

CONTRACT NO. 12337

**TASK ORDER COMPETITIVE CONTRACTING
MASTER AGREEMENT**

BETWEEN

THE CHICAGO HOUSING AUTHORITY

AND

AGAE CONTRACTORS, INC.

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This **TASK ORDER COMPETITIVE CONTRACTING MASTER AGREEMENT** ("Master Agreement" or "Agreement") is made as of this 1st day of July, 2019 (the "Effective Date") between the **CHICAGO HOUSING AUTHORITY**, a municipal corporation of the City of Chicago, State of Illinois (hereinafter, the "**CHA**"), with offices located at 60 E. Van Buren St., Chicago, Illinois 60605 and **AGAE CONTRACTORS, INC.** (hereinafter, the "**General Contractor**" or "**GC**") an Illinois Corporation with offices located at 4549 N. Milwaukee Avenue, Chicago, IL 60630.

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 CHA desires the services of general contractors to provide indefinite delivery, indefinite quantity ("IDIQ") construction services under this Master Agreement; and

WHEREAS, the CHA issued Request for Proposal No. 2642 (the "RFP") on or about January 15, 2019, as amended by Addendum No. 1, issued February 6, 2019, to solicit multiple general contractors to provide general construction services through the use of this Master Agreement; and

WHEREAS, the GC, in response to the RFP, submitted its proposal on or about February 13, 2019, representing and warranting that it is highly qualified and competent to provide the general construction services for CHA Projects awarded to the GC by Task Orders in accordance with this Master Agreement;

WHEREAS, the CHA and the GC desire to enter into this Agreement to provide general construction services as set forth herein on an IDIQ Task Order basis, and on May 21, 2019, CHA's Board of Commissioners authorized the CHA to enter into this Master Agreement by Resolution No. 2019-CHA-28.

WHEREAS, the CHA has created three groups of general contractors participating in the Task Order Competitive Contracting ("TOCC") program (the "Bidding Groups"), and the general contractors have been assigned to one or more Bidding Groups to which they applied and for which the CHA has determined they qualify. Group A is for general contractors who have the ability to bid on, perform the work, and secure bonding for projects valued from \$100,000 up to \$500,000. Group B is for general contractors who have the ability to bid on, perform the work, and secure bonding for projects valued over \$500,000 up to \$3,000,000. Group C is for general contractors who have the ability to bid on, perform the work, and secure bonding for projects

valued over \$3,000,000 up to \$5,000,000.

WHEREAS, the GC is assigned to **Groups A and B**.

WHEREAS, the CHA may, from time to time, formally request that the GC respond to Request(s) for Services ("RFS") for Task Order awards for Projects and submit Lump Sum Base Bids in response to such Requests for Services; and

WHEREAS, the GC is ready, willing and able to provide the construction services required hereunder and to respond to CHA's RFS's as further set forth herein; and

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

ARTICLE I INCORPORATION OF RECITALS

1.1 Incorporation of Recitals. The recitals set forth above are incorporated by reference as if fully set forth herein.

1.2 Definitions. The following words and phrases have the following meanings for purposes of this Master Agreement:

"Architect Engineer" or "AE" – The person, firm, or entity selected by the CHA to perform architectural and engineering services with respect to all aspects of the performance of the design, engineering and construction administration of Projects. Any reference in this Master Agreement to specific architectural, engineering, or related disciplines shall be construed as services directed and provided by the AE, whether they are performed by the AE or by professionals or sub-consultants retained by the AE.

"Business Day" means Monday through Friday but does not include federal and state holidays.

"Calendar Day" means a day, relating to any day of the week, month or year. However, if the due date for any action falls on a Saturday, Sunday or CHA holiday, said action shall be due on the immediately following Business Day.

"Capital Program" – "Program" to provide additional needed improvements to existing CHA housing and to update acquired housing. This program supplements improvements performed by Private Property Managers.

"CHA Policy Provisions" – Provisions included herein relating to compliance by the GC with CHA's MBE/WBE/DBE Policy, CHA's Section 3 Policy, and the CHA's Ethics Policy.

"CHA's Representative" means the construction management ("CM") firm, person, or entity engaged by the CHA, under a separate contract, to plan, coordinate, and oversee all design and construction management activities.

“Construction Activities” – means all construction trades activities (both preparatory such as demolition of existing structures or interior demolition, remediation and actual construction) required to rehabilitate or build residential or non-residential structures, recreational space, and site improvements.

“Construction Documents” - All of the Plans and Specifications, addenda, change orders, modifications, and all other prints, models, designs, computations, sketches, test data, photographs, renderings, plans, shop drawings, proposal drawings, and other materials relating to, or contemplated by the Work, prepared by the CHA, the AE or by any engineer, professional or professional consultant engaged by the CHA or the AE in connection with a Project.

“Construction Inspector” or “CI” – The designated individual within the CHA who works under a Construction Manager to provide oversight at the location of a project.

"Construction Manager" or "CM" – The person, firm, or entity authorized by the CHA to plan, coordinate, and oversee design, construction, and construction management activities for a Property on behalf of the CHA.

“Contract” or “Master Agreement” means this Task Order Competitive Contracting Master Agreement entered into between the CHA and the GC.

"Contract Documents" - The Contract Documents, which form the contract between the CHA and a GC for a Project under a Task Order issued under this Master Agreement, include all written amendments to this Contract, this Contract, “Amendment(s) to Special Conditions”, if any, the “Special Conditions of the Contract for Construction” (the “Special Conditions”), “Amendment(s) to General Conditions”, if any, “HUD General Conditions for Construction Contract-Public Housing Programs (HUD form 5370)” (the “HUD General Conditions”), approved modifications, amendments and change orders to Task Orders issued under this Contract, Task Orders issued under the Contract, and the “Work Schedule” for each Task Order as described in paragraph 6 of the HUD General Conditions, as amended from time to time, the “Instructions to Bidders (form HUD-5369)”, applicable wage rate determinations from either the U.S. Department of Labor or HUD, the Performance and Payment Bond or Bonds or other assurances of completion, the “Technical Specifications” for the Task Order, and drawings for the Task Order, if any, the Contractor’s Affidavit, the Compliance Affidavit, or any other affidavits, certifications or representations the GC is required to execute under the Contract, CHA’s Section 3 Policy, and the MBE/WBE/DBE and Section 3 Utilization Plans approved for each Task Order. The Contract Documents enumerated herein contain the entire contract between the parties, and no other representations, warranties, agreements, or promises (whether oral, written, expressed, or implied) by the CHA or the GC are a part of the Contract or a Task Order issued hereunder unless expressly stated therein.

“Contract Year” means the 12 month period following the effective date of this Master Agreement and each subsequent 12 month term of the Master Agreement.

“Contracting Officer” – The Chief Procurement Officer of the CHA Department of Procurement and Contracts or such other party as the CHA may designate in writing.

“Cost” – The actual expenses incurred in the delivery of a product, service, or construction; includes both direct and indirect costs, but does not include fee or profit for the vendor.

“Development” – Building or group of buildings identified under a single name and Asset Management Property Number.

“Development Activities” – New construction or repurposing activities not considered rehabilitation, modernization or maintenance.

“Development Program” – The program which provides federal grants to the CHA to develop housing for low-income families that cannot afford housing in the private market.

“Field Manager” or “FM” - The designated individual within the CHA or the CM who works under a Project Manager to provide oversight at the location of a Project.

“Firm Fixed Fee/Price” – the fixed fee for the Services required including the GC’s expenses, overhead, profit and fees for a Task Order.

“General Contractor” or “GC” – The person or entity designated as the prime general construction contractor in the Master Agreement and Task Order(s).

“Hourly Rates” shall mean that hourly rate by particular type of worker, which does not include expenses, overhead, profit and fees of the GC.

“Indefinite Delivery, Indefinite Quantity” or “IDIQ” – Indefinite Delivery, Indefinite Quantity contracts provide for an indefinite quantity of services during a specified period of time.

“Key Personnel” – Positions of GC staff which include, at a minimum, the program executive, project manager, superintendent(s), invoice processor, safety personnel, and scheduler (or companies performing such services on behalf of the GC).

“LEED®” – Leadership in Energy and Environmental Design as described by the United States Green Building Council (USGBC).

“LEED® AP” - LEED® Accredited Professional designation.

“Lump Sum Base Bid Total” – The total amount, in money, to be paid or charged for commodities and the construction services for a Project; includes all costs (direct and indirect labor, overhead, and materials) and profit or fee that the GC submits in response to a RFS.

“New Construction” - Site preparation for (including but not limited to the demolition of existing structures) and construction of entirely new structures and/or significant extensions to existing structures, whether or not the site was previously occupied.

“Notice to Proceed”- Written notice from CHA’s Contracting Officer authorizing the GC to start work on a Project under a Task Order.

"Plans and Specifications" – The final drawings and specifications for a Task Order, as such may be amended from time to time in accordance with this Master Agreement.

“Private Property Managers” or “PPMs” – Firms which provide property management services at CHA developments.

“Procurement Specialist”- the CHA employee identified in the RFS as the sole point of contact regarding the solicitation from the date of issuance until selection of the successful bidder.

"Project" – means Services described herein, and further described and defined in a Task Order related to the Work the GC will perform at the site pursuant to the Task Order issued under the Contract.

“Project Manager” or “PM” – The designated individual within CHA or CM staff to manage a specific Task Order.

“Property”- CHA property where a Project is to be performed under a Task Order.

"Request for Services" or "RFS" means a written request from the CHA to a designated Bidding Group to prepare and submit a work plan and a Fee Proposal for the Services related to a specific Project as set forth in the RFS and to be performed pursuant to a Task Order.

"Services" means, collectively, the general construction services, duties and responsibilities described in the Contract Documents and any and all work necessary to complete them or carry them out fully as required by and in accordance with a Task Order under the Contract.

“Sister Agencies” – Chicago Public Schools (CPS), Cook County of Illinois, Chicago Park District (CPD), Chicago Transit Authority (CTA), City Colleges of Chicago (CCC), Metropolitan Pier and Exposition Authority (MPEA), Metropolitan Water Reclamation District of Greater Chicago (MWRDGC), and the Public Building Commission (PBC).

“Task Order” means the order issued by the CHA that sets forth the description of a Project, scope of work, time frame for performance and fixed fee for the GC’s Services to be performed in accordance with the terms and conditions of the Contract Documents.

“Task Order Competitive Contracting (“TOCC”)- (also known as “IDIQ”) means the delivery of general construction services through a competitive indefinite delivery, indefinite

quantity task order program in which contractors are afforded opportunities to compete for Task Orders but are only guaranteed a minimum value of work.

“Value Engineering” means a technique by which GC’s may voluntarily suggest methods for performing more economically. Value Engineering is identified after the submission of the bids.

“Work” means all labor, materials, and Services required to be performed by the GC for the general construction required by a Project in accordance with a Task Order issued under the Contract.

ARTICLE II CONTRACTOR’S DUTIES AND RESPONSIBILITIES

2.1 Scope of Services. The Scope of Services that the GC may be requested to provide under this Master Agreement are general contractor construction services, including, but not limited to, demolition (interior, partial or complete), modernization and development at CHA-owned or controlled properties of the types listed below:

Senior Housing: Consists of approximately 8,900 dwelling type units and related vacant land located in approximately 58 high-rise and low-rise buildings in the CHA’s properties known as Senior Housing, constructed between the years 1955 and 1975. The various buildings are generally stand-alone, are non-contiguous, and are spread over various sites throughout the Chicago city limits, but some buildings are in clusters. All units are either studio or one bedroom.

Family Housing: Consists of approximately 6,800 dwelling type units and related vacant land located in approximately 8 properties in the CHA’s properties known as Family Housing, constructed between 1937 and 1980. The mid-rise and low-rise buildings include clusters, as well as stand-alone properties, and are located at various sites within the Chicago city limits. All units have 1-6 bedroom configurations.

Scattered Site Housing: Consists of approximately 2,700 dwelling type units and related vacant land located in approximately 5 regions (North Central, North East, South East, South West and West) in the CHA’s properties known as Scattered Sites, constructed between 1937 and 2011. The low-rise, townhouse, walk-up and single-family buildings include clusters as well as stand-alone properties, are non-contiguous, and are spread over various sites through the Chicago city limits. All units have 1-6 bedroom configurations.

Non-Dwelling Properties: Consists of approximately 34 non-dwelling structures and related vacant land comprised of stand-alone buildings or facilities integrated into dwelling unit structures located at various sites in the Chicago city limits.

Vacant Land: Consists of any CHA owned land unencumbered by any dwelling or non-dwelling structure located at various sites within the Chicago city limits. The vacant land may include but is not limited to land adjacent to an existing CHA structure or a vacant lot or lots scattered throughout the city of Chicago limits.

The Scope of Services is further described in paragraph A of **Exhibit I**, Scope of Services/Statement of Work, which is attached hereto and incorporated by reference herein.

2.2 Statement of Work. The Services that the GC shall provide under this Master Agreement pursuant to Task Orders are described generally in paragraph B of **Exhibit I**, Scope of Work/Statement of Work, which is attached hereto and incorporated by reference herein.

2.3 Contract Administration. The GC, if selected to perform Services pursuant to a Task Order resulting from a RFS, shall act as the general contractor for the Project described in the Task Order. The GC will be required to work with the CHA's Capital Construction Department staff to satisfy the contracting objectives of awarded Task Orders.

Any Services to be furnished under the Master Agreement shall be requested by the issuance of Requests for Service by the CHA's Capital Construction Department through the Department of Procurement and Contracts. Task Orders may be issued on behalf of CHA or on behalf of CHA-related or controlled property ownership entities. All Task Orders issued pursuant to a RFS will be subject to the terms and conditions of the Master Agreement. If mailed, a Task Order will be considered "issued" when the CHA deposits the Task Order in the mail. Task Orders may only be issued by CHA's Contracting Officer and may not be issued orally, but may be issued by facsimile, or by electronic commerce methods, and will be considered issued at the time of transmittal.

A. Task Ordering Procedures

1. Requests for Services. From time to time, the CHA may issue a RFS to the appropriate Bidding Group (Group A, B or C) that will describe the scope of work and Services to be performed pursuant to a Task Order. The Task Order will be governed by the Master Agreement. The RFS will set forth:
 - a. Scope of work;
 - b. Technical Specifications;
 - c. Drawings;
 - d. Parameters for the Schedule of Work;
 - e. Required completion date and/or duration of the work;
2. When appropriate, the CHA will conduct a site visit at the location(s) where the work is anticipated in order to review the projected work with the contractors and with the AE.
3. The duration of RFS bidding periods will vary from 10-30 calendar days. A RFS will be considered "issued" when the CHA deposits the RFS in the mail, or when they are sent by facsimile or by electronic commerce methods (e.g. e-mail). A RFS may not be issued orally.
4. In response to the RFS, each GC in the applicable Bidding Group will respond by submitting a sealed bid in the form of a Lump Sum Base Bid. Bids shall be subject to the bidding requirements set forth in the RFS. The Lump Sum Base Bid will constitute

an irrevocable offer for a period of 180 calendar days after the date of the bid opening. After receiving all bids in response to a RFS, the CHA, in its sole discretion, may choose not to award a Task Order. Any costs associated with the preparation of a Lump Sum Base Bid will not be reimbursable under this Master Agreement or a resulting Task Order.

5. Exceptions to Task Order Selection Considerations. CHA's Contracting Officer shall give each GC in the applicable Bidding Group a fair opportunity to be considered for Task Orders, unless one of the following exceptions applies:
 - a. CHA's need for the supplies or services is so urgent that providing fair opportunity to all contractors in the designated Bidding Group would result in unacceptable delays (due to a public exigency or emergency, in accordance with 2 C.F.R. 200.320 (f)(2));
 - b. Only one (1) awardee is capable of providing the supplies or services required at the level of quality required because the services are unique or highly specialized;
 - c. The Task Order must be issued on a non-competitive basis in the interest of economy and efficiency, because it is a logical follow-on to the Services being performed under a previously issued Task Order, provided that all GCs in the Bidding Group were given a fair opportunity to be considered for the original award of that Task Order; or
 - d. It is necessary to place a Task Order to satisfy the guaranteed minimum value of work in a GC's Master Agreement.

Any proposed utilization of the exceptions to task ordering procedures must have the prior written approval of the CHA's Contracting Officer.

- B. Task Order Selection Criteria. The following factors will be considered in the award of Task Orders:
 1. Price of bid;
 2. Responsiveness, which may include, but is not limited to, compliance with CHA MBE/WBE/DBE and Section 3 Policies;
 3. Responsibility, which may include, but is not limited to:
 - a. Past performance on earlier Task Orders under the Master Agreement or other contracts with CHA:
 - i. Quality
 - ii. Timeliness
 - iii. Cost Controls
 - iv. Compliance with contract requirements and applicable policies, laws and regulations
 - b. Potential impact on other Task Orders awarded to the GC
 - c. Bonding Capacity
 - d. Contractor's Affidavit of Uncompleted Work

e. Technical and financial capabilities

- C. GCs are expected to respond to all RFS within their Bidding Group. Repeated failure to respond to an RFS may be taken into consideration in CHA's decision whether to exercise any available contract options.
- D. **Any GC who fails to submit a requested bid for any bid opportunities within the contract term will void all guarantees concerning the guaranteed minimum value of work. In such instance, the GC acknowledges and agrees that it shall not be entitled to any minimum compensation guarantees.**
- E. The CHA will review each submitted sealed bid and issue a Task Order to the responsive and responsible GC whose Lump Sum Base Bid is deemed to be the lowest responsive, responsible bid and is in the best interest of the CHA, unless the CHA, at its sole discretion, chooses not to award a Task Order.
- F. The CHA's acceptance of a Fixed Lump Sum Base Bid submitted in response to a RFS will be demonstrated by the issuance of a Notice to Proceed and a Task Order signed by the Contracting Officer or his/her designee. The GC will not commence Services, and the CHA will not be liable for any costs incurred by, or for payments to be made to, the GC without a Notice-to-Proceed executed by the Contracting Officer or his/her designee directing the GC to commence the Services in accordance with the Task Order.
- G. By accepting the GC's bid and issuing a Task Order and Notice-to-Proceed in response to a particular RFS, the Master Agreement will be deemed to have been amended to incorporate any special conditions issued pursuant to the RFS with respect to that Project/Task Order only.
- H. The GC must provide and pay for acceptable performance and payment bonds and required certificates of insurance within seven (7) calendar days of receiving a Task Order award letter or the Task Order may be rescinded and awarded to the next lowest responsible and responsive bidder. **IMPORTANT:** The surety must be a guaranty or Surety Company which appears in the U.S. Treasury Circular No. 570 published annually in the Federal Register, and must, at a minimum, have an "A" rating according to the A.M. Best Rating Guide. Failure to provide the required bonds shall constitute an Event of Default under the Master Agreement.
- I. All Task Orders awarded under the Master Agreement are subject to the terms and conditions of the Master Agreement. In the event of a conflict among the terms and conditions of the Master Agreement, or a Task Order, the conflict will be interpreted in the following order of precedence: (1) this Master Agreement; (2) the Task Order and all attachments and exhibits thereto.
- J. The GC acknowledges and agrees that:
 - 1. The CHA is under no obligation to issue any work pursuant to a RFS;

2. The GC is solely responsible for any and all costs incurred to respond to a RFS;
 3. The level of construction services requested may vary by Project; and
 4. The CHA, at the sole discretion of the Contracting Officer, may enter into similar agreements with other GCs in the TOCC Program and award work to them pursuant to a RFS, or enter into similar agreements for construction services pursuant to separate procurements.
- K. Claims for additional costs. In the event that additional Services not described in the Task Order are discovered to be necessary or are requested by the CHA, the GC must submit a Task Order Modification Proposal on a form approved by the CHA for those additional Services within seven (7) calendar days of said discovery or request. Upon receipt of written approval of the Contracting Officer, the GC shall proceed to complete the additional Services. **Without said written approval, the GC shall not be allowed any additional costs. In any event, the GC may not make any claims against the CHA for equitable adjustments, additional costs, direct or indirect, or fees after completion of a Task Order assignment.**
- L. GC Evaluation. The CHA may evaluate the GC's performance, including, but not limited to, GC's performance on Task Orders awarded under this Master Agreement or projects awarded to the GC outside of the TOCC Program. CHA may consider a GC's overall performance when considering exercising any available renewal options.

2.4 Section 3 and MBE/WBE/DBE Participation and Requirements

- A. **Section 3 – Compliance:** The CHA has determined that Task Orders awarded under this Master Agreement are subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, (Section 3), and Title 24 of Subchapter B, Part 135 – Economic Opportunities for Low- and Very Low-Income Persons, 24 CFR 135.3. Section 3 Compliance requires that any contract or subcontract entered into for the benefit of public housing residents shall require that, to the greatest extent feasible, economic opportunity in the form of training, employment, contracting, and other economic opportunities arising from the expenditure of public housing assistance for housing rehabilitation and housing construction be directed to low- and very low-income persons.
1. Section 3 - Clause
 - i. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- ii. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- iii. The GC agrees to send to each labor organization or representative of workers with which the GC has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the GC's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- iv. The GC agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The GC will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- v. The GC will certify that any vacant employment positions, including training positions, that are filled (1) after the GC is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- vi. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Master Agreement for default, and debarment or suspension from future HUD assisted contracts.

2. Section 3 Compliance Goals

- i. GCs and their subcontractors may demonstrate compliance by committing to employ section 3 residents and by subcontracting with section 3 business concerns in accordance with the requirements of 24 CFR Part 135.

A Section 3 Business concern is a business concern under HUD Regulations:

- (a) 51 percent or more owned by section 3 residents; or

- (b) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
 - (c) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”
- ii. GC and subcontractors may demonstrate compliance with the requirements for contracting with Section 3 Business Concerns by committing to award to Section 3 Business Concerns at least 10 percent of the total dollar amount of the contract awarded to the contractor for building trades work for maintenance, repair modernization or development of public housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction and at least 3 percent of the total dollar amount of all other Section 3 covered contracts.
- iii. In evaluating compliance with 24 CFR Part 135, contractors and their subcontractors have the burden of demonstrating to the greatest extent feasible their ability or inability to meet the goals set forth in 24 CFR Part 135 for providing training, employment and contracting opportunities to section 3 residents and section 3 business concerns.
- iv. GCs and their subcontractors are also encouraged to provide other economic opportunities to train and employ section 3 residents including, but not limited to, use of “upward mobility”, “bridge” and trainee positions to fill vacancies, and hiring section 3 residents in part-time positions (24 CFR 135.40).
- v. **Section 3 Hiring**
 The Section 3 Regulations provide that contractors and their subcontractors demonstrate compliance by employing Section 3 Residents as 30 percent of the aggregate number of New Hires. A contractor or subcontractor is required to hire only when a New Hire is needed to perform the work.
 - (a) **CHA Preferences**
 The hiring efforts of the CHA’s contractors and subcontractors, shall be directed to provide training and employment opportunities to Section 3 Residents in the following order of priority:
 1. Residents of the housing development or developments for which the Section 3 Covered Assistance is expended;
 2. Residents of other housing developments managed by the CHA;
 3. CHA Housing Choice Voucher Participants;
 4. Participants in HUD Youthbuild Programs being carried out in the Chicago Metropolitan Area;
 5. Other Section 3 Residents.

3. Documenting and Reporting

- i. GC agrees to comply with the above Section 3 requirements in accordance with the GC's Section 3 Utilization Plan, which shall be prepared by the GC for each response to a RFS and agreed to by CHA. CHA shall not be required to agree to the GC's Utilization Plan until the GC meets its burden to establish that it will comply with 24 CFR Part 135 and otherwise comply with CHA's Section 3 Policy (available on CHA's website) as may be required.
- ii. The GC and its subcontractors shall provide all required compliance data with respect to GC's Section 3 requirements to the CHA via CHA's electronic system available at <https://cha.diversitycompliance.com/>. The GC and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. The GC shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current. The GC may be placed on administrative hold for failure to fulfill its requirements concerning Section 3 reporting, and may be deemed ineligible for Task Order awards pending compliance.

4. This Section 3 Contract Provision shall flow down to each subcontract at every tier.

- B. MBE/WBE/DBE Compliance.** GC agrees to comply with the CHA's Minority and Women Disadvantaged Business Enterprise ("MBE/WBE/DBE") requirements in accordance with the CHA's MBE/WBE/DBE Policy (available on CHA's website).
- C. Documenting and Reporting.** The GC and its subcontractors shall provide all required compliance data with respect to GC's MBE/WBE/DBE compliance to the CHA via CHA's electronic system available at <https://cha.diversitycompliance.com/>. The GC and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. The GC shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current. The GC may be placed on administrative hold for failure to fulfill its requirements concerning MBE/WBE/DBE reporting and may be deemed ineligible for Task Order awards pending compliance.
- D. Requests for Services MBE/WBE Participation and Section 3 Requirements.** GC's Compliance Affidavit is attached hereto and incorporated herein as **Exhibit V**. Prior to issuance of the Notice to Proceed for a Task Order, the GC shall provide a MBE/WBE/DBE Utilization Plan and a Section 3 Utilization Plan that meets the CHA's policies, acceptable to the CHA, stating the degree of MBE/WBE/DBE participation and level of commitment to CHA's Section 3 Policy. The Section 3 Utilization Plan and the MBE/WBE/DBE

Utilization Plan, when accepted by the CHA, will be incorporated by reference as if specifically set forth therein into each assigned Task Order and the GC shall comply with its agreed commitments as set forth therein.

2.5 General and Special Conditions For Construction Contracts. The HUD General Conditions for Construction Contracts (the "HUD General Conditions") are attached hereto as **Exhibit II** and are incorporated by reference as if fully set forth herein. The GC agrees to fully comply with the HUD General Conditions for each Task Order. In the event of a conflict between the terms and conditions of the HUD General Conditions and the terms and conditions of the Master Agreement, the terms and conditions of the HUD General Conditions shall control. CHA's Special Conditions of the Contract for Construction (the "Special Conditions"), are attached hereto as **Exhibit III** and are incorporated by reference as if fully set forth herein. In the event of a conflict between the terms and conditions of this Master Agreement and the Special Conditions, the Special Conditions shall control. In the event of a conflict between the terms and conditions of the HUD General Conditions and the Special Conditions, the terms and conditions of the HUD General Conditions shall control. GC shall include in any subcontracts those provisions from the HUD General and Special Conditions designated therein as provisions required to flow down to subcontractors.

2.6 Drug-Free Workplace. GC shall establish procedures and policies to promote a "Drug-Free Workplace." GC 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. Further, GC shall notify the CHA if any of its employees are convicted of a criminal drug offense in the workplace no later than ten (10) days after such conviction.

2.7 Non-Discrimination. GC shall comply with all 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. GC shall particularly remain in compliance at all times with: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (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. 12,086, 43 Fed. Reg. 46,501 (1978) and the Equal Opportunity Clause set forth in 41 CFR Part 60-1.4, which is incorporated by reference herein; 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 Illinois Equal Employment Opportunity Clause, Ill. Admin. Code Tit. 44 section 750 Appendix A, which is attached hereto as **Exhibit IV** 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, GC must furnish such reports and information as requested by the Chicago Commission on Human Relations.

2.8 Health and Safety. GC shall have sole responsibility for compliance with all requirements of the Occupational Health and Safety Act (OSHA) regulations for construction with

respect to GC's employees, including such requirements pertaining to hazard notification, training, and required equipment and work protocols.

2.9 Force Majeure. Notwithstanding any other provision in this Master Agreement, the GC shall not be liable or held responsible for any failure to perform or for delays in performing its obligations under the Master Agreement, including but not limited to, the scope of work set forth in a Task Order, that results from circumstances or causes beyond GC's reasonable control, including without limitation, fire or casualty, acts of God, strikes or labor disputes, war or violence, or any law, order or requirement of any government agency or authority.

ARTICLE III TERM OF AGREEMENT

3.1 Term of Agreement. This Master Agreement shall commence on the Effective Date (July 1, 2019) and shall continue and remain in effect for a period of two (2) years through June 30, 2021 (the "Term") or until the Master Agreement is terminated in accordance with its terms, whichever occurs first. At the Master Agreement's expiration date, the Master Agreement's terms and conditions shall continue to remain in effect with respect to any Task Order issued to the GC prior to the expiration of the contract term. Task Orders issued pursuant to an RFS shall be deemed to have been issued during the Term if the bid opening date for the RFS occurs prior to the expiration of the Term. The GC acknowledges and agrees that Task Orders may be awarded through the last day of the term of the Master Agreement, and that Task Order work not completed within the Term of the Master Agreement shall continue until the entire scope of work required under an assigned Task Order has been completed in accordance with its respective terms and all Work has been accepted by the CHA.

3.2 Contract Extension Options. The CHA, at its sole discretion, may extend this Master Agreement for two (2) additional one (1) year option periods, subject to approval of the CHA's Board of Commissioners, if required. Any extension shall be under the same terms and conditions as this original Master Agreement. The Master Agreement shall be modified to reflect the time extension in accordance with the provisions of Section 7.3 of this Master Agreement.

3.3 Time is of the Essence. The GC will complete the scope of work pursuant to a Task Order within the time limits provided in the Task Order. The GC acknowledges that sometimes deadlines for the scope of work are dictated by the requirements of agencies or events outside the control of the CHA, that failure by the GC to meet these deadlines may result in economic or other losses to the CHA, and that in those circumstances, TIME IS OF THE ESSENCE.

ARTICLE IV COMPENSATION

4.1 Amount of Compensation. This is an indefinite delivery, indefinite quantity contract as defined in the HUD Procurement Handbook (7460.8 Rev.-2) and as such, the GC shall be entitled to a minimum value of work of **One Hundred Thousand and 00/100 Dollars (\$100,000.00)** under this Agreement. The maximum compensation payable to the GC under this

Master Agreement is an amount not-to-exceed **Three Million and 00/100 Dollars (\$3,000,000.00)**. The GC acknowledges that the CHA is not obligated to issue a Task Order to the GC for more than the minimum value of work set forth above, and that in order to receive more than the minimum value of work, the GC must be awarded Task Orders on a competitive basis as set forth in Article II. Upon the award of a Task Order and issuance of a Notice-to-Proceed to the GC, the CHA shall pay the GC the agreed Lump Sum Base Bid Total to provide the scope of work as set forth in the Task Order in accordance with the payment provisions set forth in the HUD General Conditions and CHA's Special Conditions, subject to any subsequent Task Order Modifications. **The GC agrees to and waives any and all claims for payment for Work that would result in billings beyond the agreed upon Lump Sum Base Bid Total established in a Task Order without a prior written amendment to the Task Order authorizing said additional work and additional costs.** The GC acknowledges an affirmative duty to monitor its performance and billings to ensure that the scope of work is completed within the agreed upon Lump Sum Base Bid Total as set forth in the Task Order. **Notwithstanding the foregoing, GC acknowledges that should the GC fail to submit a bid for any of the bid opportunities within the Term, the minimum work value guarantee shall be voided.**

4.2 Availability of Funds/Non-Appropriation. The funding for the Services described in this Master Agreement is subject to: (a) availability of federal funds from HUD; (b) the approval of funding by the Owner's Board of Commissioners; and (c) the GC's satisfactory performance of the Services. Furthermore, in the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the CHA for payments to be made under this Master Agreement or any Task Order issued pursuant hereto, the Owner will notify the GC of such occurrence and this Master 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 Master Agreement are exhausted.

ARTICLE V EVENTS OF DEFAULT, REMEDIES, TERMINATION, RIGHT TO OFFSET, SUSPENSION

5.1 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 GC to the CHA.
- B. The GC's failure to perform any of its obligations under this Master Agreement or an assigned Task Order including, but not limited to, the following:
 - 1. Failure to perform the Services or Work required with sufficient personnel or with sufficient material to ensure the performance of the Services or due to a reason or circumstance within the GC's control;
 - 2. Failure to meet any of the performance standards set forth in this Master Agreement or a Task Order;

3. Failure to perform the Services or Work in a manner reasonably satisfactory to the CHA, or inability to perform the Services or Work 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 are rejected as erroneous or unsatisfactory;
 5. Discontinuance of the Services or Work for reasons or circumstances not beyond the GC's control;
 6. Failure to comply with a material term of this Master Agreement or a Task Order, 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 Master Agreement as constituting an event of default.
- C. Any change in majority ownership or majority control of the GC without the prior written approval of the CHA, which written approval shall not be unreasonably withheld.
- D. The GC's default under any other agreement it may presently have or may enter into with the CHA during the term of this Master Agreement. The GC acknowledges and agrees that in the event of a default under this Master Agreement the CHA may also declare a default under any such other agreements.

5.2 Remedies. Upon the occurrence of any event of default in the performance of a Task Order or this Master Agreement which the GC fails to cure within thirty (30) calendar days after receipt of written notice of the event of default given in accordance with the terms of this Master Agreement, or, if such event of default cannot be reasonably cured within thirty (30) calendar days after notice, the GC has failed to commence and continue diligent efforts to cure such default within thirty (30) days, the CHA may declare the GC in default. Whether to declare the GC 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 provisions of the HUD General and Special Conditions. Written notification of the default, and any intention of the CHA to terminate the Master Agreement, shall be provided to the GC and such decision shall be final and effective upon the GC's receipt of such notice. Upon the giving of such notice, the CHA may invoke any or all of the following remedies:

- A. The right to terminate this Master Agreement or a Task Order as to any or all of the scope of work 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 GC's compensation hereunder with respect to any scope of work not completed in accordance with the terms hereof prior to the termination of this Master Agreement.

- D. The right to deem GC non-responsible in future contracts to be awarded by the CHA.
- E. The right to take over and complete the scope of work for a Task Order or any part thereof as agent for and at the cost of GC, 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 this Master Agreement or a Task Order issued hereunder. The parties acknowledge that this provision is solely for the benefit of the CHA and that if the CHA permits the GC to continue to provide Services hereunder despite one or more events of default, the GC shall in no way be relieved of any of its responsibilities, duties or obligations under this Master Agreement nor shall the CHA waive or relinquish any of its rights.

The remedies under the terms of this Master Agreement or any Task Order issued hereunder 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 shall impair any such right or power or be construed to be a waiver of any event of default by the CHA, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

5.3 Termination for Convenience. Notwithstanding the foregoing, the CHA may terminate the Master Agreement, the Services or any portion of a Task Order for convenience at any time by giving notice, in writing, to the GC when the CHA may deem the Master Agreement to be no longer in the best interests of the CHA. GC shall continue to render the Services until the effective date of termination. No costs incurred by GC after the effective date of the termination shall be allowed. The CHA shall reimburse GC for all of the direct and reasonable costs, as determined by the CHA, which were properly incurred through the date of termination. The GC shall be required to certify that the work completed to the time of termination has been performed in a professional manner and in accordance with the Task Order and this Master Agreement, and that the work completed may be relied upon by the CHA, its designees and any subsequent contractor retained to complete a Task Order.

5.4 No Damages for Delay. GC agrees that it shall make no claims against the CHA for damages, charges, interest, additional costs or fees incurred by reason of suspension of work or delays caused by the CHA with respect to any Task Order, Work or Services performed under this Master Agreement. GC's sole and exclusive remedy for suspension of work or delays caused by the CHA is an extension of time equal to the duration of the suspension or delay to allow GC to perform.

5.5 Right to Offset. To the extent permitted by applicable law:

- A. In connection with performance under this Master Agreement and any assigned Task Order, 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 this Master Agreement or any assigned Task Order for default or any other reason resulting from the GC's performance or non-performance;
- ii. If the CHA exercises any of its remedies under Section 5.2 of this Master Agreement;
- iii. If the CHA has any credits due or has made any overpayments under any assigned Task Order.

The CHA may offset these incremental costs and any other damages by use of any payment due for the Work completed before the CHA terminated the Master Agreement or before the CHA exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, the GC 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 Master Agreement, the CHA may set off a portion of the compensation due under an assigned Task Order in an amount equal to the amount of any liquidated or unliquidated damages or claims that the CHA has against the GC arising out of any other agreements between the CHA and the GC or otherwise unrelated to this Master Agreement. If and when the CHA's claims against the GC are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the CHA will reimburse the GC to the extent of the amount the CHA has offset against GC's compensation that is inconsistent with the determination or resolution.

ARTICLE VI REPRESENTATIONS, WARRANTIES AND SPECIAL CONDITIONS

6.1 Warranties, Representations and Covenants

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

- A. That it is financially solvent; and that it and each of its employees or agents of any tier are competent to perform the Services required under this Master Agreement; and that GC is legally authorized to execute and perform or cause to be performed this Master Agreement under the terms and conditions stated herein.
- B. That no officer, agent or employee of the CHA is employed by the GC or has a financial interest directly or indirectly in this Master 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 Master Agreement by or on behalf of the GC to any employee of the CHA; and the GC 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 GC and its subcontractors, if any, are not in default at the time of the execution of this Master Agreement, or deemed by the CHA's Director of Procurement and Contracts to have, within the last five (5) years, been found 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 Master 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 GC to enter into this Master Agreement or has been relied upon by the GC.
- E. That the GC has carefully examined and analyzed the provisions and requirements of this Master Agreement and that it understands the nature of the Services required;
- F. That the GC acknowledges that the CHA, in its selection of the GC to perform the Services hereunder, materially relied upon the GC's Proposal, that the Proposal was accurate at the time it was made and that no material changes in it have been nor will be made without the express consent of the CHA;
- G. That except only for those representations, statements, or promises expressly contained in this Master 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 GC to enter into this Master Agreement or has been relied upon by GC.
- H. That the GC and, to the best of its knowledge, its subcontractors, are 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, and during the term of the Master Agreement will not violate the provisions of such laws and policies.
- I. That the GC has disclosed any and all relevant information to the CHA and the GC understands and agrees that any certification, affidavit or acknowledgment made under oath or failure to disclose in connection with this Master Agreement is made under penalty of perjury and, if false, is also cause for termination of this Master Agreement.

6.2 Joint and Several Liability. In the event that the GC, 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 GC shall be the joint and several obligation or undertaking of each individual or other legal entity, to the fullest extent permitted by law.

6.3 Business Documents and Contractor's Affidavit. The GC 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

Equal Opportunity Compliance Certificate are attached hereto as **Exhibit VI** and are incorporated by reference as if fully set forth herein. The GC shall at all times comply with, and be in compliance with the Contractor's Affidavit and the Equal Opportunity Clause.

6.4 Conflict of Interest

- A. The GC covenants that it and its employees, or subcontractors, presently have no interest and shall acquire no interest, direct or indirect, in this Master Agreement which would conflict in any manner or degree with the performance of the Services hereunder. The GC further covenants that during the performance of this Master Agreement, no person having any such interest shall be employed. GC agrees that if the CHA determines that any of GC's services for others conflict with the Services that the GC is to render for the CHA under this Master Agreement; GC shall terminate such other services immediately upon request of the CHA.
- B. Additionally, pursuant to the conflict of interest requirements in OMB Circular A-102 and 2 C.F.R. §200.318(c)(1), 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.

6.5 Non-Liability of Public Officials. No official, employee or agent of the CHA shall be personally liable to the GC or the GC's successor in interest for: (i) any default or breach by the CHA under this Master Agreement, (ii) any fee due to the GC or the GC's successor in interest or (iii) any other obligation arising under this Master Agreement.

6.6 Project Tax Benefits Treatment. The CHA fully reserves to itself all rights to seek, pursue and obtain various tax benefits (the "Project Tax Benefits") for which any Projects, Services or Work may be eligible (such as federal, state or local income, sales and use tax credits, deductions, exemptions or exclusions, as well other related structured transfers or transactions to realize or effect such benefits), including, without limitation, the allocation of tax deduction benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended (the "Code").

CHA reserves the right to manage and administer the process of obtaining, evaluating eligibility for and monetizing any and all Project Tax Benefits associated with or derived from the Projects, Services or Work. GC agrees to cooperate in all reasonable respects with the CHA's efforts to assess, obtain, document and monetize any such Project Tax Benefits derived from the Projects, and shall not attempt to procure or claim Project Tax Benefits for itself or any of its affiliated persons or entities without the express direction and consent of the CHA, which shall be in writing in a formal modification to a Task Order, that shall be duly executed by authorized officers of both the CHA and GC.

6.7 Third-Party Funding. Certain Projects may involve funding from third party lenders or grant sources. GC agrees to cooperate with the CHA and any third party funders to comply with third-party funding and grant requirements, as applicable, which may include, but are not limited to, the use of designated forms or specific processes relating to approvals (i.e. change orders) or payments.

ARTICLE VII GENERAL CONDITIONS

7.1 Entire Agreement. This Master Agreement, comprised of this Master Agreement and the Exhibit(s) attached hereto and incorporated herein, and the Task Orders issued hereunder, shall constitute the entire agreement between the parties with respect to the subject matter hereof and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Master Agreement that are not expressly addressed herein. This Master Agreement and the Task Orders issued hereunder supersede and replace all terms and conditions of any prior or contemporaneous agreements, communications, arrangements, negotiations, or representations, written or oral, with respect to the Projects or the Work.

7.2 Counterparts. This Master Agreement may be executed by several identical counterparts, each of which shall be deemed an original and constitute one agreement binding on the parties hereto.

7.3 Amendments. No changes, amendments, modification or discharge of this Master Agreement, or any part thereof, shall be valid unless in writing and signed by the authorized agent of GC and by the Contracting Officer or the Contracting Officer's designated representative. **The CHA shall incur no liability for additional Services without a written and signed amendment to this Master Agreement pursuant to this Section.** Whenever in this Master Agreement GC is required to obtain prior written approval, the effect of any approval which may be granted pursuant to GC's request shall be 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 may approval apply retroactively to a date before the approval was requested.

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

7.5 Governing Law. This Master Agreement shall be governed as to performance and interpretation in accordance with federal laws and the laws of the State of Illinois. GC hereby 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 Master Agreement. GC agrees that service of process on GC may be made, at the option of the CHA, either by registered or certified mail addressed to the applicable office as provided for in this Master Agreement, by registered or

certified mail addressed to the office actually maintained by GC or by personal delivery on any officer, manager or director of GC. If GC brings any action against the CHA concerning this Master Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

7.6 Severability. If any provisions of this Master Agreement shall be held or deemed to be or shall in fact be 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 hereof or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Master Agreement shall not affect the remaining portions of this Master Agreement or any part thereof.

7.7 Interpretation. The headings of this Master 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. 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 Master Agreement.

7.8 Assigns. All of the terms and conditions of this Master Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors.

7.9 Waiver. Whenever under this Master Agreement the CHA by a proper authority expressly waives in writing GC's performance in any respect or expressly waives a requirement or condition to either the CHA or GC's performance, the waiver in writing 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 Master Agreement regardless of the number of times the CHA may have waived the performance of a requirement or condition under this Master Agreement.

7.10 CHA Inspector General. It is the duty of the GC and its subcontractors to cooperate with the CHA Inspector General in any investigation or hearing undertaken. All of the GC's subcontracts must include this provision and require agreement and compliance with the same.

ARTICLE VIII COMMUNICATION AND NOTICES

8.01 Communication Between the Parties

All verbal and written communications relating to the Work, including required reports,

project schedules, specifications, and related submissions, between the GC and the CHA shall be through the **Chicago Housing Authority, Capital Construction Division, 60 East Van Buren St., 8th Fl., Chicago, Illinois 60605**, when required, unless otherwise specified in writing. All verbal and written communications relating to this Master Agreement or the TOCC Program between the GC and the CHA shall be through the **Chicago Housing Authority, Department of Procurement and Contracts, 60 E. Van Buren St., 13th Floor, Chicago, IL, 60605**, unless otherwise specified in writing. No verbal communication between the parties shall change any of the terms and conditions of this Master Agreement. Nothing stated herein shall be construed as a waiver or modification of the requirements for notice or service of process of litigation, as set forth in the Illinois Code of Civil Procedure, the Federal Rules of Civil Procedure, the local rules of the Circuit Court of Cook County, and the local rules governing the U.S. District Court for the Northern District of Illinois.

8.02 Notices

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

Michael P. Huntenberg, Vice President
AGAE Contractors, Inc.
4549 N. Milwaukee Ave
Chicago, IL 60630
Phone: (773) 777-2240
Fax: (773) 777-2243

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

With a copy to:

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

ARTICLE IX AUTHORITY

9.1 CHA's Authority. Execution of this Master 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.

9.2 Contractor's Authority. GC has the power and authority to enter into and perform all of its obligations under this Master Agreement, and this Master Agreement, when executed, will constitute the duly authorized, valid and legally binding obligation of the GC. Execution of this Master Agreement by GC is authorized by a resolution of its Board of Directors and the signature(s) of each person signing on behalf of the GC has been made with complete and full authority to commit GC to all terms and conditions of this Master Agreement.

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

CHICAGO HOUSING AUTHORITY

By: *Dionna Brookens*
Dionna Brookens,
Chief Procurement Officer

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

By: *Cheryl J. Colston*
Cheryl J. Colston
Chief Legal Officer

AGAE CONTRACTORS, INC.

By: *Frank Kutschke*
Print Name: *FRANK KUTSCHKE*
Title: *Vice President*

