-156, as amended.

"Political fundraising committee" means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

6.9 Firms Owned or Operated by Individuals with Disabilities

The City encourages Contractors to use Subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

6.10 Ineligibility to do Business with City

Failure by the Contractor or any Controlling Person (defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code shall render this Contract voidable or subject to termination, at the option of the Chief Procurement Officer. Contractor agrees that Contractor's failure to maintain eligibility (or failure by Controlling Persons to maintain eligibility) to do business with the City in violation of Section 1-23-030 of the Municipal Code shall constitute an event of default.

6.11 Deemed Inclusion

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in

this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement.

6.12 Currency of Disclosures

The Contractor understands and will abide by the terms of Section 2-154-020 of the Municipal Code of Chicago, requiring contractors to keep all required disclosures current.

6.13 Duty to Report Corrupt or Unlawful Activity

Pursuant to MCC 2-156-018, it is the duty of the Contractor to report to the Inspector General, directly and without undue delay, any and all information concerning conduct which it knows to involve corrupt activity. "Corrupt activity" means any conduct set forth in Subparagraph (a)(1), (2) or (3) of Section 1-23-020 of the Municipal Code. Knowing failure to make such a report will be an event of default under this Contract. Reports may be made to the Inspector General's toll free hotline, 866-IG-TIPLINE (866-448-4754).

ARTICLE 7. SPECIAL CONDITIONS

7.1 Warranties and Representations

In connection with signing and carrying out this Agreement, Contractor:

(a) warrants that Contractor is appropriately licensed under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license is required by law and for which Contractor is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents and Subcontractors of any tier are competent to perform the Services required under this Agreement; and Contractor is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;

(c) warrants that it will not knowingly use the services of any ineligible contractor or Subcontractor for any purpose in the performance of its Services under this Agreement;

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

(e) represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and Contractor warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

(f) represents that Contractor and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of Sec. 2-92-320 of the Municipal Code, and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 8.2 and 8.3 of this Agreement; and

(h) warrants and represents that neither Contractor nor an Affiliate of Contractor (as defined below) appears on the Specially Designated Nationals List, the Denied Persons List, the unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce (or their successors), or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment. "Affiliate of Contractor" means a person or entity that directly (or indirectly through one or more intermediaries) controls, is controlled by or is under common control with Contractor. A person or entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity (either acting individually or acting jointly or in concert with others) whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

7.2 Ethics

(a) In addition to the foregoing warranties and representations, Contractor warrants:

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

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

(b) Contractor must comply with Chapter 2-156 of the Municipal Code, to the extent applicable. Contractor acknowledges that any Agreement entered into, negotiated or performed

in violation of any of the provisions of Chapter 2-156, including any contract entered into with any person who has retained or employed a non-registered lobbyist in violation of Section 2-156-305 of the Municipal Code, is voidable as to the City.

7.3 Joint and Several Liability

If Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this Agreement, each and without limitation every obligation or undertaking in this Agreement to be fulfilled or performed by Contractor is the joint and several obligation or undertaking of each such individual or other legal entity.

7.4 Business Documents

At the request of the City, Contractor must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

7.5 Conflicts of Interest

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

(b) Contractor represents that it, and to the best of its knowledge, its Subcontractors if any (Contractor and Subcontractors will be collectively referred to in this Section 7.5 as "**Consulting Parties**"), presently have no direct or indirect interest and will not acquire any direct or indirect interest in any project or contract that would conflict in any manner or degree with the performance of its Services under this Agreement.

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

(d) Without limiting the foregoing, if the Consulting Parties assist the City in determining the advisability or feasibility of a project or in recommending, researching, preparing, drafting or issuing a request for proposals or bid specifications for a project, the Consulting Parties must not participate, directly or indirectly, as a prime, subcontractor or joint

venturer in that project or in the preparation of a proposal or bid for that project during the term of this Agreement or afterwards. The Consulting Parties may, however, assist the City in reviewing the proposals or bids for the project if none of the Consulting Parties have a relationship with the persons or entities that submitted the proposals or bids for that project.

(e) Further, Consulting Parties must not assign any person having any conflicting interest to perform any Services under this Agreement or have access to any confidential information, as described in Section 2.11 of this Agreement. If the City, by the Commissioner in his reasonable judgment, determines that any of Consulting Parties' services for others conflict with the Services that Consulting Parties are to render for the City under this Agreement, Consulting Parties must terminate such other services immediately upon request of the City.

(f) Furthermore, if any federal funds are to be used to compensate or reimburse Contractor under this Agreement, Contractor represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. §1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended. If federal funds are to be used, Contractor must execute a Certification Regarding Lobbying, which is part of the EDS and incorporated by reference as if fully set forth here.

7.6 Non-Liability of Public Officials

Contractor and any assignee or Subcontractor of Contractor must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

7.7 EDS / Certification Regarding Suspension and Debarment

Contractor certifies, as further evidenced in the EDS available on the City of Chicago Department of Procurement Services webpage, by its acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. Contractor further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Contractor or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

ARTICLE 8. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET

8.1 Events of Default Defined

The following constitute events of default, with regard to which Contractor shall be offered a cure period in accordance with Section 8.2:

- (a) Any material misrepresentation made by Contractor to the City.
- (b) Contractor's material failure to perform any of its obligations under this Agreement including the following:
 - (i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
 - (ii) Failure to have and maintain all professional licenses required by law to perform the Services;
 - (iii) Failure to timely perform the Services;
 - (iv) Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or the Chief Procurement Officer or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
 - (v) Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;
 - (vi) Discontinuance of the Services for reasons within Contractor's reasonable control;
 - (vii) Failure to comply with Section 6.1 in the performance of the Agreement;
 - (viii) Failure promptly to update EDS(s) furnished in connection with this Agreement when the information or responses contained in it or them is no longer complete or accurate;
 - (ix) Failure to comply with any other material term of this Agreement, including the provisions concerning insurance and nondiscrimination; and
 - (x) Any other acts specifically stated in this Agreement as constituting an act of default.
- (c) Any change in ownership or control of Contractor as a consequence of which the City is legally prohibited from being a party to a contract agreement with that entity. Contractor shall be obligated to notify the Chief Procurement Officer, promptly, of a change in ownership over 7.5%.
- (d) Contractor's default under any other agreement it may presently have or may

enter into with the City for the duration of this Agreement. Contractor acknowledges that in the event of a default under this Agreement the City may also declare a default under any such other agreements.

(e) Contractor's violation of City ordinance(s) unrelated to performance under the Agreement such that, in the opinion of the Chief Procurement Officer, it indicates a willful or reckless disregard for City laws and regulations.

8.2 Remedies

(a) Notices. The occurrence of any event of default permits the City, at the City's sole option, to declare Contractor in default. The Chief Procurement Officer shall give Contractor an opportunity to cure the default within a certain period of time, which period of time must not be less than 30 days, and which period of time may be extended by the Chief Procurement Officer, in her sole discretion. However, the Chief Procurement Officer shall not be obligated to give Contractor an opportunity to cure with respect to those Events of Default that are incapable of cure. Whether to declare Contractor in default is within the sole discretion of the Chief Procurement Officer and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Agreement.

Subject to the preceding paragraph, the Chief Procurement Officer will give Contractor written notice of the default, first by providing a cure notice ("**Cure Notice**"), and if the default was not cured within thirty days or a longer period agreed to by the parties, or, if no opportunity to cure will be granted, default notice ("**Default Notice**"). If the Chief Procurement Officer gives a Default Notice, she will also indicate any present intent she may have to terminate this Agreement, which she may do either as to all or any portion of the Services, and the decision to terminate is final and effective upon giving the notice. If the Chief Procurement Officer decides not to terminate, this decision will not preclude her from later deciding to terminate the Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Chief Procurement Officer may give a Default Notice if Contractor fails to effect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 8.2 and Article 10, such notice shall specify whether the termination is for a portion or all of the Services, and Contractor must discontinue the Services specified in such notice, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process, to the City.

(b) Exercise of Remedies. After giving a Default Notice, the City may invoke any or all of the following remedies:

(i) The right to take over and complete the Services, or any part of them, at Contractor's expense and as agent for Contractor, either directly or through others, and bill Contractor for the cost of the Services, and Contractor must pay the difference between the total amount of this bill and the amount the City would have paid Contractor under the terms and conditions of this Agreement for the Services that were assumed by the City as agent for Contractor under this Section 8.2;

(ii) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the City;

(iii) The right to seek specific performance, an injunction or any other appropriate equitable remedy;

(iv) The right to money damages;

(v) The right to withhold all or any part of Contractor's unearned compensation under this Agreement;

(vi) The right to deem Contractor non-responsible in future contracts to be awarded by the City;

(vii) The right to declare default on any other contract or agreement Contractor may have with the City.

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

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

8.3 Early Termination

(a) In addition to termination under Sections 8.1 and 8.2 of this Agreement, the City may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by a thirty day notice in writing from the City to Contractor. The City will give notice to Contractor in accordance with the provisions of Article 10. The effective date of termination will be the date the notice is received by Contractor or the date stated in the notice, whichever is later. If the City elects to terminate this Agreement in full, all Services to be provided under it must cease and all materials that may have been accumulated in performing this Agreement, whether completed or in the process, must be delivered to the City effective 10 days after the date the notice is considered received as provided under Article 10 of this Agreement (if no date is given) or upon the effective date stated in the notice.

(b) After the notice is received, Contractor must restrict its activities, and those of its Subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth in Article 4, but if any compensation is described or provided for on the basis of a period longer than 10 days, then the compensation must be prorated accordingly. No amount of compensation, however, is permitted for anticipated profits on unperformed Services. The City and Contractor must attempt to agree on the amount of compensation to be paid to Contractor, but if not agreed on, the dispute must be settled in accordance with Article 5 of this Agreement. The payment so made to Contractor is in full settlement for all Services satisfactorily performed under this Agreement.

(c) Contractor must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. Contractor will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against Contractor or the City.

(d) If the City's election to terminate this Agreement for default under Sections 8.1 and 8.2 is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered to be an early termination under this Section 8.3.

8.4 Suspension

The City may at any time request that Contractor suspend its Services, or any part of them, by giving 15 days prior written notice to Contractor or upon informal oral, or even no notice, in the event of emergency. No costs incurred after the effective date of such suspension are allowed. Contractor must promptly resume its performance of the Services under the same terms and conditions as stated in this Agreement upon written notice by the Chief Procurement Officer and such equitable extension of time as may be mutually agreed upon by the Chief Procurement Officer and Contractor when necessary for continuation or completion of Services. Any additional costs or expenses actually incurred by Contractor as a result of recommencing the Services must be treated in accordance with the compensation provisions under Article 4 of this Agreement.

No suspension of this Agreement is permitted in the aggregate to exceed a period of 45 days within any one year of this Agreement. If the total number of days of suspension exceeds 45 days, Contractor by written notice to the City may treat the suspension as an early termination of this Agreement under Section 8.3.

8.5 Right to Offset

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

- (i) if the City terminates this Agreement for default or any other reason resulting from Contractor's performance or non-performance;
- (ii) if the City exercises any of its remedies under Section 8.2 of this Agreement;
- (iii) if the City has any credits due or has made any overpayments under this Agreement.

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

(b) As provided under Sec. 2-92-380 of the Municipal Code, the City may set off from Contractor's compensation under this Agreement an amount equal to the amount of the fines and penalties for each *outstanding parking violation complaint* and the amount of any *debt* owed by Contractor to the City as those italicized terms are defined in the Municipal Code.

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

ARTICLE 9. GENERAL CONDITIONS

9.1 Entire Agreement

(a) General

This Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this Agreement that are not addressed in this Agreement.

(b) No Collateral Agreements

Contractor acknowledges that, except only for those representations, statements or promises contained in this Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Contractor to enter into this Agreement or has been relied upon by Contractor, including any with reference to: (i) the

meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this Agreement; (iv) the general conditions which may in any way affect this Agreement or its performance; (v) the compensation provisions of this Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

(c) No Omissions

Contractor acknowledges that Contractor was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this Agreement before signing this Agreement in order that it might request inclusion in this Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. Contractor did so review those documents, and either every such statement, representation, promise or provision has been included in this Agreement or else, if omitted, Contractor relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

9.2 Counterparts

This Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

9.3 Amendments

Except as provided in Section 3.3 of this Agreement, no changes, amendments, modifications or discharge of this Agreement, or any part of it are valid unless in writing and signed by the authorized agent of Contractor and by the Mayor, Comptroller, and Chief Procurement Officer of the City or their respective successors and assigns. The City incurs no liability for Additional Services without a written amendment to this Agreement under this Section 9.3.

Whenever under this Agreement Contractor is required to obtain the City's prior written approval, the effect of any approval that may be granted pursuant to Contractor's request is prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event is approval permitted to apply retroactively to a date before the approval was requested.

9.4 Governing Law and Jurisdiction

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois.

Contractor irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Service of process on Contractor may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Contractor, or by personal delivery on any officer, director, or managing or general agent of Contractor. If any action is brought by Contractor against the City concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

9.5 Severability

If any provision of this Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement does not affect the remaining portions of this Agreement or any part of it.

9.6 Assigns

All of the terms and conditions of this Agreement are binding upon and inure to the benefit of the parties and their respective legal representatives, successors and assigns.

9.7 Cooperation

Contractor must at all times cooperate fully with the City and act in the City's best interests. If this Agreement is terminated for any reason, or if it is to expire on its own terms, Contractor must make every effort to ensure an orderly transition to another provider of the Services, if any, orderly demobilization of its own operations in connection with the Services, uninterrupted provision of Services during any transition period and must otherwise comply with the reasonable requests and requirements of the Department in connection with the termination or expiration.

9.8 Waiver

Nothing in this Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

Whenever under this Agreement the City by a proper authority waives Contractor's performance in any respect or waives a requirement or condition to either the City's or Contractor's performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this Agreement regardless of the number of times the City may have waived the performance, requirement or condition. Such waivers must be provided to Contractor in writing.

9.9 Independent Contractor

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

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

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

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

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

(c)(i) The City is subject to the June 24, 2011 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) Contractor is aware that City policy prohibits City employees from directing any individual to apply for a position with Contractor, either as an employee or as a subcontractor, and from directing Contractor to hire an individual as an employee or as a subcontractor. Accordingly, Contractor must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Contractor under this Agreement are employees or subcontractors of Contractor, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or

otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Contractor.

(iii) Contractor will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(iv) In the event of any communication to Contractor by a City employee or City official in violation of Section (ii) above, or advocating a violation of Section (iii) above, Contractor will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Agreement. Contractor will also cooperate with any inquiries by OIG Hiring Oversight or the Shakman Monitor's Office related to the contract.

9.10 Participation by Other Local Government Agencies

Other local government agencies may be eligible to participate in this agreement pursuant to the terms and conditions of this Contract if such agencies are authorized, by law or their governing bodies, to execute such purchases, and if such authorization is allowed by the City's Chief Procurement Officer, and if such purchases have no net adverse effect on the City, and result in no diminished services from the Contractor to the City's user departments pursuant to such purchases. Examples of such Local Government Agencies are: Board of Education, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier and Exposition Authority (McCormick Place, Navy Pier), Cook County and the Municipal Courts. Said purchases shall be made upon the issuance of a purchase order directly from the Local Government Agency. The City will not be responsible for payment of any amounts owed by any other Local Government Agencies, and will have no liability for the acts or omissions of any other Local Government Agency.

ARTICLE 10. NOTICES

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

If to the City:

Department of Innovation and Technology
Suite 2700, Daley Plaza
50 W. Washington St.
Chicago, Illinois 60602
Attention: Chief Information Officer

and

Department of Procurement Services
Room 806, City Hall
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Chief Procurement Officer

With Copies to:

Department of Law
Room 600, City Hall
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Corporation Counsel

If to Contractor:

General Counsel
CDW Government LLC
230 N. Milwaukee Ave
Vernon Hills, IL 60061

With Copies to:

Director, Program Sales
CDW Government LLC
2 Corporate Dr, Ste 800
Shelton, CT 06484

Changes in these addresses must be in writing and delivered in accordance with the provisions of this Article 10. Notices delivered by mail are considered received three days after mailing in accordance with this Article 10. Notices delivered personally are considered effective upon receipt. Refusal to accept delivery has the same effect as receipt.

ARTICLE 11. AUTHORITY

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

[Signature Pages, Exhibits and Schedules follow]

Contract No. 29659
Specification No 105081
Vendor Name CDW Government LLC
Total Amount (Value) \$33,100,000 00
Fund Chargeable 014 0100.0062005 0446 220446

CDW Government LLC.

(Contractor)

By: Christina V. Rother
Its: President, CDW Government LLC, Christina Rother

Attest [Signature]

State of Illinois
County of Cook

This instrument was acknowledged before me on this 22 day of Sept, 2014 by
Christina V. Rother as President (or other authorized officer) and
Mary Jo George as Secretary of CDW Government (Corporation Name).
ASST. LLC

(Seal)
Janelle Nelson
Notary Public Signature
Commission Expires 10/27/2014



CITY OF CHICAGO
Rahm Emanuel SEP 9/30/14

Mayor Date
[Signature] 9/26/14
Comptroller Date
[Signature] SEP 26 2014
Chief Procurement Officer Date

[Handwritten mark]

CDW GOVERNMENT LLC

That the undersigned, Mary Jo Georgen, being the Assistant Secretary of CDW Government LLC an Illinois limited liability company (the "Company"), does hereby certify as follows:

1. That Christina V. Rother is duly elected as President and to the Board of Manager(s) ("Manager(s)") of the Company;
2. That in her capacity as President, Ms. Rother has the authority to act in accordance with Article III, Sections 5 of the Amended and Restated By-Laws of the Company, which is set forth below in its entirety, and which has not been modified, amended or superseded to negate the below, and shall remain in full force and effect as of the date hereof:

Section 5. President.

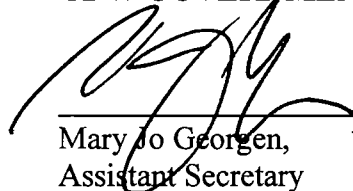
The president shall be the Corporations general manager and chief executive officer and shall, subject to the control of the board of directors, have general supervision, direction and control of the business, affairs and officers of the Corporation. Unless otherwise determined by the board of directors, the president shall preside as chairman at all meetings of shareholders, the board of directors and any committees of which the president is a member. The president shall have the general powers and duties of management usually vested in the office of president of a corporation; shall have any other powers and duties that are prescribed by the board of directors or the by-laws; and shall be primarily responsible for carrying out all orders and resolutions of the board if directors.

3. A true and accurate copy of the Amended and Restated By-Laws of the Company, are attached hereto.

IN WITNESS WHEREOF, I have executed on the date stated below.

Dated as of September 22, 2014

CDW GOVERNMENTLLC



Mary Jo Georgen,
Assistant Secretary