

**CONTRACT NO. 11676**

**INSURANCE BROKERAGE AND CONSULTING SERVICES  
AGREEMENT**

**BETWEEN**

**ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES,  
INC.**

**AND**

**THE CHICAGO HOUSING AUTHORITY**

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## **AGREEMENT**

**THIS INSURANCE BROKERAGE AND CONSULTING SERVICES AGREEMENT** (hereinafter, "Agreement") is entered into effective as of December 1, 2015 by and between the **CHICAGO HOUSING AUTHORITY** (the "CHA"), a municipal corporation organized under the Illinois Housing Authority Act 310 ILCS 10/1 et seq., with offices at 60 East Van Buren Street, Chicago, Illinois and **ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC.** (the "Contractor"), an Illinois corporation with offices at Two Pierce Place, Itasca, Illinois 60143.

### **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 a qualified professional insurance broker and consultant to provide the CHA with insurance brokerage and insurance consulting services and to administer the CHA's insurance program and its Owner Controlled Insurance Program commonly referred to as the Private Property Managers Insurance Program ("PMIP"), and in furtherance thereof, the CHA issued Request for Proposal Event No. 186 (the "RFP") on July 21, 2015, which is attached hereto as Exhibit I (inclusive of any amendments thereto); and

**WHEREAS**, in response to the RFP the Contractor submitted a proposal ("Proposal") to the CHA on or about August 24, 2015 to provide insurance brokerage and consulting services, which is attached hereto as Exhibit II; and

**WHEREAS**, the Contractor represents that it is able to provide the services outlined in the RFP and as further specified herein; and

**WHEREAS**, the CHA desires to enter into this Agreement to secure professional insurance brokerage and risk management consulting services with the Contractor, and the Contractor states that it is ready, willing and able to provide the services as more specifically provided herein.

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

### **ARTICLE 1. INCORPORATION OF RECITALS**

#### **Section 1.01 Incorporation of Recitals**

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

## **ARTICLE 2. CONTRACTOR'S DUTIES AND RESPONSIBILITIES**

### **Section 2.01 Services to be Performed**

#### **A. Scope of Services**

The services to be performed under this Agreement are those services described in this Article 2 (the "Services") required to administer the CHA's insurance program and the PMIP.

#### **B. Statement of Work**

##### **A. SCOPE OF SERVICES / STATEMENT OF WORK**

The Chicago Housing Authority has diverse and complex property/casualty needs requiring the broadest range of expertise. Accordingly, the Professional Brokerage Firm will assist the Authority in procuring insurance coverages and provide professional assistance in the following areas.

The Scope of Services includes but is not limited to, the following:

- **PMIP Program:**
  - Market insurance bid solicitation and placement in compliance with all HUD procurement regulations
  - Act as liaison for insurance renewal procurement process
  - Suggest risk financing alternatives
  - Provide coverage/exposure analysis and recommendations
  - Issue quarterly stewardship reports
  - Provide written and oral presentation assistance
  - Provide analysis of market conditions
  - Act as liaison with carriers' claims department on any issues
  - Analyze large exposure cases
  - Act as a resource for the Third Party Administrator on technical issues
  - Provide access to the expertise of specialty departments
  - Offer insurance seminars to the Risk Management Department for further educational purposes
  - Assist in the calculation of a cost allocation/charge back type of program
  - Provide assistance in forecasting premium cost for budgetary reasons
  - Recommend new PMIP strategies and innovative steps that will support CHA moving to an Asset Management model.
  - Evaluate the PMIP program to define advantages and disadvantage both financially and operationally.
  - Determine the feasibility of forming a risk pool that would include CHA's current portfolio of properties and best represent the risk pool in obtaining quotes for insurance.
  - Review results with annual stewardship report and recommendations.

- **CHA Program:**
  - Market insurance bid solicitation and placement in compliance with all HUD procurement regulations
  - Act as liaison for insurance renewal procurement process
  - Secure environmental coverage and placement expertise
  - Suggest risk financing alternatives
  - Provide coverage/exposure analysis and recommendations
  - Provide quarterly stewardship reports
  - Provide written and oral presentation assistance
  - Assist with preparation of CHA property valuations
  - Provide analysis of market conditions
  - Act as liaison with carriers' claims department on any issues
  - Analyze large exposure cases
  - Act as a resource for the Third Party Administrator on technical issues
  - Provide access to the expertise of specialty departments
  - Offer insurance seminars to the Risk Management Department for further educational purposes
  - Attend and actively participate in any periodic meetings concerning the status and progress of the desired insurance
  - Provide assistance in forecasting premium cost for budgetary reason
  - Produce and verify the accuracy of bills, audits, and any other premium adjustments.
  - Provide a review of any insurance company audit to determine appropriate premium payable
  - Review results with annual stewardship report and recommendations.

## **B. DELIVERABLES**

All deliverables will be submitted in draft version to the Risk Director prior to finalizing the report, with adequate time for review and comment. The contractor shall submit, at a minimum, the following deliverables both electronically and in hard copy, as prescribed below:

1. Respondent will provide the Preliminary Recommendations within six (6) months after selection of Respondent and execution of a contract. The Preliminary Recommendations will identify required improvements in the program structure.
2. Pre-Renewal meetings including a full discussion of market conditions and estimates of renewal pricing, by line of coverage, for budgeting and marketing strategy purposes.
3. Request updated renewal exposure information, prepare marketing submission, and deliver to underwriters 90 days prior to renewal.
4. Delivery of renewal proposal not less than 30 days prior to renewal
5. Delivery of insurance binders and auto ID cards prior to effective date of policies/reinsurance contracts.
6. Provide annual stewardship report to CHA providing market analysis, broker service and performance, claims reports, loss control recommendations and risk management review.
7. Review and delivery policies / reinsurance contracts to CHA between 45-60 days of effective date.

8. Conduct Quarterly Claims Reviews onsite or via conference call, per CHA.

**Statement of Work**

The Services that the Contractor shall provide include, but are not limited to:

1. **CHA Insurance Program**

- a) The Contractor shall act on the CHA's behalf as Broker of Record to competitively procure, or represent the CHA in the renewal process of all standard forms of business related insurance for the CHA's insurance program, excluding employer sponsored insurance and employee benefits. All insurance procured by the CHA through the Contractor shall be net of all commissions. Standard forms of business related insurance include, but are not limited to:
- i) General Liability;
  - ii) Automobile Liability;
  - iii) Public Officials E&O Liability;
  - iv) Property, Boiler & Machinery;
  - v) Builders Risk;
  - vi) Employed Lawyers E&O
  - vii) Employment Practices Liability;
  - viii) Employee Benefits Liability;
  - ix) Environmental Liability;
  - x) Fiduciary Liability; and
  - xi) Excess Liability.
  - xii) Cyber Liability
  - xiii) Sexual Abuse & Molestation Liability
  - xiv) Other coverages as needed
- b) The Contractor shall consult with the CHA's Risk Management Department and conduct all necessary program audits to review coverages, exposures and retentions to assess whether or not, the forms and levels of insurance the CHA has or intends to purchase, are appropriate for the CHA and its properties, and shall make recommendations to CHA's Risk management Department before solicitations are made to the marketplace;
- c) The Contractor shall collect all required exposure information in conjunction with the CHA's Risk Management Department for underwriting purposes four (4) months prior to the renewal date of CHA's insurance policies;
- d) The Contractor shall provide the CHA with proposed renewal costs and available options, if available, ninety (90) days before the renewal date.



- e) The Contractor shall elicit competition to acquire CHA's insurance at the best price available and/or act as a liaison during the insurance renewal process under existing contracts and make recommendations to the CHA regarding the purchase or renewal of said insurance;
- f) The Contractor shall solicit and procure insurance coverage for the CHA in a manner that complies with all applicable federal guidelines, particularly HUD's "Common Rule on Grantee Procurement" at 24. C.F.R. 85.36 et. seq. To ensure adequate competition, the Contractor shall obtain a minimum of three (3) bids for each line of insurance coverage or submit vendor responses to CHA, if less than three (3) bids are submitted;
- g) The Contractor shall ensure that all insurance policies are issued to the CHA within forty-five (45) to sixty (60) days of the renewal date;
- h) The Contractor shall issue insurance renewal certificates within five (5) work days of renewal;
- i) The Contractor shall issue new certificates within one (1) work day after receiving a request from the CHA; and
- j) In addition to the above, the Contractor shall provide the following as part of the Services:
  - i. Act as liaison on CHA's behalf for insurance renewal procurement process;
  - ii. Secure environmental coverage and placement expertise;
  - iii. Suggest risk financing alternatives;
  - iv. Provide assistance in forecasting insurance premium cost for budgetary purposes
  - v. Provide coverage/exposure analysis and recommendations;
  - vi. Provide monthly stewardship reports;
  - vii. Provide written and oral presentation assistance;
  - viii. Perform annual claims audit/review of the CHA's Third Party Administrator;
  - ix. Act as a resource for CHA's Third Party Administrator on technical issues;
  - x. Assist with preparation of CHA property valuations;
  - xi. Provide analysis of insurance market conditions;
  - xii. Act as liaison on CHA's behalf with insurance carriers' claim departments;
  - xiii. Analyze large exposure cases
  - xiv. Evaluate and analyze large exposure cases;
  - xv. Provide expertise in specialty departments; and
  - xvi. Provide educational insurance seminars to the CHA's Risk Management Department.



- xvii. Offer insurance seminars to CHA's Risk Management Department for further educational purposes.
- xviii. Attend and actively participate in any periodic meetings concerning the status and progress of the desired insurance.
- xix. Produce and verify the accuracy of bills, audits, and any other premium adjustments.
- xx. Provide a review of any insurance company audit to determine appropriate premium payable.

**2. PMIP**

- a) The Contractor shall act on the CHA's behalf as Broker of Record to competitively procure, or represent the CHA in the renewal process of all standard forms of business related insurance for the PMIP, excluding employer sponsored insurance and employee benefits. All insurance procured by the CHA through the Contractor shall be net of all commissions. Standard forms of business related insurance include, but are not limited to:
  - i. General Liability;
  - ii. Umbrella Liability
  - iii. Excess Liability
  - iv. Other coverages as needed
- b) The Contractor shall consult with the CHA's Risk Management Department and conduct all necessary program audits to review coverages, exposures and retentions to assess whether or not, the forms and levels of insurance the CHA has or intends to purchase, are appropriate for the CHA's PMIP, and shall make recommendations to CHA's Risk management Department before solicitations are made to the marketplace;
- c) The Contractor shall collect all required exposure information in conjunction with the CHA's Risk Management Department for underwriting purposes four (4) months prior to the renewal date of the PMIP's insurance policies;
- d) The Contractor shall provide the CHA with proposed renewal costs and available options, if available, sixty (60) days before the renewal date.
- e) The Contractor shall elicit competition to acquire CHA's insurance at the best price available and/or act as a liaison during the insurance renewal process under existing contracts and make recommendations to the CHA regarding the purchase or renewal of said insurance;
- f) The Contractor shall solicit and procure insurance coverage for the CHA's PMIP in a manner that complies with all applicable federal guidelines, particularly HUD's "Common Rule on Grantee Procurement" at 24. C.F.R.

**85.36 et seq.** To ensure adequate competition, the Contractor shall obtain a minimum of three (3) bids for each line of insurance coverage or submit vendor responses to CHA, if less than three (3) bids are submitted;

- g) The Contractor shall ensure that all insurance policies are issued for the PMIP within forty-five (45) to sixty (60) days of the renewal date;**
- h) The Contractor shall issue insurance renewal certificates within five (5) work days of renewal;**
- i) The Contractor shall issue new certificates within one (1) work day after receiving request; and**
- j) In addition thereto, the Contractor shall provide the following as part of the Services:**
  - i. Act as liaison on CHA's behalf for the PMIP insurance renewal procurement process;**
  - ii. Suggest risk financing alternatives;**
  - iii. Provide coverage/exposure analysis and recommendations;**
  - iv.**
  - v. Provide written and oral presentation assistance;**
  - vi. Perform annual claims audit/review of the CHA's Third Party Administrator;**
  - vii. Act as a resource for CHA's Third Party Administrator on technical issues;**
  - viii. Provide analysis of insurance market conditions;**
  - ix. Act as liaison on CHA's behalf with insurance carriers' claim departments;**
  - x. Analyze large exposure cases;**
  - xi. Provide access to expertise in specialty departments;**
  - xii. Provide educational insurance seminars to the CHA's Risk Management Department for educational purposes;**
  - xiii. Assist the CHA with the calculation of a cost allocation/charge back type of program; and**
  - xvi. Assist the CHA with the Pay for Performance Program of the private management firms.**
  - xvii. Provide assistance in forecasting premium cost for budgetary purposes.**
  - xviii. Recommend new strategies and innovative steps to support CHA moving to an Asset Management model.**
  - xix. Evaluate the PMIP program to define advantages and disadvantages both financially and operationally.**
  - xx. Determine the feasibility of forming a risk pool that would include CHA's current portfolio of properties and best represent the risk pool in obtaining quotes for insurance.**

### 3. Delegation of Work

Prior to delegating any work to an approved subcontractor under the Agreement, the Contractor agrees to consult, discuss and seek approval of such proposed delegation from the CHA's Risk Management Department, but such approval shall not be unreasonably be withheld.

#### C. Deliverables

The Contractor shall prepare certain deliverables consisting of the work product from performing the Services under this Agreement that include, but are not limited to, documents, data, studies, reports, findings or information in any form prepared or assembled either in hard copy or on diskette (collectively "Deliverables") All Deliverables shall be presented to the CHA's Risk Management Department in both electronic form and on hard copies.

The CHA reserves the right to reject Deliverables, which in the sole judgement of the CHA do not adequately meet the intended level of completion or standard of performance, do not include relevant information or data, do not include all documents specified in this Agreement or are not reasonably necessary for the purposes for which the CHA made this Agreement with the Contractor. The CHA will notify the Contractor in writing about any problem(s) the CHA may identify involving a Deliverable, and the Contractor shall remedy such problem(s) within a reasonable time not to exceed ten (10) days.

Partial or incomplete Deliverables may be accepted at the CHA's discretion for review only when required for a specific purpose and when consented to in advance by the CHA. Such partial or incomplete Deliverables shall not be considered as satisfying the requirements of this Agreement, and partial or incomplete Deliverables shall in no way relieve the Contractor of its commitments hereunder.

#### Section 2.02 Performance Standards

The Contractor shall perform all Services required under this Agreement in professional manner with the degree of skill, care and diligence normally shown by an entity performing services of a scope, purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. The Contractor shall at all times use its best efforts to assure quality, timeliness, efficiency and creativity in rendering and completing the services. The Contractor agrees that performance of the Services in a satisfactory manner shall include quick response to the CHA's needs. Accordingly, the Contractor shall return all telephone calls and respond to all electronic mail on a timely basis within twenty-four (24) hours. The Contractor shall at all times act in the best interests of the CHA consistent with its professional obligations assumed by it in entering into this Agreement.

#### Section 2.03 Key Personnel

The Contractor's personnel who will be providing Services under this Agreement shall be under the supervision of the following key personnel: Robert McWeeney, Marcus Henthorn, and Liz McHugh. The Contractor retains the right to substitute key personnel with reasonable cause.

Notwithstanding, the CHA shall have the right to approve such staff changes, which approval shall not be unreasonably withheld. The Contractor must provide no less than 30 days prior notice, when possible, of any change in personnel. The notice must be accompanied by a transition plan to mitigate any disruption to the provision of Services.

#### **Section 2.04 Non-Discrimination**

Contractor 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. Contractor shall particularly remain in compliance at all times with: Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000 (e) note, as amended by Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (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 511-101 et seq., as amended, and regulations promulgated in accordance therewith, including but not limited to the Equal Employment Opportunity Clause, III. Admin. Code Tit. 44 s 750 Appendix A; Employment Opportunity Clause, III. Admin. Tit. 44 s 750 Appendix A; Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended; The 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, Contractor must furnish such reports and information as requested by the Chicago Commission on Human Relations.

#### **Section 2.05 MBE/WBE/DBE Participation and Section 3 Requirements**

Contractor agrees to comply with the CHA's MBE/WBE/DBE Minority and Women Disadvantaged Business Enterprise requirements and the CHA's Section 3 requirements in accordance with the Contractor's MBE/WBE Utilization Plan and Section 3 Utilization Plan, which are attached hereto as Exhibit III and incorporated by reference as if fully set forth herein, and otherwise comply with CHA MBE/WBE Policy and Section 3 Policy as may be required.

#### **Section 2.06 Ownership of Documents, Records and Reports**

A. The CHA and the Contractor agree that all Deliverables, information and data in any form prepared, assembled or encountered by or provided to the Contractor by the CHA shall be the property of the CHA. During the performance of its Services, the Contractor shall be responsible for any loss or damage to such Deliverables while in the Contractor's possession and shall restore any lost or damaged Deliverables at the Contractor's sole cost and expense.

B. The Contractor shall maintain its books and records and adopt a system of accounting in accordance with generally accepted accounting principles and practices, to properly reflect all costs of whatever nature claimed to have been incurred or anticipated to be incurred or in connection with the Contractor's performance under this Agreement. In addition, the Contractor shall keep such books and records in a safe place and make them available for audit, examination,

excerpt, and transcription to be conducted by the CHA, HUD, the Comptroller General of the United States or their duly authorized representatives, and allow inspection, copying and abstracting for at least three (3) years after the final payment is made in connection with this Agreement and all other pending matters are closed.

#### **Section 2.07 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.

#### **Section 2.08 Confidentiality**

The Contractor agrees that all Deliverables, reports, documents and information prepared, assembled, received or encountered by the Contractor pursuant to this Agreement ("Confidential Information") are to remain confidential and to be used solely for the purposes of meeting the objectives of this Agreement. The Contractor agrees that such Confidential Information shall not be made available to any individual or organization other than the CHA, HUD or courts of competent jurisdiction or administrative agencies pursuant to a subpoena, without the prior written approval of the CHA. In the event the Contractor is presented with a subpoena duces tecum regarding such Deliverables, reports, records, documents data and/or information, which may be in the Contractor's possession by reason of this Agreement, Contractor must immediately give notice to the CHA's Chief Executive Officer and General Counsel with the understanding that that the CHA will have the opportunity to contest such process by any means available to it before the Deliverables, reports, records, documents data and/or information are submitted to a court or other third party. The Contractor, however, is not obligated to withhold the delivery of such Confidential Information beyond the time ordered by the court or administrative agency, unless the subpoena duces tecum or request is quashed or the time to produce is otherwise extended.

#### **Section 2.09 Subcontracts and Assignments**

Unless otherwise provided for herein, the Contractor shall not subcontract, assign or otherwise delegate all or any part of its obligations under this Agreement or any part hereof without the prior written approval of the CHA. Any attempted subcontract, assignment or delegation without such approval shall be void and of no legal effect.

The Contractor shall not transfer or assign, in whole or in part, any funds or claims due or which may become due under this Agreement without the prior written approval of the CHA. Any attempted transfer or assignments of any contract funds, either in whole or in part, or any interest therein, which shall be due or to become due to the Contractor, without the prior written approval of CHA shall be void. The CHA expressly reserves the right to assign or otherwise transfer all or any part of its rights or interests hereunder.

#### **Section 2.10 Patents and Copyrights**

To the extent applicable, 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 Agreement, and (b) any rights of copyright or patent of which the Contractor purchases ownership with funds awarded pursuant to this Agreement for the purpose of meeting the objectives of this Agreement.

#### **Section 2.11 Religious Activities**

In connection with the Services to be provided under this Agreement, the Contractor 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 2.12 Drug-Free Workplace**

The Contractor shall establish procedures and policies to promote a "Drug-Free Workplace" and 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. Furthermore, the Contractor 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.

#### **Section 2.13 Force Majeure**

Notwithstanding any other provision in this Agreement, the Contractor shall not be liable or held responsible for any failure to perform or for delays in performing its obligation under the Agreement, including but not limited to, the scope of services set forth hereunder which result from circumstance or causes beyond Contractor's reasonable control, including without limitation, fire or casualty, acts of God, strikes or labor disputes, war or violence, order or requirement of any government agency or authority.

#### **Section 2.14 - General Conditions for Non-Construction Contracts**

The Contractor agrees to comply with the terms and conditions of HUD's General Conditions for Non-Construction Contracts (HUD form 5370-C (10/2006)) ("General Conditions"), which is attached hereto as Exhibit IV and incorporated by reference as if fully set forth herein. In the event of a conflict between the terms and conditions of General Conditions and the Agreement, the terms and conditions of the Agreement shall control.



#### **Section 2.15 CHA Inspector General**

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

#### **Section 2.16 Compliance with CHA Policies**

The Contractor shall comply with the applicable provisions of all CHA policies including, but not limited to:

- Ethics Policy
- Local Transportation & Mileage Reimbursement Policy
- CHA Travel Guidelines
- General Business Expense Policy

### **ARTICLE 3. TERM OF AGREEMENT**

#### **Section 3.01 Term of Agreement**

This Agreement shall take effect as of December 1, 2015 and shall continue through November 30, 2017 (the "Base Term"), or until the Agreement is terminated in accordance with its terms, whichever occurs first.

#### **Section 3.02 Contract Extension Options**

The CHA may, at its sole discretion, extend this Agreement for three (3) additional one-year option periods under the same prevailing terms and conditions as provided for under this original Agreement by providing written notice to the Contractor. Such notice shall set forth the extension period. The Agreement shall be modified to reflect the time extension in accordance with the provisions of Section 9.03.

#### **Section 3.03 Timeliness of Performance**

The Contractor shall provide the Services and Deliverables in a timely manner as required under this Agreement, or, from time to time, as otherwise required by the CHA. The Contractor and the CHA acknowledge that deadlines for certain Services provided for in this Agreement are dictated by the requirements of agencies or events outside the control of the CHA and the Contractor. The failure by the Contractor to meet deadlines will significantly affect the CHA. In those circumstances, except to the extent that the Contractor's inability to meet its deadlines is caused by delay due to the CHA, by acts of God or other events outside the control of the Contractor, "Time Is Of The Essence."



## ARTICLE 4.

## COMPENSATION AND PAYMENT

### Section 4.01 Compensation

The CHA will pay the Contractor for Services performed satisfactorily under this Agreement a firm-fixed fee of One Hundred Eighty Nine Thousand Six Hundred Thirty Five and 00/100 Dollars (\$189,635.00) per year for the Base Term of this Agreement (the "Base Term Total Fees") in accordance with Contractor's Best and Final Fee Proposal dated October 6, 2015 ("Fee Proposal"), which is attached hereto as Exhibit V. The firm-fixed fee set forth herein is subject to the Pay for Performance Measures identified in Section 4.02 and established Exhibit VI.

Compensation for any option year(s) that may be exercised by the CHA shall be in accordance with the same prevailing terms and conditions of this Agreement, except as to any price or cost terms that would be governed by the Fee Proposal for any exercised option year term(s). The Contractor agrees not to perform and waives any and all claims for payment of work that would result in billings beyond this amount without prior written amendment to this Agreement authorizing said additional work. The Contractor recognizes an affirmative duty to monitor its performance and billings to ensure that the scope of work is completed within this maximum fee amount.

### Section 4.02 Payment

During the term of the Agreement, the Contractor shall submit equal semi-annual (2) invoices totaling no more than \$189,635.00 per year. The Pay for Performance Measures Schedule, which is attached hereto as Exhibit VI and incorporated by reference herein, sets forth the percentage of the Base Term Total Fees which may be earned by Contractor for its successful completion of each Performance Measure at their respective due dates. Accordingly, in the event that the Contractor has not met any of the Pay for Performance Measures as set forth in Exhibit VI, Contractor shall not be entitled to those portions of the Base Term Total Fees for any Performance Measure that is not timely and satisfactorily completed. CHA shall be entitled to withhold the amount of any unearned fees attributable to the Pay for Performance Measures Schedule from the Contractor's invoice(s) not as a penalty, but because the Contractor did not earn the fees attributable to those Performance Measures. In addition to CHA's right to withhold and/or deduct sums equivalent to unearned performance fees from future payments, the offset or reduction for unearned fees may be accounted for through repayment to CHA directly by the Contractor. The determination of whether the Pay for Performance Measures Schedule, where subjective, has been met shall be within CHA's sole reasonable determination.

All invoices are subject to review and approval by the CHA. The Contractor shall furnish supporting documents and additional information as may be requested by CHA to approve each invoice. The Contractor shall not be entitled to receive payment unless an invoice relating to such payment is first submitted and approved by the CHA. The CHA will make its best efforts to make payment for approved Services rendered under this Agreement within 30 days after receipt and approval of an invoice. If the CHA objects to all or any portion of any invoice, it shall notify the Contractor of its objection in writing and both parties shall make every effort to settle the disputed portion of the invoice. Notwithstanding the foregoing, the CHA may, at its option, pay the undisputed portion of any invoice without being deemed to have accepted the disputed portion. All disputes regarding invoices shall be handled in accordance with the provisions of Article 5 herein.

#### **Section 4.03 Non-Appropriation**

Funding for this 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 Contractor's satisfactory performance of this 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 Agreement for payments to be made under this Agreement, then the CHA may notify the Contractor of such occurrence and this 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 Agreement are exhausted.

### **ARTICLE 5. DISPUTES**

#### **Section 5.01 Disputes**

In the event of a dispute between the CHA and the Contractor involving this Agreement, both parties agree to attempt to negotiate a resolution. If the parties cannot resolve the dispute through negotiation, either party may, unless otherwise set forth herein, submit the dispute in writing to the Director of Procurements and Contracts (the "Director") for decision, who shall, with reasonable promptness, render a decision concerning the dispute submitted. Unless the Contractor, within thirty (30) days after receipt of the decision, notifies the Director in writing that it takes exception to the decision, the decision of the Director shall be final and binding. Provided that the Contractor has given written notice within the time stated and has brought suit against the CHA not later than one year after the Contractor has received notice of the decision of the Director, then the decision of the Director shall not be final and the dispute shall be determined on the merits by a court of competent jurisdiction.

### **ARTICLE 6. RISK MANAGEMENT**

#### **Section 6.01 Insurance**

Prior to the commencement of this Agreement, the Contractor agrees to procure and maintain at all times during the term of this Agreement, the types of insurance specified below in order to protect the CHA from the acts, omissions and negligence of the Contractor, its officers, officials, subcontractors, joint ventures, partners, agents or employees. The insurance carriers used by the Contractor must be authorized to conduct business in the State of Illinois and shall have a BEST Rating of not less than an "A". The insurance provided shall cover all operations under the Agreement, whether performed by the Contractor or by its subcontractor, joint ventures, partners, agents, officers or employees.

##### **A. Required Insurance Coverage**

##### **1. Workers Compensation and Occupational Disease Insurance**

Workers Compensation and Occupational Disease Insurance in accordance with the laws of the State of Illinois (Statutory), Coverage A, and Employer's Liability, Coverage B, in an amount of not less than \$500,000/\$500,000/\$500,000.

2. **Commercial/General Liability Insurance written on an occurrence form (Primary and Excess)**

Commercial Liability Insurance provided is to have limits of not less than One million dollars (\$1,000,000.00) per occurrence with an Aggregate of not less than two million dollars (\$2,000,000.00) (i.e. \$1,000,000.00/\$2,000,000.00). In addition to the stipulations outlined above, the insurance policy is to include coverage for Contractual Liability, Products-Completed Operations, Personal & Advertising Injury and will also cover injury to Contractor's officers, employees, agents subcontractor, invitees and guests and their personal property. The CHA is to be endorsed as an additional insured on the Contractor's policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA.

3. **Automobile Liability Insurance**

When any motor vehicles (owned, non-owned and hired) are used in connection with the Services to be performed, the Contractor shall provide Comprehensive Automobile Liability Insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence CSL, for bodily injury and property damage. The CHA is to be endorsed as an additional insured on the Contractor's policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA.

4. **Professional Liability**

Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than one million dollars (\$1,000,000.00) per occurrence. Coverage extensions shall include Blanket Contractual Liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, the start of services under the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

5. **Excess Liability**

Excess Liability coverage, if applicable, is to follow form of the Primary Insurance requirements outlined above.

B. **Related Requirements**

The Contractor shall advise all insurers of the contract provisions regarding insurance. The failure of the Contractor to notify insurers of the Agreement provisions shall not relieve Contractor from its insurance obligations under this Agreement. Non-fulfillment of the insurance provisions

shall constitute a breach of the Agreement and the CHA retains the right to stop work until proper evidence of insurance is provided.

The Contractor shall furnish the Chicago Housing Authority, Department of Procurement and Contracts, 60 E. Van Buren St. 13th Floor, Chicago, Illinois 60605, original Certificates of Insurance evidencing the required coverage to be in force on the Effective Date of the Agreement. In addition, copies of the endorsement(s) that add the CHA to Contractor's as an additional insured are required.

**THE REQUIRED DOCUMENTATION MUST BE RECEIVED PRIOR TO THE CONTRACTOR COMMENCING WORK UNDER THIS AGREEMENT. THE CONTRACTOR OR ITS AUTHORIZED REPRESENTATIVES ARE NOT TO ENTER ONTO THE CHA'S PROPERTY PRIOR TO FULL COMPLIANCE WITH THIS AGREEMENT AND RECEIPT OF NOTIFICATION FROM THE CHA TO PROCEED.**

Renewal Certificates of Insurance, requested endorsements, or such similar evidence is to be received by the Department of Procurement and Contracts prior to expiration of insurance coverage. At the CHA's option, non-compliance will result in one or more of the following actions: (1) The CHA will purchase insurance on behalf of Contractor and will charge back all costs to Contractor; (2) the Contractor will be immediately removed from the CHA's property and the Agreement revoked; (3) all payments due the Contractor will be held until the Contractor has complied with this Agreement; or (4) the Contractor will be assessed Five Hundred Dollars (\$500) for every day of non-compliance. The receipt of any Certificate of insurance does not constitute agreement by the CHA that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with the requirements of this Agreement. The insurance policies shall provide for thirty (30) days written notice to be given to the CHA in the event coverage is substantially changed, canceled or non-renewed.

If the required insurance is underwritten on a claims made basis, the retroactive date shall be prior to or coincident with the date of this Agreement and the Certificate of Insurance shall state the coverage is "claims made" and also the Retroactive Date. The Contractor shall maintain coverage for the duration of this Agreement. Any extended reporting period premium (tail coverage) shall be paid by the Contractor. The Contractor shall provide to the CHA, annually, a certified copy of the insurance policies obtained pursuant hereto. It is further agreed that the Contractor shall provide the CHA a thirty (30) days notice in the event of the occurrence of any of the following conditions: aggregate erosion in advance of the Retroactive Date, cancellation and/or non-renewal.

The Contractor shall require all subcontractors to carry the insurance required herein or the Contractor may provide the coverage for any or all of its subcontractors, and if so, the evidence of insurance submitted shall so stipulate and adhere to the same requirements and conditions as outlined in Section 6.01(A) above. Evidence of such coverage must be submitted to CHA. The Contractor expressly understands and agrees that any insurance programs maintained by the CHA shall apply in excess of and will not contribute to insurance provided by the Contractor under this Agreement.

## **Section 6.02 Indemnification**

The Contractor agrees to protect, defend, 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") in connection with or arising directly or indirectly out of the Contractor's performance of, or obligations under this Agreement and/or the acts and omissions of the Contractor, 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, actual or alleged infringement of any patent, trademark, copyright or any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The Contractor 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, even if the Claims are considered groundless, false or fraudulent.

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

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

### **Section 7.01 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 Contractor to the CHA.
- B. The Contractor's failure to perform any of its obligations under this Agreement including, but not limited to, the following:
  - 1. Inability to perform the Services satisfactorily in accordance with the performance standards or as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;

2. Failure to comply with any term of this Agreement, including, but not limited to the provisions concerning compliance with HUD regulations, insurance and nondiscrimination.
  3. Any other acts specifically and expressly stated in this Agreement as constituting an event of default.
- C. Any change in majority ownership or majority control of the Contractor without the prior written approval of the CHA, which written approval shall not be unreasonably withheld.
  - D. The Contractor's default under any other agreement it may presently have or may enter into with the CHA during this Agreement. The Contractor acknowledges and agrees that in the event of a default under this Agreement the CHA may also declare a default under any such other agreements.

#### **Section 7.02 Remedies**

The occurrence of any event of default which the Contractor fails to cure within thirty (30) calendar days after receipt of written notice given in accordance with the terms of this 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 Contractor 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 Contractor in default. Whether to declare the Contractor 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 Agreement. Written notification of the default, and any intention of the CHA to terminate the Agreement, shall be provided to the Contractor and such decision shall be final and effective upon the Contractor'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 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 Contractor's compensation hereunder with respect to Services not completed in accordance with the terms hereof prior to the termination of this Agreement.
- D. The right to deem Contractor 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 Contractor, either directly or through others.



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

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy 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 be construed as a waiver, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

#### **Section 7.03 Termination for Convenience**

The CHA may terminate this Agreement for convenience, or all or any portion of the Services to be performed under it, at any time by written notice from the CHA to Contractor when the Agreement or such Services may be deemed by the CHA to be no longer in the best interests of the CHA. If the CHA elects to terminate the Agreement in full, all Services to be performed hereunder shall cease effective five (5) days after the date of receipt of the notice. The Contractor shall continue to render the services until the effective date of termination. No cost incurred by the Contractor 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 Contractor on a pro-rata basis, fees incurred for services rendered through the date of termination. This Section 7.03 is not subject to Article 5 of this Agreement.

#### **Section 7.04 Suspension**

The CHA may at any time request that the Contractor suspend its Services, or any part thereof, by giving ten (10) days prior written notice to the Contractor or upon no notice in the event of an emergency. No costs incurred after the effective date of such suspension shall be allowed. The Contractor shall promptly resume its performance of such Services under the same terms and conditions as stated herein upon written notice by the CHA Director of Procurement and Contracts.

#### **Section 7.05 No Damages for Delay**

The Contractor agrees that it shall make no claims against the CHA for damages, charges, interest, additional costs or fees incurred by reason of delays or suspension of work caused by the CHA in the performance of its obligations under this Agreement. The Contractor's sole and exclusive remedy for delays or suspension of work caused by the CHA is an extension of time equal to the duration of delay or suspension to allow the Contractor to perform its obligation under this Agreement.



## **ARTICLE 8. WARRANTIES, REPRESENTATIONS AND SPECIAL CONDITIONS**

### **Section 8.01 Warranties and Representations**

In connection with the execution of this Agreement, the Contractor warrants and represents:

- A. That it is financially solvent. That it and each of its employees, agents, subcontractors of any tier are competent to perform the Services required under this Agreement and that the Contractor is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated herein; and
- B. That the Contractor's execution and performance of this Agreement is not prohibited by, or in conflict with any other agreement or obligation of the Contractor; and
- C. That no officer, agent or employee of the CHA is employed by Contractor 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 Agreement by or on behalf of any sub-contractors to the Contractor or anyone associated therewith, as an inducement for the award of a subcontract or order; and the Contractor further acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions set forth herein shall be void; and
- D. That Contractor shall not knowingly use the services of any ineligible subcontractor or consultant for any purpose in the performance of its Services under this Agreement; and
- E. That Contractor and its subcontractors, if any, are not in default at the time of the execution of this Agreement, or deemed by the CHA's Director of Procurement and Contracts to have, within five (5) years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the CHA and/or HUD; and
- F. That the Contractor has carefully examined and analyzed the provisions and requirements of this Agreement and that it understands the nature of the Services required; and
- G. That the Agreement is feasible of performance in accordance with all of its provisions and requirements, and that the Contractor has the power to enter into and can and shall perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;
- H. That, no representation, statement or promise, except only for those representations,

statements, or promises expressly contained in this Agreement, and any exhibits attached hereto and incorporated by reference herein, oral or in writing, or of any kind whatsoever, by the CHA, its officials, agents, or employees, have induced the Contractor to enter into this Agreement or have been relied upon by the Contractor; and

- I. That neither the Contractor or, to the best of its knowledge, its subcontractors are in violation of the provisions of 18 U.S.C. § 666 (a)(1) and the Illinois Criminal Code, 720 ILCS 5/33E-1 et seq. (1989), as amended; or the CHA's Ethics Policy as amended; and
- J. That the Contractor acknowledges that the CHA, in its selection of the Contractor to perform the Services hereunder, materially relied upon the Contractor's Proposal, that the Proposal was accurate at the time it was made; that no material changes in it have been nor will be made without the express consent of the CHA; and
- K. Contractor understands and agrees that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination of this Agreement.

#### **Section 8.02 Joint and Several Liability**

In the event that the Contractor, 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 Contractor shall be the joint and several obligation or undertaking of each individual or other legal entity.

#### **Section 8.03 Business Documents and Contractor's Affidavit:**

The Contractor 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 has executed a Contractor's Affidavit, which is attached hereto as Exhibit VI and incorporated by reference herein. The Contractor shall at all times during the term of this Agreement comply with and remain in compliance with the terms of its Contractor's Affidavit.

#### **Section 8.04 Conflict of Interest**

A. No member of the governing body of the CHA or other units of government and no other officer, employee, or agent of the CHA or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains, shall have any personal interest, direct, or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly or CHA employee shall be entitled to any share or part of this Agreement or to any financial benefit to arise from it.

B. The Contractor covenants that it and its officers, directors, employees, or subcontractors, presently have no interest and shall acquire no interest, direct or indirect, in this Agreement which would conflict in any manner or degree with the performance of the Services hereunder. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed. Contractor agrees that if the CHA determines that any of Contractor's services for others conflict with the Services that the Contractor is to render for the CHA under this Agreement, the Contractor 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 24 C.F.R. §85.36(b)(3), 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 thereunder, 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 Contractor 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 8.05 Non-Liability of Public Officials**

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

#### **Section 8.06 Independent Contractor**

The Contractor shall perform under this Agreement as an independent contractor to the CHA and not as a representative, employee, agent, or partner of the CHA.

### **ARTICLE 9. GENERAL CONDITIONS**

#### **Section 9.01 Entire Agreement**

This Agreement and the Exhibits attached hereto shall constitute the entire agreement between the parties hereto relating to the subject matter hereof and no other warranties, inducements, considerations, covenant, conditions, promises or interpretations shall be implied between the parties that are not set forth herein. In the event of a conflict between any provision of this Agreement and the RFP, the terms of this Agreement, then the RFP shall control, in that order.

#### **Section 9.02 Counterparts**

This 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.

#### **Section 9.03 Amendments**

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

Whenever in this Agreement the Contractor is required to obtain prior written approval, the effect of any approval which may be granted pursuant to the Contractor'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 granted.

#### **Section 9.04 Compliance with All Laws:**

A. The Contractor 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 Agreement.

B. The Contractor 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 9.05 Deemed Inclusion**

Provisions(s) required by law, ordinances, rules, regulations, or executive orders to be inserted shall be deemed inserted whether or not they appear in this Agreement or, upon application by either party, this Agreement shall forthwith be amended to literally make such insertion. However, in no event shall the failure to insert such provision(s) prevent the enforcement of this Agreement.

#### **Section 9.06 Compliance with HUD Regulations**

The Contractor shall comply with all the provisions of HUD Regulations, and all state and local laws, ordinances and executive orders including, but not limited to, the Uniform Administrative Requirements contained in 24 C.F.R. Section 85.1 et seq., (1993), 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) as supplemented by Department of Labor regulations (29 CFR Part 51); Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) as supplemented by Department of Labor regulations (29 CFR part 51); 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) as supplemented in Department of Labor regulation (29 CFR Part 3); Byrd "Anti-Lobbying" Amendment (31 U.S.C. § 1352); and Debarment and Suspension (Executive Orders 12549 and 12689), and Mandatory Standards and Policies relating to energy and efficiency which are contained in the State Emergency Conservation Plan issued in compliance with Energy Policy and Conservation Act (Pub. L 94163, 89 Stat. 87). Additionally, the Contractor shall comply with the applicable provisions of OMB Circulars A-133, A-102, A-122, A-i 10 and A-87, as amended, succeeded or revised.

#### **Section 9.07 Severability**

If any provisions of this 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 circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

#### **Section 9.08 Governing Law and Jurisdiction**

This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. The Contractor 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 Agreement. The Contractor agrees that service of process on the Contractor 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 Agreement and to the office actually maintained by the Contractor, or by personal delivery on any managing partner, partners and principals of the Contractor. If the Contractor brings any action against the CHA concerning this Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

#### **Section 9.09 Interpretation**

Any headings of this 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 Agreement.

#### **Section 9.10 Assigns**

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

#### **Section 9.11 Cooperation**

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

#### **Section 9.12 Waiver**

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

### **ARTICLE 10. COMMUNICATION AND NOTICES**

#### **Section 10.01 Communication Between the Parties**

Except as otherwise required by Section 10.02, all verbal and written communication, including required reports and submissions between the Contractor and the CHA shall be through the CHA's Risk Management Department when required. No verbal communication between the parties shall change any of the terms and conditions of this 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.



## **Section 10.02 Notices**

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

Arthur J. Gallagher Risk Management Services, Inc.  
Two Pierce Place  
Itasca, IL 60143  
Attention: Robert McWeeney, Area Executive Vice President

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

Chicago Housing Authority  
60 East Van Buren Street  
Chicago, Illinois 60605  
Attention: Chief Executive Officer

With a copy to:

Office of the General Counsel  
Chicago Housing Authority  
60 East Van Buren Street  
Chicago, Illinois 60605  
Attention: General Counsel

## **ARTICLE 11. AUTHORITY**

### **Section 11.01 CHA's Authority**

Execution of this 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 State Housing Authorities Act, 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances.

### **Section 11.02 Contractor's Authority**

The signature of the person signing on behalf of the Contractor has been made with complete and full authority to commit the Contractor to all terms and conditions of this 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 Contractor have executed this Agreement as of the date first written above.

**CHICAGO HOUSING AUTHORITY**

BY: Dionna Brookens  
Dionna Brookens  
Deputy Chief Procurement Officer  
Department of Procurement and Contracts

**ARTHUR J. GALLAGHER RISK  
MANAGEMENT SERVICES, INC.**

BY: Eiv  
Area President  
BSD - PNP

APPROVED AS TO FORM AND LEGALITY  
Chicago Housing Authority  
Office of the General Counsel

BY: William Preston  
William Preston  
Deputy General Counsel