

VENDOR NO: _____

CONTRACT (PO) NO: _____

SPECIFICATION NO.: 92314

Liquid Caustic Soda

CONTRACT PERIOD: SIXTY (60) MONTHS

STARTING: _____

THROUGH: _____

REQUIRED FOR USE BY CITY OF CHICAGO



Department of Water Management

Fund Number: 010 0200 088 2020 0342 W705 220342 (And various)

Bid Submittal Fee: None, Bid Deposit: None, Performance Bond: None, Drawings: None, Exhibits: None

Information: Toyla Rice, Contract Administrator

Phone: (312) 744-1681, Fax: (312) 744-7679, E-mail: toyla.rice@cityofchicago.org

EXECUTE AND SUBMIT ONE (1) COMPLETE ORIGINAL BID PACKAGE

All signatures to be sworn to before a Notary Public

Bid must be sealed, delivered and received in the City of Chicago, Department of Procurement Services, Bid and Bond Room, City Hall, Room 301, 121 N. LaSalle Street, Chicago, Illinois, 60602 NO LATER than 11:00 a.m., Chicago Time on Tuesday, May 24, 2011. Bids will be read publicly. Bid package must be complete and returned in its entirety.

Issued by:

City of Chicago
Department of Procurement Services
Commodities Unit
Room 403, City Hall
121 North LaSalle Street
Chicago, Illinois 60602

Bid must be submitted in sealed envelope(s) or package(s). The outside of the envelope or package must clearly indicate the name of the project, "**Liquid Caustic Soda**" the specification number "**92314**" and the time and the date specified for receipt. The name and the address of the Bidder must also be clearly printed on the outside of the envelope(s) or package(s). Respondent must NOT scan or otherwise reproduce this document in any way.

Richard M. Daley
Mayor

Jamie L. Rhee
Chief Procurement Officer

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1. DEFINITIONS

Wherever applicable in the Contract Documents, the following terms, or pronouns in place of them, or abbreviations, are used, the interpretation and meaning shall be interpreted as follows:

"Attachments"	means all exhibits attached hereto and/or incorporated by reference herein;
"Business Day"	means business days (Monday through Friday, excluding Holidays) in accordance with the City of Chicago business calendar;
"Calendar Day"	means calendar days (Sunday through Saturday) in accordance with the world-wide accepted calendar;
"Chief Procurement Officer"	refers to the Chief Executive of the Department of Procurement Services, for the City of Chicago, and any representative duly authorized in writing to act on the Chief Procurement Officer's behalf;
"City"	refers to the City of Chicago, a municipal corporation and home rule government under Sections 1 and 6(a), Article VII, of the 1970 Constitution of the State of Illinois;
"Commissioner"	refers to the Chief Executive of the Department of Water Management, for the City of Chicago, and any representative duly authorized in writing to act on the Commissioner's behalf;
"Contact Person"	refers to Contractor's management level personnel who will work as liaison between the City and the Contractor and be available to respond to any problems that may arise at a work site;
"Contract"	means this Contract for Liquid Caustic Soda, including all exhibits attached hereto and/or incorporated by reference herein, and all amendments, modifications, or revisions made from time to time in accordance with the terms hereof;
"Contractor"	refers to the person, firm, entity or corporation who is awarded this Contract;
"Contract Documents"	are herein as incorporated into the Contract before its execution, and all as may be amended, modified, revised in accordance with the terms hereof;
"Deliverables"	means any Liquid Caustic Soda, documents, reports, information, etc. to be provided by the Contractor to the City;
"Delivery Location"	refers to the location where the product or service is to be provided by the Contractor;
"Department"	means the Department of Water Management, City of Chicago;

"Holidays"	means the following days in accordance with the City of Chicago; New Year's Day, Dr. Martin Luther King Jr.'s Birthday, Lincoln's Birthday, Washington's Birthday, Pulaski Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day;
"Proposal"	as used herein refers to the Contractor prepared document quoting a firm fixed price or unit price for performance of the Work, including all Contractor schedules and signatory documents required to be completed in accordance with the requirements of the Contract Documents;
"Reporting Formats"	means the appearance in which a report is submitted by the Contractor to the City;
"Services"	means all work to be performed by the Contractor hereunder, including provision of all labor materials, equipment, supplies and other incidentals necessary or convenient to the successful completion of the work;
"Subcontractor"	means any person or entity with whom the Contractor contracts to provide any part of the Work, including Subcontractors of any tier, suppliers and material men, whether or not in privity with the Contractor;

Unless a contrary meaning is specifically noted elsewhere, words as required, as directed, as permitted, and similar words mean that requirements, directions of, and permission of the Commissioner or Chief Procurement Officer are intended; similarly the words approved, acceptable, satisfactory, or words of like imports, will mean approved by, acceptable to, or satisfactory to the Commissioner or Chief Procurement Officer. The words necessary, proper, or words of like import as used with respect to extent of Work specified will mean that Work must be conducted in a manner, or be of character which is necessary or proper in the opinion of the Commissioner. The Commissioner's judgment in such matters will be considered final and incontestable by the Contractor.

Wherever the imperative form of address is used, such as provide equipment required it will be understood and agreed that such address is directed to the Contractor.

2. GENERAL CONDITIONS

Sealed bids will be received by the Chief Procurement Officer of the City of Chicago in accordance with Contract Documents as set forth herein.

2.1. DOWNLOADABLE DOCUMENT

Bidder that downloads a bid solicitation from the City of Chicago's website: www.cityofchicago.org/procurement, instead of obtaining the hard copy bid solicitation from the City of Chicago's Bid and Bond Room, is responsible for checking the City of Chicago's website for clarifications and/or addenda. Failure to obtain clarifications and/or addenda from the City's website will not relieve the bidder from being bound by any additional terms and/or conditions in the clarification and/or addenda. The City will not be responsible for bidder's failure to consider additional information contained therein in preparing the bid or proposal.

Note: Multiple clarifications and/or addenda may be issued which the bidder is responsible for obtaining.

If the bid solicitation was downloaded from the City of Chicago's website instead of picking up a hard copy from the City of Chicago's Bid and Bond Room, the bidder **MUST** contact the City of Chicago, Department of Procurement Services, Bid and Bond Room at (312) 744-9773 or by faxing a copy of a business card (include e-mail address, Specification No and RFQ No) at (312) 744-5611 to register your company as a document holder for this bid solicitation.

Any harm to the bidder resulting from such failure to obtain all necessary documents will not be valid grounds for a protest against award(s) made under this bid solicitation.

2.2. INTERPRETATION OF CONTRACT DOCUMENTS

If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of the specifications or other Contract documents, a written request for an interpretation thereof, may be submitted to the Chief Procurement Officer prior to the bid opening date. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the proposed documents will be made only by an addendum duly issued by the Chief Procurement Officer. A copy of such addendum will be faxed, electronically mailed, mailed or delivered to each person receiving a set of such Contract documents and to such other prospective bidders as will have requested that they be furnished with a copy of each addendum. Failure on the part of the prospective bidder to receive a written interpretation prior to the time of the opening of bids will not be grounds for withdrawal of proposal. Bidder must acknowledge receipt of each addendum issued in the space provided on the appropriate Proposal Execution Page. Oral explanations will not be binding.

2.3. EXAMINATION BY BIDDER

The bidder must, before submitting its bid, carefully examine the proposal, plans, specifications, Contract documents and bonds. The bidder must inspect in detail the site of the proposed work and familiarize itself with all the local conditions affecting the Contract and the detailed requirements of construction. If its bid is accepted, the bidder will be responsible for all errors in its proposal resulting from failure or neglect to comply with these instructions. The City will, in no case, be responsible for any change in anticipated profits resulting from such failure or neglect.

Unless otherwise provided in the Contract, when the plans or specifications include information pertaining to subsurface exploration, borings, test pits, and other preliminary investigation, such information represents only the opinion of the City as to the location, character, or quantity of the materials encountered and is only included for the convenience of the bidder. The City assumes no responsibility with respect to the sufficiency or accuracy of the information, and there is no guaranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the work, or that unanticipated developments may not occur.

2.4. PREPARATION OF PROPOSAL

Bidder must prepare its proposal on the attached Proposal Page(s). Unless otherwise stated, all blank spaces on the proposal page or pages, applicable to the subject specification, must be correctly filled in. Either a unit price or a lump sum price, as the case may be, must be stated for each and every item, either typed in or written in ink, in figures, and, if required, in words.

If bidder is a corporation, the President and Secretary must execute the bid and the Corporate seal must be affixed. In the event that this bid is executed by other than the President, attach hereto a certified copy of that section of Corporate By-Laws or other authorization by the Corporation that permits the person to execute the offer for the corporation.

If bidder is a partnership, all partners must execute the bid, unless one partner has been authorized to sign for the partnership, in which case, evidence of such authority satisfactory to the Chief Procurement Officer must be submitted.

If bidder is a sole proprietorship, the sole proprietorship must execute the bid.

A "Partnership", "Joint Venture" or "Sole Proprietorship" operating under an Assumed Name must be registered with the Illinois county in which located, as provided in 805 ILCS 405 (1992).

2.5. SUBMISSION OF PROPOSALS

All prospective bidders must submit sealed proposals with applicable bid deposit enclosed in envelopes provided for that purpose to the DEPARTMENT OF PROCUREMENT SERVICES, Room 301, City Hall, and if proposals are submitted in envelopes other than those so provided for this purpose, then the sealed envelope submitted by the prospective bidder must carry the following information on the face of the envelope: bidders name, address, subject matter of proposal, advertised date of bid opening and the hour designated for bid opening as shown on the legal advertisement.

Where proposals are sent by mail to the Chief Procurement Officer, the bidders are responsible for their delivery to the Chief Procurement Officer before the advertised date and hour for the opening of bids. If the mail is delayed beyond the date and hour set for the bid opening, proposals thus delayed will not be accepted.

Proposals must be submitted with original signatures in the space provided on the appropriate Proposal Execution Page. Proposals not properly signed and notarized will be rejected.

2.6. WITHDRAWAL OF PROPOSALS

Bidders may withdraw their proposals at any time prior to the time specified in the advertisement as the closing time for the receipt of bids. However, no bidder will withdraw or cancel his proposal for a period of sixty (60) calendar days after said advertised closing time for the receipt of proposals nor must the successful bidder withdraw or cancel or modify its proposal after having been notified by the Chief Procurement Officer that said proposal has been accepted by the City. The City reserves the right to withhold and deposit, as liquidated damages and not a penalty, the bid deposit of any bidder requesting withdrawal, cancellation or modification of its proposal prior to the stated period for acceptance of proposal.

Where this Contract will be approved by another agency, such as the Federal Government or State of Illinois, then the bidder will not withdraw or cancel or modify its proposal for a period of ninety (90) calendar days after said advertised closing time for the receipt of proposals.

2.7. COMPETENCY OF BIDDER

The Chief Procurement Officer reserves the right to refuse to award a Contract to any person, firm or corporation that is in arrears or is in default to the City of Chicago upon any debt or Contract, or that is a defaulter, as surety or otherwise, upon any obligation to said City, or had failed to perform faithfully any previous Contract with the City.

The bidder, if requested, must present within a reasonable time, as determined by the Chief Procurement Officer, evidence satisfactory to the Chief Procurement Officer of performance ability and possession of necessary facilities, pecuniary resources and adequate insurance to comply with the terms of these specifications and Contract documents.

2.8. CONSIDERATION OF PROPOSALS

The Chief Procurement Officer will represent and act for the City in all matters pertaining to this proposal and Contract in conjunction therewith. The Chief Procurement Officer reserves the right to reject any or all proposals and to disregard any informality in the bids and bidding, when in his opinion the best interest of the City will be served by such action.

The proposal is contained in these Contract documents and **MUST NOT BE DETACHED HERE FROM** by any bidder when submitting a proposal. Incomplete proposals are subject to rejection.

2.9. ACCEPTANCE OF PROPOSALS

The Chief Procurement Officer will accept in writing one (1) or more of the proposals, if Basis of Award in Special Conditions allows for multiple awards and/or reject any/all proposals, within sixty (60) calendar days, or within ninety (90) calendar days where approval by other agencies is required, from the date of opening of bids, unless the lowest responsible bidder, upon request of the City, extends the time of acceptance to the City.

2.10. TAXES

Federal Excise Tax does not apply to materials purchased by the City of Chicago by virtue of Exemption Certificate No. 36-6005820 and State of Illinois Sales Tax does not apply by virtue of Exemption No. E9998-1874-09 Illinois Retailers' Occupation Tax, Use Tax, and Municipal Retailers Occupation Tax do not apply to materials or services purchased by the City of Chicago by virtue of Statute.

The price or prices quoted herein shall include all other Federal and/or State, direct and/or indirect taxes which apply. The prices quoted herein shall agree with all Federal laws and regulations.

2.11. CONTRACTOR'S FINANCIAL STATEMENT

If requested by the Chief Procurement Officer the bidder will file with the office of the Chief Procurement Officer a CONTRACTOR'S STATEMENT OF EXPERIENCE AND FINANCIAL CONDITION dated not earlier than the end of the Contractor's last fiscal year period. The Contractor's Statement of Experience and Financial Condition will be kept on file by the Chief Procurement Officer as a representative statement for a period of one (1) year. The Contractor's Statement of Experience and Financial Condition forms are available at the office of the Bid and Bond Section, DEPARTMENT OF PROCUREMENT SERVICES, Room 301 City Hall, or may be obtained by addressing a request to the Chief Procurement Officer, Room 403, City Hall, Chicago, Illinois, 60602. Failure to have a current Contractor's Statement of Experience and Financial Condition form on file with the DEPARTMENT OF PROCUREMENT SERVICES may be cause for the rejection of Contractor's Proposal.

2.12. ORDER OF PRECEDENCE OF COMPONENT CONTRACT PARTS

The order of precedence of the component Contract parts will be as follows:

1. Advertisement for proposals (copy of advertisement to be attached to back of cover).
2. Addenda, if any.
3. General Conditions.
4. Special Conditions.
5. Detailed Specifications.
6. Plans or City Drawings, if any.
7. Standard Specifications of the City, State, or Federal Government, if any.
8. Performance Bond, if required.

The foregoing order of precedence will govern the interpretation of the Contract in all cases of conflict or inconsistency therein, except as may be otherwise expressly provided by the City.

2.13. NOTICES

All communications and notices herein provided for shall be faxed, delivered personally, electronically mailed, or mailed first class, postage prepaid, to the Contractor by name and address listed on the proposal hereof to the Commissioner of the using department, and to the Chief Procurement Officer, Room 403, City Hall, 121 N. La Salle Street, Chicago, Illinois 60602.

2.14. NON-DISCRIMINATION

A. Federal Requirements

It is an unlawful employment practice for the Contractor (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, or the terms, conditions, or privileges of his employment, because of such individuals race, color, religion, sex, age, handicap or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individuals race, color, religion, sex, age, handicap or national origin.

Contractor must comply with The Civil Rights Act of 1964, 42 U.S.C. sec. 2000 et seq. (1988), as amended. Attention is called to: 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 (1988); Rehabilitation Act of 1973, 29 U.S.C. sec. 793-794 (1988); Americans with Disabilities Act, 42 U.S.C. sec. 12102 et seq.; and 41 C.F.R. Part 60 et seq. (1990); and all other applicable federal laws, rules, regulations and executive orders.

B. State Requirements

Contractor must comply with the Illinois Human Rights Act, 775 ILCS 5/1 - 101 et seq. (1992), as amended and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, 44 Ill. Admin. Code '750 Appendix A. Furthermore, the Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq. (1992), as amended; and all other applicable state laws, rules, regulations and executive orders.

C. City Requirements

Contractor must comply with the Chicago Human Rights Ordinance, Ch. 2-160, Section 2-160-010 et seq. of the Chicago Municipal Code (1990), as amended; and all other applicable municipal code provisions, rules, regulations and executive orders. Further, Contractor must furnish or shall cause each of its Subcontractor(s) to furnish such reports and information as requested by the Chicago Commission on Human Relations.

2.15. INDEMNITY

Contractor must defend, indemnify, keep and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all losses, including those related to:

1. injury, death or damage of or to any person or property;
2. any infringement or violation of any property right (including any patent, trademark or copyright);
3. Contractor's failure to perform or cause to be performed Contractor's covenants and obligations as and when required under this Contract, including Contractor's failure to perform its obligations to any Subcontractor;
4. the City's exercise of its rights and remedies under this Contract; and
5. injuries to or death of any employee of Contractor or any Subcontractor under any workers compensation statute;

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

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

To the extent permissible by law, Contractor waives any limits to the amount of its obligation to indemnify, defend or contribute to any sums due under any Losses, including any claim by any employee of Contractor that may be subject to the Workers Compensation Act, 820ILCS305/1 et seq. or any other related law or judicial decision (such as, Kotecki v. Cyclops Welding Corporation, 146 Ill. 2nd 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code or any other statute or judicial decision.

The indemnities in this section survive expiration or termination of this Contract for matters occurring or arising during the term of this Contract or as the result of or during the Contractor's performance of service beyond the term. Contractor acknowledges that the requirements set forth in this section to indemnify, keep and save harmless and defend the City are apart from and not limited by the Contractor's duties under this Contract, including the insurance requirements set forth in the Contract.

2.16. LIVING WAGE ORDINANCE

- A. Section 2-92-610 of the Municipal Code of Chicago provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers, and clerical workers ("Covered Employees"). Accordingly, pursuant to Section 2-92-610 and regulations promulgated thereunder:
1. if the Contractor has twenty-five (25) or more full-time employees, and
 2. if at any time during the performance of the contract the Contractor and/or any subcontractor or any other entity that provides any portion of the Services (collectively "Performing Parties") uses twenty-five (25) or more full-time security guards, or any number of other full-time Covered Employees, then
 3. the Contractor must pay its Covered Employees, and must assure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the "Base Wage") for all work performed pursuant to the Contract.
- B. The Contractor's obligation to pay, and to assure payment of, the Base Wage will begin at any time during the Contract term when the conditions set forth in A.1 and A.2 above are met, and will continue thereafter until the end of the Contract term.
- C. The current Base Wage is \$11.03. Each July 1st thereafter, the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four (4) as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four (4) divided by two thousand (2000) hours or the current base wage, whichever is higher. At all times during the term of this Contract, Contractor and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for work or services done under this Contract, and the prevailing wages for Covered Employees are higher than the Base Wage, then the Contractor must pay the prevailing wage rates.
- D. The Contractor must include provisions in all subcontracts requiring its subcontractors to pay the Base Wage to Covered Employees. The Contractor agrees to provide the City with documentation acceptable to the Chief Procurement Officer demonstrating that all Covered Employees, whether employed by the Contractor or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit the Contractor and/or Subcontractors to verify compliance herewith. Failure to comply with the requirements of this Section will be an event of default under this Contract, and further, failure to comply may result in ineligibility for any award of a City Contract or subcontract for up to three (3) years.
- E. Not-for-Profit Corporations: If the Contractor is a corporation having Federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions of Section A through D above do not apply.

2.17. SUBLETTING OR ASSIGNMENT OF CONTRACT OR CONTRACT FUNDS

No contract will be assigned or any part of the same sub-contracted without the written consent of the Chief Procurement Officer; but in no case will such consent relieve the Contractor from his obligations, or change the terms of the Contract.

The Contractor must not transfer or assign any Contract funds or claims due or to become due without the written approval of the Chief Procurement Officer having first been obtained.

The transfer or assignment of any Contract funds either in whole or in part, or any interest therein, which will be due or to become due to the Contractor, will cause the annulment of said transfer or assignment so far as the City is concerned.

2.18. SUBCONTRACTORS

The Contractor must notify the Chief Procurement Officer, in writing, of the names of all Subcontractors to be used and will not employ any that the Chief Procurement Officer may object to.

The Contractor will not subcontract any portion of the services or work to be performed hereunder without the prior written consent of the Chief Procurement Officer. The Subcontracting of the services or work or any portion thereof without the prior written consent of the Chief Procurement Officer will be null and void. The Contractor will not make any substitution of a Subcontractor without the written consent of the Chief Procurement Officer. The substitution of a Subcontractor without the prior written consent of the Chief Procurement Officer will be null and void. The Chief Procurement Officer's consent will not relieve the Contractor from any of its obligations under the Contract.

The Contractor will subcontract with only competent and responsible Subcontractors. If, in the judgment of the Commissioner or the Chief Procurement Officer, any Subcontractor is careless, incompetent, violates safety or security rules, obstructs the progress of the services, acts contrary to instructions, acts improperly, is not responsible, is unfit, violates any laws applicable to this Contract, or fails to follow the requirements of this Contract, then the Contractor will, immediately upon notice from the Commissioner or the Chief Procurement Officer, discharge or otherwise remove such Subcontractor.

2.19. SUBCONTRACTORS WITH DISABILITIES

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

2.20. SUBCONTRACTOR PAYMENTS

Contractor must submit a status report of Subcontractor payments with each invoice for the duration of the Contract on the "Subcontractor Payment Certification" form required by the City. The form can be downloaded from the City's website at:

http://egov.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/subcompliance.pdf. The statement must list the following for Contractor and for each Subcontractor and supplier for the period for which payment is requested:

- (i) Total amount invoiced by the Contractor for the prior month;
- (ii) The name of each particular Subcontractor or supplier utilized during the prior month;
- (iii) Indication if the Subcontractor or supplier is acting as an MBE, WBE, DBE, or non-certified firm on this Contract;
- (iv) The vendor/supplier number of each Subcontractor or supplier;
- (v) Total amount invoiced that is to be paid to each Subcontractor or supplier.

If a Subcontractor has satisfactorily completed its Work, or provided specified materials in accordance with the requirements of the Contract, Contractor must pay Subcontractor for such work or materials within fourteen (14) calendar days of Contractor receiving payment from the City.

2.21. DEMURRAGE AND RE-SPOTTING

The City will be responsible for demurrage charges only when such charges accrue because of the City's negligence in unloading the material.

The City will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the City.

2.22. MATERIALS INSPECTION AND RESPONSIBILITY

The City, by its Chief Procurement Officer, will have a right to inspect any materials to be used in carrying out this Contract.

The City does not assume any responsibility for the availability of any controlled materials or other materials and equipment required under this Contract.

The Contractor will be responsible for the contracted quality and standards of all materials, components or completed work furnished under this Contract up to the time of final acceptance by the City.

Materials, components or completed work not complying therewith may be rejected by the Chief Procurement Officer and must be replaced by the Contractor at no cost to the City.

Any materials or components rejected must be removed within a reasonable time from the premises of the City at the entire expense of the Contractor, after written notice has been mailed by the City to the Contractor that such materials or components have been rejected.

2.23. CASH BILLING DISCOUNT

Any cash billing discounts offered will not be considered in the evaluation of bids.

2.24. AUDITS

The City may in its sole discretion audit the records of Contractor or its Subcontractors, or both, at any time during the term of this Contract or within five (5) years after the Contract ends, in connection with the goods, work, or services provided under this Contract. Each calendar year or partial calendar year is considered an "audited period". If, as a result of such an audit, it is determined that Contractor or any of its Subcontractors has overcharged the City in the audited period, the City will notify Contractor. Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges and also some or all of the cost of the audit, as follows:

- A. If the audit has revealed overcharges to the City representing less than five percent (5%) of the total value, based on the Contract prices, of the goods, work, or services provided in the audited period, then the Contractor must reimburse the City for fifty percent (50%) of the cost of the audit and fifty percent (50%) of the cost of each subsequent audit that the City conducts;
- B. If, however, the audit has revealed overcharges to the City representing five percent (5%) or more of the total value, based on the Contract prices, of the goods, work, or services provided in the audited period, then Contractor must reimburse the City for the full cost of the audit and of each subsequent audit.

Failure of Contractor to reimburse the City in accordance with A or B above is an event of default under this Contract, and Contractor will be liable for all of the City's costs of collection, including any court costs and attorney's fees.

2.25. PRICE REDUCTION

If at any time after the date of the bid or offer the Contractor makes a general price reduction in the comparable price of any material covered by the Contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to the Contract for the duration of the Contract period (or until the price is further reduced). Such price reduction will be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a general price reduction will mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this Contract. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a general price reduction under this provision. The Contractor must invoice the ordering offices at such reduced prices indicating on the invoice that the reduction is pursuant to the Price Reduction provision of the Contract documents. The Contractor, in addition, must within ten (10) calendar days of any general price reduction notify the Chief Procurement Officer of the City of Chicago of such reduction by letter. Failure to do so may require termination of the Contract. Upon

receipt of any such notice of a general price reduction all ordering offices will be duly notified by the Chief Procurement Officer.

The Contractor must furnish, within ten (10) calendar days after the end of the Contract period, a statement certifying either:

1. that no general price reduction, as defined above, was made after the date of the bid or offer; or
2. if any such general price reductions were made, that is provided above, they were reported to the Chief Procurement Officer within ten (10) calendar days, and ordering offices were billed at the reduced prices.

Where one (1) or more such general price reductions were made, the statement furnished by the Contractor must include with respect to each price reduction:

1. the date when notice of any such reduction was issued;
2. the effective date of the reduction; and
3. the date when the Chief Procurement Officer was notified of any such reduction.

2.26. PROHIBITION ON CERTAIN CONTRIBUTIONS – MAYORAL EXECUTIVE ORDER NO. 05-1

Contractor agrees that Contractor, any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee (i) after execution of this bid, proposal or Agreement by Contractor, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between Contractor and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

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

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

Contractor agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 05-1.

Contractor agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 05-1 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 05-1 prior to award of the Agreement resulting from this specification, the Chief Procurement Officer may reject Contractor's bid.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

"Other Contract" means any other agreement with the City of Chicago to which Contractor is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or

personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are "Domestic Partners" if they satisfy the following criteria:

- A. they are each other's sole domestic partner, responsible for each other's common welfare; and
- B. neither party is married; and
- C. the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- D. each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- E. two of the following four conditions exist for the partners:
 - 1. The partners have been residing together for at least 12 months.
 - 2. The partners have common or joint ownership of a residence.
 - 3. The partners have at least two of the following arrangements:
 - a. joint ownership of a motor vehicle;
 - b. a joint credit account;
 - c. a joint checking account;
 - d. a lease for a residence identifying both domestic partners as tenants.
 - 4. Each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

2.27. CONFLICTS OF INTEREST

No member of the governing body of the City of Chicago or other unit of government and no other officer, employee or agent of the City of Chicago or other unit of government who exercises any functions or responsibilities in connection with the carrying out of the project will have any personal or financial interests, direct or indirect, in the Contract.

The Contractor covenants that he presently has no interest and will not acquire any interest, direct or indirect, in the project to which the Contract pertains which would conflict in any manner or degree with the performance of its work hereunder. The Contractor further covenants that in its performance of the Contract no person having any such interest will be employed.

2.28. GOVERNMENTAL ETHICS ORDINANCE

Contractor must comply with Chapter 2-156 of the Municipal Code of Chicago, "Governmental Ethics", including but not limited to Section 2-156-120 of this Chapter pursuant to which no payment, gratuity or offer of employment will be made in connection with any City contract, by or on behalf of a subcontractor to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order. Any contract negotiated, entered into, or performed in violation of any of the provisions of this Chapter will be voidable as to the City.

2.29. DISCLOSURE OF OWNERSHIP

Pursuant to Chapter 2-154 of the Municipal Code of the City of Chicago, any person, business entity or agency submitting a bid or proposal to or contracting with the City of Chicago will be required to complete the Disclosure of Ownership Interests in the attached Economic Disclosure Statement and Affidavit. Failure to provide complete or accurate disclosure will render this Agreement voidable.

2.30. DISCLOSURE OF RETAINED PARTIES - EXECUTIVE ORDER 97-1

Bidder will be required to execute the Disclosure of Retained Parties Section of the Economic Disclosure Statement and Affidavit as required by Executive Order 97-1. Refusal to execute the Disclosure of Retained Parties Section of the Economic Disclosure Statement and Affidavit will result in the Chief Procurement Officer declaring the bidder non-responsible. Moreover, if a bidder is deemed non-responsible under this provision, the bidder's status as a non-responsible bidder may apply to the bidder's subsequent bids.

2.31. DISCLOSURE OF RETAINED PARTIES - EXECUTIVE ORDER 97-1

Bidder will be required to execute the Disclosure of Retained Parties Section of the Economic Disclosure Statement and Affidavit as required by Executive Order 97-1. Refusal to execute the Disclosure of Retained Parties Section of the Economic Disclosure Statement and Affidavit will result in the Chief Procurement Officer declaring the bidder non-responsible. Moreover, if a bidder is deemed non-responsible under this provision, the bidder's status as a non-responsible bidder may apply to the bidder's subsequent bids.

2.32. INSPECTOR GENERAL AND LEGISLATIVE INSPECTOR GENERAL

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

2.33. SECTION 2-92-380 OF THE MUNICIPAL CODE OF CHICAGO

- a. In accordance with Section 2-92-380 of the Municipal Code of Chicago and in addition to any other rights and remedies (including any of set-off) available to the City of Chicago under the contract or permitted at law or in equity, the City will be entitled to set off a portion of the contract price or compensation due under the contract, in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and the amount of any debt owed by the contracting party to the City. For purposes of this section, outstanding parking violation complaint means a parking ticket, notice of parking violation, or parking violation complaint on which no payment has been made or appearance filed in the Circuit Court of Cook County within the time specified on the complaint. debt means a specified sum of money owed to the City for which the period granted for payment has expired.
- b. Notwithstanding the provisions of subsection (a), above, no such debt(s) or outstanding parking violation complaint(s) will be offset from the contract price or compensation due under the contract if one or more of the following conditions are met:
 1. the contracting party has entered into an agreement with the Department of Revenue, or other appropriate City department, for the payment of all outstanding parking violation complaints and debts owed to the City and the contracting party is in compliance with the agreement; or
 2. the contracting party is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or
 3. the contracting party has filed a petition in bankruptcy and the debts owed the City are dischargeable in bankruptcy.

2.34. SECTION 11-4-1600(E) OF THE MUNICIPAL CODE OF CHICAGO

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

- | | |
|-----------|--|
| 7-28-390 | Dumping on public way; |
| 7-28-440 | Dumping on real estate without permit; |
| 11-4-1410 | Disposal in waters prohibited; |
| 11-4-1420 | Ballast tank, bilge tank or other discharge; |
| 11-4-1450 | Gas manufacturing residue; |
| 11-4-1500 | Treatment and disposal of solid or liquid waste; |

- 11-4-1530 Compliance with rules and regulations required;
- 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

During the period while this Contract is executory, Contractor's or any Subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Contract, constitutes a breach of and an event of default under this Contract, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under the Contract, at law or in equity.

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

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

2.35. BUSINESS RELATIONSHIPS WITH ELECTED OFFICIALS

Pursuant to Section 2-156-030(b) of the Municipal Code of the City of Chicago, it is illegal for any elected official of the city, or any person acting at the direction of such official, to contact, either orally or in writing, any other city official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any city council committee hearing or in any city council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. Violation of Section 2-156-030(b) by any elected official with respect to this contract will be grounds for termination of this contract. The term business relationship is defined as set forth in Section 2-156-080 of the Municipal Code of Chicago.

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

2.36. MACBRIDE PRINCIPLES ORDINANCE

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

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

For those Contractors who take exception in competitive bid contracts to the provision set forth above, the City will assess an eight percent (8%) penalty. This penalty will increase their bid price for the purpose of canvassing the bids in order to determine who is to be the lowest responsible bidder. This penalty will apply only for purposes of comparing bid amounts and will not affect the amount of any contract payment.

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

2.37. CONTRACTOR CERTIFICATION

The Contractor or each joint venture partner, if applicable, must complete the appropriate subsections in the attached Economic Disclosure Statement and Affidavit (the Affidavit) under: Certification By Applicant, which certifies that the Contractor or each joint venture partner, its agents, employees, officers and any subcontractors (a) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States or engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this section as required by the Illinois Criminal Code; (b) do not owe any debts to the State of Illinois, in accordance with 65 ILCS 5/11-42.1-1 and (c) are not presently debarred or suspended: Certification Regarding Environmental Compliance; Certification Regarding Ethics and Inspector General; and Certification Regarding Court-Ordered Child Support Compliance.

2.38. COMPLIANCE WITH CHILD SUPPORT ORDERS ORDINANCE

The Child Support Arrearage Ordinance, Municipal Code of Chicago, Section 2-92-415, furthers the City's interest in contracting with entities which demonstrate financial responsibility, integrity and lawfulness, and finds that it is especially inequitable for Contractors to obtain the benefits of public funds under City contracts while its owners fail to pay court-ordered child support, and shift the support of their dependents onto the public treasury.

In accordance with Section 2-92-415 of the Municipal Code of Chicago, if the Circuit Court of Cook County or an Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owner in arrearage on their child support obligations and: (1) a one such Substantial Owner has not entered into a court-approved agreement for the payment of all such child support owed, or (2) a Substantial Owner is not in compliance with a court-approved agreement for the payment of all such child support owed, (see Certification of Compliance with Child Support Orders in Economic Disclosure Statement and Affidavit), then:

For those bidders in competitive bid contracts, the City will assess an eight percent (8%) penalty. This penalty will increase their bid price for the purpose of canvassing the bids in order to determine the lowest responsible bidder. This penalty will apply only for purposes of comparing bid amounts and will not affect the amount of any contract payment.

For purposes of this section, "SUBSTANTIAL OWNER" means any person who owns or holds a ten percent (10%) or more percentage of interest in the bidder; where the bidder is an individual or sole proprietorship, substantial owner means that individual or sole proprietorship.

"PERCENTAGE OF INTEREST" includes direct, indirect and beneficial interests in the Contractor. Indirect or beneficial interest means that an interest in the Contractor is held by a corporation, joint venture, trust, partnership, association, estate or other legal entity, in which the individual holds an interest, or by agent(s) or nominee(s) on behalf of an individual or entity. For example, if Corporation B holds or owns a twenty percent (20%) interest in Contractor, and an individual or entity has a fifty percent (50%) or more percentage of interest in Corporation B, then such individual or entity indirectly has a ten percent (10%) or more percentage of interest in the Contractor. If Corporation B is held by another entity, then this analysis similarly must be applied to that next entity.

The provisions of this Section will only apply where not otherwise prohibited by federal, state or local law.

2.39. NON-COLLUSION, BRIBERY OF A PUBLIC OFFICER OR EMPLOYEE

Contractor, in performing under this contract must comply with the Municipal Code of Chicago, Section 2-92-320, as follows:

No person or business entity will be awarded a contract or sub-contract if that person or business entity: (a) has been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, or any agency of the federal government or of any state or local government in the United States, in that officers or employee's official capacity; or (b) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or (c) has made an admission of guilt of such conduct described in (a) or (b) above which is a matter of record but has not been prosecuted for such conduct.

For purposes of this section, where an official, agent or employee of a business entity has committed any offense under this section on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity shall be chargeable with the conduct. One business entity shall be chargeable with the conduct of an affiliated agency.

Ineligibility under this section will continue for three (3) years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the Chief Procurement Officer under certain specific circumstances. Reference is made to Section 2-92-320 for a definition of affiliated agency, and a detailed description of the conditions which would permit the Chief Procurement Officer to reduce, suspend, or waive the period of ineligibility.

2.40. FEDERAL TERRORIST (NO-BUSINESS) LIST

Contractor warrants and represents that neither Contractor nor an Affiliate, as defined below, appears on the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment.

"Affiliate" means a person or entity which directly, or indirectly through one or more entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity, either acting individually or acting jointly or in concert with others, whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

2.41. COMPLIANCE WITH ALL LAWS

Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, regulations, codes, ordinances and executive orders, in effect now or later and whether or not they appear in the Agreement, including those specifically referenced herein or in any of the Contract Documents. Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required in connection with the performance of its obligations hereunder, and Contractor must require all Subcontractors to do so. Failure to do so is an event of default and may result in the termination of this Agreement.

The Contractor understands and will abide by the terms of Chapter 2-55 of the Municipal Code of Chicago.

The Contractor will comply with Section 2-154-020 of the Municipal Code of Chicago.

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

2.42. COMPLIANCE WITH ENVIRONMENTAL LAWS

The Contractor will comply with all laws relating to environmental matters including without limitation, those relating to fines, orders, injunctions, penalties, damages, contribution, cost recovery compensation, losses or injuries resulting from the release or threatened release of hazardous materials, special wastes or other contaminants into the environment and to the generation, use, storage, transportation, or disposal of solid wastes, hazardous materials, special wastes or other contaminants (collectively, "Environmental Laws") including, but not limited to, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Department of Transportation Regulations, the Hazardous Materials Transportation Act, the Clean Air Act, the National Emission Standards for Hazardous Air Pollutants (40 C.F.R.61.145), and the Municipal Code, as currently in effect and as amended during the course of the contract period.

If any Environmental Laws require the Contractor to file any notice or report of a release or threatened release of hazardous materials, special wastes or other contaminants on, under or about any premises used by Contractor to perform the Services required hereunder, the Contractor shall provide a copy of such report or notice to the City. In the event of a release or threatened release of hazardous materials, special waste or other contaminants into the environment or in the event any claim, demand, action or notice is made against the Contractor regarding the Contractor's failure or alleged failure to comply with any Environmental Laws, the Contractor must immediately notify the City in writing and will provide the City with copies of any written claims, demands, notices or actions so made.

- A. As part of its Compliance with All Laws, as set forth hereinabove, Contractor must observe and comply with, inter alia, all Environmental Laws and impose on all Subcontractors all requirements of all environmental Laws. No provision of this Contract limits, or is intended in any way to limit, Contractor's obligation to observe and comply with all Laws, including but not limited to all Environmental Laws.

By entering into this Contract, Contractor acknowledges that many Environmental Laws may apply to the Contract and to Contractor's and Subcontractors' performance of the Work.

By entering into this Contract, Contractor also acknowledges that U.S. EPA, U.S. DOT and other agencies of the federal, state and local governments have issued and are expected in the future to issue regulations, guidelines, standards, orders, directives, or other requirements that may affect the Contract or the Work.

Listed below in Section H are requirements of particular concern to the City. By entering into this Contract, Contractor acknowledges and agrees that this list does not constitute the only Environmental Laws that apply or may apply to performance of the Work under this Contract.

Contractor must include the provisions listed in Section H in all subcontracts; and Contractor must additionally include in all subcontracts a statement specifying that the provisions so listed do not constitute the only Environmental Laws that apply or may apply to Subcontractors' performance of and under their subcontracts with Contractor.

By entering into this Contract, Contractor acknowledges and agrees that if Contractor fails to comply with any Environmental Law, the City may terminate this Contract in accordance with the default provisions of this contract. By entering into this Contract, Contractor further acknowledges and agrees that such termination may adversely affect Contractor's eligibility for future contract awards.

B. Notification of Environmental Claims and of Community Meetings and Media Involvement

In the event of any claim, demand, action notice of violation or other notice of any kind by any person or any entity of any kind, whatsoever, against Contractor or any Subcontractor regarding Contractor's or any Subcontractor's failure or alleged failure to comply with any Environmental Law ("Environmental Claim"), Contractor must notify the Chief Procurement Officer and Commissioner of the Chicago Department of Environment within twenty-four(24) hours of becoming aware of such Environmental Claim and must also submit a copy of any Environmental Claim to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment within twenty-four(24) hours of receipt of same by Contractor or any Subcontractor.

Contractor must provide evidence to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment that any such Environmental Claim has been addressed to the satisfaction of its issuer or initiator or to the satisfaction of a court or administrative agency having jurisdiction with respect to the claim, demand, action notice of violation or other notice of any kind, or to the satisfaction of the Chief Procurement Officer and Commissioner of the Chicago Department of Environment.

Contractor must notify the Chief Procurement Officer and Commissioner of the Chicago Department of Environment of any community meetings, media involvement or media coverage relating to: any release, alleged release, threatened release, or allegedly threatened release of any substance, matter or thing relating in any way to the Work under this Contract; any loading, transportation/hauling, treatment, storage, disposal or other handling of any materials, including but not limited to any Waste, under this Contract; or otherwise relating to any Environmental Laws or any charge or allegation of violation of or noncompliance with any Environmental Laws, in which Contractor or any Subcontractor is asked or invited to participate. The notice must be provided to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment as early as possible before Contractor or any Subcontractor participates in any such community meetings, media involvement or media coverage.

C. Releases and Threatened Releases

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, in the event of any release or threatened release of any material, including but not limited to Waste, and including but not limited to any Hazardous Waste or Special Waste, relating in any way to any of the Work under this Contract, regardless whether such release or threatened release is caused or contributed to by Contractor, any Subcontractor, or any other person or entity, Contractor must promptly notify the Chief Procurement Officer and Commissioner of the Chicago Department of Environment and provide all pertinent information, including but not limited to the nature, scope, location and sources or causes of the release or threatened release and all actions taken, being taken and to be taken by Contractor and any Subcontractors with respect to the release or threatened release.

If Contractor or any Subcontractor is required pursuant to any Environmental Law to submit or file any notice or report of any kind to any person or entity relating to any release, alleged release, threatened release or allegedly threatened release of any substance, matter or thing relating in any way to any of the Work under this Contract, Contractor must provide a copy of such notice or report to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment at the same time that Contractor or any Subcontractor submits or files the notice or report in accordance with the Environmental Law.

D. Environmental Permits and Other Environmental Records and Reports.

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must show evidence of, and keep current throughout the term of this Contract, all permits, insurance certificates and other authorizations required by any federal, State, City or other governmental body or agency pursuant to any Environmental Law.

When requested by the Chief Procurement Officer or Commissioner of the Chicago Department of Environment, Contractor must submit copies of any or all permits, insurance certificates and other authorizations required by any Environmental Law.

Copies of all permits, insurance certificates and other authorizations that require periodic renewal must be forwarded to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment throughout the duration of this Contract.

By entering into this Contract, Contractor acknowledges and agrees that noncompliance with these requirements constitutes sufficient cause for termination of this Contract and for declaring Contractor non-responsible in future bids.

In addition to any and all other records and reports that are or may be required by any Environmental Laws, Contractor is required to prepare and maintain proper, accurate and complete records of accounts of all transactions related to the performance of this Contract, including but not limited to:

1. Vehicle maintenance records;
2. Safety and accident reports;
3. IEPA or OSHA manifests;
4. Disposal records, including but not limited to records showing the disposal site used, date, truck number and disposal weight, types of waste, bills of lading, manifests, or other confirmatory receipts signed by a representative of accepting facility for each load of material; and
5. Permit documentation and all other documentation and transactions pertaining to all Environmental Laws.

E. Handling of Materials, Including but Not Limited to Waste

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor is responsible for the proper, lawful handling, including but not limited to treatment, storage, transportation/hauling and disposal, of all materials, including but not limited to all Waste, by Contractor and all Subcontractors.

By entering into this Contract, Contractor acknowledges and agrees that treatment, storage, transportation/hauling, disposal or other handling by a Subcontractor or other third party does not relieve

Contractor of its responsibility for proper treatment, storage, transportation/hauling, disposal and other handling of all materials, including but not limited to all Waste.

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, all treatment, storage, transportation/hauling, disposal and other handling of any materials, including but not limited to any Waste, must be at a facility that is properly licensed and permitted in accordance with any and all Environmental Laws to accept and treat, store, transport/haul, dispose or otherwise handle the particular materials delivered to it in accordance with all Environmental Laws ("Facility").

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, before generating or in any way handling any Waste relating to the Work under this Contract, or allowing any Subcontractor to generate or handle any Waste, Contractor must identify to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment all Facilities to which Contractor has contractual access and for which all required permits and/or licenses have been obtained and are current and valid.

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must upon request provide the Chief Procurement Officer or Commissioner of the Chicago Department of Environment or his designated representative with copies of all documents, including but not limited to load tickets, manifests, bills of lading, scale tickets, and permits and/or licenses, pertaining to any treatment, storage, transportation/hauling, disposal and other handling of any material, including but not limited to any Waste, by Contractor, any Subcontractor, or any Facility or other third party, that Contractor or any Subcontractor submits to, prepares for, or receives from any Facilities that Contractor uses in the course of its performance of and under this Contract.

If any Facility that Contractor proposes to use does not possess all necessary, current, valid permits and/or licenses to accept the materials to be treated, stored or disposed of, then Contractor must replace the Facility submitted as part of its bid proposal at no additional cost to the City.

If Contractor disposes of any materials, including but not limited to any Waste, at any site that is not properly permitted, Contractor, by entering into this Contract, acknowledges and agrees that it will be responsible for all costs associated with the removal of the materials to a properly licensed/permitted Facility and for any other costs, including but not limited to any civil or other penalties, damages, fees, charges, litigation costs, attorneys' fees, or other costs of any kind, whatsoever, that apply or may apply as a result of the application or enforcement of any Laws and any response thereto.

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must verify, in writing, whenever requested by the Chief Procurement Officer or Commissioner of the Chicago Department of Environment, that all materials, including but not limited to Waste, that Contractor or any Subcontractor generates or accepts from the City have been treated, transported/hailed, stored, disposed of or otherwise handled in compliance with all Environmental Laws.

The form for identifying Contractor's Facility(ies) and acknowledging terms and conditions relating thereto that Contractor has executed and attached to this Contract is incorporated by reference (Attachment "B"). In addition to the representations and requirements contained on Attachment B, Contractor acknowledges and agrees that unless otherwise authorized in writing by the Commissioner of the Chicago Department of Environment, Contractor must not use or continue to use any Facility identified on Attachment B that (i) has been cited by any governmental agent or entity as being in violation of any Environmental Law or of any City ordinance of any kind, whatsoever; or (ii) does not have a legally required permit. If only one (1) Facility was identified on Attachment B, Contractor must arrange for a substitute Facility that meets the requirements specified on Attachment B and provide a revised Attachment to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment before transporting/hauling or allowing the transport/hauling of any material, including but not limited to any Waste, to any Facility. Contractor further acknowledges and agrees that any such substitution and any delay or activity of any kind relating to any such substitution is at no additional cost to the City, regardless of the reasons necessitating such substitution.

F. Equipment and Environmental Control During Transport

As part of or in addition to the requirement to observe and comply with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must transport/haul all materials, including but not limited to Waste, in vehicles and/or containers that comply with all Environmental Laws; and all equipment used to transport any materials, including but not limited to Waste, must be designed and operated to prevent spillage, leakage, or other release of any kind during the transport operation.

Also as part of or in addition to the requirement to observe and comply with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, all equipment used by Contractor or any Subcontractor must fully comply with all Laws, including but not limited to all Laws pertaining to size, load weight, safety, and including but not limited to any Environmental Laws.

G. Environmental Control

In performing the Work, and as part or in addition to of the requirement to observe and comply with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must become thoroughly familiar with all Laws relating to, inter alia, the elimination of excessive noise and pollution of air, water, and soil due to construction and other operations.

As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must employ all reasonable measures to reduce the noise of heavy construction equipment and to control and minimize any dust, smoke, and fumes from construction equipment and other operations on the Work site and any dirt and noise created by heavy truck operations over City streets.

H. Environmental Protection

The purpose of this subsection is to alert Contractor to some of the Environmental Laws that affect or may affect this Contract or Contractor's or Subcontractors' performance of and under same. This subsection does not, and is not intended to, set forth all of the Laws or Environmental Laws with which Contractor must comply. By entering into this Contract, Contractor acknowledges and agrees that this subsection does not and is not intended in any way to limit Contractor's obligation to comply with all Laws, including but not limited to all Environmental Laws, and with all other provisions of this Contract, in performing the Work.

Some, but not all, of the major federal Laws that affect or may affect this Contract or Contractor's or Subcontractors' performance of and under same, are: the National Environmental Policy Act of 1969, as amended, 42 USC §§ 4321 et seq.; the Clean Air Act, as amended, 42 USC §§ 7401 et seq. and scattered sections of 29 USC; the Clean Water Act, as amended, scattered sections of 33 USC and 12 USC; the Resource Conservation and Recovery Act, as amended, 42 USC §§ 6901 et seq.; Toxic Substances Control Act, as amended, 15 USC §§2601 et seq., and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC §§ 9601 et seq. Contractor and Subcontractors must also comply with, inter alia, Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994; U.S. DOT statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 CFR Part 1500 et seq.; and U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622.

1. **Air Quality.** As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must comply with all applicable standards, orders, rules or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401, et seq. This includes, but is not limited to, compliance with applicable requirements of U.S. EPA regulations, "Conformity to State of Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 USC or the Federal Transit Act," 40 CFR Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 CFR Part 93; and National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR § 61.145. As part

of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor further must report and require each Subcontractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment and the appropriate U.S. EPA Regional Office.

2. **Clean Water.** As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must comply with all applicable standards, orders, rules or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 USC §§ 1251 et seq. As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor further must report and require each Subcontractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the Chief Procurement Officer and Commissioner of the Chicago Department of Environment and the appropriate U.S. EPA Regional Office.
3. **List of Violating Facilities.** Contractor acknowledges and agrees that any facility of any kind to be used in the performance of the Contract or to benefit from the Contract must not be listed on the U.S. EPA List of Violating Facilities ("List"), and as part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must promptly notify the Chief Procurement Officer and Commissioner of the Chicago Department of Environment if Contractor or any Subcontractor receives any communication from the U.S. EPA that any such facility is under consideration for inclusion on the List.

Preference for Recycled Products. To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of the Work, Contractor must use recycled products in performance of the Contract pursuant to U.S. Environment Protection Agency (U.S. EPA) guidelines at 40 CFR Parts 247-253, which implement section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962.

Waste Handling. As part of or in addition to complying with all Laws, including but not limited to all Environmental Laws, as those terms are defined hereinabove, Contractor must comply with all waste handling provisions set out in the Illinois Environmental Protection Act, 415 ILCS 5/1, et seq., the Illinois Administrative Code, and Chapters 7-28 and 11-4 of the Chicago Municipal Code.

2.43. SEVERABILITY

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

2.44. FALSE STATEMENTS

False statements made in connection with this Contract, including statements in, omissions from and failures to timely update the Economic Disclosure Statement (EDS), as well as in any other affidavits, statements or contract documents constitute a material breach of the Contract. Any such misrepresentation renders the Contract voidable at the option of the City, notwithstanding any prior review or acceptance by the City of any materials containing such a misrepresentation. In addition, the City may debar Contractor, assert any contract claims or seek other civil or criminal remedies as a result of a misrepresentation including costs of replacing a terminated Contractor pursuant to Chicago Municipal Ordinance 1-21-010.

2.45. REGARDING BUSINESS ENTERPRISES OWNED BY PEOPLE WITH DISABILITIES COMMITMENT

Policy and Terms

It is the policy of the City of Chicago that businesses certified as Business Enterprises owned by People with Disabilities (BEPD) in accordance with Section 2-92-337 et seq. of the Municipal Code of Chicago, Regulations Governing Certification of Business Enterprises owned by People with Disabilities, and all other Regulations promulgated under the aforementioned sections of the Municipal Code; shall have the full and fair opportunities to participate fully in the performance of this Agreement. Therefore, the Bidder or Contractor shall not discriminate against any person or business on the basis of disability, and shall take affirmative actions to ensure BEPDs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

Failure to carry out the commitments and policies set forth herein shall constitute a material breach of the Contract and may result in the termination of the Contract or such remedy as the City of Chicago deems appropriate.

Definitions

For purposes of this section only, the following definitions apply:

- 1) "Business Enterprises owned by People with Disabilities" or "BEPD" has the same meaning ascribed to it in section 2-92-586.
- 2) "Bid incentive" means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.
- 3) "Construction project" has the same meaning ascribed to it in section 2-92-335.
- 4) "Contract" means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the City and whose costs is to be paid from funds belonging to or administered by the City.
- 5) "Contract base bid" means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions to the bid amount.
- 6) "Earned credit" means the amount of the bid incentive allocated to a contractor upon completion of a contract in which the contractor met or exceeded his or her goals for the utilization of BEPDs in the performance of the contract.
- 7) "Earned credit certificate" means a certificate issued by the Chief Procurement Officer evidencing the amount of earned credit a contractor has been awarded.

Commitments

The Chief Procurement Officer shall award a bid incentive to Contractor for utilization of a BEPD as a prime contractor or subcontractor in accordance with the provisions of this section. The bid incentive shall be earned in the performance of the Contract, provided that the bid incentive earned in the performance of the Contract shall only be applied to a future contract.

Where not otherwise prohibited by federal, state, or local law, the Chief Procurement Officer shall allocate to any qualified bidder the following bid incentive for utilization of a BEPD as a prime contractor or subcontractor in the performance of the contract.

**Percent of total dollar contract amount
performed by BEPD**

Bid incentive

2 to 5%	½% of the contract base bid
6 to 10%	1% of the contract base bid
11% or more	2% of the contract base bid

The bid incentive shall be calculated and applied in accordance with the provisions of this section. The bid incentive is used only to calculate an amount to be used in evaluating the bid. The bid incentive does not affect the contract price.

As part of the contract close-out procedure, if the Chief Procurement Officer determines that the Contractor has successfully met his or her BEPD utilization goals either as a prime contractor or with subcontractors, the Chief Procurement Officer shall issue an earned credit certificate that evidences the amount of earned credits allocated to the Contractor. The Contractor may apply the earned credits as the bid incentive for any future contract bid of equal or less dollar amount. The earned credit certificate is valid for three years from the date of issuance and shall not be applied towards any future contract bid after the expiration of that period.

The Contractor may apply the earned credit certificate on multiple future contract bids during the three-year period in which the certificate is valid, but may only receive one bid incentive for bid evaluation purposes on one contract award. If the Contractor applies the earned credit certificate on multiple contract bids and is the lowest responsive and responsible bidder on more than one contract bid, the earned credit certificate shall be applied to the contract bid first to be advertised by the Department of Procurement Services, or if multiple contract bids were advertised on the same date, the earned credit certificate shall be applied only to the contract bid with the greatest dollar value.

The Contractor shall maintain accurate and detailed books and records necessary to monitor compliance with this section and shall submit such reports as required by the Chief Procurement Officer, or the commissioner of the supervising department.

Full access to the Contractor's and Subcontractor's records shall be granted to the Chief Procurement Officer, the commissioner of the supervising department, or any duly authorized representative thereof. The Contractor and Subcontractors shall maintain all relevant records for a period of at least three years after final acceptance of the work.

The Chief Procurement Officer is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this section.

2.46. OFFICE OF COMPLIANCE

It is the duty of any bidder, proposer, Consultant, Contractor, all Subcontractors, and every applicant for certification of eligibility for a City Agreement or program, and all officers, directors, agents, partners and employees of any bidder, proper, consultant or such applicant to cooperate with the Office of Compliance in any investigation or audit pursuant to Chapter 2-26 of the Municipal Code of Chicago. The Consultant understands and will abide by all provisions of Chapter 2-26 of the Municipal Code of Chicago. All subcontracts will inform Subcontractors of this provision and require understanding and compliance with it."

2.47. SHAKMAN ACCORD

The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and the August 16, 2007:"City of Chicago Hiring Plan" (the "City Hiring Plan") entered in Shakman v. Democratic Organization of Cook County, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things,

the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

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

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

In the event of any communication to Consultant by a City employee or City official in violation of Section 9.9(c)(ii) above, or advocating a violation of Section 9.9(c)(iii) above, Consultant will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Agreement.

2.48. DEFAULT

- A. The City may, subject to the provisions of paragraph (C) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:
 - i. if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
 - ii. if the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two (2) circumstances does not cure such failure within a period of ten (10) calendar days (or such other period as the Chief Procurement Officer may authorize in writing) after receipt of notice from the Chief Procurement Officer specifying such failure.
- B. In the event the City terminates this contract in whole or in part as provided in paragraph (A) of this clause, the City may procure, upon such terms and in such manner as the Chief Procurement Officer may deem appropriate, supplies or services similar to those so terminated, and the Contractor must be liable to the City for any excess costs for such similar supplies or service: provided, that the Contractor must continue the performance of this to the extent not terminated under the provisions of this clause.
- C. The Contractor will not be liable for any excess of costs if acceptable evidence has been submitted to the Chief Procurement Officer the failure to perform the contract was due to causes beyond the control and without the fault or negligence of the Contractor.

2.49. DISPUTES

Except as otherwise provided in this Contract, Contractor must and the City may bring any dispute arising under this Contract which is not resolved by the parties to the Chief Procurement Officer for decision based upon the written submissions of the parties. (A copy of the "Regulations of the Department of Procurement Services for Resolution of Disputes between Contractors and the City of Chicago" is available in City Hall, 121 North LaSalle Street, Room 301, Bid and Bond Room.) The Chief Procurement Officer will issue a written decision and send it to the Contractor by mail. The

decision of the Chief Procurement Officer is final and binding. The sole and exclusive remedy to challenge the decision of the Chief Procurement Officer is judicial review by means of a common law writ of certiorari.

3. SPECIAL CONDITIONS

3.1. BIDDER'S INQUIRIES DEADLINE:

Bidders must communicate only with the Department of Procurement Services. All questions or requests for clarification must be in writing, to the attention of the Department of Procurement Services', Contract Administrator listed on the cover of this bid specification

All questions or requests for clarification must be received no later than 4:00 p.m. Chicago time, on Wednesday, May 11, 2011.

3.2. QUANTITIES

Any quantities of Liquid Caustic Soda shown on the Proposal Page(s) are estimates for the initial sixty (60) month Contract term and are for bid canvassing purposes only. The City reserves the right to increase or decrease quantities ordered under this contract. Nothing herein will be construed as an intent on the part of the City to purchase any Liquid Caustic Soda other than those determined by the Department of Water Management to be necessary to meet their current needs.

The City will be obligated to order and pay for only such quantities as are from time to time ordered on blanket purchase order releases issued directly by the Department of Water Management, delivered and accepted.

3.3. BASIS OF AWARD

A Contract will be awarded based on the Lowest Total Price proposed by a responsive and responsible bidder meeting the terms and conditions of the specification.

Bidders must quote all line items specified. Bids submitted to the contrary will be considered incomplete, and as a result, will be rejected. Each bid line's extended price will be determined by multiplying its estimated quantity by its unit price. The sum of the extended prices for all lines will be the Total Price.

The Contractor's bid pricing must incorporate any/all peripheral costs including, but not limited to the costs of the Liquid Caustic Soda, delivery/transportation charges, taxes, insurance, training, fluids, guarantee/warranties, profit and/or overhead, etc., required by the specifications.

The Chief Procurement Officer reserves the right to award a Contract, or reject any/all bids, when in the opinion of the Chief Procurement Officer, the best interests of the City would be served thereby.

3.4. CHICAGO BUSINESS PREFERENCE

The Chief Procurement Officer will accept the lowest bid price or lowest evaluated bid price from a responsive and responsible Chicago business, provided that the bid does not exceed the lowest bid price or lowest evaluated bid price from a responsive and responsible non-Chicago business by more than two percent (2%).

A Chicago business ("Chicago Business") is a business located within the corporate limits of the City, which has the majority of its regular, full-time work force located within the City, and which is subject to City of Chicago taxes.

Where all partners to a joint venture are Chicago Businesses, the joint venture will be deemed to be a Chicago Business. Where not all partners to a joint venture are Chicago Businesses, such joint venture will be considered a Chicago Business only if Chicago Businesses hold at least a fifty percent (50%) interest in the venture. Chicago Businesses have a fifty percent (50%) interest in the joint venture only if the Chicago Business partners in the venture hold subcontracts equal to fifty percent (50%) or more of the amount of the bid. Joint venture bidders must submit information and documentation (including, but not limited to, the joint venture agreement and subcontracts) with their bids to establish their eligibility for the Chicago Business Preference. A joint venture bidder which fails to submit such information will not be entitled to the Chicago Business Preference.

The Chief Procurement Officer's determination of a bidder's eligibility for the Chicago Business Preference will be final.

3.5. CALCULATION OF MBE/WBE COMMITMENT

For purposes of calculating bidder's percentage of Minority Business Enterprise (MBE) and/or Women Business Enterprise (WBE) dollar commitment toward the minimum goal of 25% MBE and 5% WBE participation as stated in the Special Condition Regarding Minority Business Enterprise and Women Business Enterprise, the estimated amount of the bidders total bid price will be used to calculate the actual dollar commitment to each MBE and/or WBE firm listed on your Schedule D-1, MBE/WBE Goal Implementation Plan. If at the end of this contract, the actual dollar value is below the estimated value, the City will consider adjustments to your MBE/WBE plan which are proportionate to the actual dollar value of this Contract.

The Contractor will, not later than thirty (30) calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements shall be made available to the Chief Procurement Officer upon request.

During the term the contract, the Contractor will submit monthly MBE/WBE Utilization Reports, a copy of which is attached. The frequency with which these reports are to be submitted will in no case be less often than on a quarterly basis. In the absence of written notice from the Chief Procurement Officer, the contractors first MBE/WBE Utilization Report will be due ninety (90) calendar days after the date of contract award, and reports will be due monthly thereafter.

MBE/WBE Utilization Reports are to be submitted directly to: Department of Procurement Services, Division of Contract Monitoring and Compliance, City Hall, Room 400, 121 North LaSalle Street, Chicago, Illinois 60602.

NOTICE: Do not submit invoices with MBE/WBE Utilization Reports. Final payments may be held until the Utilization Reports have been received.

The City of Chicago's Department of Procurement Services, Contract Compliance Administrator will be entitled to examine, on five (5) business days notice, the Contractors books and records including without limitation payroll records, tax returns and records, and books of account, to determine whether the contractor is in compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the contract. Such rights are in addition to any other audit inspection rights contained in the Contract.

3.6. CONTRACT DOCUMENTS TO BE COMPLETED BY BIDDER

Bidder will fully complete, sign, notarize and submit as part of your proposal the following documents incorporated herein:

1. MBE/WBE Goal Implementation Plan including:
 - a. **Schedule B-1:** Affidavit of Joint Venture (MBE/WBE) (if applicable).
 - b. **Schedule C-1:** Letter of Intent from MBE/WBE to Perform as Sub-contractor, Supplier and/or Consultant (if applicable).
 - c. **Schedule D-1:** Affidavit of MBE/WBE Goal Implementation Plan (if applicable).
 - d. Request for a reduction or waiver of MBE/WBE goals (if applicable).
2. Proposal Page(s).
3. Bid Data Pages
4. Affidavit Of Chicago Business
5. Economic Disclosure Statement and Affidavit (EDS) Online Certification of Filing
6. Proposal Execution Page, as applicable (Corporation, Partnership, Sole Proprietorship).
7. City of Chicago Insurance Certificate of Coverage.

NOTE: EACH BIDDER MUST ACKNOWLEDGE RECEIPT OF A FULL SET OF CONTRACT DOCUMENTS AND ANY ADDENDA AT THE TOP OF THE PROPOSAL EXECUTION PAGE. PROPOSALS THAT DO NOT ACKNOWLEDGE RECEIPT OF ANY ADDENDA WILL BE REJECTED FOR BEING NON-RESPONSIVE TO THIS REQUIREMENT.

3.7. DELIVERY

All deliveries are to be made FOB City of Chicago, directly to specific delivery sites selected by the City from the list set forth below or from sites that may be added to this specification during the contract period. Normal delivery hours are 8:00 am. to 3:00 p.m., Monday through Friday. At the request of the Commissioner of Water Management, Contractor may be required to make deliveries outside of normal delivery hours.

The Contractor must provide, at the time of delivery, duplicate copies of a delivery ticket for every load of Liquid Caustic Soda delivered. Delivery tickets must be signed by an authorized representative of the Department of Water Management and an authorized representative of the Contractor. Standard bill of lading tickets must be used for permanent records of the empty weights of vehicles transporting the material and will include the weight of the material. The total loaded weight must not exceed State of Illinois limits. Scales used to determine load weights must be certified by the State of Illinois and the City of Chicago, Department of Consumer Services.

The City may change any delivery site to another location or add a delivery site within a radius of 5 miles for the original delivery site. The Contractor must deliver Liquid Caustic Soda to the new delivery site at the same price and under the same terms and conditions as was done for the original delivery site. Contractor will be notified in writing of the changes or additional delivery site(s).

The City will maintain an option to purchase equal product on the open market in the event of non-performance of the Contractor and will charge the Contractor for any cost difference incurred for the quantities order. Such amounts owed may be deducted from payment or must be paid promptly upon demand at the option of the City.

3.8. CONTRACT PERIOD

The contract will begin on _____ and continue through _____, unless terminated prior to this date according to the terms of the Termination provision, or extended as provided for herein.

The City will establish and enter the above start and expiration dates at the time of formal award and release of this contract unless negotiated prior to the award and release of the contract.

The start date will be no later than the first day of the succeeding month from the date shown as the Contract Award and Release Date on the Proposal Acceptance Page herein. The expiration date will be no later than the last day of the sixtieth (60th) full calendar month after the established start date.

3.9. CONTRACT EXTENSION OPTION

This Contract will be in effect for the dates indicated herein for the contract period. The Chief Procurement Officer may exercise the City's right to renew this Contract following the expiration of the base contract term for up to one hundred eighty-one (181) Calendar Days for the purpose of providing continuity of supply while procuring a replacement contract subject to acceptable performance by the Contractor and contingent upon the appropriation of sufficient funds for the purchase of the equipment provided for in this Contract. The Chief Procurement Officer will give the Contractor notice of the City's intent to exercise its option to renew the Contract for the approaching option period.

3.10. MODIFICATIONS AND AMENDMENTS

No change, amendment or modification of this Agreement, or any part hereof, is valid unless stipulated in writing and approved by the Chief Procurement Officer.

3.11. UNSPECIFIED ITEMS

Any Liquid Caustic Soda not specifically listed herein may be added to this Contract if they fall within the same specific category of items/services already specified in the contract. The lifetime, aggregate value of the City's purchase of any items/services added to this Contract must not exceed ten percent (10%) of the original value of the Contract.

The User Department will notify the Contractor in writing of the items which are necessary and request a written price proposal for the addition of the item(s) to this Contract under the same terms and conditions of the original Contract, then forward the documents to the Chief Procurement Officer. Such item(s) may be added to the Contract only if the prices are competitive with current market prices and said items are approved by the Chief Procurement Officer in writing. The Chief Procurement Officer reserves the right to seek competitive pricing information on said item(s) from other suppliers and to procure such item(s) in a manner that serves the best interest of the City.

Any such item(s) delivered by the Contractor, without a written approval signed by the Chief Procurement Officer, are delivered entirely at the Contractor's risk. Consequently, in the event that such addition to the contract is not approved by the Chief Procurement Officer, the Contractor hereby releases the City from any liability whatsoever to pay for any items delivered prior to the Contractor's receipt of the fully signed modification.

3.12. PARTICIPATION BY OTHER LOCAL GOVERNMENT AGENCIES

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

3.13. PURCHASE ORDER BLANKET RELEASES

Requests for Liquid Caustic Soda in the form of City of Chicago blanket releases (a.k.a. purchase order releases or suborders) will be issued by the Department of Water Management and sent to the Contractor to be applied against the Contract. Blanket releases will indicate the specification number, purchase order number, blanket release number, product description, quantities ordered for each line item, unit cost, total cost, shipping address, delivery date, fund chargeable information and other pertinent instructions regarding delivery.

For purchase order releases placed before a price increase effective date, Contractor must honor Contract prices listed on the purchase order release including releases with multiple delivery shipments that are scheduled after the effective date of the increase.

The Contractor must not honor any order(s) or make any deliveries of Liquid Caustic Soda without receipt of a City of Chicago blanket release issued by the Department. Any Liquid Caustic Soda provided by the Contractor without a blanket release is made at the Contractor's risk. Consequently, in the event such blanket release is not provided by the City, the Contractor releases the City from any liability whatsoever to pay for any Liquid Caustic Soda provided without said blanket release.

3.14. INSPECTION UPON DELIVERY

Upon delivery of the specified Liquid Caustic Soda, the City will conduct an in-depth initial visual examination solely for the purpose of identifying gross and obvious damage. The Contractor's representative may be present for the initial examinations.

If defects or omissions are discovered during the inspection, the City may:

- (i) Refuse acceptance of any/all units.
- (ii) Arrange with the Contractor to make corrections.
- (iii) Require the Contractor to remove any/all units from the City's premises at its own cost to make the necessary corrections.

Any/all labor and materials which may be required to correct non-compliant aspects of all items must be provided by the Contractor in a prompt manner, at no cost to the City. The "promptness" of corrective actions will be established by the City based upon the quantity and scope of the corrections required.

3.15. INVOICES

Original invoice and Subcontractor Payment Certification Form must be forwarded by the Contractor to the City Comptrollers Office at 33 N. LaSalle Street - 7th, Chicago, IL 60602 to apply against the contract Invoices and Subcontractor Payment Certification Form must be submitted in accordance with the mutually agreed upon time period with the Department of Water Management. Invoice and Subcontractor Payment Certification Form must include the names of any and all trucking companies used to delivery Liquid Caustic Soda.

All invoices and Subcontractor Payment Certification Form must include the names of any and all trucking companies used in conjunction with this contract, must be signed, dated and reference the City's contract number. If a Contractor has more than one contract with the city, separate invoices must be prepared for each contract in lieu of combining items from different contracts under the same invoice. Invoice quantities, item descriptions, commodity code, unit of measure and pricing information must correspond to the items quoted on the Proposal Page.

In addition to showing the certified net weights of each Liquid Caustic Soda Shipment, the invoices must contain the following:

A. For a Manufacturer of Liquid Caustic Soda shipping one (1) ton containers directly to the Filtration plants.

1. Contract
2. Purchase Order Release Number
3. Test Certificate for shipment as required under Standard Specifications
4. Container Serial Number
5. Date of Shipment

B. For a re-packer of Liquid Caustic Soda shipping one (1) ton increments which have been filled from a bulk shipment of material manufactured at a location other than the re-packing plant.

1. Contract
2. Purchase Order Release Number
3. Name of Manufacturer of the Liquid Caustic Soda
4. Test Certificate (or photocopy thereof) for the Bulk shipment from which the one (1) ton containers have been filled. This Test Certificate is to be originated by the Liquid Caustic Soda manufacturer only.
5. Container Serial Number
6. Date of Shipment (Date and Time of Delivery for Truck Shipments)

Invoices for overshipments or items with price escalations may be rejected unless the contract includes a provision for such an adjustment by contract modification. Freight, handling and shipping costs are not to be invoiced, contract terms specify deliveries F.O.B., City of Chicago. As stated in the Requirements for Bidding and Instructions to Bidders section, the City of Chicago is exempt from paying State of Illinois sales tax and federal excise taxes on purchases.

3.16. ELECTRONIC ORDERING AND INVOICES

The Contractor will cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to purchase orders, releases and invoices. Contractor will accept electronic purchase orders and releases upon request of the Chief Procurement Officer. Contractor will provide the City electronic copies of invoices and other electronic documents upon request. The electronic ordering and invoice documents shall be in a format specified by the City and transmitted by an electronic means specified by the City. Such electronic means may include, but are not limited to, disks, e-mail, EDI, FTP, web sites, and third party electronic services. The Chief Procurement Officer reserves the

right to change the document format and/or the means of transmission upon written notice to the Contractor. Contractor shall ensure that the essential information, as determined by the Chief Procurement Officer, in the electronic document, corresponds to that information submitted by the Contractor in its paper documents.

The electronic documents shall be in addition to paper documents required by this contract, however, by written notice to the Contractor, the Chief Procurement Officer may deem any or all of the electronic ordering and invoice documents the official documents and/or eliminate the requirement for paper ordering and invoice documents.

3.17. PAYMENT

The City will process payment within sixty (60) calendar days after receipt and acceptance of invoices and Subcontractor Payment Certification forms completed in accordance with the terms herein, and all supporting documentation necessary for the City to verify delivery and acceptance of the Liquid Caustic Soda provided under this Contract.

The City will not be obligated to pay for any Liquid Caustic Soda that was not ordered with a purchase order release or that are non-compliant with the terms and conditions of these specifications. Any Liquid Caustic Soda which fail tests and/or inspections are subject to replacement at the cost of the Contractor.

The City will not be obligated to pay for any Liquid Caustic Soda if it is noncompliant with the terms and conditions of these Specifications.

3.18. PRICE ADJUSTMENT

Liquid Caustic Soda quoted prices will remain fixed throughout the first twelve (12) calendar months of the Contract term. Beginning on the date after the initial twelve (12) month term, and for each twelve (12) month anniversary thereafter, subject to acceptable performance by the Contractor and contingent upon the appropriation of sufficient funds for the procurement of services provided for in this Contract, annual price adjustments of the Contract pricing may be made after receipt of written request from the Contractor showing cause substantiating the need for the increase, made no later than thirty (30) calendar days after the expiration of each such twelve (12) month period. If Contractor does not request a price adjustment within such thirty (30) calendar day period, Contractor will not be entitled to a price adjustment for the upcoming year. Contract pricing adjustments will be calculated as outlined below.

Annual requests for price adjustments will reference the Producer Price Index (PPI) for "Chemicals and Allied Products", Series ID: WPU06130302, not seasonally adjusted, as it appears in the periodical Producer Price Indices published by the U.S. Department of Labor, Bureau of Labor Statistics. This index can currently be found on the Internet at <http://data.bls.gov/PDQ/outside.jsp?survey=wp> although this site's url is subject to change. (Select commodity data, then select Group "Chemical and Allied Products" and Item "06130302", and get data.)

The adjusted Contract price will be determined by performing the following calculation: The original Contract price(s) will be multiplied by the quotient, and then be rounded to two (2) decimal places to calculate the adjusted Contract price(s). The quotient will be calculated by dividing the comparison index value by the average index value of the last twelve (12) months of the Contract period.

The comparison value for the first allowable price increase will be the index value at the time of Contract award. The comparison value for the second allowable price increase will be the index value of the one (1) year anniversary date of the Contract award.

Adjusted price(s) may be higher or lower than the original Contract pricing, as dictated by the applicable index values. Any price adjustments requested in subsequent years of the agreement will be calculated in the same manner.

All price adjustment calculations will be based upon the latest version of the PPI available on the eighteenth (18th) day of the month following the anniversary of the Contract. The effective date of an adjustment will be the twentieth (20th) day of the month following the month in which the adjustment is requested.

If Producer Price Index data are not available for any month of the final twelve (12) full months of the annual Contract period, the PPI data for the most recent twelve (12) full months preceding the anniversary of the Contract will be used in computing the price adjustment.

ILLUSTRATION: If the Contract award date is 6/1/09, the Contract pricing will be subject to adjustment after 6/1/10. An adjustment to the Contract pricing is requested by the Contractor no later than 7/01/10. The adjustment to the Contract will be calculated as follows: the index values for the last twelve (12) full months of the Contract from 6/09 to 5/10 will be averaged (added, then divided by twelve) and then compared to the index value for 6/09. The comparison index value will be divided by the average index value for the last twelve (12) months. The original Contract price(s) will then be multiplied

by the quotient of that calculation, and then be rounded to two (2) decimal places to calculate the adjusted Contract price(s).

If approved by the Chief Procurement Officer, a properly executed Contract modification must be signed by the Contractor and executed by the City to reflect the price change and the effective date for the change. Original bid prices are in effect until the modification has been fully executed and released to the Contractor unless the modification specifies an effective date for the agreed upon price change.

This process may be duplicated on each anniversary of the Contract. (E.g. After 6/1/11, the Contract price(s) then in effect will be subject to adjustment based upon the percentage difference when comparing the average index value for the final twelve (12) full months average from 06/10 to 05/11 and the comparison index value for 6/10.

3.19. Department of Water Management Security

For purposes of this section, "employee" refers to any individual employed or engaged by Contractor or by any Subcontractor. If the Contractor, or any employee, in the performance of this Contract, has or will have access to a Department of Water Management (DOWM) facility, the City may conduct such background and employment checks, including criminal history record checks and work permit documentation, as the Commissioner of the Department of Water Management and the City may deem necessary, on the Contractor, any Subcontractor, or any of their respective employees. The Commissioner of the Department of Water Management has the right to require the Contractor to supply or provide access to any additional information the Commissioner deems relevant. Before beginning work on the project, Contractor must:

- 1) Provide the City with a list of all employees requiring access to enable the City to conduct such background and employment checks;
- 2) Deliver to the City consent forms signed by all employees who will work on the project consenting to the City's and the Contractor's performance of the background checks described in this Section; and
- 3) Deliver to the City consent forms signed by all employees who will require access to the DOWM facility consenting to the searches described in this Section.

The Commissioner may preclude Contractor, any Subcontractor, or any employee from performing work on the project. Further, the Contractor must immediately report any information to the Commissioner relating to any threat to DOWM infrastructure or facilities or the water supply of the City and must fully cooperate with the City and all governmental entities investigating the threat. The Contractor must, notwithstanding anything contained in the Contract Documents to the contrary, at no additional cost to the City, adhere, and cause its Subcontractors to adhere, to any security and safety guidelines developed by the City and furnished to the Contractor from time to time during the term of the Contract and any extensions of it.

Each employee whom Contractor wishes to have access to a DOWM facility must submit a signed, completed "Area Access Application" to the DOWM to receive a DOWM Security Badge. If Contractor wishes a vehicle to have access to a DOWM facility, Contractor must submit a vehicle access application for that vehicle. The applications will solicit such information as the Commissioner may require in his discretion, including name, address, date of birth (and for vehicles, driver's license and appropriate stickers). The Contractor is responsible for requesting and completing these forms for each employee who will be working at DOWM facilities and all vehicles to be used on the job site. The Commissioner may grant or deny the application in his sole discretion. The Contractor must make available to the Commissioner, within one (1) day of request, the personnel file of any employee who will be working on the project.

At the Commissioner's request, the Contractor and Subcontractor must maintain an employment history of employees going back five years from the date Contractor began Work or Services on the project. If requested, Contractor must certify that it has verified the employment history as required on the form designated by the Commissioner. Contractor must provide the City, at its request, a copy of the employment history for each employee. Employment history is subject to audit by the City.

DOWM Security Badges and Vehicle Permits will only be issued based upon properly completed Area Access Application Forms. Employees or vehicles without proper credentials will not be allowed on DOWM property.

The following rules related to Security Badges and Vehicle Permits must be adhered to:

- 1) Each employee must wear and display the DOWM Security Badge issued to that employee on his or her outer apparel at all times.
- 2) At the sole discretion of the Commissioner and law enforcement officials, including but not limited to the Chicago Police Department, Cook County Sheriffs Office, Illinois State Police or any other municipal, state or federal law enforcement agency, all vehicles (and their contents) are subject to interior and/or exterior inspection entering or exiting DOWM facilities, and all employees and other individuals entering or exiting DOWM facilities are subject to searches. Vehicles may not contain any materials other than those needed for the project. The Commissioner may deny access to any vehicle or individual in his sole discretion.
- 3) All individuals operating a vehicle on DOWM property must be familiar and comply with motor driving regulations and procedures of the State of Illinois and the City of Chicago. The operator must be in possession of a valid, state-issued Motor Vehicle Operator's Driver License.
- 4) All required City stickers and State Vehicle Inspection stickers must be valid.
- 5) Individuals must remain within their assigned area and haul routes unless otherwise instructed by the City.
- 6) Access to the Work sites will be as shown or designated on the Contract Documents Drawings or determined by the Commissioner. The Commissioner may deny access when, in his sole discretion, the vehicle or individual poses some security risk to DOWM.

Whenever the Contractor receives permission to enter DOWM property in areas that are exit/entrance points not secured by the City, the Contractor may be required to provide gates that comply with DOWM design and construction standards. Contractor must provide a licensed and bonded security guard, subject to the Commissioner's approval and armed as deemed necessary by the Commissioner, at the gates when the gates are in use. DOWM Security will provide the locks. Failure to provide and maintain the necessary security will result in an immediate closure by DOWM personnel of the point of access.

Stockpiling materials and parking of equipment or vehicles near DOWM security fencing is prohibited.

Any security fencing, gates, or alarms damaged by the Contractor or its Subcontractors must be manned by a licensed and bonded security guard of the Contractor at Contractor's expense until the damaged items are restored. Contractor must restore them to their original condition within an eight (8) hour period from the time of notice given by the Commissioner.

Temporary removal of any security fencing, gate or alarm to permit construction must be approved by the Commissioner, and Contractor must man the site by a licensed and bonded security guard, approved by and armed as deemed necessary by the Commissioner, at Contractor's expense, on a twenty-four (24) hour basis during the period of temporary removal. Contractor must restore the items removed to their original condition when construction is completed.

Unauthorized hazardous or illegal materials, including but not limited to hazardous materials as defined in 49 C.F.R. Parts 100-185 (e.g. explosives, oxidizers, radiological materials, infectious materials), contraband, firearms and other weapons, illegal drugs and drug paraphernalia, may not be taken on DOWM property. Alcoholic beverages are also prohibited.

All employees and vehicles working within DOWM facilities must be properly identified. All vehicles and personnel passes will be issued to the Contractor by the Commissioner, as required. Contractor, Subcontractors, and employees must return identification material to the Commissioner upon completion of their respective work within the Project, and in all cases, the Contractor must return all identification material to the Commissioner after completion of the Project. Final Contract Payment will not be made until all passes issued have been returned to DOWM Security.

3.20. ACCEPTANCE

It is understood and agreed by and between the parties hereto, that the initial acceptance of any delivery will not be considered as a waiver of any provision of these Specifications and will not relieve the Contractor of its obligation to supply satisfactory Liquid Caustic Soda which conform to the Specifications, as shown by any test or inspections for which provisions are herein otherwise made.

3.21. DEEMED INCLUSION

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

3.22. NON-APPROPRIATION

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

3.23. CONFIDENTIALITY

1. Unless expressly agreed otherwise by the Commissioner in writing, all Deliverables (including but not limited to all drawings, documents, specifications, plans, reports, statistics and data) and any other information in any form prepared by or provided to Contractor in connection with this Agreement (collectively, "Project Data") are property of the City and are confidential. Contractor agrees that, except as specifically authorized by the Commissioner in writing or as may be required by law, Project Data will be made available only to the Commissioner, his designees, and, on a need-to-know basis, Contractor's employees and subcontractors. Contractor acknowledges that Project Data may contain information vital to the security of the airport. If Contractor fails to comply with this section, Contractor is liable for the reasonable costs of actions taken by the City, the airlines, the Federal Aviation Administration ("FAA"), or the Transportation Security Administration ("TSA") that the applicable entity, in its sole discretion, determines to be necessary as a result, including without limitation the design and construction of improvements, procurement and installation of security devices, and posting of guards.
2. Except as authorized in writing by the Commissioner, Contractor must not issue any publicity news releases or grant press interviews, and except as may be required by law during or after the performance of this Agreement, disseminate any information regarding its Services or the project to which the Services pertain.

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

3.24. TERMINATION

The City may terminate this contract or all or any portion of the contract, at any time by a notice in writing from the City to the Contractor. The City will give notice to the Contractor. The effective date of termination will be the date the notice is received by the Contractor or the date stated in the notice, whichever is later. If the City elects to terminate the contract in full, all services to be provided under it must cease and all materials that may have been accumulated in performing this contract whether completed or in the process, must be delivered to the City within ten (10) calendar days after the effective date stated in the notice.

After the notice is received, the Contractor must restrict its activities, and those of its subcontractors to winding down any activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth in the Payment clause and as outlined in the Proposal page, but if any compensation is described or provided for on the basis of a period longer than ten (10) calendar days, then the compensation must be prorated accordingly. No amount of compensation, however, is permitted for anticipated profits on unperformed services. The payment so made to the Contractor is in full settlement for all services satisfactorily performed under this contract. If Contractor disputes the amount of compensation determined by the City to be due Contractor, then the Contractor must initiate dispute settlement procedures in accordance with the Disputes provision in the General Conditions.

If the City's election to terminate this contract for default pursuant to the Default provision in the General Conditions is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be deemed to be an early termination pursuant to this Termination provision.

3.25. CONTRACTOR'S INSURANCE

The Contractor must provide and maintain at Contractor's own expense, until Contract completion and during the time period following completion if Contractor is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

A. INSURANCE TO BE PROVIDED

1) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

2) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Contract and Employers Liability coverage with limits of not less than \$500,000 each accident, illness, or disease.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

B. ADDITIONAL REQUIREMENTS

The Contractor must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 403, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Contract award. The City may require additional insured's depending on the delivery location. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor must advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The insurance must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Contractor.

The Contractor hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Contractor under the Contract.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed on the indemnity in this Contract given as a matter of law.

If Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Contractor must require all subcontractors to provide the insurance required herein, or Contractor may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Contractor unless otherwise specified in this Contract.

If Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

3.26. INSURANCE CERTIFICATE OF COVERAGE

Named Insured: _____
Address: _____
(Number and Street)

(City) (State) (ZIP)

Specification Number: 92314
RFQ Number: 3627
Project Description: Liquid Caustic Soda
Purchase Order Number: _____

Description of Operation/Location

The insurance policies and endorsements indicated below have been issued to the designated named insured with the policy limits as set forth herein covering the operation described within the Contract involving the named insured and the City of Chicago. The Certificate issuer agrees that in the event of cancellation, non-renewal or material change involving the indicated policies, the issuer will provide at least sixty (60) days prior written notice of such change to the City of Chicago at the address shown on this Certificate. This certificate is issued to the City of Chicago in consideration of the Contract entered into with the named insured, and it is mutually understood that the City of Chicago relies on this certificate as a basis for continuing such agreement with the named insured:

Type of Insurance	Insurer Name	Policy Number	Expiration Date	Limits of Liability All Limits in Thousands
General Liability [] Claims made [] Occurrence [] Premises-Operations [] Explosion/Collapse Underground [] Products/Completed-Operations [] Blanket Contractual [] Broad Form Property Damage [] Independent Contractors [] Personal Injury [] Pollution				CSL Per Occurrence \$ _____ General Aggregate \$ _____ Products/Completed Operations Aggregate \$ _____
Automobile Liability				CSL Per Occurrence \$ _____
[] Excess Liability [] Umbrella Liability				Each Occurrence \$ _____
Worker's Compensation and Employer's Liability				Statutory/Illinois Employers Liability \$ _____
Builders Risk/Course of Construction				Amount of Contract
Professional Liability				\$ _____
Owner Contractors Protective				\$ _____
Other				\$ _____

- a) Each Insurance policy required by this agreement, excepting policies for worker's compensation and professional liability, will read: "The City of Chicago is an additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with or permit from the City of Chicago."
b) The General, Automobile and Excess/Umbrella Liability Policies described provide for severability of Interest (cross liability) applicable to the named insured and the City.
c) Workers Compensation and Property Insurers shall waive all rights of subrogation against the City of Chicago.
d) The receipt of this certificate by the City does not constitute agreement by the City that the insurance requirements in the Contract have been fully met, or that the insurance policies indicated by this certificate are in compliance with all contract requirements.

Name and Address of Certificate Holder and Recipient of Notice

Certificate Holder/Additional Insured

City of Chicago
Department of Procurement Services
121 N. LaSalle St., #403
Chicago, IL 60602

Signature of Authorized Rep. _____

Agency/Company: _____

Address: _____

Telephone: _____

For City use only

Name of City Department requesting certificate: (Using Dept.): _____

Address: _____ ZIP Code: _____ Attention: _____

4. SPECIAL CONDITIONS REGARDING MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE

4.1. POLICY AND TERMS

It is the policy of the City of Chicago that Local Businesses certified as Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) in accordance with Section 2-92-420 et seq. of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses, and all other Regulations promulgated under the aforementioned sections of the Municipal Code will have the maximum opportunity to participate fully in the performance of this agreement. Therefore, the Contractor will not discriminate against any person or business on the basis of race, color, national origin or sex, and will take affirmative action to ensure that women and minority businesses will have the maximum opportunity to compete for and perform subcontracts for supplies or services.

The Chief Procurement Officer has established a goal of awarding not less than twenty-five percent (25%) of the annual dollar value of all non-construction contracts to certified MBEs and five percent (5%) of the annual dollar value of all non-construction contracts to certified WBEs.

Accordingly, the Contractor commits to expend at least the following percentages of the total contract price (inclusive of any and all modifications and amendments), if awarded, for contract participation by MBEs and WBEs:

MBE Percentage	WBE Percentage
25%	5%

This commitment is met by the Contractor's status as a MBE or WBE, or by a joint venture with one or more MBEs or WBEs as prime contractor (to the extent of the MBE or WBE participation in such joint venture), or by subcontracting a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the performance of the contract from one or more MBEs or WBEs, or by the indirect participation of MBEs or WBEs in other aspects of the Contractor's business (but no dollar of such indirect MBE or WBE participation will be credited more than once against a Contractor's MBE or WBE commitment with respect to all Contracts of such Contractor), or by any combination of the foregoing. Note: MBE/WBE participation goals are separate and those businesses certified with the City of Chicago as both a MBE/WBE will not be credited more than once against a Contractor's MBE or WBE commitment in the performance of the Contract.

As noted above, the Contractor may meet all or part of this commitment by contracting with MBEs or WBEs for the provision of goods or services not directly related to the performance of this Contract. However, in determining the manner of MBE/WBE participation, the Contractor will first consider involvement of MBEs/WBEs as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this Contract. In appropriate cases, the Chief Procurement Officer will require the Contractor to demonstrate the specific efforts undertaken by it to involve MBEs and WBEs directly in the performance of this Contract.

The Contractor also may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in private sector projects.

4.2. DEFINITIONS

1. **"Area of Specialty"** means the description of an MBE or WBE firm's business which has been determined by the Chief Procurement Officer to be most reflective of the MBE or WBE firm's claimed specialty or expertise. Each MBE/WBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory. Credit toward this contract's MBE and WBE participation goals shall be limited to the participation of firms performing within their Area of Specialty.

NOTICE: The City of Chicago does not make any representation concerning the ability of any MBE/WBE to perform work within their Area of Specialty. It is the responsibility of all

contractors to determine the capability and capacity of MBEs/WBEs to satisfactorily perform the work proposed.

2. **"Directory"** means the Directory of Certified "Disadvantaged Business Enterprises," "Minority Business Enterprises" and "Women Business Enterprises" maintained and published by the Executive Director. The Directory identifies firms that have been certified as MBEs and WBEs, and includes both the date of their last certification and the area of specialty in which they have been certified. Contractors are responsible for verifying the current certification status of all proposed MBE and WBE firms.
3. **"Executive Director"** means the executive director of the Office of Compliance or his or her designee.
4. **"Minority Business Enterprise" or "MBE"** means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and Regulations.
5. **"Women Business Enterprise" or "WBE"** means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations.
6. **"Joint Venture"** means an association of two or more businesses to carry out a single business enterprise for profit, and for which purpose they combine their expertise, property, capital, efforts, skill and knowledge. Contractors may develop joint venture agreements as an instrument to provide participation by MBEs and WBEs in contract work. A joint venture seeking to be credited for MBE/WBE participation may be formed among certified MBE/WBE firms or between certified MBE/WBE firm(s) and non-MBE/WBE firm(s).

A joint venture is eligible for MBE/WBE credit if the MBE/WBE partner(s) share in the ownership, control, management responsibilities, risks and profits of the joint venture, and are responsible for a clearly defined portion of work to be performed, in proportion with the MBE/WBE ownership percentage.

4.3. COUNTING MBE/WBE PARTICIPATION TOWARD THE CONTRACT GOALS

1. The inclusion of any MBE or WBE in the contractor's MBE/WBE Utilization Plan shall not conclusively establish the contractor's right to full MBE/WBE credit for that firm's participation in the contract.
2. The Chief Procurement Officer reserves the right to deny or limit MBE/WBE credit to the contractor where any MBE or WBE is found to be engaged in substantial subcontracting or pass-through activities with others. In this regard, a contractor may count toward its MBE and WBE goals only expenditures to firms that perform a commercially useful function. A firm is considered to perform a commercially useful function when it is responsible for the performance of a clearly defined and distinct element of work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a firm is performing a commercially useful function, the Chief Procurement Officer shall evaluate the amount of work subcontracted, industry practices, and other relevant factors. The amount of MBE/WBE participation credit shall be based upon an analysis by the Chief Procurement Officer of the specific duties that will be performed by the MBE or WBE. Each MBE/WBE shall be expected to actually perform a substantial (i.e., more than eighty-five percent (85%)) portion of the work contemplated for it by any subcontract or agreement through the use of its own employees and equipment.

Requested information may include, without limitation: (1) specific information concerning broker's fees and/or commissions; (2) intended sub-suppliers or other sources of goods and/or services; and (3) specific financial or other risks to be assumed by the MBE/WBE.

3. The participation of MBEs and WBEs who have been certified as "brokers" shall no longer be considered eligible to participate on contracts awarded by the City in 1993 and thereafter until further notice for any consideration of MBE or WBE credit.
4. Credit for the participation of MBEs/WBEs as joint venture partners shall be based upon an analysis of the duties, responsibilities and risks undertaken by the MBE/WBE as specified by the joint venture's executed joint venture agreement. The Chief Procurement Officer reserves the right to deny or limit MBE/WBE credit to the contractor where any MBE/WBE joint venture partner is found to have duties,

responsibilities, risks or loss and management control over the joint venture that is not commensurate with or in proportion to its joint venture ownership.

4.4. REGULATIONS GOVERNING REDUCTIONS TO OR WAIVER OF MBE/WBE GOALS

The following Regulations set forth the standards to be used in determining whether or not a reduction or waiver of the MBE/WBE commitment goals of a particular contract is appropriate. If a bidder or proposer determines that it is unable to meet the MBE and/or WBE percentage on a City of Chicago contract, a written request for the reduction or waiver of the commitment must be included in the bid or proposal.

The written request for reduction or waiver from the commitment must be in the form of a signed petition for grant of relief from the MBE/WBE percentages submitted on the bidder/proposer's letterhead, and must demonstrate that all required efforts as set forth in this document were taken to secure eligible Minority and Women Business Enterprises to meet the commitments. The Chief Procurement Officer or designee shall determine whether the request for the reduction or waiver will be granted.

Bidders/proposers will be considered responsive to the terms and conditions of these Regulations if a waiver request and proof of notification to an assist agency is submitted at the time of bid/proposal opening. Once the bids have been opened, the lowest responsive and responsible bidder so deemed by the Chief Procurement Officer or authorized designee will have no more than fourteen (14) calendar days to submit to the Department of Procurement complete documentation that adequately addresses the conditions for waiver described herein. Proposers responding to Request for Proposals (RFPs) who have been identified as a short listed candidate and/or a prospective awardee will be given a designated time allowance, but no more than fourteen (14) calendar days to submit to the Department of Procurement complete documentation that adequately addresses the conditions for waiver described herein. Respondents to Request for Information and or Qualifications (RFI/RFQs) deemed by the Chief Procurement Officer or authorized designee to be the most responsive and responsible shall submit documentation that adequately addresses the conditions for waiver described herein during negotiations. Failure to submit documentation sufficient to support the waiver request will cause the bid/proposal to be found non-responsive by the Chief Procurement Officer, and the bid/proposal will be rejected. In such cases the remedies to be taken by the Chief Procurement Officer, in his discretion, may include, but are not limited to, forfeiture of bid deposit; negotiating with the next lowest bidder/proposer; or re-advertising the bid/proposal. All bidders/proposers are encouraged to submit all required documents at the time of bid opening to expedite the contract award.

1. Direct/Indirect Participation

Each of the following elements must be present in order to determine whether or not such a reduction or waiver is appropriate.

- a) The bidder/proposer has documented the unsuccessful solicitation for either subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct or indirect work identified or related to the advertised bid/proposal. Direct participation involves subcontracting a portion of the goods/services specifically required in the bid/proposal. Indirect participation is the subcontracting of goods/services not specifically related to the performance of this contract. Documentation must include but is not necessarily limited to:
 - (i) A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to certified MBE/WBE firms;
 - (ii) A listing of all MBE/WBE firms contacted that includes
 - (1) Names, address and telephone numbers of MBE/WBE firms solicited;
 - (2) Date and time of contact;
 - (3) Method of contact (written, telephone, transmittal of facsimile documents, etc.)
 - (iii) Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes:
 - (1) Project identification and location;
 - (2) Classification/commodity of work items for which quotations were sought;

- (3) Date, item and location for acceptance of subcontractor bid proposals;
- (4) Detailed statement which summarizes direct negotiations with appropriate MBE/WBE firms for specific portions of the work and indicates why negotiations were unsuccessful;
- (5) Affirmation that good faith efforts have been demonstrated by choosing subcontracting opportunities likely to achieve MBE/WBE goals by not imposing any limiting conditions which were not mandatory for all subcontractors; or denying the benefits ordinarily conferred on MBE/WBE subcontractors for the type of work that was solicited.

OR

- b) Subcontractor participation will be deemed excessively costly when the MBE/WBE subcontractor proposal exceeds the average price quoted by more than twenty percent (20%). In order to establish that a subcontract's quote is excessively costly, the bidder/proposer must provide the following information:
 - i) A detailed statement of the work identified for MBE/WBE participation for which the bidder/proposer asserts the MBE/WBE quote(s) were excessively costly (in excess of 20% higher).
 - (1) A listing of all potential subcontractors contacted for a quotation on that work item;
 - (2) Prices quoted for the subcontract in question by all such potential subcontractors for that work item.
 - ii) Other documentation which demonstrates to the satisfaction of the Chief Procurement Officer that the MBE/WBE proposals are excessively costly, even though not in excess of 20% higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:
 - (1) The City's estimate for the work under a specific subcontract;
 - (2) The bidder/proposers own estimate for the work under the subcontract;
 - (3) An average of the bona fide prices quoted for the subcontract;
 - (4) Demonstrated increase in other contract costs as a result of subcontracting to the M/WBE or other firm.

2) Assist Agency Participation

Every waiver and/or reduction request must include evidence that the bidder/proposer has provided timely notice of the need for subcontractors to an appropriate association/assist agency representative of the MBE/WBE business community.

The notice requirement of this Section will be satisfied if a bidder/proposer contacts at least one of the associations on Attachment A to these Regulations when the prime contractor seeks a waiver or reduction in the utilization goals. Attachment B to these Regulations provides the letter format that a prime contractor may use. Proof of notification prior to bid submittal (e.g. certified mail receipt or facsimile transmittal receipt) will be required for any bid/proposal submitted to be deemed responsive on the date of bid opening. If deemed appropriate, the Chief Procurement Officer or Contract Compliance Officer may contact the assist agency for verification of notification.

- 3) Impracticability
 - i) If the Chief Procurement Officer determines that a lesser MBE and/or WBE percentage standard is appropriate with respect to a particular contract subject to competitive bidding prior to the bid solicitations for such contract, bid specifications shall include a statement of such revised standard.
 - ii) The requirements set forth in these Regulations shall not apply where the Chief Procurement Officer determines prior to the bid solicitations that MBE/WBE subcontractor participation is impracticable.

This may occur whenever the Chief Procurement Officer determines that for reasons of time, need, industry practices or standards not previously known by the Procurement Department administrator, or such other extreme circumstances as may be deemed appropriate, such a Waiver is in the best interests of the City. This determination may be made in connection with a particular contract, whether before the contract is let for bid, during the bid or award process, before or during negotiation of the contract, or during the performance of the contract.

For all notifications required to be made by bidders/proposers, in situations where the Chief Procurement Officer has determined that time is of the essence, documented telephone contact may be substituted for letter contact.

4.5. PROCEDURE TO DETERMINE BID COMPLIANCE

The following Schedules and described documents constitute the bidder's MBE/WBE proposal, and must be submitted in accordance with the guidelines stated:

1) Schedule C-1: Letter of Intent from MBE/WBE to Perform as Subcontractor, Supplier and/or Consultant.

A Schedule C-1 executed by the MBE/WBE (or Schedule B/Joint Venture Subcontractor) must be submitted by the bidder/proposer for each MBE/WBE included on their Schedule D-1 and must accurately detail the work to be performed by the MBE/WBE and the agreed rates and prices to be paid. If any fully completed and executed Schedule C-1 is not submitted with the bid/proposal, it must be received by the Contract Administrator within ten (10) calendar days of the bid/proposal opening. (All post bid/proposal submissions must have original signatures on all documents). Failure to submit a completed Schedule C-1 in accordance with this section and a Schedule D-1 shall entitle the City to deem the bid/proposal non-responsive and therefore reject the bid/proposal.

2) Letters of Certification.

A copy of each proposed MBE/WBE firm's current Letter of Certification from the City of Chicago must be submitted with the bid/proposal. All Letters of Certification issued by the City of Chicago include a statement of the MBE/WBE firm's Area of Specialty. The MBE/WBE firm's scope of work, as detailed by their Schedule C-1, must conform to their stated Area of Specialty.

3) Joint Venture Agreements.

If the bidder's/proposer's MBE/WBE proposal includes the participation of a MBE/WBE as joint venture on any tier (either as the bidder/proposer or as a subcontractor), the bidder/proposer must provide a copy of the joint venture agreement and a Schedule B. In order to demonstrate the MBE/WBE partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) contributions of capital and equipment; (2) work responsibilities or other performance to be undertaken by the MBE/WBE; and (3) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the contract. The joint venture agreement must also clearly define each partner's authority to contractually obligate the joint venture and each partner's authority to expend joint venture funds (e.g., check signing authority).

4) Required Schedules Regarding DBE/MBE/WBE Utilization.

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm. Except in cases where the bidder/proposer has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section 4.4. herein, the bidder/proposer must commit to the expenditure of a specific dollar amount of participation by each MBE/WBE firm included on their Schedule D-1. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or in the case of Term Agreements, as percentages of the total estimated usage. All commitments made by the bidder's Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the opening (See Section 4.5A. above),

the bidder/proposer may submit a revised Schedule D-1 (executed and notarized to conform with the Schedules C-1). Except in cases where substantial and documented justification is provided, bidders/proposers will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-1 and D-1.

All commitments for joint venture agreements must be delineated in the Schedule B.

4.6. REPORTING REQUIREMENTS DURING THE TERM OF THE CONTRACT

1. The Contractor will, not later than thirty (30) calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.
2. In the case of one (1) time procurements of supplies with either single or multiple deliveries to be performed in less than one (1) year from the date of contract award, a "MBE/WBE Utilization Report", indicating final MBE and WBE payments will be submitted directly to the Department of Procurement Services so as to assure receipt either at the same time, or before the using Department receives contractors final invoice. (NOTICE: Do not submit invoices with "MBE/WBE Utilization Reports.") Final payments may be held until the Utilization Reports have been received.
3. During the term of the contract, the Contractor will submit quarterly "MBE/WBE Utilization Reports", a copy of which is attached. The frequency with which these reports are to be submitted will be in no case less often than on a quarterly basis. In the absence of written notice from the Chief Procurement Officer, the contractors first MBE/WBE Utilization Report will be due ninety (90) calendar days after the date of contract award, and reports will be due quarterly thereafter.
4. MBE/WBE Utilization Reports are to be submitted directly to: Department of Procurement Services, Division of Vendor Relations, City Hall, Room 400, 121 N. LaSalle Street, Chicago, Illinois 60602.
5. The Executive Director will be entitled to examine, on five (5) business days notice, the contractors books and records including without limitation payroll records, tax returns and records, and books of account, to determine whether the contractor is in compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the contract. Such rights are in addition to any other audit inspection rights contained in the contract.

4.7. MBE/WBE SUBSTITUTIONS

Changes by the contractor of the commitments earlier certified in the Schedule D-1 are prohibited. In some cases, however, it may become necessary to substitute a new MBE or WBE in order to actually fulfill the MBE/WBE requirements.

The contractor must notify the Chief Procurement Officer immediately in writing of the necessity to reduce or terminate a MBE/WBE subcontract and to utilize a substitute firm for some phase of work. The contractor's notification should include the name, address and principal official of the substitute MBE/WBE and the dollar value and scope of work of the subcontract. Attached should be all the requisite MBE/WBE affidavits and documents, as enumerated above in Section 5, "Procedure to Determine Bid Compliance."

The City will not approve extra payment for escalated costs incurred by the contractor when a substitution of subcontractors becomes necessary for the contractor in order to comply with MBE/WBE contract requirements.

After award of contract, no relief of the MBE/WBE requirements will be granted by the City except in exceptional circumstances. Requests for complete or partial waiver of the MBE/WBE requirements of this contract must be made in writing, stating all details of the request, the circumstances, and any additional relevant information. The request must be accompanied by a record of all efforts taken by the contractor to locate specific firms, solicit MBE/WBE bids, seek assistance from technical assistance agencies, etc., as outlined above in the section entitled "Regulations Governing Reductions To or Waiver of MBE/WBE Goals."

4.8. NON-COMPLIANCE AND DAMAGES

The following constitutes a material breach of this contract and shall entitle the City to declare a default, terminate the contract and exercise those remedies provided for in the contract, at law or in equity:

1. Failure to satisfy the MBE/WBE percentages required by the contract; and
2. The contractor or subcontractor is disqualified as a MBE or WBE, such status was a factor in contract award, and was misrepresented by the contractor.

In the event that the contractor is determined not to have been involved in any misrepresentation of the status of the disqualified subcontractor or supplier, the contractor shall seek to discharge the disqualified subcontractor or supplier, upon proper notification to the Chief Procurement Officer and/or Executive Director and make every effort to identify and engage a qualified MBE or WBE as its replacement. Furthermore, continued eligibility to enter into future contracting arrangements with the City may be jeopardized as a result of non-compliance. Payments due to the contractor may be withheld until corrective action is taken.

4.9. ARBITRATION

- 1) In the event a contractor has not complied with the contractual MBE/WBE percentages in its Schedule D, underutilization of MBEs/WBEs shall entitle the affected MBE/WBE to recover from the contractor damages suffered by such entity as a result of being underutilized; provided, however, that this provision shall not apply to the extent such underutilization occurs pursuant to a waiver or substitution approved by the City. The Ordinance and contracts subject thereto provide that any disputes between the contractor and such affected MBEs/WBEs regarding damages shall be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorney's fees, being recoverable by a prevailing MBE/WBE in accordance with these regulations. This provision is intended for the benefit of any MBE/WBE affected by underutilization and grants such entity specific third party beneficiary rights. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including but not limited to those contained in a subcontract, suborder, or communicated orally between a contractor and a MBE/WBE.
- 2) An MBE/WBE desiring to arbitrate shall contact the contractor in writing to initiate the arbitral process. Except as otherwise agreed to in writing by the affected parties subject to the limitation contained in the last sentence of the previous paragraph, within ten (10) calendar days of the contractor receiving notification of the intent to arbitrate from the MBE/WBE the above-described disputes shall be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 2527, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404]. All such arbitrations shall be initiated by the MBE/WBE filing a demand for arbitration with the AAA; shall be conducted by the AAA; and held in Chicago, Illinois.
- 3) All fees of the arbitrator are the initial responsibility of the MBE/WBE; provided, however, that the arbitrator is authorized to award reasonable expenses, including attorney's and arbitrator fees, as damages to a prevailing MBE/WBE.
- 4) The MBE/WBE must send the City a copy of the Demand for Arbitration within ten (10) calendar days after it is filed with the AAA. The MBE/WBE also must send the City a copy of the decision of the arbitrator within ten (10) calendar days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

4.10. RECORD KEEPING

The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs/WBEs, retaining these records for a period of at least three (3) years after final acceptance of the work. Full access to these records shall be granted to the City of Chicago, Federal or State authorities in this project, the U.S. Department of Justice, or any duly authorized representatives thereof.

4.11. INFORMATION SOURCES

Small business guaranteed loans; surety bond guarantees; 8 (a) certification:

U.S. Small Business Administration
500 W. Madison Street, Suite 1250
Chicago, Illinois 60661
General Information
(312) 353-4528

U.S. Small Business Administration
Procurement Assistance
500 West Madison, Suite 1250
Chicago, Illinois 60661
Attention: Robert P. Murphy,
Area Regional Administrator
(312) 353-7381

U.S. Small Business Administration
Bond Guarantee Program Surety Bonds
500 West Madison, Suite 1250
Chicago, IL 60661
Attention: Carole Harris
(312) 353-4003

Project information and general MBE/WBE
information:

City of Chicago
Department of Procurement Services
Vendor Relations
City Hall - Room 403
Chicago, Illinois 60602
Attention: Monica Jimenez
(312) 744-0845

Directory of Certified Disadvantaged, Minority and Women
Business Enterprises:

City of Chicago
Office of Compliance
ATTN: Supplier Diversity Program
333 State Street, Suite 540
Chicago, IL 60604
(312) 747-7778

Information on MBE/WBE availability in the manufacturing, sales or supplies and related fields (direct assistance from 42 regional affiliates located throughout the U.S.):

National Minority Suppliers Development Council
1040 Avenue of the Americas, 2nd Floor
New York, New York 10018
Attention: Harriet R. Michel
(212) 944-2430

Chicago Minority Business Development Council
1 East Wacker Drive
Suite 1200
Chicago, Illinois 60601
Attention: Tracye Smith, Executive Director
(312) 755-8880

4.12. ATTACHMENT A - ASSIST AGENCIES

Alliance of Business Leaders & Entrepreneurs (ABLE)

150 N. Michigan Ave. Suite 2800
Chicago, IL 60601
Phone: (312) 624-7733
Fax: (312) 624-7734
Web: www.ablechicago.com

Alliance of Minority and Female Contractors

c/o Federation of Women Contractors
5650 S. Archer Avenue
Chicago, IL 60638
Phone: (312) 360-1122
Fax: (312) 360-0239

Asian American Institute

4753 N. Broadway St. Suite 904
Chicago, IL 60640
Phone: (773) 271-0899
Fax: (773) 271-1982
Web: www.aaichicago.org

Association of Asian Construction Enterprises

333 N. Ogden Avenue
Chicago, IL 60607
Phone: (847) 525-9693
Email: nakmancorp@aol.com

Black Contractors United

400 W. 76th Street, Suite 200
Chicago, IL 60620
Phone: (773) 483-4000
Fax: (773) 483-4150
Web: www.blackcontractorsunited.com

Chicago Area Gay & Lesbian Chamber of Commerce

3656 N. Halsted
Chicago, IL 60613
Phone: (773) 303-0167
Fax: (773) 303-0168
Web: www.glchamber.org

Chatham Business Association Small Business Development, Inc.

8441 S. Cottage Grove Avenue
Chicago, IL 60619
Phone: (773) 994-5006
Fax: (773) 994-9871
Web: www.cbaworks.org

Chicago Minority Supplier Development Council, Inc.

105 W. Adams, Suite 2300
Chicago, IL 60603-6233
Phone: (312) 755-8880
Fax: (312) 755-8890
Web: www.cmbdc.org

Chicago Urban League

4510 S. Michigan Ave.
Chicago, IL 60653
Phone: (773) 285-5800
Fax: (773) 285-7772
Web: www.cul-chicago.org

Cosmopolitan Chamber of Commerce

203 N. Wabash, Suite 518
Chicago, IL 60601
Phone: (312) 499-0611
Fax: (312) 332-2688
Web: www.cosmochamber.org

Federation of Women Contractors

5650 S. Archer Avenue
Chicago, IL 60638
Phone: (312) 360-1122
Fax: (312) 360-0239
Web: www.fwcchicago.com

Hispanic American Construction Industry Association (HACIA)

901 West Jackson Boulevard, Suite 205
Chicago, IL 60607
Phone: (312) 666-5910
Fax: (312) 666-5692
Web: www.haciaworks.org

Illinois Hispanic Chamber of Commerce

855 W. Adams, Suite 100
Chicago, IL 60607
Phone: (312) 425-9500
Fax: (312) 425-9510
Web: www.ihccbusiness.net

Latin American Chamber of Commerce

3512 West Fullerton Avenue
Chicago, IL 60647
Phone: (773) 252-5211
Fax: (773) 252-7065
Web: www.latinamericanchamberofcommerce.com

National Association of Women Business Owners

Chicago Chapter
230 E. Ohio, Suite 400
Chicago, IL 60611
Phone: (312) 224-2605
Fax: (312) 644-8557
Web: www.nawbochicago.org

Rainbow/PUSH Coalition

International Trade Bureau
930 E. 50th Street
Chicago, IL 60615
Phone: (773) 256-2781
Fax: (773) 373-4104
Web: www.rainbowpush.org

Suburban Black Contractors Association

1250 Grove Ave. Suite 200
Barrington, IL 60010
Phone: (847) 852-5010
Fax: (847) 382-1787
Web: www.suburbanblackcontractors.org

Uptown Center Hull House

4520 N. Beacon Street
Chicago, IL 60640
Phone: (773) 561-3500
Fax: (773) 561-3507
Web: www.hullhouse.org

Women Construction Owners & Executives (WCOE)

Chicago Caucus
308 Circle Avenue
Forest Park, IL 60130
Phone: (708) 366-1250
Fax: (708) 366-5418
Web: www.wcoeusa.org

Women's Business Development Center

8 South Michigan Ave., Suite 400
Chicago, IL 60603
Phone: (312) 853-3477
Fax: (312) 853-0145
Web: www.wbdc.org

Chicago Women in Trades (CWIT)

4425 S. Western Blvd.
Chicago, IL 60609-3032
Phone: (773) 376-1450
Fax: (312) 942-0802
Web: www.chicagowomenintrades.org

Coalition for United Community Labor Force

1253 W. 63rd Street
Chicago, IL 60636
Phone: (773) 863-0283

Englewood Black Chamber of Commerce

P.O. Box 21453
Chicago, IL 60621

South Shore Chamber, Incorporated

Black United Funds Bldg.
1813 E. 71st Street
Chicago, IL 60649-2000
Phone: (773) 955- 9508

United Neighborhood Organization (UNO)

954 W. Washington Blvd., 3rd Floor
Chicago, IL 60607
Phone: (312) 432-6301
Fax: (312) 432-0077
Web: www.uno-online.org

Revised November 15, 2010

4.13. ATTACHMENT B-1 - SAMPLE FORMAT FOR REQUESTING ASSIST AGENCY COMMENTS ON BIDDER'S REQUEST FOR REDUCTION OR WAIVER OF MBE/WBE GOALS

On Bidder/Proposer's Letterhead

RETURN RECEIPT REQUESTED

(Date)

Specification No.: 92314
Project Description: Liquid Caustic Soda

(Assist Agency Name and Address)

Dear _____:

_____ (Bidder/Proposer) intends to submit a bid/proposal in response to the above referenced specification with the City of Chicago. Bids are due _____ advertised specification with the City of Chicago.

The following areas have been identified for subcontracting opportunities on both a direct and indirect basis:

Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged/ Minority/Women Business Enterprise contract goal. **Due to the inability to identify an appropriate DBE/MBE/WBE firm certified by the City of Chicago to participate as a subcontractor or joint venture partner, a request for the waiver of the contract goals will be submitted.** If you are aware of such a firm, please contact

Name of Company Representative

at

Address/Phone

within (10) ten business days of receipt of this letter.

Under the City of Chicago's MBE/WBE/DBE Ordinance, your agency is entitled to comment upon this waiver request to the City of Chicago. Written comments may be directed within ten (10) working days of your receipt of this letter to:

Monica Cardenas, Deputy Procurement Officer
Department of Procurement Services
City of Chicago
121 North La Salle Street, Room 403
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at _____.

Sincerely,

4.14. SCHEDULE B: AFFIDAVIT OF JOINT VENTURE (MBE/WBE)

Specification No.: 92314

Project Description: Liquid Caustic Soda

This form need not be submitted if all joint venturers are MBEs and/or WBEs. In such a case, however, a written joint venture agreement among the MBE and WBE venturers must be submitted. In all proposed joint ventures, each MBE and/or WBE venturer must submit a copy of their current Letter of Certification.

All information requested on this schedule must be answered in the spaces provided. Do not refer to your joint venture agreement except to expand on answers provided on this form. If additional space is required, additional sheets may be attached.

- I. Name of joint venture: _____
Address of joint venture: _____
Phone number of joint venture: _____
- II. Identify each non-MBE/WBE venturer(s): _____
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters
concerning MBE/WBE compliance: _____
- III. Identify each MBE/WBE venturer(s): _____
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters
concerning MBE/WBE compliance: _____
- IV. Describe the role(s) of the MBE and/or WBE venturer(s) in the joint venture:

- V. Attach a copy of the joint venture agreement. In order to demonstrate the MBE and/or WBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the MBE/WBEs own forces; (3) work items to be performed under the supervision of the MBE/WBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the project.
- VI. Ownership of the Joint Venture.
 - A. What are the percentage(s) of MBE/WBE ownership of the joint venture? _____

MBE/WBE ownership percentage(s) _____
Non-MBE/WBE ownership percentage(s) _____
 - B. Specify MBE/WBE percentages for each of the following (provide narrative descriptions and other detail as applicable):
 1. Profit and loss sharing: _____
 2. Capital contributions:
 - (a) Dollar amounts of initial contribution: _____
 - (b) Dollar amounts of anticipated on-going contributions: _____

- C. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each venturer):

- D. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control:

- E. Provide copies of all written agreements between venturers concerning this project.

- F. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:

- VII. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions. (Indicate any limitations to their authority such as dollar limits and co-signatory requirements.):

- A. Joint venture check signing:

- B. Authority to enter contracts on behalf of the joint venture:

- C. Signing, co-signing and/or collateralizing loans:

- D. Acquisition of lines of credit:

- E. Acquisition and indemnification of payment and performance bonds:

- F. Negotiating and signing labor agreements:

- G. Management of contract performance. (Identify by name and firm only):

1. Supervision of field operations: _____

2. Major purchases: _____

3. Estimating: _____

4. Engineering: _____

VIII. Financial Controls of joint venture:

A. Which firm and/or individual will be responsible for keeping the books of account?

B. Identify the managing partner, if any, and describe the means and measure of their compensation:

C. What authority does each venturer have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties participating in the performance of this contract or the work of this project?

IX. State the approximate number of operative personnel (by trade) needed to perform the joint ventures work under this contract. Indicate whether they will be employees of the non-MBE/WBE firm, the MBE/WBE firm, or the joint venture.

Trade	Non-MBE/WBE Firm (Number)	MBE/WBE (Number)	Joint Venture

Note: If any personnel proposed for this project will be employees of the joint venture:

A. Are any proposed joint venture employees currently employed by either venturer? Currently employed by non-MBE/WBE _____ (number) Employed by MBE/WBE _____

B. Identify by name and firm the individual who will be responsible for hiring joint venture employees:

C. Which venturer will be responsible for the preparation of joint venture payrolls:

Please state any material facts of additional information pertinent to the control and structure of this joint venture.

The undersigned affirms that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our joint venture and the intended participation of each venturer in the undertaking. Further, the undersigned covenant and agree to provide to the City current, complete and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any provision of the joint venture agreement, and to permit the audit and examination of the books, records and files of the joint venture, or those of each venturer relevant to the joint venture by authorized representatives of the City or the Federal funding agency.

Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.

Note: If, after filing this Schedule B and before the completion on the joint ventures work on the project, there is any change in the information submitted, the joint venture must inform the City of Chicago, either directly or through the prime contractor if the joint venture is a subcontractor.

Name of MBE/WBE Partner Firm

Name of Non-MBE/WBE Partner Firm

Signature of Affiant

Signature of Affiant

Name and Title of Affiant

Name and Title of Affiant

Date _____

Date _____

On this _____ day of, 20____, the above-signed officers

Names of affiants: _____,

personally appeared and, known to me be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public Signature: _____

(Seal)

Commission Expires: _____

4.15. SCHEDULE C-1: LETTER OF INTENT FROM MBE/WBE TO PERFORM AS SUBCONTRACTOR, SUPPLIER AND/OR CONSULTANT

Project Description: Liquid Caustic Soda
Specification Number: 92314

From: _____ MBE: Yes ____ No ____
(Name of MBE/WBE Firm) WBE: Yes ____ No ____

To: _____ and the City of Chicago:
(Name of Prime Contractor)

The MBE/WBE status of the undersigned is confirmed by the attached letter of Certification from the City of Chicago effective date of _____ to _____ for a period of five (5) years.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

The above described performance is offered for the following price and described terms of payment:

\$ _____ %

If more space is needed to fully describe the MBE/WBE firms proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, and will do so within (3) three working days of receipt of a signed contract from the City of Chicago.

(Signature of Owner, President or Authorized Agent of MBE/WBE)

Name /Title (Print)

Date

Phone

4.16. SCHEDULE D-1: AFFIDAVIT OF MBE/WBE GOAL IMPLEMENTATION PLAN

Project Description: Liquid Caustic Soda
Specification Number: 92314

State of _____

County (City) of _____

I HEREBY DECLARE AND AFFIRM that I am duly authorized representative of:

Name of Bidder

and that I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the MBE/WBE goals of this contract.

All MBE/WBE firms included in this plan have been certified as such by the City of Chicago (Letters of Certification Attached).

I. Direct Participation of MBE/WBE Firms

(Note: The bidder shall, in determining the manner of MBE/WBE participation, first consider involvement with MBE/WBE firms as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this contract.)

- A. If bidder is a certified MBE or WBE firm, attach copy of City of Chicago Letter of Certification. (Certification of the bidder as a MBE satisfies the MBE goal only. Certification of the bidder as a WBE satisfies the WBE goal only.)
- B. If bidder is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach copies of Letters of Certification and a copy of Joint Venture Agreement clearly describing the role of the MBE/WBE firm(s) and its ownership interest in the joint venture.
- C. MBE/WBE Subcontractors/Suppliers/Consultants:

1. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone: _____

Dollar Amount Participation:

\$

Percent Amount of Participation: _____

%

Schedule C-1 attached?

Yes _____ No _____ *

*(see next page)

2. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone: _____

Dollar Amount Participation: \$ _____

Percent Amount of Participation: _____ %

Schedule C-1 attached? Yes _____ No _____ *

*(see next page)

3. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone: _____

Dollar Amount Participation: \$ _____

Percent Amount of Participation: _____ %

Schedule C-1 attached? Yes _____ No _____ *

*(see next page)

4. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone: _____

Dollar Amount Participation: \$ _____

Percent Amount of Participation: _____ %

Schedule C-1 attached? Yes _____ No _____ *

*(see next page)

5. Name of MBE/WBE:

Address:

Contact Person:

Phone:

Dollar Amount Participation:

\$ _____

Percent Amount of Participation:

_____ %

Schedule C-1 attached?

Yes _____ No _____ *

*(see next page)

6. Attach additional sheets as needed.

- * All Schedule C-1s and Letters of Certification not submitted with bid/proposal must be submitted so as to assure receipt by the Contract Administrator within ten (10) calendar days after bid opening (or proposal due date.)

II Indirect Participation of MBE/WBE Firms

(Note: This section does need not to be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE goals have not been met through direct participation, contractor will be expected to demonstrate that the proposed MBE/WBE direct participation represents the maximum achievable under the circumstances. Only after such a demonstration will indirect participation be considered.)

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract:

A. Name of MBE/WBE:

Address:

Contact Person:

Phone:

Dollar Amount Participation:

\$ _____

Percent Amount of Participation:

_____ %

Schedule C-1 attached?

Yes _____ No _____ *

B. Name of MBE/WBE:

Address:

Contact Person:

Phone:

Dollar Amount Participation:

\$ _____

Percent Amount of Participation:

_____ %

Sch. C-1 attached?

Yes _____ No _____ *

C. Name of MBE/WBE:

Address:

Contact Person:

Phone:

Dollar Amount Participation:

\$ _____

Percent Amount of Participation:

_____ %

Sch. C-1 attached?

Yes _____ No _____ *

D. Name of MBE/WBE:

Address:

Contact Person:

Phone:

Dollar Amount Participation:

\$ _____

Percent Amount of Participation:

_____ %

Sch. C-1 attached?

Yes _____ No _____ *

E. Attach additional sheets as needed.

- * All Schedule C-1s and Letters of Certification not submitted with bid/proposal must be submitted so as to assure receipt by the Contract Administrator within ten (10) calendar days after bid opening (or proposal due date).

III. Summary of MBE/WBE Proposal:

A. MBE Proposal

MBE Direct Participation (from Section I.)

MBE Firm Name	Dollar Amount	Percent
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Direct MBE Participation	\$ _____	_____ %

MBE Indirect Participation (from Section II.)

MBE Firm Name	Dollar Amount	Percent
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Indirect MBE Participation	\$ _____	_____ %

Dollar Amount Percent

Total MBE Direct and Indirect Participation \$ _____ %

B. WBE Proposal

WBE Direct Participation (from Section I.)

WBE Firm Name	Dollar Amount	Percent
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Direct WBE Participation	\$ _____	_____ %

WBE Indirect Participation (from Section II.)

WBE Firm Name	Dollar Amount	Percent
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Indirect WBE Participation	\$ _____	_____ %

Dollar Amount Percent

Total WBE Direct and Indirect Participation \$ _____ %

To the best of my knowledge, information and belief, the facts and representations contained in this Schedule are true, and no material facts have been omitted.

The Contractor designates the following person as their MBE/WBE Liaison Officer:

Name: _____

Phone Number: _____

I do solemnly declare and affirm under penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.

Signature of affiant: _____ Date: _____

State of _____

County of _____

This instrument was acknowledged before me on _____(date)

by _____(name /s of person/s)

as _____(type of authority, e.g., officer, trustee, etc.)

of _____ (name of party on behalf of whom instrument executed)

Notary Public Signature: _____

(Seal)

Commission Expires: _____

4.17. DBE/MBE/WBE UTILIZATION REPORT

NOTICE: THIS REPORT IS NOT TO BE COMPLETED AT THE TIME OF BID OR PROPOSAL SUBMISSION. IF AWARDED A CONTRACT WITH AN APPROVED DBE/MBE/WBE PLAN, THE PRIME CONTRACTOR WILL BE REQUIRED TO SUBMIT THIS REPORT IN ACCORDANCE WITH THE REPORTING REQUIREMENTS STATED IN THE SPECIAL CONDITION REGARDING DISADVANTAGED OR MINORITY AND WOMEN BUSINESS ENTERPRISE COMMITMENT.

Contract Administrator: _____

Project Description: Liquid Caustic Soda

Phone Number: _____

Specification Number: 92314

Date of Award: _____

Contract Number: _____

Utilization Number: _____

STATE OF: (_____)

COUNTY (CITY) OF: (_____)

In connection with the above-captioned contract:

I HEREBY DECLARE AND AFFIRM that I am the _____
(Title – Print or Type)

and duly authorized representative of _____
(Name of Company - Print or Type)

(Address of Company) (Phone)

and that the following Disadvantaged, Minority and Women Business Enterprises have been contracted with, and have furnished, or are furnishing and preparing materials for, and rendering services stated in the contract agreement.

The following Schedule accurately reflects the value of each DBE/MBE/WBE sub-agreement and the amounts of money paid to each to date.

DBE/MBE/WBE Firm Name	Indicate Type of Firm (DBE/MBE/WBE)	Amount of Contract	Amount Paid To-Date
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____

Amount Billed to City: \$ _____ Amount Paid to Prime Contractor: \$ _____

For each DBE/MBE and/or WBE listed on this report, briefly describe the work or goods/services provided in relation to this contract. (Indicate line items, if applicable)

DBE/MBE/WBE Name

Description of Work/Services And/or Goods Provided

[illegible]

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.

Name of Contractor: _____
(Print or Type)

Signature: _____
(Signature of Affiant)

Name of Affiant: _____
(Print or Type)

Date: _____
(Print or Type)

State of _____

County (City) of _____

This instrument was acknowledged before me on _____ (date)

by _____ name/s of person/s)

as _____ (type of authority, e.g., officer, trustee, etc.)

of _____ (name of party on behalf of whom instrument was executed).

Notary Public Signature: _____

(Seal)

Commission Expires: _____

5. DETAILED SPECIFICATIONS

5.1. LIQUID CAUSTIC SODA

5.2. SCOPE

The Contractor will furnish and deliver F.O.B., City of Chicago Department of Water, Chemical Building, South Water Purification Plant, 3300 Cheltenham Place, Chicago, Illinois 60649 and The Jardine Water Purification Plant, 1000 East Ohio Street, Chicago, Illinois 60611, Liquid Caustic Soda, as may be required and in accordance with the terms and conditions of this specification.

5.3. INTENT

This specification describes Caustic Soda Solution for use in the treatment of a Municipal Water Supply. The Caustic Soda must have NSF approval for potable water treatment.

5.4. AUTHORIZED DEALER / DISTRIBUTOR

The Contractor must be the manufacturer or an authorized dealer/distributor of the proposed Liquid Caustic Soda, provide documentation of same with its bid or upon the request of the Chief Procurement Officer. Further, the Contractor must be capable of furnishing original product warranty and manufacturer's related services such as product information, product recall notices, etc. Proof of ability to transfer product warranties to the City of Chicago must be submitted with bid documents, if applicable.

5.5. PRODUCT/MATERIAL

The Caustic Soda solution will conform to the following requirements:

1. A 50% sodium hydroxide solution will contain not less than 37.7% total alkali expressed as Na₂O. The 50% sodium hydroxide will be membrane grade and be mercury free.
2. The maximum allowable carbonates chemically expressed as Na₂CO₃ is 1.0% for a 50% sodium hydroxide solution and 0.6% for a 30% solution.
3. The sodium hydroxide must not contain any compound that will produce a toxic effect upon the consumer of a properly treated water.
4. It will be a lucid, transparent, free-flowing solution and will not contain any particles or impurities that dim, darken or cloud the liquid. It will have distinct transparency apparent to the eye as viewed through an ordinary one (1) liter laboratory glass beaker under usual room lighting conditions. Any free flowing particles on the surface or suspended particles within the body of the liquid sample as viewed with the naked eye under the aforementioned conditions will be sufficient cause for rejection of the shipment
5. It must be stable for an indefinite period and not salt out or crystallize above 540 F. (50% solution).
6. It must contain no organic sulfides or other objectionable odor which could affect the quality of the Water.
7. The use of any additive or detergent in the liquid material as a dispersing agent will not be permitted.
8. The Jardine Water Plant will receive a 50% sodium hydroxide. The South Water Purification Plant will receive the specified Solution diluted to 20%. De-ionized water must be used for dilution of the membrane grade sodium hydroxide solution.

9. Each load will require a certificate of compliance

(A) TESTING

The composition of the Caustic Soda Solution will be determined by analyzing samples taken in accordance with the practice recommended by the American Water Works Association as published in their Standard for Caustic Soda B501-80.

The City reserves the right to take samples prior to and during the term of this contract from any lot. Any samples which do not meet minimum specifications can be rejected and will serve as rejection for the entire lot and removed at the cost of the Contractor. A decision by Commissioner to reject or accept any lots and/or samples will be final. All testing and inspection will be under the jurisdiction of the Commissioner. Testing will conform to applicable ASTM methods.

(B) PACKING AND SHIPPING

Caustic Soda Solution to be shipped in transport trucks. The interior of the transport trucks will be thoroughly cleansed with purified water and drained prior to each loading to insure a clear, pure product. The conveyance will adequately protect the material from the weather and not permit waste or spoilage.

The transport trucks when used for hauling of Caustic Soda Solution will be kept free of extraneous material of all kinds and will not be used at any time for shipping toxic material.

(C) TEST AND INSPECTION

All quality control will be under the jurisdiction of Chief Procurement Officer and necessary Chemical; and physical tests for such control will be made by the Chief Procurement Officer or her duly authorized representative.

If the material in any car fails to meet the specification the entire contents of the car will be rejected and the Contractor will be notified immediately and the cause for rejection stated.

If the Contractor desires a retest, he will notify the Chief Procurement Officer within five (5) days. A portion of the sample taken by the City will then be forwarded for retest at a laboratory agreed upon by both parties. The results of the retest will be accepted as final.

All expenses attached to the retest will be borne by the party other than the one which the retest favors. (If the retest favors the City, expenses will be borne by the vendor and if retest favors the vendor expenses will be borne by the City.)

Material rejected will be removed by the Contractor immediately when so ordered by the Chief Procurement Officer, or her duly authorized representative.

5.6. MATERIAL SAFETY DATA SHEET (MSDS)

Material Safety Data Sheet (OSHA Form 20) must be submitted prior to Contract award for any substance described in the Illinois "Toxic Substances Disclosure Act" regardless of the quantity requested. The Contractor will furnish an OSHA 20 Form for the Liquid Caustic Soda contained in the releases against this Contract with the delivery of those materials.

5.7. BACK ORDERS

Electronic or written notification of backordered items must be sent immediately to the Department. For any back orders that cannot be filled within ten (10) business days, the Department will have the option of accepting or canceling the backorder or the Department may submit a request for a substitute item. The City is not to be charged for expenses incurred due to the cancellation of backorders.

5.8. MISSHIPMENTS/DEFECTIVE MERCHANDISE

The Contractor will be responsible for any incorrect or damaged shipments and defective merchandise. The Contractor must make arrangements with their common carrier or company personnel to pick-up any unacceptable Liquid Caustic Soda within forty-eight (48) hours of notification.

The Contractor must replace the incorrect, damaged or defective merchandise or issue a credit within seven (7) business days of the return. If the replacement merchandise or a credit is not received within seven (7) business days, the City will deduct the amount of the return from any outstanding invoice at the time of payment.

The City of Chicago will not be subject to restocking charges due to Contractor error.

5.9. GUARANTEE

The Contractor must furnish a guarantee for the Liquid Caustic Soda provided under this contract in accordance with the Uniform Commercial Code, 810 ILCS 5/1 et seq.

In Addition, the Contractor hereby guarantees for a period of one (1) year from the date of final acceptance by the City, that it will, at its own expense and without any cost to the City, replace all defective parts and make any repairs that may be required or made necessary by reason of defective design, material or workmanship, or by reason of non-compliance with these specifications. The guarantee period will commence on the first day the unit is placed in service by the City. If a longer guarantee can be furnished, at no additional cost to the City, the longer period will prevail.

5.10. EXCEPTIONS

Any deviations from these specifications must be noted on the Proposal Page or pages attached thereto, with the exact nature of the change outlined in sufficient detail. The reason for which deviations were made should also follow if not self-explanatory. Failure of a bidder to comply with the terms of this paragraph may be cause for rejection.

The City reserves the right to disqualify bids which do not completely meet outlined specifications. The impact of exceptions to the specification will be evaluated by the City in determining its need.

6. FMPS PROPOSAL PAGES

City of Chicago
Catalog RFQ - No Group Lines

RFQ Header Information

Please Respond By 5/24/2011

RFQ Number 3627

Ship To Location D06

For More Information Please Contact TOYLA RICE

RFQ Description LIQUID CAUSTIC SODA

Special Instructions

Your Quote is Effective as of 5/24/2011

RFQ Status Active

Bid/Proposal pricing for all commodity and/or service line items must be based on the standard unit of measure indicated below. Pricing on alternate units of measure may not be accepted. Unit costs must be limited to three decimal places. Each quote must be signed and unit price, extended price and total price must be typed or written in ink.

Quotes on "or equal" items must be identified as "alternate" to specified item on the comment line. If quoting an alternate, indicate manufacturer name, model/part/catalog number and attach descriptive literature. Alternate items may not be accepted. Any exceptions to items specified or other terms must be clearly indicated on the bid.

RFQ Header Details

Contract Type COMMODITIES

Target Market NO

Advertise Date 4/29/2011

WEB BID Edit Rules ALL

Specification 92314

Procurement Type BID

Bid Deposit Required NO

Compliance Officer

Compliance Type Description

Compliance Type Description		Percentage Type Desc	Required %
Minority Owned Business Enterprise		Target Percentage Rate	25.00 %
Women Owned Business Enterprise		Target Percentage Rate	5.00 %

City of Chicago
Catalog RFQ - No Group Lines

Line No	Line Type	Item	Category	Commodity Desc	UOM	Estimated Usage	UOM Price	Discount or Markup %	Extended Price	Catalog # / ID, Date and Mfr	Comments
1	Goods	8857821010	88578	CAUSTIC SODA, ANHYDROUS (50% NA20) - LIQUID CAUSTIC SODA	Ton	250	\$	(N/A)	\$	(N/A)	
2	Goods	8857821015	88578	CAUSTIC SODA, ANHYDROUS (20% NA20) - LIQUID CAUSTIC SODA	Ton	250	\$	(N/A)	\$	(N/A)	

Total Price \$

7. ADDITIONAL PROPOSAL INFORMATION

Bidder is required to complete the appropriate information for the Liquid Caustic Soda proposed herein, on the bid data pages. Failure to fill out all of the information requested may, at the discretion of the Chief Procurement Officer, result in the bidder being deemed non-responsive. The City will use the information contained in the bid data sheets, and elsewhere in the bid, to evaluate the responsiveness of the bidder.

7.1. PERSON TO CONTACT REGARDING THIS BID

NAME: _____ PHONE: _____
TITLE: _____ FAX: _____
COMPANY: _____ E-MAIL: _____
ADDRESS: _____

7.2. MANUFACTURER, MANUFACTURER'S DISTRIBUTOR/SERVICE REPRESENTATIVE

INDICATE IF YOU ARE:

MANUFACTURER	YES: _____	NO: _____
MANUFACTURER'S EXCLUSIVE DISTRIBUTOR*	YES: _____	NO: _____
MANUFACTURER'S AUTHORIZED DISTRIBUTOR*	YES: _____	NO: _____
MANUFACTURER'S AUTHORIZED SERVICE REPRESENTATIVE*	YES: _____	NO: _____

* If an exclusive or authorized manufacturer's distributor, manufacturer's service representative, or manufacturer's authorized service representative; bidder is to provide the name, address and phone number of manufacturer, and written documentation from the manufacturer verifying status, with the bid.

7.3. LOCATION OF FACILITY WHERE INVENTORY IS MAINTAINED:

ADDRESS: _____

PHONE: (_____) _____

7.4. MATERIAL SAFETY DATA SHEET (MSDS)

Attached: _____ YES _____ NO

7.5. COMMENTS (EXPLAIN):

8. AFFIDAVIT OF CHICAGO BUSINESS

If this is a competitively bid Contract, a Chicago business preference may be applicable. Failure to complete and submit this form with the bid at the time of Bid Opening will be cause for rejection of the bid for being non-responsive.

1. Is bidder a "Chicago Business" as defined in the Special Conditions, Chicago Business Preference language?
() Yes () No

2. Street address of principal place of business:

3. How many persons are currently employed by bidder? _____

4. How many of bidder's current employees work at City of Chicago locations? _____

5. Is bidder subject to City of Chicago taxes?
() Yes () No

Signed: _____

Printed Name: _____

Title: _____

County of _____

State of _____

Acknowledged under oath on (date) _____

Before me by _____

As (title) _____

of (firm) _____

Notary Public Signature: _____

(Seal)

Commission _____

Expires: _____

9. CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS)

9.1. ONLINE EDS FILING REQUIRED PRIOR TO BID OPENING

The Proposer must prepare an online EDS prior to the bid opening date.

A PROPOSER THAT DOES NOT PREPARE AN ELECTRONIC EDS PRIOR TO THE BID OPENING WILL BE FOUND NON-RESPONSIVE AND ITS BID WILL BE REJECTED.

NOTE:

- Filing an “EDS Information Update” does **NOT** satisfy the requirement to file an electronic EDS prior to bid opening.
- Filing an EDS in a hard copy or paper copy form does **NOT** satisfy the requirement to file an electronic EDS prior to bid opening.
- Filing an EDS for another mater (different bid, contract, etc.) does **NOT** satisfy the requirement to file an electronic EDS prior to bid opening.

When completing the online EDS, please choose the Department of Procurement Services as the City agency or department that is requesting the EDS.

9.2. ONLINE EDS WEB LINK

The web link for the Online EDS is <https://webapps.cityofchicago.org/EDSWeb>

9.3. ONLINE EDS NUMBER

Upon completion of the online EDS submission process, the Proposer will be provided an EDS number. Bidders should provide this number here:

EDS Number: _____

9.4. ONLINE EDS CERTIFICATION OF FILING

Upon completion of the online submission process, the Proposer will be able to print a hard copy Certificate of Filing. The Proposer should submit the signed Certificate of Filing with its bid.

Please insert your Certification of Filing following this page.

A Proposer that does not include a signed Certificate of Filing with its bid must provide it upon the request of the Chief Procurement Officer.

9.5. PREPARATION CHECKLIST FOR REGISTRATION

To expedite and ease your registration process, we recommend that you collect the following information prior to registering for an Online EDS user account:

1. Invitation number, if you were provided an invitation number.

2. EDS document from previous years, if available.

3. Email address to correspond with the Online EDS system.

4. Company Information:

 - a. Legal Name

- _____ b. FEIN/SSN
- _____ c. City of Chicago Vendor Number, if available.
- _____ d. Address and phone number information that you would like to appear on your EDS documents.
- _____ e. EDS Captain. Check for an EDS Captain in your company - this maybe the person that usually submits EDS for your company, or the first person that registers for your company.

9.6. PREPARATION CHECKLIST FOR EDS SUBMISSION

To expedite and ease your EDS submission, we recommend that you collect the following information prior to updating your EDS information online.

Items #1 through #7 are needed for both EDS information updates and contract related EDS documents:

- _____ 1. Invitation number, if you were provided with an invitation number.
- _____ 2. Site address that is specific to this EDS.
- _____ 3. Contact that is responsible for this EDS.
- _____ 4. EDS document from previous years, if available.
- _____ 5. Ownership structure, and if applicable, owners' company information:
 - _____ a. % of ownership
 - _____ b. Legal Name
 - _____ c. FEIN/SSN
 - _____ d. City of Chicago Vendor Number, if available.
 - _____ e. Address
- _____ 6. List of directors, officers, titleholders, etc. (if applicable).
- _____ 7. For partnerships/LLC/LLP/Joint ventures, etc.; List of controlling parties (if applicable).

Items #8 and #9 are needed ONLY for contract related EDS documents:

- _____ 8. Contract related information (if applicable):
 - _____ a. City of Chicago contract package
 - _____ b. Cover page of City of Chicago bid/solicitation package
 - _____ c. If EDS is related to a mod, then cover page of your current contract with the City.
- _____ 9. List of subcontractors and retained parties:
 - _____ a. Name
 - _____ b. Address
 - _____ c. Fees – Estimated or paid

9.7. EDS FREQUENTLY ASKED QUESTIONS

Q: Where do I file?

A: The web link for the Online EDS is <https://webapps.cityofchicago.org/EDSWeb>

Q: How do I get help?

A: If there is a question mark on a page or next to a field, click on the question mark for help filling out the page or field. You may also consult the User Manual and the Training Videos available on the left menu.

Q: Why do I have to submit an EDS?

A: The Economic Disclosure Statement (EDS) is required of applicants making an application to the City for action requiring City Council, City department or other City agency approval. For example, all bidders seeking a City contract are required to submit an EDS. Through the EDS, applicants make disclosures required by State law and City ordinances and certify compliance with various laws and ordinances. An EDS is also required of certain parties related to the applicant, such as owners and controlling parties.

Q: Who is the Applicant?

A: "Applicant" means any entity or person making an application to the City for action requiring City Council or other City agency approval. The applicant does not include owners and parent companies.

Q: Who is the Disclosing Party?

A: "Disclosing Party" means any entity or person submitting an EDS. This includes owners and parent companies.

Q: What is an entity or legal entity?

A: "Entity" or "Legal Entity" means a legal entity (for example, a corporation, partnership, joint venture, limited liability company or trust).

Q: What is a person for purposes of the EDS?

A: "Person" means a human being.

Q: Who must submit an EDS?

A: An EDS must be submitted in any of the following three circumstances:

Applicants:

An Applicant must always file this EDS. If the Applicant is a legal entity, state the full name of that legal entity. If the Applicant is a person acting on his/her own behalf, state his/her name.

Entities holding an interest:

Whenever a legal entity has a beneficial interest (E. G. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.

Controlling entities:

Whenever a Disclosing Party is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture that has a general partner, managing member, manager or other entity that can control the day-to-day management of the Disclosing Party, that entity must also file an EDS on its own behalf. Each entity with a beneficial interest of more than 7.5% in the controlling entity must also file an EDS on its own behalf.

Q: What information is needed to submit an EDS?

A: The information contained in the Preparation Checklist for EDS submission.

Q: I don't have a user ID & password. Can I still submit an Online EDS?

A: No. You must register and create a user ID and password before submitting an Online EDS.

Q: What information is needed to request a user ID & password for Online EDS?

A: The information contained in the Preparation Checklist for Registration is needed to request a login for the Online EDS.

Q: I already have a username and password from another City web site (City Web Portal, Department of Construction and Permits, Department of Consumer Services, etc.). Can I log-in the Online EDS with that account?

A: Usually not. The Online EDS uses a user ID and password system that is shared by the Public Vehicle Advertising and Water Payment web sites. You may use a username and password from those sites by answering "Yes" to "Is this an existing City of Chicago user ID?" when registering. Other usernames and passwords will not be automatically recognized. However, you may choose to create an identical username for the Online EDS if it is not already taken.

Q: I don't have an email address. How do I submit an Online EDS?

A: You cannot get an account to submit an online EDS without an email address. If you need an e-mail address, we suggest that you use a free internet email provider such as www.hotmail.com or www.yahoo.com or mail.google.com to open an account. The City does not endorse any particular free internet email provider. Public computers are available at all Chicago Public Library branches.

Q: I forgot my user ID. Can I register again?

A: No. If you are the EDS Captain of your organization, please contact the Department of Procurement Services at 312-744-4900. If you are an EDS team member, contact your EDS Captain, who can look up your user ID.

Q: Who is the EDS Captain?

A: The EDS Captain is a person who performs certain administrative functions for an organization which files an EDS. Each organization registered with the Online EDS has at least one EDS Captain. There may be co-captains, who are all equal. EDS Captains approve new users, change contact information for an organization, and de-active accounts of employees who have left the organization. Please see the User Manual for more information.

Q: Why do we need EDS Captains?

A: The Online EDS is designed to be a self-service web application which allows those doing or seeking to do business with the City to perform as many routine functions as possible without City intervention. Because many organizations have multiple staff filing an EDS, the EDS Captain role allows those organizations to self-manage the contact information and users.

Q: Who is the EDS team?

A: The EDS team for an organization is everyone who is registered to file an EDS on behalf of the organization.

Q: I forgot my password. What should I do?

A: To retrieve a temporary password, click the "Forgot your password?" link on the login page. Enter your user ID that you provided when you registered your account. The system will automatically generate a temporary password and send it to you. When you log-in with your temporary password, you will be asked to create a new password.

Q: How do I complete an Online EDS?

A: Click on "Create New" after logging in. The Online EDS system will walk you through the EDS questions. Please see the User Manual for details.

Q: How do I fill out a Disclosure of Retained Parties?

A: There is no longer a separate Disclosure of Retained Parties filing. After logging in, click on "Create New". Answer (click) "Contract" to "Is this EDS for a contract or an EDS information update?" Click "Fill out EDS", and click on the "Retained Parties" tab. When finished, click on "Ready to Submit."

Q: How do I attach documents?

A: Attachments are discouraged. If at all possible, please provide a concise explanation in the space provided in the online form. Attachments with pages of officers are not acceptable. Names of officers must be typed into the system. If you must provide an attachment for another reason, please send it to your City of Chicago contact (contract administrator or negotiator for procurements) and they will attach it for you. Documents can be sent in PDF (preferred), Word, or paper format.

Q: Who can complete an Economic Disclosure Statement online?

A: Any authorized representative of your business with a user ID and password can complete your EDS online. One person, such as an assistant, can fill in the information and save it, and another person can review and electronically sign the Online EDS.

Q: What are the benefits of filing my Economic Disclosure statement electronically?

A: Filing electronically reduces the chance of filing an incomplete EDS and speeds up the processing of contract awards. A certificate of filing can be printed at the completion of the process and inserted into your bid package. The biggest benefit for those who frequently do business with the City is that after the first EDS, each EDS is much easier to fill out because non-contract specific information is pre-filled from the last submitted EDS.

Q: Will my information be secure?

A: Yes. When making your internet connection to our Web Server, you will connect through a Secure Socket Layer (SSL for short) to the "Online EDS" login page. All information you type will be protected using strong encryption. Within the login page, you will provide us with a user ID, password, and secret question for user authentication. Only you will have knowledge of this unique identification information.

Q: I am filing electronically. How do I sign my EDS?

A: Once you have completed the EDS, you will be prompted to enter your password and answer to your secret question. Together, these will serve as your electronic signature. Although you will also print and physically sign an EDS certification of filing as a notice that your EDS was filed, your EDS is complete as a legal document with only the electronic filing.

Q: My address has changed. How can I update my information?

A: You must be an EDS Captain for your organization to update this. Log-in and click on "Vendor Admin, Site Administration." Select the appropriate site and click edit.

Q: I have more questions. How can I contact the Department of Procurement Services?

A: Please contact the contract administrator or negotiator assigned to your solicitation or contract. You may call DPS at 312-744-4900 between 8:30 AM and 5:00 PM Central Time.

Q: Can I save a partially complete EDS?

A: Yes. Click "Save". To avoid data loss, we recommend you save your work periodically while filling out your EDS.

Q: Do I have to re-type my information each time I submit an EDS?

A: No. The system will remember non-contract specific information from your last submitted EDS for one year. This information will be filled-in for you in your new EDS. You will have an opportunity to correct it if it has changed since your last filing. When you submit your new EDS, the information is saved and the one-year clock begins running anew.

Q: What are the system requirements to use the Online EDS?

A: The following are minimum requirements to use the Online EDS:

- A PDF viewer such as Adobe Reader is installed and your web browser is configured to display PDFs automatically. You may download and install Adobe Reader free at www.adobe.com/products/reader/
- Your web browser is set to permit running of JavaScript.
- Your web browser allows cookies to be set for this site. Please note that while we use cookies in the Online EDS, we do not use them to track personally identifiable information, so your privacy is maintained.
- Your monitor resolution is set to a minimum of 1024 x 768.
- While not required to submit an EDS, if you wish to view the training videos, you must have Adobe Flash Plugin version 9 or higher, speakers, and sound. Please note that very old computers may not be able to run Adobe Flash and will not be able to play the training videos. In that case, we encourage you to seek help using the Online EDS Manuals. You may download and install Adobe Flash Plugin free at <http://get.adobe.com/flashplayer>

The Online EDS has been tested on Internet Explorer 6.0 and 7.0 and Firefox 2.0 and 3.0 on Windows XP and Mac OS X. Although it should work on other browsers and operating systems, the City of Chicago cannot guarantee compatibility.

10. PROPOSAL EXECUTION PAGES

10.1. PROPOSAL TO BE EXECUTED BY A CORPORATION

The undersigned, hereby acknowledges having received **Specification No.** 92314 containing a full set of Contract Documents, including, but not limited to, 1) General Conditions, 2) Special Conditions, 3) Contract Plans or Drawings (if applicable) 4) Detailed Specifications or Scope of Services, Evaluation/Selection Criteria and Submittal Requirements (If RFP/RFQ), 5) Proposal Pages, 6) Certifications and 7) Addenda Numbers **(none unless indicated here)** _____, and affirms that the corporation shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the corporation has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line, (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line, and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned swears, declares or affirms that no disclosures of ownership interests have been withheld and that the information provided herein is current to the best of its knowledge. The undersigned further swears, declares or affirms that it has not entered into an agreement among bidders (proposers) or prospective bidders (proposers) to bid a fixed price, or any other type of agreement or arrangement among bidders (proposers) or prospective bidders (proposers) in restraint of freedom of competition, and that it has not disclosed to any person or entity, excluding its employees, the terms of this proposal or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

NAME OF CORPORATION: _____
(Print or Type)

SIGNATURE OF PRESIDENT*: _____
(Or Authorized Officer)

TITLE OF SIGNATORY: _____
(Print or Type)

BUSINESS ADDRESS: _____
(Print or Type)

*Note: In the event that this bid (proposal) is signed by other than the President, attach hereto a certified copy of that section of Corporate By-Laws or other authorization, such as a resolution by the Board of Directors, which permits the person to sign the offer for the Corporation.

ATTEST: _____
Corporate Secretary Signature
(Affix Corporate Seal)

State of _____

County of _____

This instrument was acknowledged before me on this _____ day of _____, 20____ by _____ as President (or other authorized officer) and _____ as Secretary of _____ (Corporation Name).

Notary Public Signature: _____
(Seal)

Commission Expires: _____

10.2. PROPOSAL TO BE EXECUTED BY A PARTNERSHIP

The undersigned, hereby acknowledges having received **Specification No. 92314** containing a full set of Contract Documents, including, but not limited to, 1) General Conditions, 2) Special Conditions, 3) Contract Plans or Drawings (if applicable) 4) Detailed Specifications or Scope of Services, Evaluation/Selection Criteria and Submittal Requirements (If RFP/RFQ), 5) Proposal Pages, 6) Certifications and 7) Addenda Numbers **(none unless indicated here)** _____, and affirms that the partnership shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the partnership has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line, (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line, and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned swears, declares or affirms that no disclosures of ownership interests have been withheld and that the information provided herein is current to the best of its knowledge. The undersigned further swears, declares or affirms that it has not entered into an agreement among bidders (proposers) or prospective bidders (proposers) to bid a fixed price, or any other type of agreement or arrangement among bidders (proposers) or prospective bidders (proposers) in restraint of freedom of competition, and that it has not disclosed to any person or entity, excluding its employees, the terms of this proposal or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

BUSINESS NAME: _____
(Print or Type)

BUSINESS ADDRESS: _____
(Print or Type)

If you are operating under an assumed name, provide County registration number hereunder as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq.

Registration Number: _____

SIGNATURES AND ADDRESSES OF ALL MEMBERS OF THE PARTNERSHIP

(If all General Partners do not sign, indicate authority of partner signatories by attaching copy of partnership agreement or other authorizing document):

Partner Signature: _____

Address: _____

State of _____

County of _____

Subscribed and sworn to before me by each of the foregoing individuals this ____ day of _____, 20__.

Notary Public Signature: _____

(Seal)

Commission Expires: _____

10.3. PROPOSAL TO BE EXECUTED BY A SOLE PROPRIETOR

The undersigned, hereby acknowledges having received **Specification No. 92314** containing a full set of Contract Documents, including, but not limited to, 1) General Conditions, 2) Special Conditions, 3) Contract Plans or Drawings (if applicable) 4) Detailed Specifications or Scope of Services, Evaluation/Selection Criteria and Submittal Requirements (If RFP/RFQ), 5) Proposal Pages, 6) Certifications and 7) Addenda Numbers **(none unless indicated here)** _____, and affirms that the sole proprietor shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the sole proprietor has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line, (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line, and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned swears, declares or affirms that no disclosures of ownership interests have been withheld and that the information provided herein is current to the best of its knowledge. The undersigned further swears, declares or affirms that it has not entered into an agreement among bidders (proposers) or prospective bidders (proposers) to bid a fixed price, or any other type of agreement or arrangement among bidders (proposers) or prospective bidders (proposers) in restraint of freedom of competition, and that it has not disclosed to any person or entity, excluding its employees, the terms of this proposal or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

SIGNATURE OF PROPRIETOR: _____
(Signature)

DOING BUSINESS AS: _____
(Print or Type)

BUSINESS ADDRESS: _____
(Print or Type)

If you are operating under an assumed name, provide County registration number hereinunder as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq.

Registration Number: _____

State of _____

County of _____

This instrument was acknowledged before me on this ____ day of _____, 20____.

Notary Public Signature: _____

(Seal)

Commission Expires: _____

10.4. PROPOSAL ACCEPTANCE BY CITY

The undersigned, on behalf of the CITY OF CHICAGO, a municipal corporation of the State of Illinois, hereby accept the foregoing bid items as identified in the proposal.

Total Amount of Contract:\$ _____

Funding: 010 0200 088 2020 0342 W705 220342 (And various)

City Comptroller

Chief Procurement Officer

Mayor

Contract Awarded and Released on this _____ day of _____, 20____