

CONTRACT NO. 12485

**SUPPLEMENTAL AGREEMENT FOR MAINTENANCE,
REPAIR AND OPERATIONS SUPPLIES**

between

W.W. GRAINGER, INC.

and

THE CHICAGO HOUSING AUTHORITY

This **SUPPLEMENTAL AGREEMENT FOR MAINTENANCE, REPAIR AND OPERATIONS SUPPLIES** (hereinafter, the "Supplemental Agreement") is entered into as of the 1st day of January, 2021 by and between the **CHICAGO HOUSING AUTHORITY** (the "CHA"), an Illinois municipal corporation organized under the Illinois Housing Authority Act, 310 ILCS 10/1 *et seq.*, with offices at 60 E. Van Buren St., Chicago, Illinois and **W.W. GRAINGER, INC.** (the "Vendor"), an Illinois corporation with an address of 100 Grainger Parkway, Lake Forest, Illinois, 60045.

RECITALS

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; and

WHEREAS, the Region 4 Education Service Center (the "Region 4 ESC") is a regional education service center established pursuant to the §8.001 of the Texas Education Code to assist school districts and charter schools in improving efficiencies and student performance, and is considered a state agency pursuant to §8.008 of the Texas Education Code, with a principal place of business at 7145 West Tidwell Road, Houston, TX 77092; and,

WHEREAS, Region 4 ESC issued a Request for Proposals for Maintenance, Repair and Operations (MRO) Supplies & Related Services (Request for Proposals Number 19-20) on behalf of itself, other government agencies and non-profits through OMNIA Partners, Public Sector ("OMNIA"), pursuant to which Region 4 ESC awarded to Vendor, and Region 4 ESC and Vendor entered into, that Region 4 Education Service Center Contract R192002 for Maintenance, Repair and Operations (MRO) Supplies and Equipment made as of February 25, 2020 and effective as of April 1, 2020 (the "Vendor Contract"), with an initial term of April 1, 2020-March 31, 2023 and two additional one-year options; and,

WHEREAS, the Vendor Contract was procured pursuant to an open and competitive solicitation, and contemplates participation rights for any state, county, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution, other government agency, or non-profit organization to purchase products and services at prices indicated in the Vendor Contract upon registering and becoming a member of OMNIA; and,

WHEREAS, the CHA desires to participate in the Vendor Contract in reliance upon the other public agencies participation rights available and in effect under the Vendor Contract, and said participation rights have been authorized and approved by Region 4 ESC in the Vendor Contract; and,

WHEREAS, the Vendor Contract is attached hereto as **Exhibit I** and is hereby

incorporated by reference as if fully and originally set forth herein, except as to provisions specifically modified in this Supplemental Agreement;

WHEREAS, the CHA and the Vendor desire to enter into this Supplemental Agreement to facilitate the CHA's purchase of MRO supplies from Vendor upon the same generally prevailing terms, conditions and prices as established in the Vendor Contract, except as specifically modified by the terms herein as special conditions; and

WHEREAS, the CHA and the Vendor also desire to fulfill their respective rights and obligations under this Supplemental Agreement by modifying certain clauses of the Vendor Contract to achieve the appropriate reach, application and interpretation of the applicable terms and conditions to CHA and Vendor without affecting in any way the rights or obligations of the Region 4 ESC or the Vendor under the Vendor Contract.

NOW THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, the CHA and the Vendor agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS AND VENDOR CONTRACT; EFFECTS OF MODIFICATIONS AND PRECEDENCE

Section 1.1 Incorporation of Recitals

The recitals set forth above are incorporated by reference as if fully set forth herein.

Section 1.2 Incorporation of and Modifications to the Vendor Contract

For the purposes of this Supplemental Agreement and without otherwise affecting the terms, conditions or duration of the Vendor Contract, or the rights and obligations of the respective parties to that certain Vendor Contract, the CHA and Vendor agree that the general terms and provisions of the Vendor Contract are incorporated by reference as if fully set forth herein, except for those provisions which are specifically modified and/or superseded by the terms and conditions below. This Supplemental Agreement shall have no effect (adverse or otherwise) upon the validity, duration or operation of the Vendor Contract. Furthermore, to fully effectuate the independent performance, operation and administration of this Supplemental Agreement as a wholly separate agreement from the Vendor Contract, this Supplemental Agreement shall be construed by the CHA and the Vendor, and by any court, tribunal or other entity charged with enforcement or interpretation of this Supplemental Agreement, harmoniously with the Vendor Contract to the fullest extent practicable. In the event of clear and irreconcilable conflict of a substantial and material nature between the terms of this Supplemental Agreement and the Vendor Contract, the terms and conditions of this Supplemental Agreement shall prevail and have precedence over the terms of the Vendor Contract.

All rights and duties generally applicable to or reserved to Region 4 ESC or Cooperative Member as applicable under the Vendor Contract shall likewise be vested in the CHA for purposes

of this Supplemental Agreement. Furthermore, all rights and duties generally applicable to or reserved to the Vendor under the Vendor Contract shall likewise be vested in the Vendor for purposes of this Supplemental Agreement. Additionally, with respect to any material clause or provision set forth in the Vendor Contract which has an analogous or equivalent term or provision under law or regulation that would apply to the parties to this Supplemental Agreement, the equivalent law or provision shall be given full reasonable effect, without intending any material conflict or contradiction with the equivalent or comparable term, condition, law or regulation referenced in the Vendor Contract.

ARTICLE 2. VENDOR'S DUTIES AND RESPONSIBILITIES

Section 2.1 Materials to be Supplied

Vendor shall provide to the CHA Maintenance, Repair, Operating (MRO) Supplies, Industrial Supplies, and Related Products (the "Supplies and Materials"), as provided under the Vendor Contract via both walk-in and online ordering (the "Services"). All Supplies and Materials provided to the CHA under the Supplemental Agreement shall be in conformance with all pertinent federal, state and local statutes, ordinances, regulations, rules, recommendations and guidelines. **Notwithstanding any provision or understanding to the contrary with respect to the Vendor Contract, this Supplemental Agreement shall not be deemed a requirements contract, and nothing shall obligate CHA to purchase MRO supplies only from Vendor, if alternative arrangements are deemed to be in the best interests of CHA.**

Section 2.2 Non-Discrimination

Vendor shall comply with all applicable federal, state and local non-discrimination laws, rules, regulations and ordinances including, but not limited to, The Civil Rights Act of 1964, 42 U.S.C. sec. 2000 et seq. (1989), as amended, and all regulations promulgated thereto. Vendor shall particularly remain in compliance at all times with: Exec. Order No. 11246, 30 Fed. Reg. 12319 (1965), reprinted in 42 U.S.C. 2000 (e) note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46501 (1978); Age Discrimination Act, 42 U.S.C. sec. 6101-6106 (1989); Rehabilitation Act of 1973, 29 U.S.C. sec. 793-794 (1988); Fair Housing Amendments Act, 42 U.S.C. Sec. 3601 et seq., (1988); Americans with Disabilities Act of 1990, 42 U.S.C. 12101 and 41 C.F.R. Part 60 et seq., (1990). Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., as amended, and regulations promulgated in accordance therewith, including but not limited to the Equal Employment Opportunity Clause, Ill. Admin. Code Tit. 44 section 750 Appendix A, which is attached hereto as **Exhibit II** and incorporated by reference herein; Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended. Chicago Human Rights ordinance, s2-160-010 et seq., of the Municipal Code of Chicago, as amended; and the Chicago Fair Housing Regulations, s5-8-010 et seq., of the Municipal Code of Chicago, as amended. In addition, Vendor must furnish such reports and information as reasonably requested by the Chicago Commission on Human Relations.

Section 2.3 MBE/WBE/DBE Compliance

Vendor shall provide to the CHA, on a biannual basis, documentation concerning its diversity initiatives, in particular reports summarizing Vendor's direct or indirect Minority, Women and Disadvantaged Business Enterprises ("MBE/WBE/DBE") participation.

Section 2.4 HUD's General Conditions for Non-Construction Contracts

HUD's General Conditions for Non-Construction Contracts (HUD form 5370-C (1/2017) ("General Conditions"), are attached hereto as **Exhibit III** and are incorporated by reference as if fully set forth herein. The Vendor agrees to fully comply with the General Conditions. In the event of a conflict between the terms and conditions of the General Conditions and the terms and conditions of the Supplemental Agreement, the terms and conditions of the Supplemental Agreement shall control.

Section 2.5 Books and Records

The Vendor shall maintain its books, records, documents, and other materials related to the performance of the Supplemental Agreement for a period of three (3) years following the expiration or termination of the Supplemental Agreement and after final payment has been made and all other pending matters are closed, and adopt accounting procedures and practices sufficient to reflect properly all prices charged to CHA by Vendor of whatever nature claimed to have been incurred or anticipated to be incurred for or in connection with the performance of the Vendor's Services under the Supplemental Agreement. The Vendor shall maintain its accounting system, books and records in a manner that complies with generally accepted accounting principles ("GAAP"), consistently applied throughout.

The provisions of Section 2.5 shall survive the expiration or termination of the Supplemental Agreement.

Section 2.6 Subcontracts and Assignments

Unless otherwise provided for herein, the Vendor shall not subcontract, assign otherwise delegate or otherwise transfer all or any part of its obligations under this Supplemental Agreement or any part hereof without the prior written approval of the CHA. The absence of such prior written approval shall void the attempted subcontracting, assignment, delegation or transfer and shall have no legal effect on the Services or this Supplemental Agreement.

Section 2.7 Patents and Copyrights

The CHA reserves an exclusive, perpetual and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for CHA or HUD purposes, including, but not limited to, commercial exploitation: (a) the copyright or patent in any work developed or discovered in the performance of the Services under this Supplemental Agreement, and (b) any rights of copyright or patent of which the Vendor purchases ownership with funds awarded pursuant to this Supplemental Agreement for the purpose of meeting the objectives of this

Supplemental Agreement.

Section 2.8 Religious Activities

In connection with the Services to be provided under this Supplemental Agreement, the Vendor agrees:

A. That it shall not discriminate against any person on the basis of religion and shall not limit employment or give preference in employment to persons on the basis of religion; and

B. That it shall not discriminate when rendering the Services hereunder against any person on the basis of religion and shall not limit such Services or give preference to persons on the basis of religion.

Section 2.9 Drug-Free Workplace

The Vendor shall establish procedures and policies to promote a "Drug-Free Workplace." Further, the Vendor shall notify all employees of its policy for maintaining a "Drug-Free Workplace," and the penalties that may be imposed for drug abuse violations occurring in the workplace.

Section 2.10 Inspector General Investigations

It is the duty of the Vendor to cooperate with the CHA Inspector General or the Inspector General of the Department of Housing and Urban Development in any investigation or hearing undertaken.

Section 2.11 Compliance with CHA Policies

The Vendor shall comply with the following policies:

- CHA's Ethics Policy.

Section 2.12 Acknowledgement of Federal Funding

Vendor acknowledges and agrees that CHA is primarily a federally funded agency, and, as such, federal funds will be utilized by CHA through this Supplemental Agreement, and that federal funding may require adherence to certain processes, procedures, and documentation as specified by the federal funding source.

Section 2.13 Audit Requirement

The CHA retains an irrevocable right to independently or, through a third party, audit the

Contractor's books and records pertaining to this Agreement and disallow any inappropriate billings upon written notice to the Contractor. In the event of a disallowance, the Contractor shall refund the amount disallowed to the CHA. Notwithstanding the foregoing, nothing contained herein shall require the release of trade secrets or confidential or proprietary information pursuant to such audit, subject to federal and state laws related to public records disclosures.

ARTICLE 3. TERM OF SUPPLEMENTAL AGREEMENT

Section 3.1 Term of Supplemental Agreement

The initial term of this Supplemental Agreement is for the period effective from January 1, 2021, through March 31, 2023 (the "Base Term"). There shall be two (2) additional one-year options to extend the Agreement (the "Option Years"). Any extension shall be under the same terms and conditions as this Supplemental Agreement. This Supplemental Agreement shall be modified to reflect the time extension in accordance with the provisions of Section 9.3, "Amendments".

Section 3.2 Timeliness of Performance

The Vendor shall use its best efforts to provide the Supplies and Materials promptly following receipt of orders from the CHA. The Vendor and the CHA acknowledge that deadlines for certain Supplies and Materials provided for in this Supplemental Agreement may be dictated by the requirements of agencies or events outside the control of the CHA and the Vendor, and the failure by the Vendor to meet deadlines may result in economic or other significant losses to the CHA. Therefore, except to the extent that the Vendor's inability to meet its deadlines is caused by the delay due to the CHA, by acts of God or other events outside the control of the Vendor, **TIME IS OF THE ESSENCE**, so that failure to perform in a timely manner shall be considered a material breach of the Supplemental Agreement.

ARTICLE 4. COMPENSATION AND PAYMENT

Section 4.1 Compensation

Compensation for the Vendor's complete and satisfactory performance and provision of the Supplies and Materials, pursuant to purchase orders issued from time to time, shall in the aggregate not exceed **Six Million and 00/100 Dollars (\$6,000,000.00)** for the Base Term (hereinafter the "Maximum Compensation"). Compensation for Option Year 1, if exercised, shall be in an amount not-to-exceed **Two Million and 00/100 Dollars (\$2,000,000.00)**. Compensation for Option Year 2, if exercised, shall be in an amount not-to-exceed **Two Million and 00/100 Dollars (\$2,000,000.00)**. Pricing for Supplies and Materials shall be subject to the same established pricing, selection, and discount terms established in the Vendor Contract.

Section 4.2 Payment/Reporting

Invoicing. Payment is due at the time of purchase. If the CHA objects to all or any portion of a charge or sale, it shall notify the Vendor of its objection in writing and both parties shall make every effort to settle the disputed portion of the charge or sale. The parties may agree to extended payment terms upon terms and conditions applicable to such extended credit program.

Reporting. The Vendor shall periodically furnish a summary of purchases and shall provide such supporting documents and additional information as may be required to support such summary. If requested, each summary shall contain back-up information as required by the CHA, including but not limited to, a brief description of the Supplies and Materials ordered during the reporting period.

The foregoing shall modify and supplement the invoicing and payment terms of the Vendor Contract as applied to this Supplemental Agreement.

Section 4.3 Non-Appropriation

Funding for this Supplemental Agreement is subject to: (1) availability of federal funds from HUD, (2) the approval of funding by the CHA's Board of Commissioners, and (3) the Vendor's satisfactory performance of this Supplemental Agreement. Furthermore, in the event that no funds or insufficient funds are appropriated and budgeted, or appropriated funds are rescinded by Congress in any fiscal period of the term of this Supplemental Agreement for payments to be made under this Supplemental Agreement, then the CHA may notify the Vendor of such occurrence and this Supplemental Agreement shall 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 Supplemental Agreement are exhausted. The foregoing shall modify and supersede the analogous governmental appropriation terms of the Vendor Contract as applied to this Supplemental Agreement.

ARTICLE 5. DISPUTES

Section 5.1 Disputes

In the event of a dispute between the CHA and the Vendor involving this Supplemental Agreement, both parties will attempt to negotiate a resolution. If the parties cannot resolve the dispute through negotiation, either party shall, unless otherwise set forth herein, submit the dispute in writing to CHA's Contracting Officer, who shall, with reasonable promptness, render a decision concerning the dispute submitted. Unless Vendor objects or otherwise takes further action within thirty (30) days, the decision of the Contracting Officer shall be final and binding. The foregoing shall modify and supplement the dispute terms of the Vendor Contract as applied to this Agreement.

ARTICLE 6. RISK MANAGEMENT

Section 6.1 Insurance

The Vendor agrees to comply with and meet or exceed the insurance requirements set forth in **Exhibit VI**, which is attached hereto and incorporated by reference as if fully set forth herein.

Section 6.2 Indemnification

The Vendor agrees to defend (except for professional liability claims), indemnify, keep, save, and hold the CHA, its officers, officials, employees and agents and contractors free and harmless from and against any and all liabilities, losses, penalties, damages, settlements, environmental liability, costs, charges, professional fees or other expenses or liabilities of every kind, nature and character arising out of or relating to any and all claims, liens, demands, obligations, actions, suits, judgments or settlements, proceedings or causes of action of every kind, nature and character (collectively, "Claims") arising out of the Vendor's acts or omissions in the performance of the Services contemplated by this Supplemental Agreement and the negligent acts and omissions, gross negligence, or willful misconduct of the Vendor, its agents, employees, and subcontractors, including but not limited to, the enforcement of this indemnification provision. Without limiting the foregoing, any and all such Claims, relating to personal injury, death, damage to property, defects in material or workmanship caused by Vendor's acts or omissions, actual or alleged infringement of any patent, trademark, copyright or any other tangible or intangible personal or property right, or any actual violation of any applicable statute, ordinance, order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The Vendor further agrees to investigate, handle, respond to, provide defense for and defend all suits for any and all Claims at its sole expense and agrees to bear all the costs and expenses related thereto.

The CHA shall have the right, at CHA's expense, to participate in the defense of any suit, without relieving the Vendor of any of its obligations under this indemnity provision. The Vendor expressly understands and agrees that the requirements set forth in this indemnity to defend, indemnify, keep, save and hold the CHA free and harmless are separate from and not limited by the Vendor's responsibility to obtain, procure and maintain insurance pursuant to any other section of this Supplemental Agreement. Further, the indemnities contained in this section shall survive the expiration or termination of this Supplemental Agreement. The foregoing shall modify and supplement the equivalent risk terms of the Vendor Contract as applied to this Supplemental Agreement.

ARTICLE 7. EVENTS OF DEFAULT, REMEDIES, TERMINATION, RIGHT TO OFFSET, SUSPENSION

Section 7.1 Events of Default Defined

Each of the following shall constitute an event of default:

- A. Any material misrepresentation, whether negligent or willful and whether in the

inducement or in the performance, made by Vendor to the CHA.

- B. The Vendor's failure to perform any of its obligations under this Agreement including, but not limited to, the following:
1. Failure to perform the Services with sufficient personnel or with sufficient material to ensure the performance of the Services or due to a reason or circumstance within the Vendor's control;
 2. Failure to meet any of the performance standards set forth in this Supplemental Agreement;
 3. Failure to perform the Services in a manner reasonably satisfactory to the CHA, or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
 4. Failure to promptly re-perform within a reasonable time Services or Deliverables that were rejected as erroneous or unsatisfactory;
 5. Discontinuance of the Services for reasons or circumstances not beyond the Vendor's control;
 6. Failure to comply with a material term of this Agreement, including, but not limited to, the provisions concerning compliance with HUD regulations, insurance and nondiscrimination; and
 7. Any other acts specifically and expressly stated in this Supplemental Agreement as constituting an event of default.
- C. Any change in majority ownership or majority control of the Vendor without the prior written approval of the CHA, which written approval shall not be unreasonably withheld.
- D. The Vendor's default under any other agreement it may presently have or may enter into with the CHA during this Supplemental Agreement. The Vendor acknowledges and agrees that in the event of a default under this Supplemental Agreement the CHA may also declare a default under any such other agreements.

Section 7.2 Remedies

Upon the occurrence of any event of default which the Vendor fails to cure within thirty (30) calendar days after receipt of written notice given in accordance with the terms of this Supplemental Agreement and specifying the event of default or, if such event of default cannot be reasonably cured within thirty (30) calendar days after notice, or if the Vendor has failed to commence and continue diligent efforts to cure such default within thirty (30) days, the CHA may,

at its sole option, declare the Vendor in default. Whether to declare the Vendor in default is within the sole discretion of the CHA and neither that decision nor the factual basis for it is subject to review or challenge under the disputes provision of this Supplemental Agreement. Written notification of the default, and any intention of the CHA to terminate the Supplemental Agreement, shall be provided to the Vendor and such decision shall be final and effective upon the Vendor's receipt of such notice pursuant to Article 10. Upon the giving of such notice, the CHA may invoke any or all of the following remedies:

- A. The right to terminate this Supplemental Agreement as to any or all of the Services yet to be performed effective at a time specified by the CHA.
- B. The right to pursue any and all remedies, legal and/or equitable, available to the CHA.
- C. The right to withhold all or any part of Vendor's compensation hereunder with respect to Services not completed in accordance with the terms hereof prior to the termination of this Supplemental Agreement.
- D. The right to deem Vendor non-responsible in future contracts to be awarded by the CHA.
- E. The right to take over and complete the Services or any part thereof as agent for and at the cost of Vendor to a maximum of any amounts paid by CHA for those Services not satisfactorily delivered by Vendor, either directly or through others.

If the CHA considers it to be in its best interests, it may elect not to declare default or to terminate the Supplemental Agreement hereunder. The parties acknowledge that this provision is solely for the benefit of the CHA and that if the CHA permits Vendor to continue to provide Supplies and Materials despite one or more events of default, the Vendor shall in no way be relieved of any of its responsibilities, duties or obligations under this Supplemental Agreement nor shall the CHA waive or relinquish any of its rights.

The remedies under the terms of this Supplemental Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or failure to exercise any right or power accruing upon any event of default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.3 Termination for Convenience

The CHA may terminate this Supplemental Agreement, or all or any portion of the Services to be performed under it for convenience, at any time by written notice from the CHA to Vendor when the Supplemental Agreement may be deemed to be no longer in the best interests of the CHA. If the CHA elects to terminate the Supplemental Agreement in full, all Services to be performed

hereunder shall cease effective ten (10) calendar days after the date written notice has been provided. The Vendor shall continue to render the services until the effective date of termination. No costs incurred by the Vendor after the effective date of termination shall be allowed. Subject to performance within the requisite performance standards and audits of invoices as set forth above, the CHA shall pay to Vendor on a pro-rata basis, costs incurred for Services rendered through the date of termination. This Section 7.3 is not subject to Article 5 of this Supplemental Agreement.

Section 7.4 Right to Offset

To the extent permitted by applicable law:

A. In connection with performance under the Supplemental Agreement, the CHA may offset any incremental costs and other damages the CHA incurs in any and all of the following circumstances:

- i. If the CHA terminates the Supplemental Agreement for default or any other reason resulting from the Vendor's performance or non-performance;
- ii. If the CHA exercises any of its remedies under Section 7.2 of the Supplemental Agreement;
- iii. If the CHA has any credits due or has made any overpayments under the Supplemental Agreement.

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

B. Without breaching this Supplemental Agreement, the CHA may set off a portion of the compensation due under this Supplemental Agreement in an amount equal to the amount of any liquidated or un-liquidated damages or claims that the CHA has against the Vendor arising out of any other agreements between the CHA and the Vendor or otherwise unrelated to this Agreement. If and when the CHA's claims against the Vendor are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the CHA will reimburse the Vendor to the extent of the amount the CHA has offset against this Agreement inconsistently with the determination or resolution.

ARTICLE 8. WARRANTIES, REPRESENTATIONS AND SPECIAL CONDITIONS

Section 8.1 Warranties, Representations and Covenants

In connection with the execution of this Agreement, the Vendor warrants and represents to CHA:

- A. That it is financially solvent; and that Contractor is legally authorized to execute and perform or cause to be performed this Supplemental Agreement under the terms and conditions stated herein.
- B. That no officer, agent or employee of the CHA is employed by the Vendor or has a financial interest directly or indirectly in this Agreement or the compensation to be paid hereunder, except as may be permitted in writing by the CHA and HUD, and that no payment, gratuity or offer of employment shall be made in connection with this Supplemental Agreement by or on behalf of the Vendor to any employee of the CHA; and the Vendor further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions set forth herein shall be voidable as to the CHA.
- C. That Vendor is not in default at the time of the execution of this Supplemental Agreement, and has not been found by the CHA's Contracting Officer, within the last five (5) years, to be in default on any contract awarded by the CHA.
- D. That, except only for those representations, statements, or promises expressly contained in this Supplemental Agreement, and any exhibits attached hereto and incorporated by reference herein, no representation, statement or promise, oral or in writing, or of any kind whatsoever, by the CHA, its officials, officers, agents, or employees, has induced the Vendor to enter into this Supplemental Agreement or has been relied upon by the Vendor.
- E. That the Vendor has carefully examined and analyzed the provisions and requirements of this Supplemental Agreement and that it understands the nature of the Services required;
- F. That except only for those representations, statements, or promises expressly contained in this Supplemental Agreement, and any exhibits attached hereto and incorporated by reference herein, no representation, statement or promise, oral or in writing, or of any kind whatsoever, by the CHA, its officials, officers, agents, or employees, has induced Vendor to enter into this Agreement or has been relied upon by Vendor.
- G. That the Vendor is not in violation of the provisions of 18 U.S.C. § 666 (a)(2) and other Federal criminal laws applicable to public contracts funded with federal government funds, the Illinois Criminal Code, 720 ILCS 5/33E-1 et seq. (1989), as amended; and the CHA's Ethics Policy, as amended (available on CHA's website) and during the term of the Agreement will not violate the provisions of such laws and policies.
- H. That the Vendor has disclosed any and all relevant information to the CHA and the Vendor understands and agrees that any certification, affidavit or acknowledgment made under oath or failure to disclose in connection with this Supplemental Agreement is made under penalty of perjury and, if false, is also cause for termination of this Supplemental Agreement.

- I. That the Vendor has the power and authority to enter into and perform all of its obligations under this Agreement, and that this Agreement, when executed will constitute the duly authorized, valid and legally binding obligation of the Vendor.

Section 8.2 Joint and Several Liability

In the event that the Vendor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof), then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by the Vendor shall be the joint and several obligation or undertaking of each individual or other legal entity.

Section 8.3 Business Documents and Contractor's Affidavit

The Vendor shall provide to the CHA 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. The Contractor's Affidavit and Contractor's Certifications and Representations of Offerors – Non-Construction Contracts (HUD Form 5369-C) are attached hereto as **Exhibit IV** and **Exhibit V**, respectively, and are incorporated by reference as if fully set forth herein. Vendor agrees to comply with the provisions of Form 5369-C and the Contractor's Affidavit applicable to this Agreement. Vendor acknowledges that its representations made in Form 5369-C were accurate as of the time of award of the Vendor Contract.

Section 8.4 Conflict of Interest

- A. The Vendor shall comply will all provisions of Sections 13 and 14 of the HUD General Conditions, incorporated in **Exhibit III**.
- B. The Vendor covenants that it and its employees, or sub-contractors, presently have no interest and shall acquire no interest, direct or indirect, in this Supplemental Agreement which would conflict in any manner or degree with the performance of the Services hereunder. The Vendor further covenants that during the performance of this Supplemental Agreement, no person having any such interest shall be employed. Vendor agrees that if the CHA determines that any of Vendor's services for others conflict with the Services that the Vendor is to render for the CHA under this Supplemental Agreement; Vendor shall terminate such other services immediately upon request of the CHA.
- C. Additionally, pursuant to the conflict of interest requirements in OMB Circular A-102 and 2 C.F.R. §200.318 (c), no person who is an employee, agent, consultant, officer, or appointed official of the CHA and who exercises or has exercised any functions or responsibilities with respect to HUD assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to HUD activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract,

subcontract, or agreement with respect thereto, or the proceeds hereunder, either for himself or herself or for those whom he or she has family or business ties, during his or her tenure or for one year thereafter.

- D. Furthermore, the Vendor represents that it currently 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. Subsection 1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended.

Section 8.5 Non-Liability of Public Officials

No official, employee or agent of the CHA shall be personally liable to the Vendor or the Vendor's successor in interest for: (i) any default or breach by the CHA under this Supplemental Agreement, (ii) any fee due to the Vendor or the Vendor's successor in interest or (iii) any other obligation arising under this Supplemental Agreement. The foregoing shall modify and supplement the terms of the Vendor Contract as applied to this Supplemental Agreement.

Section 8.6 No Creation of Rights/Prohibition Against Liens

Prohibition Against Liens. Nothing in this Agreement shall create rights with respect to liens or other security interests that are not available under the law of Illinois, or other applicable regulation. For example, nothing in this Agreement creates any rights to lien government owned real property and Vendor acknowledges and agrees that pursuant to Illinois law, it is prohibited from placing a materialman's or supplier's lien on the CHA's property. Moreover, Vendor agrees to waive and relinquish any lien rights it has or that may accrue by virtue of Vendor's sale of goods under this Agreement. Vendor further acknowledges that CHA does not consent to the filing of any financing statements or other instruments to the extent such financing statements or other statements are prohibited by any of Vendor's funding agreements with HUD or any applicable federal or state statute.

Section 8.7 Sales Tax Exemption

Vendor acknowledges that certain purchases made pursuant to this Supplemental Agreement may be exempt from the Illinois Retailers' Occupational Tax ("Sales Tax") pursuant to 86 Ill. Adm. Code 130.2075. CHA or its authorized contractors shall provide CHA's sales tax exemption certificate and such other supporting documentation evidencing sales tax exemption eligibility of such purchases.

ARTICLE 9. GENERAL CONDITIONS

Section 9.1 Entire Agreement

This Supplemental Agreement and the associated Vendor Contract together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to

the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Supplemental Agreement and the Vendor Contract, together with its exhibits, shall not be added to or incorporated into this Supplemental Agreement or the Vendor Contract and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Supplemental Agreement and the Vendor Contract and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

Section 9.2 Counterparts

This Supplemental Agreement may be executed in several identical counterparts, each of which shall be deemed an original and constitute one agreement binding on the parties hereto. Return of this document by electronic transmission bearing the signature of a party hereto constitutes the execution and acceptance of such party. This agreement may be executed via DocuSign or other electronic signature software, which shall be deemed and original.

Section 9.3 Amendments

No changes, amendments, modifications, or discharge of this Supplemental Agreement, or any part thereof, shall be valid unless in writing and signed by the authorized agent of the Vendor and by the CEO of the CHA or his/her respective designees. The CHA shall incur no liability for additional Services without a written amendment to this Supplemental Agreement pursuant to this Section.

Section 9.4 Compliance with All Laws and Regulations

A. The Vendor shall at all times observe and comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government, now existing or hereinafter in effect, which may in any manner affect the performance of this Supplemental Agreement, including but not limited to HUD regulations, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements contained in 2 C.F.R. Part 200, (2014), as amended; Title VI of the Civil Rights Act of 1967 (42 U.S.C. 2000d et seq.); Fair Housing Act (42 U.S.C. 3601-20 et seq.); Executive Order 11063, as amended by Executive Order 12259; Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Rehabilitation Act of 1973 (29 U.S.C. 794); Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); National Environmental Policy Act of 1969 (24 C.F.R. Part 58); Clean Air Act (42 U.S.C. § 7401/et seq.); Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), as amended; Executive Order 11246, as amended by Executive Orders 12086 and 11375; Executive Order 12372; Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 276); Byrd "Anti-Lobbying" Amendment (31 U.S.C. § 1352); and Debarment and Suspension (Executive Orders 12549 and 12689). Additionally, the Vendor shall comply with the applicable provisions of OMB Circulars A-133, A-102, A-122, A-110 and A-87, as amended, succeeded or revised; and the Mandatory Standards and Policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with Energy Policy and Conservation Act (Pub. L 94-163, 89 Stat. 871).

- B. The Vendor shall take such actions as may be necessary to comply promptly with any and all governmental orders imposed by any duly constituted government authority whether imposed by Federal, state, county or municipal authority.

Section 9.5 Deemed Inclusion

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

Section 9.6 Interpretation

Any headings of this Supplemental Agreement are for convenience of reference only and do not define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions hereof and thereof. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this Supplemental Agreement.

Section 9.7 Assigns

All of the terms and conditions of this Supplemental Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, transferees and assigns.

Section 9.8 Waiver

Whenever under this Supplemental Agreement the CHA, by a proper authority, expressly waives the Vendor's performance in any respect or expressly waives a requirement or condition to either the CHA's or the Vendor's performance, the waiver so granted, shall only apply to the particular instance and shall not be deemed a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver shall be construed as a modification of the Supplemental Agreement regardless of the number of times the CHA may have waived the performance of a requirement or condition.

Section 9.9 Force Majeure

Vendor shall not be liable for any delay in, or impairment of, performance resulting in

whole or in part from any force majeure event, including but not limited to acts of God, labor disruptions, acts of war, acts of terrorism (whether actual or threatened), governmental decrees or controls, insurrections, epidemics, quarantines, shortages, communication or power failures, fires, accidents, explosions, inability to procure or ship product or obtain permits and licenses, inability to procure supplies or raw materials, severe weather conditions, catastrophic events, or any other circumstance or cause beyond the reasonable control of Vendor in the conduct of its business

ARTICLE 10. COMMUNICATION AND NOTICES

Section 10.1 Notices

Any notices sent to the Vendor shall be mailed by certified mail, return receipt requested, postage prepaid to:

W.W. Grainger, Inc.
2356 S. Ashland Avenue
Chicago, Illinois 60608
Attention: Chris Noonan/Autumn Barrett

Copy to:

W.W. Grainger, Inc.
100 Grainger Parkway
Lake Forest, IL 60045
Attention: General Counsel

Notices sent to the CHA shall be mailed by certified mail, return receipt requested, postage prepaid to:

Chicago Housing Authority
60 E. Van Buren St., 12th Floor
Chicago, Illinois 60605
Attention: Chief Executive Officer

Copy to: Chicago Housing Authority
60 E. Van Buren St., 12th Floor
Chicago, Illinois 60605
Attention: Chief Legal Officer

ARTICLE 11. AUTHORITY

Section 11.1 CHA's Authority

Execution of this Supplemental Agreement by the CHA is pursuant to the United States Housing Act of 1937, 42 U.S.C. §1437 et seq.; regulations promulgated by HUD, and the Illinois Housing Authorities Act, 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances.

Section 11.2 Vendor's Authority

The signature of the person signing on behalf of the Vendor has been made with complete and full authority to commit the Vendor to all terms and conditions of this Supplemental Agreement, including each and every representation, certification and warranty contained herein, including without limitation such representations, certifications and warranties collectively attached hereto and incorporated by reference herein.

IN WITNESS WHEREOF, the CHA and the Vendor have executed this Supplemental Agreement as of the date first written above.

CHICAGO HOUSING AUTHORITY

DocuSigned by:
Sheila Johnson
By: _____
02DBAECFF330403...
Sheila Johnson
Deputy Chief Procurement Officer

W.W. GRAINGER, INC.

DocuSigned by:
Benjamin Nichols
By: _____
2F8F65661FEC4BB...

Title: Vice President

Approved as to Form and Legality
Chicago Housing Authority
Office of General Counsel

DocuSigned by:
Cheryl Colston
By: _____
7C7C97E7E721409...
Cheryl J. Colston
Chief Legal Officer