

Request for Proposals (RFP) to Design, Build, Finance, Equip, Operate & Maintain O'Hare Express System



In coordination with, and on behalf of, the **City of Chicago**



Issued by:

The Chicago Infrastructure Trust

Issued on:

March 23, 2018

Amended By:

Addendum #1, April 6, 2018

Addendum #2, April 19, 2018

RFP Responses Due:

No Later Than 1:00 pm CST on May 18, 2018 (the "Proposal Due Date")

All responses must be addressed and submitted to:

**Chicago Infrastructure Trust
35 E. Wacker Drive, Suite 1450
Chicago, Illinois 60601**

O’Hare Express System

Request for Proposals (RFP)

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Exhibit C	Project Agreement Term Sheet
Exhibit D	Sample Requests for Clarification Form
Exhibit E	Supplemental Due Diligence Request Form
Exhibit F	Proposers Team Update Submission Form

PROPOSAL FORMS

Administrative Forms

Form 1-A	Proposal Checklist
Form 1-B	Form of Proposal Letter
Form 1-C	Form of Acknowledgement of Exclusive Right to Negotiate
Form 1-D	Sample Economic Disclosure Statement (“EDS”) and Affidavit

Financial Forms

Form 2-A	Letter of Credit
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Land, Planning and Environment Forms

Form 3-A	Permits and Approvals
Form 3-B	Material Agreements

1. O’Hare Express System Project Introduction

1.1. Introduction

- a. On November 29, 2017, the Chicago Infrastructure Trust (“the CIT”) issued a Request for Qualifications (as amended, the “RFQ”) initiating a procurement solicitation to develop, design, build, equip, finance, operate and maintain the O’Hare Express System Project (“Project”) through a revenue-based concession pursuant to a public-private partnership agreement (“Project Agreement”) with the City of Chicago (“City”).
- b. Following an evaluation of Statements of Qualifications (“SOQs”) delivered to the CIT on February 5, 2018, a shortlist of qualified RFQ Respondents was invited to proceed in the procurement in accordance with the terms of the RFQ (each such shortlisted team, a “Proposer”).
- c. On behalf of the City, the CIT is pleased to present this Request for Proposals (“RFP”) to the shortlisted Proposers inviting them to submit competitive, detailed proposals (each individually a “Proposal”) one of which Proposers may be selected to enter into the Project Agreement with the City on mutually agreed terms following a period of negotiation as described in Section 5 (the “Preferred Proposer”).
- d. Any Preferred Proposer that itself or through a special purpose entity to be formed and owned by the Equity Members of the Preferred Proposer (the Preferred Proposer in such capacity, or such special purpose entity, the “Developer”) executes the Project Agreement with the City will be responsible for the design, construction, financing, equipping, operations and maintenance of the Project in accordance with its terms.

1.2. Status of RFQ

- a. To the extent that this RFP contains rules, information or instructions in addition to, different from, or inconsistent or conflicting with, the equivalent rules, information and instructions set out in the RFQ, this RFP shall govern.
- b. Other than to the extent provided in the preceding sentence, rules, information and instructions set out in the RFQ that by their terms or by implication survive shall continue to govern.

1.3. Chicago Infrastructure Trust Background Information

The CIT is a registered non-profit corporation organized and existing under the laws of the State. The CIT is authorized, and governed pursuant to the provisions of Ordinance No. 02012-1366, adopted by the City Council of the City on April 24, 2012. The CIT’s mission is to assist the City, its sister agencies, and private industry in expanding their

collective capacity to deliver transformative public infrastructure projects.

1.4. Overview of the Opportunity

- a. The CIT and the City are seeking a Developer to design, construct, equip, finance, operate and maintain a proposed express transportation service that will extend from the Chicago Central Business District (“CBD”) to Chicago O’Hare International Airport (“ORD”). The O’Hare Express System (“OES”) may run along existing rail corridors or an alternate surface or subsurface corridor selected by Proposers. Depending on the route, it may be possible to make a direct connection to other public transportation systems.
- b. The CIT’s and the City’s decision to proceed with this Project is not dependent on whether the City proceeds with any other ORD or CTA infrastructure projects or initiatives, and vice versa. This Project provides independent utility from, and is not a part of, any ongoing or future initiatives relating to ORD terminal configuration changes. For any portion of the Project built on ORD property, the City and the Developer will comply with all applicable laws, regulations, and existing grant agreements.
- c. The Project will create better access to ORD and the CBD and significantly reduce current average travel times. Ultimately, the Project will act as a key economic driver, alleviate congestion, and provide reliable express service to and from ORD.
- d. The Project is expected to be funded solely by Project-generated revenues and financed entirely by the Developer. The City and the CIT will not provide funding for the Project.
- e. Further information regarding the Project scope of work, contractual structure, and anticipated form of financing is provided in this RFP.

1.5. Project Goals and Objectives

- a. The Project is intended to improve transportation between ORD and the CBD by providing faster, more direct and more reliable service.
- b. In general terms, the project goals and objectives include:

Goal 1: Providing Express Service between ORD and the CBD.

- Travel time of 20 minutes or less.
- Direct ORD terminal access, prioritizing proximity to ORD Terminal 2.
- Reliable service provided via separate corridor, tracks or operating priority.

Goal 2: Utilizing Private Sector Resources and Expertise.

- Utilize no CIT or City funding for Project design, construction, equipping and implementation.

- Developer to assume responsibility for financing all Project costs.
- Developer to assume responsibility for all operations and maintenance and related costs, including capital and maintenance costs associated with rolling stock and infrastructure.
- Revenue sharing mechanism that will allow excess Project revenues to be utilized for additional public infrastructure initiatives.

Goal 3: Convenience and Attractiveness to Users.

- Fast, reliable service (no conflicts with other services).
- Service frequency of at least every 15 minutes for the majority of the day.
- 20 hours of service per day.
- CBD terminal to provide easy access to activity centers and other transportation systems.
- Reasonable premium service fares less than the cost of current taxi and rideshare services.
- Convenient payment systems and fare-card interoperability.
- Modern and convenient vehicle and passenger amenities.

Goal 4: Efficient, Engaged and Conflict-Free Implementation.

- Maximize community engagement, local hiring, workforce development and diverse participation.
- Avoid/minimize conflicts with existing transportation systems.
- Avoid/minimize/mitigate environmental impacts.

1.6. Procurement Schedule

The CIT anticipates, but is not bound to, conducting the procurement and implementing the Project on the following schedule:

<u>Milestone</u>	<u>Date / Timeframe</u>
RFQ issued	November 29, 2017
SOQ Due Date	February 5, 2018
Shortlist selection	March 20, 2018
RFP issued to shortlisted teams	March 23, 2018
Release of Exhibit B (Exclusive Negotiations Phase Conditions and Deliverables) and Exhibit C (Project Agreement Term Sheet)	April 6, 2018

<u>Milestone</u>	<u>Date / Timeframe</u>
Final RFC Deadline	April 16, 2018
Team Update Deadline	April 20, 2018
One-on-one Meetings (if any, in the CIT’s discretion)	April 24, 2018
Last day for issuance of Addenda	May 4, 2018
Proposal Due Date	May 18, 2018
Issuance of Invitation to Exclusive Negotiations	June 2018

Following the issuance of an Invitation to Exclusive Negotiations, the CIT and the City expect to engage in an expedited Exclusive Negotiations Phase with the Preferred Proposer to reach a definitive Project Agreement as expeditiously as possible.

2. RFP Process

2.1. Costs and Expenses

Each Proposer is responsible for its own cost and expense, without right of reimbursement or compensation from the CIT or the City, at any stage of the procurement process.

2.2. Comments on the RFP

2.2.1. General Requirements for Preparation and Delivery of RFCs

- a. Any Proposer that has questions as to the meaning of any part of this RFP or the Project, or who believes that the RFP contains any error, inconsistency or omission, must submit its concern in a written request for clarification (an “RFC”) via email to CIT’s Contact Person at OES@chicagoinfrastructure.org in the form provided as Exhibit D, following the instructions contained on such form.
- b. Proposers may submit, only as an RFC, requests for additional Reference Documents, which the CIT will provide in its discretion or use reasonable efforts in assisting the Proposer in acquiring.
- c. Notwithstanding Section 2.2.2 regarding timely RFCs, Proposers should assume that the CIT will in its discretion not consider any RFCs that are submitted:
 - i. after the relevant deadline, except reasonable logistical questions received after such deadline the response to which may be necessary to facilitate timely and compliant delivery of Proposals, provided that the CIT reserves the right to respond to RFCs submitted past the deadlines set in this RFP, if such response is deemed necessary by the CIT and the City; and
 - ii. other than by email, by a Person other than a Proposer’s Representative or to a Person other than the CIT’s Contact Person.

2.2.2. Responses to RFCs

- a. The CIT may, in its discretion, respond to or otherwise address RFCs:
 - i. in writing on the CIT Website or otherwise, provided that the CIT may rephrase and/or consolidate comments, and that CIT may in its discretion decline to respond in writing to any or all RFCs; and/or
 - ii. within the context of an Addendum (including through the absence of a requested change).
- b. Responses to RFCs are not part of the RFP and will not have the effect of amending the RFP.

2.3. One-on-One Meetings

- a. The CIT and the City may, in its discretion, provide each Proposer with an opportunity to have One-on-One Meetings to discuss the terms of the RFP, the requirements and expectations for the Proposals and such Proposer's RFCs and invite representatives from the City, CTA and other City agencies, as well as financial, technical and/or legal advisors. The CIT also reserves the right to invite Proposers to attend meetings not formally organized as One-on-One Meetings.
- b. All One-on-One Meetings, and any other meetings held in accordance with this RFP, are subject to standard rules of attendance and conduct issued by the CIT in advance of such meetings. CIT anticipates requesting an agenda for such meetings, to be provided by the Proposer in advance of such meeting.
- c. While the CIT intends that the discussions in any meetings will be confidential to the meeting participants, the CIT reserves the right:
 - i. to the extent that the CIT determines, in its discretion, that disclosure would not reveal the identity of the Proposer that raised an issue and would not constitute a disclosure of FOIA Exempt Materials, to disclose to all Proposers any issues raised during any such meeting, including through the issuance of an Addendum; and
 - ii. to share information, comments or feedback received during any meeting with the representatives of City or other Governmental Authorities who may not be in attendance, without disclosing the identity of the Proposer(s) to the extent reasonably practicable.

2.4. Addenda

- a. If it becomes necessary to revise or expand upon any part of this RFP, clarifications and/or Addenda will be posted to the CIT Website, provided that only Addenda may modify the terms of this RFP. Any harm to the Proposer resulting from failure to obtain all necessary documents, including any such clarifications or Addenda, for whatever cause, will not be valid grounds for a protest against award(s) made

under this RFP solicitation or for any other form of relief or compensation.

- b. Notwithstanding any election by the CIT to communicate the publication of any such Addenda to Proposers through other means, the sole official notice of issuance of any such Addenda will be by the posting of such Addenda on the CIT Website. Proposers are solely responsible for monitoring the CIT Website to ensure that they have received any and all such Addenda.
- c. The CIT will not be bound by any (i) oral communications or (ii) written communications, interpretations or clarifications, which written communications do not otherwise constitute an Addendum.
- d. A Proposer's submission of a Proposal shall be deemed to constitute an acknowledgement of notice of receipt of all Addenda issued on or prior to the date of submission of such Proposal.

2.5. Supplemental Due Diligence

- a. Proposers must not:
 - i. conduct intrusive investigations related to the Project, including supplemental borings, water sampling or other equivalently invasive activities ("Physical Due Diligence"); or
 - ii. access any part of the expected Project right-of ways or other areas for the purpose of carrying out non-intrusive investigations:
 - A. to the extent such areas are not physically and/or legally accessible to members of the general public or where such areas are owned by a third party which controls access ("Restricted Access Inspections"); and
 - B. if such areas are physically and legally accessible to members of the general public, to the extent such inspections (I) would be functionally distinguishable from the lawful activities of most other users of such areas and/or (II) would require the use of specialized equipment including drones ("Public Access Inspections" and, together with Physical Due Diligence and Restricted Access Inspections, "Supplemental Due Diligence Activities"),

unless and until the CIT has approved such investigation in writing (and, in the case of any proposed Physical Due Diligence, only if such has been proposed by the Preferred Proposer during the Exclusive Negotiations Phase), and the Proposer has secured all other required third-party approvals for such activity.

- b. Proposers may submit Supplemental Due Diligence Requests for Restricted Access Inspections and Public Access Inspections at any time prior to the deadline therefore specified in the Procurement Schedule. The Preferred Proposer may

submit Supplemental Due Diligence Requests for Restricted Access Inspections, Public Access Inspections and Physical Due Diligence at any time during the Exclusive Negotiations Phase.

- c. All Supplemental Due Diligence Requests must be submitted in the form of Exhibit E. Proposers should submit a separate Supplemental Due Diligence Request with respect to each requested Supplemental Due Diligence Activity.

2.6. Submittals Outside of Proposals

- a. Each submission of an RFC, Supplemental Due Diligence Request or Proposer's Team Update Submission shall:
 - i. comply with any applicable instructions specified in this RFP; and
 - ii. be submitted by the Proposer's Representative to the CIT's Contact Person by email.
- b. Where a Prime Team Member is a Joint Venture or a newly formed or special purpose entity, then all members or partners of that Joint Venture or newly formed or special purpose entity will collectively be considered to be a Prime Team Member on a joint and several basis. Accordingly, with regard to any Proposer's Team Update Submissions, any information that is otherwise required to be submitted by or in relation to such Prime Team Member must also be submitted by or in relation to each member or partner of the Joint Venture or the newly formed or special purpose entity, unless otherwise expressly provided by CIT.

2.7. Proposal Submission Instructions

2.7.1. Location and Manner of Delivery:

- a. Proposals must be received by no later than the date and time indicated on the cover page and must be delivered to the following address:

Attention: Tom Budescu, Managing Director
The Chicago Infrastructure Trust
35 E. Wacker Drive, Suite 1450
Chicago, Illinois 60601

- b. Proposer must submit one (1) original Proposal, (in the format described below in Section 3.1), along with one (1) unbound printed copy, two (2) electronic searchable pdf copies and one (1) redacted electronic copy on separate USB memory sticks, if applicable. The original Proposal must be clearly marked as "ORIGINAL", and on all documents requiring a signature, must bear the original signature of an authorized representative of the Proposer.
- c. Proposer must enclose all documents in sealed envelopes or packages, the outside of each must be labeled as follows:

Proposal Enclosed
O'Hare Express System Project
Request for Proposal
Due 1 p.m. CT, May 18, 2018
Submitted by: _____
(Name of Proposer)
Package _____ of _____

2.7.2. Proposal Submission Deadline Rules

- a. Proposals must be received by the CIT no later than the Proposal Due Date.
- b. Proposers must deliver their Proposals by hand or courier or U.S. Mail to the address set out in Section 2.7.1. The CIT will not accept Proposals sent by facsimile, electronic mail, telex or other telegraphic means.
- c. The determination of whether Proposals are submitted before the Proposal Due Date shall be based on the CIT's official time and date stamp that the Proposer receives from the CIT at the Submission Address, and the Proposer is solely responsible for ensuring it receives this time and date stamp.
- d. It is the sole responsibility of each Proposer to make sure that its Proposal is delivered to the Submission Address no later than the stated due dates and time. All Proposals received after the due date and time will be rejected and will not be eligible for evaluation.
- e. The CIT may, in its discretion, extend the Proposal Due Date for such period of time as the CIT, in its discretion, deems appropriate.
- f. The CIT's opening of Proposers' sealed envelope(s) or package(s) containing a Proposal shall neither be deemed nor constitute acceptance by the CIT of the Proposer's Proposal. The CIT reserves the right to open and inspect all such sealed envelope(s) or package(s), regardless if the same were submitted by the due date and time specified herein, for any purpose.

2.7.3. Confirmation of, and Responsibility for, Delivery:

- a. Each Proposer will be responsible for obtaining a written receipt appropriate to the means of delivery from the carrier and/or the CIT office specified as the Proposal Submittal Location.
- b. Notwithstanding the provision by the CIT of such a receipt, Proposer is solely responsible for ensuring that the CIT receives such Proposer's Proposal by the Proposal Due Date at the Proposal Submission Location. Postmarking prior to the Proposal Due Date will not of itself evidence compliance by a Proposer with the foregoing. Such compliance shall only be evidenced by the issuance by the CIT of a written receipt of a Proposal. The CIT shall not be responsible for any delays in delivery, regardless of the cause.

2.7.4. Substantive Proposal Requirements

- a. Each Proposer should refer to Section 3, together with the relevant Forms, when developing its Proposal.
- b. Each Proposer, and not the CIT or City, will be responsible for any errors, omissions, assumptions, inaccuracies or incomplete statements in its Proposal, including as such may result from a misinterpretation of or oversight involving any applicable instructions or requirements, any other provision of the RFP and/or any Project Information.
- c. The CIT expects that a Proposal submitted in full compliance with the RFP will provide enough information to allow the CIT to evaluate such Proposal in accordance with Section 4 and, on such basis, select a Preferred Proposer in accordance with Sections 4 and 5. If a Proposer believes that the guidance provided in this RFP does not provide sufficient clarity as to the information that is required to enable the CIT to conduct its evaluation and to select a Preferred Proposer, then such Proposer should submit one or more related RFCs to such effect.

2.8. Proposal Validity

Any Proposal submitted and not withdrawn prior to the Proposal Due Date under Section 2.7.1 will remain valid for acceptance and negotiation of Project Agreement until the earliest to occur of:

- a. with respect to the Preferred Proposer, the date which is 365 days after the date of delivery of the Invitation to Exclusive Negotiations (or such later date as mutually agreed in writing);
- b. with respect to any Proposer that is not the Preferred Proposer, the date which is 395 days after the Proposal Due Date or, if after such deadline, the date on which is 395 days after the date the Proposer submitted its final update to its Proposal (if any) in response to a CIT request under Section 4.2.1 (or such later date as mutually agreed in writing);
- c. the date on which the CIT informs a Proposer that submitted such Proposal by written notice that it is no longer an eligible Proposer;
- d. the date on which the City executes a Project Agreement with a Developer; and
- e. the date on which the CIT publicly announces the cancellation of the procurement process described in this RFP.

2.9. Exclusivity Security

2.9.1. Form of Exclusivity Security

In Volume 1 of its Proposal, each Proposer must deliver to the CIT, for the benefit of the

City, one or more letters of credit issued by an Eligible Financial Institution in the form provided in Form 2-A, or such other form as the CIT may approve in writing in its discretion, in an aggregate initial amount of \$2,000,000 (subject to increase in accordance with Section 5.3.1), provided that the Proposer may at any time replace the use of letters of credit as the form of Exclusivity Security with a cash deposit subject to such terms and conditions, including a form of deposit agreement, as are approved in advance by the CIT, on behalf of the City, in its discretion. Such cash deposit may only be provided as a replacement of the initial security and not as the initial security itself.

2.9.2. Return of Exclusivity Security

- a. The CIT, on behalf of the City (or, at CIT's discretion, the City) will retain the Exclusivity Security submitted by each Proposer (other than the Preferred Proposer) until the issuance of an Invitation to Exclusive Negotiations in accordance with this RFP. Thereafter, the CIT, on behalf of the City, will facilitate the prompt return of the Exclusivity Security to each Proposer that is not the Preferred Proposer.
- b. The CIT, on behalf of the City, will return the Exclusivity Security to the Preferred Proposer in accordance with Section 5.3.5.

2.10. Ownership of Submittals and Proposals

All Proposal materials and other written or documentary Proposer submittals made pursuant to this RFP will become CIT's property upon delivery and not be returned to the Proposer. Such materials may be subject to disclosure pursuant to FOIA as separately provided for in this RFP.

3. Proposal Requirements

3.1. Format & Organization Requirements

3.1.1. Formatting

- a. All pages in any Proposer submittal and the Proposal (other than pages of pre-existing or third-party materials, and for required Forms which are subject to Section 3.1.1.c) shall be prepared using:
 - i. fonts that are (A) a minimum 11-point (or 8-point in any table, graphic or chart), (B) standard (not narrow) width and (C) displayed or printed in black (other than in any table or graphic); and
 - ii. standard letter size paper, except where Oversized Materials are permitted or requested, with one-inch margins, printed double-sided and bound on the long side.
- b. Oversized Materials should not be folded.
- c. Text in any Annexes or Forms should retain the format of the template provided

by the CIT. Proposers may insert page breaks in Forms for presentation purposes.

- d. Proposers should make every effort to present information clearly and concisely. Documentation that is difficult to read may be rejected and may lead to disqualification.

3.1.2. Structure and Organization

- a. Each Proposer is required to assemble its Proposal in the order set out in the table in Section 3.2.
- b. Each Volume will be sub-divided and tabbed to correspond to the section numbering set out in such table.
- c. Proposers are required to divide their Proposals into four Volumes as follows:
 - i. as “Volume 1,” all of the “General and Administrative Submittals” for the Proposal required to be submitted in accordance with Section 2 of Exhibit A;
 - ii. as “Volume 2,” all of the “Financial and Commercial Submittals” for the Proposal required to be submitted in accordance with Section 3 of Exhibit A;
 - iii. as “Volume 3,” all of the “Land Planning and Environment Submittals” for the Proposal required to be submitted in accordance with Section 4 of Exhibit A; and
 - iv. as “Volume 4,” all of the “Technical Submittals” for the Proposal required to be submitted in accordance with Section 5 of Exhibit A.
- d. Each hard copy original and copy of a Volume shall be submitted in a separate ring binder apart from each other Volume, provided that, if needed, multiple ring binders can contain a single Volume.

3.1.3. Placeholders

- a. If a Proposer does not include information or materials in its Proposal that are described as required only if certain circumstances apply (and such circumstances do not apply), then to facilitate the responsiveness evaluation such Proposer should include a brief explanation in the relevant section in its Proposal.

3.1.4. Signatures

- a. Any document included in the original Proposal that is required to be submitted with a signature in accordance with Exhibit A and Section 3.2 must include original pen-ink signatures.
- b. All signed documents contained in a Proposal may be executed in one or more counterparts, the originals of which together shall be deemed to be an original.

3.1.5. Proposal Submissions by or in Relation to Joint Ventures

To the extent that any element of a Proposal is made with respect to a Joint Venture, or a newly formed or special purpose entity, then all members or partners will collectively be considered to provide it on a joint and several basis and therefore any information that is required to be submitted pursuant to this RFP in a Proposal by or in relation to such Joint Venture, or newly formed or special purpose entity, must be submitted by or in relation to each member or partner unless otherwise expressly provided.

3.2. Proposal Contents & Organization

Each Proposal should be organized in the order described in the table below and in accordance with the requirements set out in the applicable cross-reference.

Section	Submittal	Cross-Reference
Volume 1 – General and Administrative Submittals		
1.1	Proposal Checklist in the form of Form 1-A (<i>Proposal Checklist</i>).	Section 2.1 of Exhibit A
1.2	Proposal Letter in the form of Form 1-B (<i>Form of Proposal Letter</i>), completed and executed in accordance with the instructions provided in such Form.	Section 2.2 of Exhibit A
1.3	Executed Acknowledgement of Exclusive Right to Negotiate in the form of Form 1-C, completed and executed.	Section 2.3 of Exhibit A
1.4	Economic Disclosure Statement in the form of Form 1-D	Section 2.11 of Exhibit A
1.5	Exclusivity Security: A Letter of Credit issued by an Eligible Financial institution in the form of <u>Form 2-A</u> (<i>Letter of Credit</i>), or otherwise in such other form as the CIT may, in their discretion, approve of in writing prior to the Proposal Submission Date, in the aggregate amount of \$10,000,000.	Section 2.4 of Exhibit A
1.6	Executive Summary	Section 2.5 of Exhibit A
1.7	Exclusive Negotiations Checklist	Section 2.6 of Exhibit A
1.8	Description of Pre-Financial Close Funding	Section 2.7 of Exhibit A
1.9	Proposer Team Information, Organization and Key Personnel	Section 2.8 of Exhibit A
1.10	Updated Approach to MBE/WBE/DBE/ACDBE (as applicable) Participation and Workforce Development Participation	Section 2.9 of Exhibit A
1.11	Updates to Equity Funding Letters (including any increase or decrease to the previously demonstrated available, uncommitted equity funds) (as applicable)	Section 2.10.a of Exhibit A
1.12	Updates to Financial Officer's Certificate (as applicable)	Section 2.10.b of Exhibit A

Section	Submittal	Cross-Reference
1.13	Updates to Financial Statements (as applicable)	Section 2.10.c of Exhibit A
1.14	Updates to Financial Letters of Support (as applicable)	Section 2.10.d of Exhibit A
1.15	Identification and explanation of any Conditions, Qualifications and Exceptions Proposer takes to RFP terms	Section 2.12 of Exhibit A
Volume 2 – Financial and Commercial Submittals		
2.1	Description of O’Hare International Airport Terminus	Section 3.1 of Exhibit A
2.2	Design and Construction Performance Security	Section 3.2 of Exhibit A
2.3	Proposed OES Performance Standards (including analysis and documentation for the running time and reliability assumptions)	Section 3.3 of Exhibit A
2.4	Additional Project Agreement Commercial Terms	Section 3.4 of Exhibit A
2.5	Financing Plan	Section 3.5 of Exhibit A
2.6	Letters of Support from Qualified Lenders (as applicable)	Section 3.6.b of Exhibit A
2.7	Debt Commitment Letters (as applicable)	Section 3.6.c of Exhibit A
2.8	Debt Term Sheets (as applicable)	Section 3.6.c of Exhibit A
2.9	Equity Letter(s) of Commitment (as applicable)	Section 3.7.b.i of Exhibit A
2.10	Details of availability of equity funding (for each investor subscribing to equity or quasi-equity) (as applicable)	Section 3.7.b.ii of Exhibit A
2.11	Parent company guarantee (as applicable)	Section 3.7.b.iii of Exhibit A
2.12	Financial Model	Section 3.8 of Exhibit A
Volume 3 – Land, Planning and Environmental Submittals		
3.1	Anticipated Permits and Approvals, in the form of Form 3-A	Section 2.6 of Exhibit A
3.2	Anticipated Material Agreements, in the form of Form 3-B	Section 2.6 of Exhibit A
3.3	Approach to Environmental Approvals	Section 4.1 of Exhibit A
3.4	Approach to Right-of-Way	Section 4.2 of Exhibit A
3.5	Approach to Safety Approvals	Section 4.3 of Exhibit A
Volume 4 – Technical Submittals		

Section	Submittal	Cross-Reference
4.1	Design and construction schedule	Section 5.1 of Exhibit A
4.2	Design Approach	Section 5.2 of Exhibit A
4.3	Preliminary Design drawings	Section 5.3 of Exhibit A
4.4	Construction Approach	Section 5.4 of Exhibit A
4.5	Design, Construction and Equipping Cost Estimates	Section 5.5 of Exhibit A
4.6	Vehicles/Trainsets	Section 5.6 of Exhibit A
4.7	Operations Plan	Section 5.7 of Exhibit A
4.8	Operations and Maintenance Cost Estimates	Section 5.8 of Exhibit A

4. Proposal Evaluation

4.1. Description of Evaluation Process

- a. The CIT anticipates utilizing one or more Evaluation Committees (ECs) to review and evaluate the Proposals in accordance with the criteria described in Section 4.4.
- b. The EC may include representatives of the CIT, the City, and financial and technical experts. The CIT reserves the right to enlist independent consultants, including legal counsel, to assist with the evaluation of all or any portion of the Proposals as it deems necessary.

4.2. Ability to Request Additional Information

4.2.1. Requests for Clarification

- a. The CIT may, at any time, issue one or more written requests for clarification to the individual Proposers, requesting additional information or clarification from a Proposer, or may request a Proposer to verify or certify any aspect of its Proposal. The scope, length and topics to be addressed in such responses shall be prescribed by and subject to the discretion of CIT.
- b. Proposers shall respond to any such requests within two Business Days (or such other time as is specified by CIT) from receipt of the request.
- c. Upon receipt of requested clarifications and additional information as described above, if any, the Proposals may be re-evaluated to factor in the clarifications and additional information.

4.2.2. Interviews

- a. The CIT reserves the right to conduct interviews with any, or all, Proposers to further understand a Proposer's Proposal and to meet key members of the Proposer's team. For certainty, the CIT is under no obligation to conduct interviews with the Proposers.
- b. The CIT may request clarification of a Proposer's Proposal during any such Interview and the CIT may treat these clarifications in the same fashion as clarifications provided in writing in accordance with Section 4.2.1. Evaluations may be adjusted in light of the new information received in such interviews.
- c. No statement, consent, waiver, acceptance, approval or anything else said or done in any interview by the CIT or the City, or any of their respective representatives, or employees will have the effect of amending or waiving any provision of the RFP or be binding on the CIT or the City, nor may any of the foregoing be relied upon by any Proposer, or Prime Team Member, except when and only to the extent expressly confirmed in an Addendum to this RFP.

4.3. Responsiveness Evaluation

4.3.1. Responsiveness Review

- a. Upon receipt, each Proposal will be reviewed by the CIT, the City and/or their agents and representatives for conformance to the RFP instructions regarding organization, format and required content.

4.3.2. Right to Exclude Proposals from Consideration or to Waive Mistakes

- a. Without limiting the Reserved Rights, and subject to Section 4.4.2:
 - i. any Proposal that is incomplete and missing key components necessary to fully evaluate the submission, or which the EC otherwise determines to have been non-conforming on the basis of the review described above, may, at the discretion of the CIT Executive Director, be rejected from further consideration due to "non-responsiveness"; and
 - ii. the CIT may also exclude from consideration any Proposer whose Proposal contains a material misrepresentation.
- b. Additionally, without limiting the Reserved Rights and subject to Section 4.4.2, any one or more of the following causes may be considered sufficient for the rejection of a Proposer's Proposal:
 - i. evidence of collusion among Proposers;
 - ii. non-responsibility as determined by the CIT in its sole judgment and discretion, with regard to the ability of the Proposer to perform fully and reliably the Project requirements;

- iii. default or arrearage on any contract or obligation with the City or other Governmental Authority;
 - iv. submission of a Proposal that is impermissibly incomplete, conditional, ambiguous, obscure, non-responsive or containing impermissible alterations or irregularities of any kind;
 - v. failure to disclose requested information;
 - vi. debarment by the City or any other Government Authority;
 - vii. evidence of a shortlisted Proposer’s lobbying efforts toward members of City Council and/or officers or employees of the City in connection with this procurement for the Project during the Restricted Contact Period; or
 - viii. failure to comply with the terms and conditions of this RFP.
- c. Without limiting the Reserved Rights, the CIT reserves the right to waive informalities, irregularities and apparent mistakes that are unrelated to the substantive content of the Proposals, as well as any other matters that might otherwise result in a Proposal being deemed non-responsive.

4.3.3. Conditions, Qualifications and Exceptions to Proposals

- a. Any Proposer may, without being deemed non-responsive or non-compliant under Sections 4.3.1 or 4.3.2, submit a Proposal that is made subject to conditions, qualifications or exceptions to any requirement set out in the RFP and Exhibit A, any requirement in Exhibit B, and/or any term in Exhibit C.
- b. In order to take any such condition, qualification or exception, a Proposer must specifically identify and explain the same in accordance with Section 2.12 of Exhibit A.
- c. Any condition, qualification or exception made under this Section 4.3.3 may have a negative effect on the Proposal evaluation conducted under Section 4.4.
- d. Alternatively, if a Proposer does not take any such condition, qualification or exception, it should include an affirmative statement to such effect in response to Section 2.12 of Exhibit A.
- e. The CIT reserves the right to condition an Invitation to Exclusive Negotiations on the withdrawal of any condition, qualification or exception. A Proposer’s failure to withdraw such a condition will not itself constitute a basis for forfeiture of the Exclusivity Security under Section 5.3.4.a.

4.4. Proposal Evaluation

4.4.1. Substantive Evaluation of Proposals

- a. Following the responsiveness review, the EC will substantively evaluate each responsive Proposal by favorably considering the value to the City and the merits

of such Proposal, while discounting for potential challenges related to the implementation of Proposer's approach, on the basis of:

- i. the quality of Proposer's approach to the Project, taking into consideration how the Proposal meets or exceeds the Project goals and objectives further defined in Section 1.5, with particular weight given to the following considerations related to each of the stated Project goals:
 - A. For Goal 1: *Providing Express Service between ORD and the CBD*:
 - (i) Proximity of proposed ORD terminus to ORD Terminal 2; and
 - (ii) Committed service levels and performance standards (e.g. trip time);
 - B. For Goal 2: *Utilizing Private Sector Resources and Expertise*:
 - (i) Reasonableness of proposed funding structure and financing terms (including level of commitment to financing terms and to funding costs during the Exclusive Negotiations Phase);
 - (ii) Proposed commercial terms (e.g. minimum required Project term, proposed revenue sharing); and
 - (iii) Proposed performance security and performance guarantees;
 - C. For Goal 3: *Convenience and Attractiveness to Users*:
 - (i) Committed service levels (e.g. frequency, hours of operations);
 - (ii) Proposed plan of operations (e.g., ticketing processes, boarding processes, vehicle design and amenities); and
 - (iii) Proposed accessibility to and from other transportation systems and adjacent facilities;
 - D. For Goal 4: *Efficient, Engaged and Conflict-Free Implementation*:
 - (i) Design approach and drawings, with particular focus on conflict-free integration and accessibility to ORD; and
 - (ii) Proposed approach to meeting or exceeding applicable MBE/WBE/DBE/ACDBE participation goals and workforce development goals;
- ii. probability of delivery, including with respect to financing, technology risk, approval risk, ROW acquisition risk, design and construction performance

- i. accept the recommendation;
 - ii. reject the recommendation and cancel the procurement;
 - iii. request that the EC reconsider the EC’s recommendation; or
 - iv. reject the recommendation and undertake an evaluation of the proposals to determine a Preferred Proposer pursuant to the evaluation process outlined in this RFP.
- d. Except for where the Selection Committee makes a determination in accordance with Sections 4.4.2.c.ii or 4.4.2.c.iii, the Selection Committee will provide its recommendation to the CIT Executive Director regarding which Proposal provides the apparent best value. At the discretion of the CIT Executive Director, the Selection Committee’s recommended Proposer providing the apparent best value will be selected as the Preferred Proposer.

4.4.3. Reservation of Rights and Evaluation

Notwithstanding Section 4.4.2, in accordance with the Reserved Rights, the EC may, in its discretion, proceed with an alternative selection process, including the use of a “best and final” process or other forms of continued competitive engagement with two or more Proposers following initial submission and evaluation of the Proposals.

4.5. Entry into Exclusive Negotiations Phase

Following any determination of a Preferred Proposer, the CIT will:

- a. deliver to the Preferred Proposer an Invitation to Exclusive Negotiations after which, in consideration of the rights and benefits afforded the Preferred Proposer, the CIT and the City will be entitled to enforce the terms and conditions of the Acknowledgement of Exclusive Right to Negotiate submitted by the Preferred Proposer with its Proposal; and
- b. in one or more notices, notify other Proposers and the public of the results of the evaluations conducted in accordance with Section 4.4; and
- c. promptly return the Exclusivity Security to the other Proposers.

5. Exclusive Negotiations Phase

5.1. General Provisions Governing Exclusive Negotiations Phase

- a. Subject to the Reserved Rights, following the issuance of an Invitation to Exclusive Negotiations, the Proposer shall be entitled to a period of exclusive negotiations with the CIT and the City regarding the Project, and the CIT and the City will not negotiate with another Proposer regarding the Project during such period as described herein.
- b. Subject to Section 4.5, such exclusive negotiations period will:

- i. begin on the date of delivery of the Invitation to Exclusive Negotiations; and
- ii. end on the date that is the earlier of:
 - A. 365 days later (or such later date as mutually agreed in writing);
 - B. the date of execution of a definitive Project Agreement; and
 - C. the date the CIT and/or the City exercises its rights to terminate exclusive negotiations under Section 5.4,
 (such period, the “Exclusive Negotiations Phase”).
- c. By executing the Acknowledgement of Exclusive Right to Negotiate, the Preferred Proposer will:
 - i. commit to enter into the Project Agreement on terms that incorporate the terms and conditions set out in Exhibit C, without any substantive revisions except:
 - A. minor modifications necessary to create a complete and legally binding contract, including modifications to address clarifications and drafting issues;
 - B. modifications that, as indicated in Exhibit C, require information that can only be provided after the Preferred Proposer has been approved, provided that such modifications are consistent with the terms of the RFP in CIT’s reasonable discretion; and
 - C. modifications necessary to incorporate terms or concepts provided in the Preferred Proposer's Proposal which the CIT, acting reasonably, accepts; and
 - ii. satisfy all conditions precedent to execution of the Project Agreement that are mutually agreed and made binding in accordance with Exhibit B, provided that the CIT may, in its discretion, initiate or agree to engage in negotiations with the Preferred Proposer to deviate from the required terms of the Project Agreement set out in Exhibit C or the requirements set out in Exhibit B, including on the basis of conditions, qualifications or exceptions previously taken by the Preferred Proposer under Section 4.3.3.
- d. During the Exclusive Negotiations Phase, the CIT and the City will have the discretion, following consultation with the Preferred Proposer, to determine the manner for progressing drafting and negotiation of the Project Agreement, including:
 - i. the manner of and responsibility for preparation of an interim detailed term sheet, reflecting as appropriate the CIT and City accepted elements

of Preferred Proposer's Proposal, as applicable Exhibits B and C, and other necessary and agreed commercial and legal terms; and

- ii. with or without preparation of an interim detailed term sheet, the manner and timing for the Preferred Proposer to prepare associated materials, inputs or materials as reasonably necessary or otherwise customary to progress negotiations.

5.2. Exclusive Negotiations Fee

The Proposer shall pay the \$2,000,000 Exclusive Negotiations Fee to the CIT within 30 days following the start of the Exclusive Negotiations Phase. The Exclusive Negotiations Fee is an estimation of the CIT's and the City's reasonable costs and expenses to be incurred during the Exclusive Negotiations Phase. The CIT and the City will be entitled to reimbursement of reasonable costs and expenses incurred in excess of the Exclusive Negotiations Fee.

5.3. Exclusivity Security

5.3.1. Increase in Exclusivity Security Amount

- a. The Preferred Proposer will increase the amount of its Exclusivity Security to an aggregate amount of:
 - i. \$6,000,000 no later than 90 days after the start of the Exclusive Negotiations Phase; and
 - ii. \$10,000,000 no later than 180 days after the start of the Exclusive Negotiations Phase.
- b. In the event that the Preferred Proposer satisfies its obligations under this Section 5.3.1 through delivery of replacement security, following the CIT's receipt of such replacement Exclusivity Security, the CIT shall promptly return the replaced portion of the Exclusivity Security to the Proposer.

5.3.2. Maintenance of Exclusivity Security

- a. If at any time an issuer of Exclusivity Security ceases to be an Eligible Financial Institution, the Preferred Proposer shall promptly notify the CIT and the City of such cessation.
- b. No later than 20 Business Days following the Preferred Proposer becoming aware of such cessation, the Preferred Proposer is required to submit to the CIT, for the benefit of the City, replacement Exclusivity Security issued by an Eligible Financial Institution, as applicable, that, together with all other outstanding and valid (and not replaced) Exclusivity Security, fully satisfies the requirements of Section 2.9.
- c. Following the CIT's receipt of such replacement Exclusivity Security it shall promptly return the replaced portion of the Exclusivity Security to the Preferred

Proposer.

5.3.3. Extensions of the Exclusivity Security

- a. From time to time during the Exclusive Negotiations Phase, the Preferred Proposer must extend the expiration date of the Exclusivity Security by at least 60 days on or prior to the date that there are or would be 30 or less days left prior to the then current expiration date.
- b. In the event that the Preferred Proposer satisfies its obligations under this Section 5.3.3 through delivery of replacement security, following the CIT's receipt of such replacement Exclusivity Security, the CIT shall promptly return the replaced portion of the Exclusivity Security to the Proposer.

5.3.4. Forfeiture of Exclusivity Security

- a. In submitting a Proposal, each Proposer understands and agrees that the City, or the CIT for the benefit of the City, will be entitled to draw (demand payment of funds by the issuing bank in accordance with the terms of such standby letter of credit) on the Preferred Proposer's Exclusivity Security in its entirety if, and only if, the Preferred Proposer does any one or more of the following:
 - i. withdraws, or attempts to withdraw, any part or all of its Exclusivity Security at a time when its Proposal remains valid under Section 2.8 without the prior written consent of the CIT and the City, other than pursuant to Section 5.3.2 or Section 4.3.3.e;
 - ii. fails to comply with any of Sections 5.3.1, 5.3.2 or 5.3.3;
 - iii. breaches or otherwise fails to comply with any condition contained in the Acknowledgement of Exclusive Right to Negotiate during the Exclusive Negotiations Phase, including a failure to adhere to the commitments set out in Section 5.1.c;
 - iv. fails to notify the CIT and the City of the occurrence or existence of a Proposer Material Adverse Change or, after having provided such a notification, fails to submit such additional security or take such other measures or actions, in each case as deemed necessary (but not more than necessary) by the CIT and the City (acting reasonably), to address the occurrence of the Proposer Material Adverse Change;
 - v. refuses or fails to cooperate and coordinate as required by Section 6.6;
 - vi. prior the end of the Exclusive Negotiations Phase, withdraws or attempts to withdraw its Proposal; or
 - vii. is deemed to have not negotiated in good faith in accordance with Section 6.8.
- b. The CIT and the City will not be entitled to draw on any Exclusivity Security if the

Preferred Proposer is unable to comply with any modifications made to the RFP pursuant to the Reserved Rights after submission of such Exclusivity Security to the extent that the Preferred Proposer, acting reasonably, does not agree to such modifications.

- c. Without limiting the Reserved Rights, following a draw on the Preferred Proposer's Exclusivity Security, the CIT and the City may identify another Proposer, select such as the Preferred Proposer and proceed to negotiate with that new Preferred Proposer in accordance with Sections 4.5, 5 and 6 .

5.3.5. Return of Exclusivity Security

The CIT, on behalf of the City, will return the Exclusivity Security (less any amount previously and properly drawn) to the Preferred Proposer promptly after the end of the Exclusive Negotiations Phase.

5.4. Termination of Exclusive Right to Negotiate

- a. If:
 - i. any of the conditions referenced in Section 5.3.4.a occur such that the CIT has a right to draw the Exclusivity Security;
 - ii. the Preferred Proposer fails to perform any of the acts or provide or satisfy any deliverable or condition referenced in Exhibit B as and when required, where such failure is not among the conditions referenced in Section 5.3.4.a;
 - iii. The CIT and the City determine the Preferred Proposer has materially breached the rules of this RFP; or
 - iv. the Preferred Proposer insists upon terms or conditions that are:
 - A. materially inconsistent with the Preferred Proposer's Proposal;
 - B. materially inconsistent with Exhibit B or Exhibit C;
 - C. unrelated to the issues or provisions identified by the CIT for negotiation; or
 - D. materially inconsistent with customary and ordinary terms with respect to issues or provisions not described otherwise in the Preferred Proposer's Proposal,

the CIT and the City may, subject to the exercise of any Reserved Rights, revoke the Invitation to Exclusive Negotiations and, in their discretion, issue a new Invitation to Exclusive Negotiations to another Proposer (acceptance of which will be conditioned on such Proposer resubmitting Exclusivity Security in the initial amount of \$2,000,000 and with an initial expiration date no earlier than 10 days after delivery of such invitation).

- b. Notwithstanding the foregoing:
 - i. in no event will the CIT or the City be bound by, or liable for, any obligations set out in the Project Agreement or otherwise to the Preferred Proposer unless and until such an agreement has been executed by the City; and
 - ii. in accordance with the Reserved Rights, the CIT and the City may suspend or terminate exclusive negotiations with the Preferred Proposer at any time prior to execution of the Project Agreement, subject to the obligation to return the Exclusivity Security to the extent such remains undrawn.

5.5. City Council Approval

Approval of the transaction by the City Council is a condition precedent to the execution of any Project Agreement executed at the conclusion of the Exclusive Negotiations Phase.

6. Exclusive Negotiations Phase Rules

6.1. Rules Applicable During Exclusive Negotiations Phase

In addition to the rules and procedures set out in this RFP in relation to this procurement process, the rules and procedures set out in this Section 6 will apply during the Exclusive Negotiations Phase, subject to modification in accordance with the Reserved Rights or by mutual agreement of the CIT and the Preferred Proposer (where applicable, together with the City).

6.2. Meetings

- a. During the Exclusive Negotiations Phase, the CIT may, in its discretion and upon prior notice, require the Preferred Proposer to attend in-person meetings in Chicago and/or teleconference or videoconference calls as part of the negotiations process.
- b. The CIT and the City may, acting reasonably, either provide a facility for any such meetings or accept the use of a facility for any such meetings provided by the Preferred Proposer.

6.3. Duty to Provide Regular Updates

- a. During the Exclusive Negotiations Phase, the Preferred Proposer will submit bi-weekly reports to the CIT and the City showing the status of work and progress made toward the execution of a definitive Project Agreement relative to the schedule provided with its Proposal.
- b. The Preferred Proposer will prepare and regularly update a calendar of meetings and activities with third parties. The Preferred Proposer will confer with the CIT and the City for the purpose of providing the CIT and the City with an opportunity to attend key progress meetings with third parties, and in particular any meetings with other Governmental Authorities. For certainty, the Preferred Proposer may

exclude the CIT and the City from attending any meeting if the Preferred Proposer reasonably determines that such attendance would be prejudicial and the CIT and the City reasonably agree that such attendance is not compulsory as a matter of applicable law.

6.4. Due Diligence

During the Exclusive Negotiations Phase:

- a. the Preferred Proposer may submit Supplemental Due Diligence Requests for Physical Due Diligence pursuant to Section 2.5.b;
- b. to the extent not otherwise provided for through the Supplemental Due Diligence Request Process under Section 2.5:
 - i. the Preferred Proposer may from time to time submit written requests for the CIT's or City's approval to otherwise visit, survey, investigate and inspect any property or records under its or their control for purposes of facilitating, and preparing for, Developer's delivery of the Project. Preferred Proposer shall submit any request pursuant in such form, and accompanied by such materials, as the CIT and the City may require in their discretion;
 - ii. approval of any such request shall be subject to such conditions as the CIT and the City may require in their discretion, and the Preferred Proposer having provided satisfactory evidence that there is in place all necessary insurance coverage required by the CIT and the City in connection with such access and the activities that the Preferred Proposer proposes to conduct;
 - iii. the Preferred Proposer will be responsible for any costs and expenses associated with its satisfaction of conditions pursuant to this Section 6.4; and
 - iv. the Preferred Proposer shall be solely responsible for any and all damages and claims resulting from its access to any property pursuant to Section 6.4 and any activities performed during such access.

6.5. Coordination and Assistance

During the Exclusive Negotiations Phase, the CIT and the City will, at the reasonable request of the Preferred Proposer and subject to reimbursement for costs by the Preferred Proposer:

- a. where necessary:
 - i. to obtain any Governmental Approval:

- A. use reasonable efforts to, execute such documents as can only be executed by the CIT or the City; or
 - B. use reasonable efforts to make such applications or, either in its own name or jointly with Developer (if established) or the Preferred Proposer, as can only be made by or jointly with the CIT or the City; and
- ii. to obtain any Governmental Approval use reasonable efforts to, secure any right of way, or secure any financing, attend meetings and cooperate (without liability or obligation) with any relevant Governmental Authority, utility, railroad, airline, or lender as reasonably requested by Developer or the Preferred Proposer (or, as applicable, facilitate such attendance and cooperation by the City), in each case with which the Developer or Preferred Proposer is permitted to meet under the terms of this RFP within a reasonable period of time after being requested to do so by the Preferred Propose; and
- b. at reasonable times and upon reasonable notice, and subject to FOIA, provide to the Preferred Proposer reasonable access to and copies of plans, surveys, drawings, specifications, reports and other documents and information in the possession of, or otherwise accessible by, the CIT or the City and not members of the public in general, pertaining to the Project.

6.6. Duty to Cooperate and Coordinate

During the Exclusive Negotiations Phase, the Preferred Proposer shall cooperate and coordinate with CIT, the City and any relevant third party as reasonably requested by the CIT or the City, with regard to the design, construction, financing, equipping, operation and/or maintenance of the Project, including through the preparation for materials for release to the public.

6.7. FOIA and Confidentiality

Subject at all times to compliance with FOIA and other applicable law, the Preferred Proposer and the CIT will comply with the requirements of this RFP as modified by any executed confidentiality agreement(s) and by the FOIA protocol reference in Exhibit B (once such Protocol is approved by CIT).

6.8. Standard for Negotiating in Good Faith

For purposes of this RFP, the Preferred Proposer will be deemed not to have negotiated in good faith if without reasonable excuse it fails to timely provide or satisfy any deliverable or condition pursuant to Exhibit B, attend and actively participate in reasonably scheduled negotiation meetings or teleconference calls with the CIT and the City, fails to direct its officials, employees, agents or representatives to cooperate with the CIT and the City to the extent reasonably practicable, or insists (other than as a

reasonable condition to acceptance of a term proposed by the CIT or the City that is outside the scope of Exhibits B and C) upon terms or conditions that are:

- a. materially inconsistent with the Preferred Proposer's Proposal; or
- b. materially inconsistent with any term or condition in Exhibits B or C, subject to any permitted qualifications contained the Proposal.

6.9. Reimbursement

The Preferred Proposer shall fully reimburse the CIT and the City for all reasonable costs and expenses, including consultants' and attorneys' fees, incurred by them (including in the case of the City, by any City entity or agency, including the CTA and other sister agencies) in complying with their obligations under Sections 5 and 6, to the extent such are in excess of the Exclusive Negotiations Fee.

6.10. Limitations on CIT and City Obligations

- a. Except to the extent expressly provided in this RFP, Preferred Proposer, and not either the CIT or the City, will be solely responsible for the payment of all fees, costs and expenses, for all liabilities, for all permits and approvals, and for undertaking all necessary actions, resulting from or in connection with its pursuant of the Project in accordance with the terms of this RFP, including during the Exclusive Negotiations Phase.
- b. CIT's and the City's obligations under this RFP:
 - i. are in all cases subject to the Reserved Rights; and
 - ii. shall not be construed as requiring the CIT or the City:
 - A. to expend funds or to take any action to the extent uncommitted budgeted funds are unavailable to undertake such action;
 - B. take any action that is contrary to this RFP, law or the public interest, or decline, refrain or abstain from taking any action that is in the public interest, as determined by the CIT and the City in their discretion;
 - C. exercise or refrain, decline or abstain from exercising any statutory or administrative law power, authority or discretion;
 - D. take a position that would not be usual and customary for the CIT or the City to take; or
 - E. to undertake any action that would, in the CIT's or City's discretion:
 - (i) give rise to a material risk to the health or safety of any person, the environment, the economy, community or

property, or that would have an adverse impact on the CIT or the City; or

- (ii) that would not be in alignment with the Project goals listed in Section 1.4 or the Preferred Proposer’s Proposal.

7. Procurement Rules

7.1. Communications

7.1.1. Proposer Representative

- a. Each Proposer previously identified its Proposer’s Representative.
- b. Subject to Section 2.3, all communications by the Proposer with the CIT in relation to the RFP (other than during meetings between the CIT and a Proposer as contemplated in this RFP or as expressly permitted otherwise by the CIT) must be made, except as otherwise directed in writing by the CIT’s Contact Person, by the Proposer’s Representative to the CIT’s Contact Person.
- c. All communications by the CIT with a Proposer in relation to the RFP (other than during meetings between the CIT and a Proposer as contemplated in this RFP or as expressly permitted otherwise by the CIT) will be made to the Proposer’s Representative.
- d. Proposers may update the identity of such Proposer’s Representative from time to time by notifying the CIT’s Contact Person by email of the name, title, mailing address, phone numbers (work and cell), email address and fax number (if any) of the replacement Proposer’s Representative. Such replacements may be made on a time-limited basis, as needed, to address temporary unavailability of a Proposer’s primary Proposer’s Representative, provided that the Proposer notifies the CIT of the start and end date or such time-limited replacement.

7.1.2. CIT’s Contact Person

- a. The CIT’s Contact Person will be the sole contact for Proposers with respect to the Project and the RFP in accordance with Section 7.1.1 (but subject always to the exceptions in this Section 7.1). The CIT’s Contact Person is:

Tom Budescu
Managing Director
The Chicago Infrastructure Trust
35 East Wacker Drive Suite
1450 Chicago, Illinois 60601
E-mail: OES@chicagoinfrastructure.org

- b. The above-named person, as the CIT’s Contact Person for this procurement, will be the CIT’s single point of contact and source of information for this procurement, subject to:

- i. the CIT's right to replace such person; and
- ii. the exceptions expressly provided below.

7.1.3. Official Communications

- a. Written communications regarding the Project will be disseminated by the CIT's Contact Person on the CIT letterhead or from an official email account.
- b. Unless confirmed in writing by the CIT's Contact Person or in any Addendum, neither the CIT nor the City will be responsible for or bound by, and Proposers may not rely on:
 - i. any oral communication by the CIT or the City or either of their representatives regarding the Project or the RFP; and
 - ii. any other information or contact (including one made in writing) regarding the Project or the RFP that occurs outside the official communication process specified herein, whether or not posted on the CIT Website, unless and to the extent expressly provided for in the executed Project Agreement (and, in such case, only with respect to the Developer and not to any Proposer).

7.1.4. General Rules for Contact and Communications

- a. The following rules of contact will, absent modification in an Addendum, apply to the Proposer, each of its Team Members (including any Joint Venture members of any Prime Team Member), each of its and their agents and representatives, and Key Personnel (each a "Restricted Party") during the entire Restricted Contact Period.
- b. For the purposes of this Section 7.1.4, contact and communications are deemed to include, but are not limited to:
 - i. face-to-face meetings;
 - ii. telephone and videoconference discussions;
 - iii. facsimile, email, social media messaging, mobile text or equivalent transmissions written, audio or video; and
 - iv. any publication by print, website, broadcast social media messaging, video or audio mass communication or equivalent digital transmission which the CIT concludes in its discretion was intended to circumvent the above restrictions.
- c. No Restricted Party shall have any direct or indirect contact or communications regarding the Project and the RFP with:

- i. another Restricted Party or any employee, advisor, contractor or consultant of the foregoing involved with the procurement of the Project; or
- ii. subject to Section 7.1.2.a, any employees of the CIT or the City. Proposers must communicate only with the CIT Contact Person regarding this RFP, except for:
 - iii. with respect to paragraph i. above, contacts made prior to submission of a statement of qualifications in respect to the RFQ that related solely to bona fide inquiries regarding the formation of prospective Proposer teams; and/or
 - iv. contact or communications expressly permitted by the terms of this RFP or in any written notice from the CIT (understanding that the CIT must not unreasonably withhold permission for any such contact or communications by the Preferred Proposer to the extent necessary for it to comply with its obligations under this RFP and the conditions contained in the Acknowledgement of Exclusive Right to Negotiate).
- d. During the Restricted Contact Period, Restricted Parties must not (unless expressly permitted otherwise by the CIT) have any direct or indirect contact or communications regarding the Project with the CIT or the City, or (except with respect to the Preferred Proposer during the Exclusive Negotiations Phase with CIT's prior written consent, such consent not to be unreasonably withheld), the Illinois Department of Transportation, the Federal Railroad Administration, the Federal Aviation Administration, any airline operating at ORD, the Federal Transit Administration, or the USDOT Build America Bureau, including, subsidiaries, offices, agencies, employees, representatives, members, consultants and advisors of each such entity, excluding only ancillary interactions at public forums or as part of public rulemaking comment processes.
- e. During the Restricted Contact Period, Restricted Parties are permitted to contact and communicate with any Governmental Authority, company, stakeholder or other Person that is not the subject of the restrictions in Sections 7.2 regarding the Project or the RFP, provided that the Proposer shall provide notice to CIT of such contact or communication, and further provided that no such contact or communication, whether direct or indirect, is permitted that:
 - i. would violate any law, regulation or code of ethics or conduct that applies to such Restricted Party;
 - ii. would result in an organizational conflict of interest or otherwise violate Section 7.2;

- iii. could reasonably be construed as inhibiting or frustrating the Project or the CIT's goals set out in Section 1.4;
- iv. is known or should be known by such Restricted Party to be contrary to the express wishes of the recipient to not receive such contact or communication;
- v. which the CIT concludes in its discretion was intended to circumvent the rules of contact with the CIT set out in Section 2.2 and Section 7.1; or
- vi. is a communication directed at the general public or that otherwise constitutes publicity regarding the Project (unless expressly authorized by the CIT).

7.2. Conflict of Interest

- a. If any Proposer (or any partner in a joint venture or partnership or any member of the limited liability company if the Proposer is a joint venture, partnership, LLP, or LLC) has assisted the City in the preparation of these RFQ documents such that provision of such assistance would give the Proposer an unfair advantage or otherwise impair the integrity of the procurement process, or if the Proposer has an organizational conflict of interest that might compromise the Proposer's ability to perform the contract, that the Proposer may be disqualified from submitting a Proposal. If applicable, the Proposer must provide a statement and information disclosing its participation with respect to the RFQ documents and/or potential organizational conflicts of interest.
- b. The CIT and the City have determined that the following firms and their Affiliates present the appearance of a conflict of interest and their participation on a Proposer Team is prohibited:

<ul style="list-style-type: none"> - Ardmore Associates, LLC / The Roderick Group - Connect Chicago Alliance JV - Environmental Design, Inc. - GSG Consultants - J.A. Watts, Inc. - Jacobs Project Management Co. - Kaplan Kirsch and Rockwell, LLP 	<ul style="list-style-type: none"> - Mayer Brown, LLP - Metro Strategies - Muller + Muller - Piper Jaffray Investment Management, LLC - Riley Safer Holmes & Cancila, LLP - Roderick Group - WSP
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- c. The CIT and the City have determined that involvement of the following firms and

their Affiliates could present the appearance of a conflict of interest:

- AOR Transit JV
- Harbour Contractors, Inc.
- R.M Chin & Associates, Inc.
- Riteway Huggins Construction Services, Inc
- Standard Parking

Any Proposer teaming with, receiving advice from, or discussing any aspect of the Project with one of the above firms must provide a written notification to the CIT's Contact Person describing the relevant facts concerning any past, present or currently planned involvement with respect to the Project, the Proposer's assessment of any potential conflicts of interest, and any Information Barriers currently or proposed to be put in place with respect to such firm or Affiliate. The CIT and the City reserve the right to require the Proposer to undertake any action to avoid, neutralize or mitigate the appearance of a conflict.

- d. Each Proposer is responsible for determining and disclosing to the CIT's Contact Person on an ongoing basis whether any actual, potential or perceived conflict of interest exists with respect to itself, its Prime Team Members, Affiliates and any other identified team member. The CIT and the City reserve the right to require the Proposer to undertake any action to avoid, neutralize or mitigate such conflict as a condition to continued participation in the Project procurement.

7.3. Rules Governing Proposer Team Membership and Changes

To ensure a fair and competitive procurement process:

- a. Prime Team Members of any Proposer, and each of their Affiliates, are prohibited from participating, in any capacity, on another Proposer team during the course of the procurement process described in this RFP; and
- b. without prejudice to Section 7.2, a Proposer (including through any Prime Team Member or any of their Affiliates) may engage any (A) subcontractor of any tier below the Prime Team Members (which subcontractor is not a Prime Team Member), (B) financial, technical, insurance, legal, public relations or other specialist advisor, (C) commercial bank, arranger, underwriter, placement agent or other potential provider or arranger of financing, or (D) any MBE/WBE/DBE/ACDBE (to the extent not otherwise already covered by (A), (B) or (C)), on a non-exclusive basis (as between such Proposer and another Proposer), provided that such engagement is made subject to such engaged Person implementing Information Barriers prior to entering into any separate engagement with another Proposer (including through any Prime Team Member or any of their Affiliates).

7.4. Changes to Proposer Team Members and Organizational Structure

- a. No Proposer shall at any time during the procurement process described in this

RFP (including during any Exclusive Negotiations Phase) undergo an Organizational Change or a Key Personnel Change, except where approval is sought from the CIT as follows:

- i. each Proposer is required to submit to the CIT a Proposer’s Team Update Submission in the form in Exhibit F of the RFP in the event such Proposer intends to proceed with an Organizational Change or a Key Personnel Change;
 - ii. submittals may be made any time prior to the Proposer’s Team Update Deadline, any extensions to which will be subject to the CIT’s approval in its discretion; and
 - iii. proposers should submit a separate Proposer’s Team Update Submission for each approval or verification requested.
- b. The CIT will use reasonable efforts to provide a Proposer with approval (with or without conditions) of, a request for additional information or clarifications in relation to or disapproval of any Proposer’s Team Update Submission within 10 Business Days after receipt, acting in its discretion.
- c. Notwithstanding that the CIT reserves the right to withhold its approval to any Proposer’s Team Update Submission in its discretion, the CIT expects that it will base its decision on whether the proposed change would:
- i. render the Proposer different from or less qualified than the Proposer originally selected under the RFQ as eligible to participate in the RFP process in any material respect;
 - ii. result in any conflict of interest or otherwise violate Section 7.2;
 - iii. in the case of a Key Personnel Change, result in the individual proposed to fill the relevant Key Personnel position:
 - A. having different or lesser qualifications than the individual who previously filled the relevant Key Personnel position in any material respect; or
 - B. not satisfying the requirements that apply to that position as set out in any relevant provisions of the RFQ or SOQ; and/or
 - iv. cause the Proposer to be in violation of another provision of this RFP; and/or
 - v. be adverse based on any other factors that the CIT considers relevant or material.

7.5. Economic Disclosure Statement

Each Equity Member is required to complete and submit to the CIT an Economic

Disclosure Statement (“EDS”) and Affidavit in the form set out in Form 1-D to the RFP with its Proposal.

8. Additional RFP Terms and Conditions

8.1. Use of Information

- a. The CIT and the City and their representatives shall not be liable for any information or advice or any errors or omissions that may be contained in this RFP or the Addendum, appendices, data, materials or documents, including the Reference Documents, (electronic or otherwise) attached or provided to the Proposers pursuant to this RFP or otherwise with respect to the Project.
- b. The CIT and the City may require any official, employee, agent or representative of any Proposer to enter into a non-disclosure agreement as a condition to gaining access to the Reference Documents.
- c. The CIT and the City and their representatives make no representations or warranties, and there are no representations, warranties or conditions, either express or implied, statutory or otherwise, in fact or in law, with respect to the accuracy or completeness of this RFP or any Addenda, appendices, data, materials, background information or documents related thereto, and the CIT and its representatives will not be responsible for any claim, action, cost, loss, damage or liability whatsoever arising from any Proposer’s reliance on or use of this RFP or any other technical or historical addenda, appendices, data, materials, background information or documents provided, delivered or made available by the CIT or its representatives.
- d. Each Proposer is responsible for ensuring that it has all of the information necessary to respond to this RFP and for independently informing and satisfying itself with respect to the information contained in this RFP, any materials that may be supplied throughout the RFP Process, and any conditions that may in any way affect its Proposal.
- e. Each Proposer is responsible for obtaining its own architectural, engineering, environmental, other technical, or professional advice with respect to the Project, the RFP, and any Addenda, appendices, data, materials or documents provided, delivered or made available or required by the CIT.

8.2. Transparency Website; Trade Secrets

- a. Consistent with the City's practice of making available all information submitted in response to a public procurement, all Proposals, any information and documentation contained therein, any additional information or documentation submitted to the City as part of this solicitation, and any information or documentation presented to City as part of negotiation of a contract or other agreement may be made publicly available through the CIT’s or City’s Internet

websites. However, Proposers may designate those portions of a Proposal which contain trade secrets or other proprietary data ("Data") which Proposer desires remain confidential.

- b. Proposers are strongly advised to consult their own legal advisors as to the appropriate way in which confidential or proprietary business information should be marked as such in their submissions. To designate portions of a Proposal as confidential, Proposer must:
 - i. Mark the cover page as follows: "This RFP proposal includes trade secrets or other proprietary data."
 - ii. Mark each sheet or Data to be restricted with the following legend: "Confidential: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this Proposal."
 - iii. Provide a USB memory stick with a redacted copy of the entire Proposal or submission in .pdf format for posting on the City's website. Proposer is responsible for properly and adequately redacting any Data which Proposer desires remain confidential. If entire pages or sections are removed, they must be represented by a page indicating that the page or section has been redacted. Failure to provide a USB memory stick with a redacted copy may result in the posting of an un-redacted copy.
 - iv. Provide a written explanation of the basis under which each redacted item has been deemed confidential, making reference to the applicable provision of the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) ("FOIA").
- c. Indiscriminate labeling of material as "Confidential" may be grounds for deeming a Proposal as non-responsive.
- d. All Proposals submitted to the CIT and City are subject to FOIA. The CIT and City will make the final determination as to whether information, even if marked "confidential," will be disclosed pursuant to a request under FOIA or valid subpoena. Subject to the provisions of the FOIA, the CIT will use reasonable commercial efforts to safeguard the confidentiality of any information identified by the Proposers as confidential but shall not be liable in any way whatsoever to any Proposer or Prime Team Member, or to any Developer, if such information is disclosed under Applicable Law. Proposer agrees not to pursue any cause of action against the City with regard to disclosure of information. During the Exclusive Negotiations Phase the Preferred Proposer will develop a FOIA protocol pursuant to Exhibit B.

8.3. No Liability for Costs

The City and the CIT are not responsible for costs or damages incurred by Proposers,

member(s), partners, subcontractors or other interested parties in connection with the RFP process, including, but not limited to, costs associated with preparing the Proposal and of participating in any conferences, site visits, oral presentations or negotiations.

8.4. Taxes Included in Proposal Prices

Proposers shall assume Developer will be responsible for all applicable federal, state and local taxes, direct or indirect, in their Proposal.

8.5. Proposal Prices Must Incorporate All Costs

Elements of a Proposal including pricing must incorporate any/all peripheral costs including, but not limited to the costs of products/services, delivery/transportation charges, training, materials, labor, insurance, applicable taxes, warranty, overhead and profit, etc. that are required for the Project.

8.6. Protests

- a. Each Proposer shall submit any protests or claims regarding this solicitation to the office of the Executive Director of the CIT, located at 35 East Wacker Drive, Suite 1450, Chicago, Illinois 60601. A pre-Proposal protest must be filed no later than five (5) Business Days before the Proposal Due Date, a pre-Invitation to Exclusive Negotiations protest must be filed no later than ten (10) Business Days after the Proposal Due Date, and a post-Invitation to Exclusive Negotiations protest must be filed no later than ten (10) Business Days after the announcement of the Preferred Proposer.
- b. Protests will be decided by the Commissioner of the City's Department of Fleet and Facility Management ("2FM"). All protests or claims must set forth the name and address of the protester, the specification title and/or number, the grounds for the protest or claim, and the course of action that the protesting party desires that the Commissioner of 2FM take.
- c. The Commissioner of 2FM will follow the City of Chicago Department of Procurement Services' Solicitation and Contracting Process Protest Procedures ("Procedures"), available at the following website: <https://www.cityofchicago.org/content/dam/city/depts/dol/rulesandregs/SolicitationandContractingProtestProcedures.pdf>.
- d. The Commissioner of 2FM shall occupy the CPO role in these Procedures. Accordingly, all references to the CPO in the Procedures shall be replaced with the Commissioner of 2FM, and all references to the office of the CPO shall be replaced with the office of the Executive Director of CIT, located at the address set forth above.

8.7. Compliance with Laws.

- a. Proposers shall comply with all applicable federal, state, and local laws, statutes,

ordinances, rules, regulations, codes, and executive orders, all as may be in effect from time to time, including Title 2, Chapter 2-156 of the Municipal Code of Chicago ("MCC"), pertaining to or affecting the Proposers. Upon the CIT's request, Proposers shall provide evidence satisfactory to the CIT of such compliance.

- b. Any contract(s) awarded in connection with this solicitation will be governed by the laws of the State, and is (are) deemed payable and performable in the City and Cook County, Illinois. The venue for all disputes thereunder shall be in these jurisdictions.

8.8. Prohibition on Certain Contributions – Mayoral Executive Order No. 2011-4

- a. No Proposer or any person or entity who directly or indirectly has an ownership or beneficial interest in Developer of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Developer's subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Developer and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Project (ii) the term of the Project Agreement between City and Developer, and/or (iii) any period in which an extension of this procurement process is being sought or negotiated.
- b. Proposer represents and warrants that since the date of public advertisement of the RFQ, RFP or request for information (or any combination of those requests), no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.
- c. Proposer 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.
- d. The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.
- e. Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this RFP for which no opportunity to cure will be granted. Such breach and default entitles the City to

all remedies under this RFP, at law and in equity.

- f. If Proposer violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Project Agreement, the City may reject Proposer's Proposal.
- g. For purposes of this provision:
 - i. "Contribution" means a "political contribution" as defined in MCC Ch. 2-156, as amended.
 - ii. "Political fundraising committee" means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

8.9. False Statements

Proposers are subject to the following sections of the MCC:

8.9.1. 1-21-010 False Statements

- a. Any Person who knowingly makes a false statement of material fact to the City in violation of any statute, ordinance or regulation, or who knowingly falsifies any statement of material fact made in connection with an application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid, proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than \$500.00 and not more than \$1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorney's fees.
- b. The penalties imposed by this section shall be in addition to any other penalty provided for in the municipal code.

8.9.2. 1-21-020 Aiding and Abetting.

Any person who aids, abets, incites, compels or coerces the doing of any act prohibited by this chapter shall be liable to the city for the same penalties for the violation.

8.9.3. 1-21-030 Enforcement.

In addition to any other means authorized by law, the corporation counsel may enforce this chapter by instituting an action with the department of administrative hearings.

8.10. Title VI Solicitation Notice

The City in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Proposers that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated

against on the grounds of race, color, or national origin in consideration for an award.

8.11. State of Illinois Equal Employment Opportunity Clause

The Developer will be subject to the requirements of 44 Ill. Admin. Code 750 Appendix A, including the requirement to hire new employees in a way that minorities and women are not underutilized. Appendix A provides as follows:

EQUAL EMPLOYMENT OPPORTUNITY

In the event of the Developer's non-compliance with the provisions of this Equal Employment Opportunity Clause or the Act, the Developer may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Developer agrees as follows:

- a. That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
- b. That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
- c. That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.
- d. That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the Developer's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with the Developer in his or her efforts to comply with the Act and this Part, the Developer will promptly notify the

Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

- e. That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and this Part.
- f. That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
- g. That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the Developer will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the Developer will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

8.12. Disqualifications

Any violation by any Proposer of, or failure to comply with, this RFP may, in the CIT's discretion, result in the relevant (a) Proposer, (b) Person, and/or (c) Proposer with which such Person is affiliated being disqualified from further participation in the procurement process described in this RFP or the Project

9. Reservation of Rights

9.1. List of Rights Reserved

In connection with the procurement process described in this RFP, the CIT and the City reserve to themselves any and all of the rights set out in this Section 9.1 and any other rights available to them under applicable law and/or regulations (any of which rights shall be exercisable by the CIT or the City in their discretion, with or without cause and with or without notice). The rights referred to in the preceding sentence include the right to:

- a. modify and/or delay the procurement process described in this RFP or any dates set or projected in this RFP (including, if applicable, as previously modified in accordance with this Section 9.1) to address:
 - i. applicable law;
 - ii. the best interests of the CIT and the City;

- iii. changes that arise, directly or indirectly, from any NEPA or regulatory process; and/or
 - iv. any concerns, conditions or requirements of any federal department or agency;
- b. in reviewing and/or evaluating any Proposal:
- i. appoint evaluation committees to review Proposals and seek the assistance of outside technical, financial, legal and other experts and consultants;
 - ii. waive deficiencies, mistakes, clerical errors or formatting or typographical errors or non-conformities, or any other irregularities, omissions, non-conformities or discrepancies in such Proposal, accept and review such Proposal even if the CIT could otherwise have determined that such Proposal was non-compliant pursuant to Section 4.3 or permit clarifications or additional information to be submitted with respect to such Proposal;
 - iii. make independent calculations with respect to numbers and calculations submitted in such Proposal for purposes of their evaluation;
 - iv. require confirmation of information submitted by the relevant Proposer or require additional information from such Proposer concerning its Proposal;
 - v. seek or obtain data from any source that has the potential to improve CIT's and the City's understanding and evaluation of such Proposal;
 - vi. conduct a "best and final offer" process following receipt of Proposal; and/or
 - vii. if:
 - A. only one Proposal is received; or
 - B. one or more proposals is deemed noncompliant in accordance with Section 4.3,
 then the CIT and the City may take such steps as appear to be appropriate to them under the circumstances, including:
 - C. modifying any provision of the RFP;
 - D. seeking additional or updated Proposals, information or clarifications from the other Proposer;
 - E. selecting a sole compliant Proposer as the Preferred Proposer; or
 - F. terminating the procurement process described in this RFP;

- c. in otherwise conducting the procurement process described in this RFP:
 - i. refuse to consider or reject any and all submittals, responses and Proposals received at any time;
 - ii. not select any Proposer as a responsive Proposer or as a Preferred Proposer;
 - iii. add as a Proposer any prospective Proposer that submitted a Proposal in order to replace a previously selected shortlisted Proposer that withdraws or is disqualified from participation in the procurement process described in this RFP;
 - iv. engage in negotiations with the Preferred Proposer or with any other Proposer;
 - v. negotiate with a Proposer without being bound by any provision in the RFP or its Proposal; and/or
 - vi. disqualify any Proposer from the procurement process for violating any rules or requirements of the procurement process specified in (A) this RFP, (B) any other communication from the CIT or the City or (C) applicable law,
- d. procure and develop the Project, including any portion thereof, in any manner that it deems necessary, including the right to:
 - i. modify the scope, structure, schedule and/or specific terms of, or cancel the procurement process described in this RFP in whole or in part at any time prior to the start of the Exclusive Negotiations Phase, without incurring any cost obligations or liabilities;
 - ii. issue Addenda, supplements, and modifications;
 - iii. issue a new request for qualifications, instructions to proposers or request for Proposals after cancellation of the procurement process described in this RFP;
 - iv. elect not to commence or continue negotiations with the then Preferred Proposer, or any other Proposer, and/or suspend or terminate at any time;
 - v. by written notice, suspend, in whole or in part, any previously any activities being conducted by a Preferred Proposer pursuant to Section 6.3.a;
 - vi. and/or
 - vii. conduct One-on-One Meetings and other meetings at such times, according to such rules of conduct, and with such attendees, as the CIT and the City may determine are appropriate in their discretion,
- e. if the CIT is unable to negotiate the Project Agreement to its satisfaction with the Preferred Proposer or any other Proposer, to:

- i. negotiate with another Proposer;
- ii. seek amended, revised or supplemented Proposals from any or all Proposers;
- iii. cancel the procurement process described in this RFP;
- iv. pursue the development of the Project through a procurement or contracting approach not expressly anticipated by the RFP; and/or
- v. exercise such other rights under State law as they deem appropriate;
- f. exercise any other right available to the CIT or the City under this RFP under applicable laws and/or regulations; and/or
- g. exercise its discretion in relation to the matters that are the subject of the RFP as they consider necessary or expedient in the light of all circumstances prevailing at the time which the CIT consider to be relevant.

9.2. Disclaimer

- a. The RFP does not commit the City to enter into the Project Agreement. The CIT and the City assume no obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to the RFP. All such costs shall be borne solely by each Proposer and Proposer team.
- b. In no event shall the CIT and the City be bound by, or liable for, any obligations with respect to the Project until such time (if at all) as the Project Agreement, in form and substance satisfactory to the CIT and the City, have been authorized and executed by the City and, then, only to the extent set out therein. In submitting a Proposal in response to the RFP, Proposer is specifically acknowledging these disclaimers.

10. Definitions and Rules of Interpretation

10.1. Rules Governing Defined Terms

- a. Except as otherwise specified or as the context may otherwise require, the terms set out in Section 10.3 shall have the respective meanings set out below when used in this RFP.

10.2. Interpretation of Certain References, Terms, Phrases and Types of Language

10.2.1. Headings and Other Internal References

- a. Headings are inserted for convenience only and shall not affect interpretation of this RFP. The headings in this RFP are not intended to be full or precise descriptions of the text to which they refer.

- b. Except as otherwise expressly provided in this RFP, a reference to any Part, Section, Form, or Annex within this RFP is a reference to such Part, Section, Form, or Annex in or of this RFP.

10.2.2. Lists and Use of Terms

- a. When there are references with general words followed by a list, or a reference to a list, to make it clear that those general words “include” the matters set out in that list, then the contents of the list shall not, and shall not be deemed to, limit the generality of those general words.
- b. The word “promptly” means as soon as reasonably practicable in light of then-prevailing circumstances.
- c. References to the exercise of “discretion” by a person or entity shall be deemed to mean sole and absolute discretion, which discretion shall not be subject to reasonableness or other similar limitations in the exercise of discretion by such party or entity.

10.2.3. Professional Language

Except as otherwise expressly provided in this RFP:

- a. words and phrases not otherwise defined herein:
 - i. that have well-known technical or construction industry meanings shall be construed pursuant to such recognized meanings; and
 - ii. of an accounting or financial nature shall be construed pursuant to GAAP, in each case taking into account the context in which such words and phrases are used; and
- b. all statements of or references to, dollar amounts or money in this RFP, including references to “\$” and “dollars,” are to the lawful currency of the United States of America.

10.2.4. References to Agreements, Documents and Laws

Except as otherwise expressly provided in this RFP, any reference:

- a. to an agreement or other document shall be considered to be a reference to such agreement or other document (including any schedules, annexes or exhibits thereto) as it may be amended, modified or supplemented from time to time in accordance with its terms; and
- b. to any law or regulation shall be construed as a reference to such law, enactment, order, regulation or instrument as amended, replaced, consolidated or re-enacted from time to time.

10.3. Definitions

The following capitalized terms used in this RFP solicitation shall be defined as follows:

2FM: means the Department of Fleet and Facility Management.

ACDBE: means an Airport Concession Disadvantaged Business Enterprise as defined under 49 CFR 23.

Acknowledgement of Exclusive Right to Negotiate: means an acknowledgement executed by the Proposer that shall apply to the Proposer during any Exclusive Rights Phase in which it is the Preferred Proposer, substantially in the form of Form 1-C.

Addenda/Addendum: means supplemental additions, deletions, and modifications to the provisions of the RFP after the release date of the RFP that:

- a. specifies that it is an Addendum to the RFP; and
- b. by its terms modifies the RFP.

Affiliate(s): Means any of the following:

- a. any person or entity which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the relevant Team Member or any of its shareholders, members, partners or Joint Venture members;
- b. any entity for which 10 percent or more of the equity interest in such entity is held directly or indirectly, beneficially or of record by (i) the relevant Team Member, (ii) any of the members, partners or joint venture members of the relevant Team Member, or (iii) any Affiliate of the relevant Team Member under clause a. of this definition; and
- c. any entity for which 10 percent or more of the equity interest in such entity is held directly or indirectly, beneficially or of record by any of the relevant Team Member's shareholders other than shareholders whose only interest in the Team Member is in the form of publicly traded stock.

For purposes of this definition, the term "control" shall mean the possession, directly or indirectly, of the power to cause the direction of the management of an entity, whether through voting securities, by contract, family relationship or otherwise.

ATS: means the Airport Transit System which is an automated people mover system at Chicago O'Hare International Airport.

Business Day: means business days (Monday through Friday, excluding legal holidays, or City shut-down days) in accordance with the City of Chicago business calendar.

Buy America Act: means the requirements set out in 49 U.S.C. § 5323(j) and 49 CFR Part 661.

CBD: means the Chicago Central Business District.

CIT: has the meaning set out in Section 1.1.

CIT Board: means the board of directors for the CIT.

CIT's Contact Person: means the individual designated by the CIT in accordance with Section 7.1.2 from time to time as the point of contact for Proposers during the procurement of the Project.

CIT Website: means the following URL: <http://www.chicagoinfrastructure.org>

City: has the meaning set out in Section 1.1.

Data: has the meaning set out in Section 8.2.

DBE: means a Disadvantaged Business Enterprise as defined under 49 CFR Part 26.

Developer: has the meaning set out in Section 1.1.d.

EC: means Evaluation Committee(s).

Eligible Financial Institution: means a bank or financial institution:

- a. having an office in Chicago, Illinois at which a letter of credit issued by it can be presented for payment by hand delivery, electronic means or fax; and
- b. having, from at least two Rating Agencies, a long-term unsecured debt rating of at least:
 - i. "A-" by Standard & Poor's Ratings Services;
 - ii. "A-" by Fitch, Inc.;
 - iii. "A3" by Moody's Investors Service, Inc.; or
 - iv. "A low" by DBRS, Inc.,in each case with an outlook of "stable" or better.

Equity Member: means any Team Member of a Proposer that will contribute shareholders' equity to the Developer as part of the financing plan for the Project.

Exclusivity Security: means the letter(s) of credit that a Proposer submits with its Financial and Commercial Submittals in accordance with Exhibit A, or any cash deposit permitted under Section 2.9.1, in each case the amount of which may be increased in accordance with Section 5.3.1.

Exclusive Negotiations Checklist: has the meaning given to it in Section 2.6 of Exhibit A.

Exclusive Negotiations Fee: means the fee set forth in Section 5.2, which shall equal \$2,000,000.

Exclusive Negotiations Phase: has the meaning set out in Section 5.1.b.

Exclusive Negotiations Phase Conditions and Deliverables: means the terms and conditions that will govern the Exclusive Negotiations Phase, as well as key deliverables

that the Proposer must submit, substantially in the form provided in Exhibit B.

FOIA: means the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*

FOIA Exempt Materials: means any information that is at the relevant time is exempt from public disclosure pursuant to FOIA.

Final RFC Deadline: means the deadline for Proposers to submit RFCs on the RFP, which is April 16, 2018.

Financial Close: means the first disbursement of funds under any project financing indebtedness, the proceeds of which will be used to fund construction.

Financial Model: means the financial model prepared and submitted with the Proposal under Section 3.8 of Exhibit A.

Financing Plan: means the financing plan prepared and submitted with the Proposal under Section 3.5 of Exhibit A.

Governmental Approvals: means the permits and approvals the Proposer expects to be required to execute the Project, details of which are submitted with the Proposal in Form 3-A.

Governmental Authority or Governmental Authorities: means any United States federal, state or local government, and any political subdivision of any of them; and any interstate, governmental, quasi-governmental, judicial, public, regulatory or statutory instrumentality, administrative agency, authority, body or entity of, or formed by, any such government or subdivision thereof, in each case other than the CIT or the City.

Guarantor: means an entity that intends to provide financial, human resources, and other support to an Equity Member or a Major Participant to assist in delivering the Project.

Identified Parties: has the meaning set out in Section 8.8.a.

Information Barrier: means, with respect to any Person, the implementation of internal safeguards and confidentiality protection protocols (including, where appropriate, the exclusion of involvement of any individual who himself or herself has consulted or advised on, or has or may have non-public knowledge of, the Project or the RFP as a result of such Person being, or having been directly or indirectly, engaged by another Proposer (or any of such other Prime Team Members or Affiliates) or, as the case may be, either of the CIT or the City or any other Governmental Authority), which safeguards and protocols are customary and appropriate for the relevant industry of such Person and this Project.

Invitation to Exclusive Negotiations: means a written notification from the City to the Preferred Proposer identifying the Proposer as the Preferred Proposer at the conclusion of the evaluation process.

Joint Venture: means a consortium, partnership, joint venture or any other unincorporated grouping acting together for a common purpose.

Key Personnel: means the positions and corresponding individuals that are essential to project delivery, as identified pursuant to Exhibit A of the RFQ.

Key Personnel Change: means the substitution, material alteration of the responsibilities or material diminishment of the qualifications of any Key Personnel.

Lead Contractor: means the member of the Proposer team, whether a single entity or joint venture, primarily responsible for the construction of the Project.

Lead Design Firm: means the member of the Proposer team, whether a single entity or joint venture, primarily responsible for the design and engineering of the Project.

Lead Operations Firm: means the member of the Proposer team, whether a single entity or joint venture, primarily responsible for the operations of the Project.

Mayor: means Mayor of the City of Chicago.

Minority Business Enterprise or MBE: means a firm certified as a minority-owned business enterprise in accordance with City Ordinances and Regulations as well as a firm awarded certification as a minority-owned and controlled business by Cook County, Illinois.

NEPA: means the National Environmental Policy Act

One-on-One Meeting: means an in-person meeting held in accordance with the requirements of Section 2.3.

OES: means the O'Hare Express System

ORD: means O'Hare International Airport.

Organizational Change: means:

- a. the deletion, substitution, addition, or other change in composition of any Team Members specifically identified in Proposer's statement of qualification submitted in response to the RFQ, or any material changes in the role or scope of work of such Team Members;
- b. the material alteration of the relationships or responsibilities among the Team Members or with any other entity the experience of which was included in Proposer's statement of qualification submitted in response to the RFP as compared to how such relationships and responsibilities were described in its statement of qualification;
- c. any material diminishment in the qualifications of any Team Member;
- d. any other changes, direct or indirect, in the control of a Proposer or Prime Team Member (excluding changes resulting from public trading of stock); or
- e. any reorganization of a Proposer's team (including through the addition, deletion, substitution or amendment of roles or responsibilities of any Prime Team Member

or any other entity the experience of which was included in Proposer's statement of qualification submitted in response to the RFQ) to the extent that such reorganization would render the organizational charts and descriptions provided in its Proposal inaccurate or incomplete.

Oversized Materials: means drawings, schematics, organizational charts or schedules.

PPP or P3: means public-private partnership.

Physical Due Diligence: has the meaning set out in Section 2.5.

Preferred Proposer: means the Proposer whose Proposal was recommended by the Selection Committee to enter into exclusive negotiations with the City, pursuant to the Acknowledgement of Exclusive Negotiations Conditions.

Prime Team Member: means any Team Member meeting one or more of the following criteria:

- a. entity itself solely constitutes a Proposer;
- b. entity is an Equity Member of a Proposer;
- c. entity has been designated the Lead Contractor, Lead Design Firm, or Lead Operations Firm; and/or
- d. entity is generally described as having responsibility corresponding to 30% or more of the anticipated cost to complete project delivery.

Procedures: means City of Chicago Department of Procurement Services' Solicitation and Contracting Process Protest Procedures ("Procedures"), available at the following website:

<https://www.cityofchicago.org/content/dam/city/depts/dol/rulesandregs/SolicitationandContractingProtestProcedures.pdf>.

Procurement Schedule: means the schedule set out in Section 1.6.

Project Agreement: has the meaning set out in Section 1.1.a.

Project: has the meaning set out in Section 1.1.a.

Project Information: means any information made available on the Public Website, the CIT Website, referred to in the RFP (including on third-party websites) or otherwise provided or made available by the CIT, the City, or any other public body or organization to Proposers in connection with the Project.

Proposal: has the meaning set out in Section 1.1.c.

Proposal Appendix: means any Appendix to the Proposal required to be submitted pursuant to Exhibit A.

Proposal Due Date: has the meaning set out in the cover page to this RFP.

Proposal Submission Location: means the Chicago Infrastructure Trust Office location

identified on the cover page of this RFP.

Proposal Submission Requirements: means the requirements forth in Section 4 and Exhibit A.

Proposer: has the meaning set out in Section 1.1.b.

Proposer Material Adverse Change: means:

- a. change that has occurred, or is anticipated, in the business, operations, financial condition, liabilities or capitalization of any Prime Team Member; or
- b. any other condition or circumstance related to any Prime Team Member, which, in any such case, has a material adverse impact on Proposer's financial and/or technical capacity to design, construct, finance, operate and maintain the Project as contemplated in the Proposal.

Proposer's Representative: means the single contact person for that Proposer team, previously referred to in the RFQ as the "Proposer's designated representative," which person may be updated from time to time pursuant to the terms of this RFP.

Proposer's Team Update Submission: means a submittal in the form of Exhibit F.

PTC: means Positive Train Control.

Public Access Inspection: has the meaning set out in Section 2.5.

Qualified Lender: means an experienced project finance lender (underwriting bank and/or financial institution) having long-term, unsecured debt ratings of not less than "A" or "A2", as applicable, issued by at least two rating agencies (e.g. Fitch Ratings, Moody's Investor Service and Standard & Poor's Ratings Group).

Reference Documents: means those documents, which are being provided by the CIT in connection with the RFP to assist Proposers in their due diligence, and which do not constitute:

- a. part of the Project Agreement or materials on which Proposers or a Developer may rely, except as expressly provided for in the Project Agreement; or
- b. a complete compendium of information available about the Project, site conditions, laws or funding requirements applicable to the Project.

Reserved Rights: means the CIT's reserved rights under Section 9.

Restricted Access Inspection: has the meaning set out in Section 2.5.

Restricted Contact Period: means the time period having begun with the issuance of the RFP and concluding with the end of the period described in Section 2.8 as such applies to a particular Proposer.

Restricted Party(ies): has the meaning set out in Section 7.1.4.

RFCs: has the meaning set out in Section 2.2.1.a.

RFP: has the meaning set out in Section 1.1.c.

RFQ: means the Request for Qualifications issued by the CIT on November 29, 2017.

Selection Committee: means the committee established by the CIT and the City with membership and responsibility as set out in Section 4.4.2.

State: means the State of Illinois.

Submission Address: means The Chicago Infrastructure Trust, 35 E. Wacker Drive, Suite 1450, Chicago, Illinois 60601

Sub-owners: has the meaning set out in Section 8.8.a.

Supplemental Due Diligence Request: means a request to conduct Supplemental Due Diligent Activities submitted in accordance with the terms of this RFP, in the form of Exhibit E.

Supplemental Due Diligence Activities: has the meaning set out in Section 2.5.

Team Member: means any entity within a Proposer.

Team Update Deadline: means April 20, 2018.

Women Business Enterprise or WBE: means a firm certified as a women-owned business enterprise in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women-owned business by Cook County, Illinois.

EXHIBITS

Exhibit A	Proposal Submission Requirements
Exhibit B	Exclusive Negotiations Phase Conditions and Deliverables
Exhibit C	Project Agreement Term Sheet
Exhibit D	Sample Requests for Clarification Form
Exhibit E	Supplemental Due Diligence Request Form
Exhibit F	Proposers Team Update Submission Form

FORMS

Administrative Forms

Form 1-A	Proposal Checklist
Form 1-B	Form of Proposal Letter
Form 1-C	Form of Acknowledgement of Exclusive Right to Negotiate
Form 1-D	Sample Economic Disclosure Statement (“EDS”) and Affidavit

Financial and Commercial Forms

Form 2-A	Letter of Credit
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Land, Planning and Environment Forms

Form 3-A	Permits and Approvals
Form 3-B	Material Agreements

Exhibit A: Proposal Submission Requirements

1. Proposal Submittal Guidelines

Each Proposer shall respond to each of the following submittal requirements, as applicable.

2. Volume 1: General and Administrative Submittals

2.1. Proposal Checklist

To facilitate the review and evaluation of Proposals, Proposer must include a completed Proposal Checklist in the form provided in Form 1-A.

2.2. Proposal Letter

The Proposal shall include a Proposal Letter utilizing the template provided in Form 1-B. The Form 1-B template must be duplicated and completed on Proposer's company letterhead and executed by individuals as indicated with appropriate authority to bind the Proposer and each Prime Team Member as provided for in such template.

2.3. Acknowledgement of Exclusive Right to Negotiate

The Proposal shall include an executed Acknowledgement of Exclusive Right to Negotiate utilizing the template provided in Form 1-C. The Acknowledgement of Exclusive Right to Negotiate Form must be duplicated and executed by an officer of the Proposer with appropriate authority to bind the Proposer.

2.4. Exclusivity Security

- a. The Proposer shall submit as the Exclusivity Security one or more letters of credit issued by an Eligible Financial Institution in the form provided in Form 2-A, or such other form as the CIT may have approved in advance in writing in its discretion, in all cases in an aggregate initial amount of \$2,000,000.
- b. The Proposer may replace the use of letters of credit as the form of Exclusivity Security with a cash deposit subject to such terms and conditions, including a form of deposit agreement, as are approved in advance by the CIT in its discretion.

2.5. Executive Summary

- a. The Proposer shall submit an executive summary that shall briefly describe all significant aspects of its Proposal and the benefits of the Proposal relative to the Project.
- b. The executive summary should include:

- i. an overview of the Proposer’s updated Project approach, with emphasis on key elements that have been amended, further developed, or further defined since the submission of SOQs;
- ii. sufficient information to familiarize the City and the CIT with the Proposer’s ability to successfully deliver the Project; and
- iii. a summary of any changes since submission of the SOQ, including but not limited to changes in the Proposer’s organization, Equity Members, Prime Team Members and Key Personnel since submission of the SOQ.

2.6. Exclusive Negotiations Checklist

Proposer shall provide a checklist (the “Exclusive Negotiations Checklist”) and anticipated timeline, identifying all documents, submissions, deliveries and other actions (whether by or on the part of either party or any third party) reasonably anticipated by the Proposer to be necessary to:

- a. negotiate the Project Agreement; and
- b. progress pre-Financial Close activities related to debt and equity financing in advance of execution of the Project Agreement,

which shall also include lists of:

- c. all material permits, approvals and rights to right-of-way anticipated to be necessary for the Project, in the form provided in Form 3-A; and
- d. all required material subcontracts and third party agreements anticipated to be necessary for the Project, in the form provided in Form 3-B.

2.7. Pre-Financial Close Funding

- a. Describe Proposer’s approach to funding all necessary activities to complete or secure all items outlined in its Exclusive Negotiations Checklist, or that may otherwise be necessary for Project Agreement execution and Financial Close, without the availability of any funding provided by the City, any City entity or CTA. Responses should include, at minimum:

- i. preliminary cost estimate for all pre-Financial Close activities;
- ii. description of funding sources for all pre-Financial Close activities;
- iii. commitment to funding for all such activities, and terms and any caps for such funding; and
- iv. explicit confirmation that Proposer does not expect, anticipate, or plan to receive a stipend or other development fee as part of the Project development process.

2.8. Proposer Team Information, Organization & Key Personnel

- a. Proposer will provide an updated organization chart outlining the structure of Proposer's project management organization and reporting lines for design, construction, operations and maintenance.
- b. Proposer will provide a complete organizational chart showing all Key Personnel identified in its Proposal and all additional personnel assigned to the Project required to complete the Proposer's team at a managerial level. Managerial team members must include a project executive or equivalent individual, as well as sufficient team members to demonstrate an appropriate level of project control. Staff level assignments do not need to be shown by individual but can be designated as to number or anticipated number of persons. The Organizational Chart will distinguish between full-time assignments vs. part-time assignments as well as workplace location in Chicago or in the Proposer's home office if located outside of Chicago.
- c. Proposer will identify, to the extent known, any advisors, contractors, or consultants it has engaged or intends to engage, including, but not limited to, any (i) subcontractor of any tier below the Prime Team Members (which subcontractor is not a Prime Team Member), (ii) financial, technical, insurance, legal, public relations or other specialist advisor, or (iii) commercial bank, arranger, underwriter, placement agent or other potential provider or arranger of financing.

2.9. MBE, WBE, DBE, and ACDBE Participation Plan and Workforce Development Plan and Approach

- a. Proposer shall re-affirm its commitment to meeting or exceeding MBE, WBE, DBE, and ACDBE (as applicable) participation goals and workforce development goals as outlined in its SOQ.
- b. Proposer shall provide a summary of any changes since submission of the SOQ to its MBE, WBE, DBE and ACDBE participation plan or its workforce development Plan.

- c. To the extent MBE, WBE, DBE and ACDBE firms have been identified, Proposers are encouraged to submit any relevant certification letters, and make reference to such firms being subcontractors identified pursuant to Section 2.8.c above.

2.10. Financial Capacity and Equity Funding Information

Proposer shall clearly identify and explain any material updates arising between the SOQ Due Date and Proposal Due Date to the following information submitted as part of its SOQ:

- a. Equity Member funding letters (including any increase or decrease to the previously demonstrated available, uncommitted equity funds);
- b. financial officer's certificate;
- c. financial statements; and
- d. financial letters of support.

2.11. Economic Disclosure Statement ("EDS")

Proposers are required to submit a completed EDS forms Form 1-D for each Equity Member.

2.12. Conditions, Qualifications and Exceptions

Under Section 4.3.3 of the RFP Proposers are permitted to submit their Proposals subject to conditions or qualifications, or exceptions to certain requirements, without being deemed non-responsive or non-compliant. In order to do so, Proposers must expressly identify and explain each such condition, qualification or exception in a narrative written submission, containing appropriate cross-references to the terms of the RFP where applicable. Alternatively, if a Proposer does not take any such condition, qualification or exception, it should include an affirmative statement to such effect in response. If the Proposer takes exception to any submission required under this Exhibit A, it may elect to notify the CIT that it intends to defer such submission until a time certain during the Exclusive Negotiations Phase. Any condition, qualification or exception made within a Proposal may have a negative effect on the Proposal evaluation conducted under Section 4.4.

3. Volume 2: Financial and Commercial Submittals

3.1. O'Hare International Airport Terminus

As further outlined in Section 1.4 of the RFP, it is the objective of the CIT and City to provide an OES terminus as close as possible to ORD Terminal 2. Proposers shall provide the following information regarding their proposed ORD terminus (responses should be informed by the ORD as-builts provided as Reference Documents, to ensure conformance

with existing ORD facilities):

- a. Proposer shall specify the location of its ORD terminus;
- b. Proposer shall describe all horizontal and vertical structures and conveyances required for ORD-bound passengers to arrive at the lower level of ORD Terminal 2 from where they depart the OES; and
- c. Proposer shall describe the proposed connectivity and accessibility between the ORD terminus and each ORD terminal, including estimated timelines to arrive at (i) departure ticketing and (ii) arrivals baggage claim at each ORD terminal from the OES passenger departure location, either by walking or by using the ORD ATS system, including wait times.

3.2. Design & Construction Performance Security

- a. Proposer shall describe its proposed design and construction performance security package, including forms of security and amount (e.g., payment & performance bonds, letter of credit, parent company guarantee, etc.). Please note, as provided in Exhibit C, the CIT and the City anticipate that performance and payment bonds will be required for the Project, although penal sum of such bond(s) has not been determined.
- b. To the extent Proposer proposes to provide further security or guaranties or Project performance in the form of pledged assets or personal indemnification, Proposer shall describe in detail the terms of such security, including conditions for draw or payment by the CIT or the City, as well as detailing any limitations, caps, or exclusions.

3.3. OES Performance Standards

- a. Proposer shall propose certain OES operational service levels and performance standards. Proposer acknowledges that, if it is selected as the Preferred Proposer, the Project Agreement will include requirements for achieving such service levels and performance standards.
- b. Each Proposer shall propose, at minimum, service levels and/or performance standards with regard to the items listed below. Where applicable, the Proposer should distinguish between minimum agreed-upon service levels upon start-up and maximum capacity, as designed to allow for future growth as follows:

- i. maximum and median one-way trip time;
 - ii. maximum and median headway/wait time;
 - iii. maximum passenger capacity: (i) per 15 minutes; and (ii) per hour;
 - iv. hours of operations; and
 - v. on-time performance (provide expected metrics for service reliability of travel time and passenger delay or wait time).
- c. Proposer shall provide detailed analysis and documentation for the running time and reliability assumptions. This should include assumptions of acceleration/deceleration zones, speeds along curves or over crossings and operations through junctions, or entering and departing station areas, if applicable. Any potential conflicts and estimated severity and frequency with third-party operators who may share ROW should be documented, if applicable.

3.4. Additional Project Agreement Commercial Terms

Proposer shall provide its proposed terms (each taking into account Exhibit C), conditions or parameters with regard to the following anticipated Project Agreement provisions:

- i. **Term.** Minimum term of Project Agreement (as measured in years from execution of the Project Agreement).
- ii. **Grant of Rights / Nature of Agreement.** Proposer should describe and explain:
 - A. its preferred form(s) for the grant of rights provided by the City (e.g. franchise, concession, lease, license etc.) under the Project Agreement;
 - B. how such rights may differ over time or with respect to different segments of the Project; and
 - C. its preferred ownership structure with respect to facilities and vehicles or rolling stock; and
 - D. any anticipated legal, financial, tax or contractual issues regarding the matters above.
- iii. **Term Extension / Handback Approach.** Proposer should describe its preferred approach for the Project handback at the conclusion of the Project Term or options for extension (e.g., contractual option to mutually

negotiate an extension as a franchise license under different terms at conclusion of Project term).

- iv. **Revenue Share.** Proposer should describe its proposed revenue sharing regime. Such proposed revenue sharing regime should, at minimum, include:
 - A. Revenue share triggers. Explicit gross revenue levels that trigger revenue sharing for each annual period, or a calculation for such triggers (e.g., an initial level escalated annually);
 - B. Revenue share percentage. Proposer may propose multiple “bands” or “levels” that include varying revenue share percentages; and
 - C. Revenue share payment priority. Describe the cash-flow waterfall seniority considerations and prioritization of Developer’s revenue share payment to the City (including equity distributions).
- v. **Non-Compete.** Describe the terms of any non-compete provisions Proposer requires to feasibly finance the Project.

3.5. Financing Plan

This Financing Plan is meant to demonstrate the Proposer’s approach to financing and funding the Project with no contribution of funding from the CIT or the City.

- a. Proposer shall describe its Financing Plan, including:
 - i. the proposed steps, necessary milestones, and timeframes for achieving:
 - A. committed financing terms (additionally indicate the extent Proposer is able to provide committed financing terms for any, or all, of its proposed financing at the time of Proposal submittal);
 - B. achieving commercial close (i.e. execution of the Project Agreement and satisfaction of all conditions precedent thereto); and
 - C. achieving Financial Close;
 - ii. Proposer’s projected total revenues and expenditures for the Project, including Proposer’s due diligence, with detailed analysis and assumptions, regarding projected OES ridership and revenue analysis, initial fare assumptions and its preliminary expectation regarding Project revenues,

and analysis regarding the minimum ridership and revenue levels required to feasibly finance the Project;

- iii. if the Financing Plan assumes Project revenues from an intermediate station or real estate development, detailed revenue projections for such components;
- iv. Proposer's anticipated construction phase costs (including financing costs) and operating phase costs, as further outlined in its responses to Section 5.5 and Section 5.8 of this Exhibit A; and
- v. the total amount of debt and equity capital required by Proposer to deliver the Project, including:
 - A. the total amount of project debt and assumed forms of debt capital (e.g., PABs, private placement, TIFIA, RRIF, bank debt) to be obtained for the Project; and
 - B. the total amount and sources of other capital to be provided by or on behalf of the Proposer for the Project (e.g., equity, shareholder loans).

3.6. Project Debt

- a. While the CIT and the City do not require fully committed project debt as part of the Proposal, each Proposer is required to appoint one or more Qualified Lenders to confirm the assumed pricing for the anticipated forms of debt and perform due diligence to support such pricing assumptions.
- b. For each source of uncommitted debt and/or bond financing, the Proposer should provide, at minimum, assumptions regarding the terms listed below. A letter of support must be provided from Qualified Lender(s) indicating a high degree of confidence that debt and/or bond financing can be arranged and that its due diligence supports the Proposer's assumptions in its Financing Plan regarding the following terms:

- i. assumed credit rating, if any;
 - ii. anticipated maximum leverage ratio;
 - iii. debt service coverage ratio requirements (annual, project life, loan life coverage ratios) with respect to average and minimum levels;
 - iv. the maximum and average maturity of each Project debt facility, any principal or interest deferral periods and drawdown/availability periods for each facility; and
 - v. the cost of each project debt facility (including details of benchmark interest rates, credit spread assumptions and all other related fees) and, if used, credit enhancements, hedging instruments, and interest rate swaps (for each period, if applicable).
- c. To the extent that a Proposer can provide committed terms from Qualified Lender(s), its Financing Plan may be evaluated more favorably. To demonstrate such commitments, the Proposer should provide debt commitment letters, debt term sheets, and such other deliverables as described in Exhibit B of the RFP.

3.7. Project Equity

- a. To the extent that a Proposer can provide committed terms from its Equity Members, its Financing Plan may be evaluated more favorably.
- b. To demonstrate such commitments, Proposer should provide:
 - i. Equity Member letter(s) of commitment, indicating:
 - A. identity of the investors;
 - B. the amount of funds that each shareholder is prepared to commit and the timing of such subscription; and
 - C. the terms and conditions of the subscription, including dividend rights attaching to shares, the extent to which funds are committed, any redemption premium, and the length of time funds will remain in the project vehicle.
 - ii. For each investor that is subscribing to equity or quasi-equity, details are required about the availability of equity/quasi-equity finance including, where applicable, copies of all relevant approvals (e.g. in the form of board minutes) of the amount of equity/quasi-equity to be provided.

If an Equity Member is an investment fund a signed letter from the general partner or trustee of the fund is required confirming, at the time of

Proposal submittal, the following:

- A. the date the fund was established;
 - B. the total amount raised in the investment fund;
 - C. the total amounts of undrawn and uncommitted funds available to be invested in the Project; and
 - D. confirmation that the Project is an eligible investment of the fund.
- iii. If a parent company guarantee is proposed, written confirmation is required from each shareholder's parent company, stating that it is willing to provide a parent company guarantee in relation to the availability of the equity/quasi-equity for the Project, and that it has adequate funds available.

3.8. Financial Model

Proposer shall submit a Financial Model supporting its Financing Plan for the Project, the format of which is at the discretion of the Proposer, provided that such model must comply with the requirements set out in Annex A (Financial Model Instructions) to this Exhibit A.

4. Volume 3: Land, Planning, and Environment Submittals

4.1. Environmental Approvals

Proposer shall provide its internal assessment of the level of federal, State or local environmental analysis required to implement its Project approach and its intended plan to achieve the necessary approvals. Responses should refer, where applicable, to the completed Form 3-A and include, at minimum:

- a. applicable qualifications and experience of the key personnel assigned to manage the environmental approval processes and any third-party consultant(s) the Proposer has retained to assist in such processes;
- b. the element(s) of your Project approach (including plan of finance) that may trigger a NEPA analysis and whether such elements would trigger review for the whole project;
- c. the anticipated timeframe for successfully completing any necessary NEPA process and / or any other applicable environmental analysis and long-stop dates to which Proposer will commit;
- d. description of proposed approach to develop the anticipated component parts of the necessary NEPA analysis; and

- e. explicit description of any assistance or cooperation Proposer will require from the City to secure all necessary environmental approvals.

4.2. Right-of-Way

- a. Proposer shall describe for all necessary private rights-of-way for the Project:
 - i. its approach for acquisition;
 - ii. the status of agreements and/or negotiations for acquisition and/or use of; and
 - iii. the timeline and allowance for acquisition.
- b. Responses should include, at minimum:
 - i. description of all parcels required to complete Project;
 - ii. estimated budgeted cost (approximate) for acquisition, use, and/or lease of all parcels required to complete the Project;
 - iii. a copy of any existing preliminary ROW agreements;
 - iv. status and anticipated timeline for all on-going ROW negotiations, including letters of support (if available) from owners of any ROW for which Proposer has not entered into preliminary agreement;
 - v. description of any proposed restrictions on the use of the ROW, including any required allowances for other use of the ROW and/or switches or crossings for other ROW users; and
 - vi. explicit description of any assistance or cooperation Proposer will require from the City to acquire all necessary ROW, including for its proposed Downtown Station.

4.3. Safety Approvals

- a. Proposer shall describe its internal assessment of required safety approvals for its proposed OES system (including construction, vehicles/trainsets, system operations, grade crossing protection systems, and fire and life safety system requirements/applicable NFPA code/standards), as well as of the various responsible safety oversight agencies.
- b. Additionally, Proposer shall provide documentation for all necessary and required safety approvals for construction, vehicles/trainsets, and system operation, including PTC or equivalent safety systems. To the extent that such approvals have not yet been achieved, Proposer shall provide:

- i. status of due diligence / review done to date;
- ii. documentation of feedback / process with relevant regulatory agencies;
- iii. timeline for achieving necessary approvals; and
- iv. commitment to execute the Project Agreement and commence construction, even in such case that safety approvals for the proposed operational system have not been fully achieved.

5. Volume 4: Technical Submittals

5.1. Design & Construction Schedule

Proposer shall provide a preliminary Project baseline schedule and narrative for the Project. The baseline schedule will clearly and separately define the progression of the Project from notice to proceed to final completion using separate activities for all aspects of the Project. The preliminary Project baseline schedule should address all activities to be completed, including detailed start-up (mobilization, permits, surveys, utility relocations, temporary facilities, etc.) and close-out activities (e.g. operations and maintenance testing, training, inspection, certification and clean-up).

5.2. Design Approach

- a. Proposer shall provide a narrative explaining Proposer's design approach for the Project. The design approach should be informed by any as-builts, or other relevant documentation, provided in the Reference Documents and should conform to, and limit interference with, existing facilities or future plans outlined in such documents.
- b. To the extent possible, and understanding that such design is inherently preliminary and is subject to refinement and adjustment during the Exclusive Negotiations Phase and under the terms of any Project Agreement, the design approach should include:
 - i. an overview of the proposed alignment for the Project;
 - ii. a description of the proposed track, running surface, bridge(s) and tunnel(s) (if applicable) structure design including, but not limited to, materials, construction phasing, and highlighting how the track, running surface, bridge and tunnel structure interacts with drainage, street level experience, sound mitigation, ancillary structures, adjacent railroads, tunnels, embankments, bridges, grade crossings and utilities, to the extent applicable;
 - iii. a preliminary plan and profile and typical cross-sections of the proposed

track, running surface, bridge and tunnel (as applicable) structures. To extent available, include typical sections and/or details for system appurtenances such as emergency access and egress shafts and cross-overs;

- iv. a description of the Proposer’s approach to integrating station elements (including platform and vertical egress) with the proposed track and tunnel (if applicable) design;
- v. a description of and location of any required maintenance facilities and their integration with the proposed track and tunnel (if applicable) structure and stations;
- vi. a description of any design features that promote or facilitate safety, including signal and operating systems, emergency systems, implementation of PTC or equivalent safety systems (if applicable), and conformance of design to applicable codes for ventilation, emergency and life safety access;
- vii. a description of the design codes expected to be utilized for all major elements of the Project;
- viii. a description of the process for interface between Proposer’s design and construction teams for the preparation of design documents, including a description of how design documents are reviewed and validated for constructability, operability, maintainability and how construction costs are verified; and
- ix. a description of Proposer’s process for incorporating and/or resolving design comments from the City.

5.3. Select Preliminary Design Drawings

To the extent possible, Proposer should provide design drawings at a level sufficient to:

- a. demonstrate the phasing, staging, logistics, construction and integration of the proposed CBD station, the proposed ORD station and any required maintenance facilities;
- b. show the track and tunnel (if applicable) geometry;
- c. show the required programmatic elements for the proposed CBD station, the proposed ORD station, proposed maintenance facilities, and all other new and/or repurposed structures; and
- d. show approximate dimensions of major Project elements, including stations, bridges and tunnels (if applicable).

Note: The CIT and the City will review any select preliminary design drawings as a complement to the Proposer's design approach. Advancing the design drawings to a more advanced and detailed level beyond that required to demonstrate the above criteria will not, in and of itself, be evaluated more favorably than less detailed drawings which adequately demonstrate the particular element of the design approach.

5.4. Construction Approach

- a. Proposer shall provide a narrative outlining its approach to construction of the Project. To the extent possible, the narrative should include:
 - i. a description of the Proposer's plan for constructing the Project, describing in general each phase of the work;
 - ii. a description of how Proposer intends to access the Site to perform the work;
 - iii. preliminary construction staging plans and requirements, particularly for construction staging required at ORD or in the CBD and for mitigation of construction impacts;
 - iv. a description of the Proposer's approach to construction environmental management including a description of the management approach and processes that will be utilized to manage spoils, special waste and/or hazardous materials including in the subsurface and groundwater and with respect to any unforeseen environmental impairment encountered on any portion of the Project site;
 - v. a description of the Proposer's approach to safety and quality management during construction of the Project; and
 - vi. a description of the approach to ensure timely deliveries of materials to achieve the Project schedule including information with respect to anticipated fabrication times.

5.5. Design, Construction and Equipping Cost Estimates

Proposer shall provide detailed, itemized cost estimates for the development, design, construction and equipping of the Project, including projected quantities for all materials and labor rates.

5.6. Vehicles / Trainsets

- a. Proposer shall provide a narrative description of the Proposer's approach to vehicle / trainset acquisition.

- b. To the extent that Proposer's Financing Plan includes any federal financing or funding programs (e.g., TIFIA, RRIF) subject to the Buy America Act, Proposer shall include a plan for achieving any commitment to exceed the minimum threshold for rolling stock as defined in the federal Buy America Act.
- c. Proposer shall provide a narrative description and, to the extent possible, supporting schematic drawings, calculations, assumptions, and any exhibits as necessary to provide the following information regarding its proposed vehicles / trainsets:
 - i. number of vehicles / trainsets being proposed, with assumptions of peak service requirements and spares needed for service reliability and routine maintenance;
 - ii. design capacity per vehicle/trainset (seated and standing);
 - iii. layout showing number of seats and any standing area;
 - iv. a description of how passengers of all ages and physical abilities will be able to board and alight vehicles / trainsets (including, but not limited to, accommodations for wheelchairs, walkers, and strollers);
 - v. a description of how passenger baggage will be accommodated, including its effect on passenger capacity; and
 - vi. description of vehicle / trainset interior and exterior design, including notable features and any other vehicle amenities (e.g., cellular service, wireless internet access, on-board concessions, restrooms, bicycle storage).

5.7. Operations Plan

- a. Proposer shall provide an operations plan, outlining its approach to the OES: (i) system operations, (ii) anticipated customer experience, (iii) routine maintenance, and (iv) replacement at obsolescence. To the extent possible, the narrative should include:
 - i. a description of the expected sequence of passenger activity from entering the origin station to exiting the destination station (ORD to CBD and CBD to ORD), including boarding and alighting processes;

- ii. ticketing and fare collection procedures, technologies, equipment, and staffing, including anticipated queuing and wait times and description of paid/unpaid zones within stations (if applicable);
 - iii. vehicle operations, including any on-board customer service, if applicable, and a description of any automation to be used;
 - iv. system operations, including traffic/signal control, track management and dispatching;
 - v. maintenance and obsolescence plan for all Project elements, including tracks, running surfaces, bridges and tunnels, vehicles/trainsets, propulsion systems, signals and operating systems, and maintenance facilities and stations;
 - vi. safety and security processes; and
 - vii. processes for complying with ADA requirements.
- b. Proposer should additionally describe the utilization of the Proposer's own workforce and expertise and the expertise of proposed subcontractors for critical and/or significant work associated with the operations plan and identify any third party consultant(s) the Proposer has retained to assist in the development of the operations plan.

5.8. Operations & Maintenance Cost Estimates

- a. Provide detailed, itemized annual cost estimates for OES system operations, routine maintenance and renewal work for the proposed term of the Project Agreement. Include specific cost estimates and itemization for sub-components. Costs should be based on the operating plans detailed in Section 5.7, the assumed operational performance metrics discussed in Section 3.3.a, and the ridership assumptions included in the Financing Plan.
- b. To the extent that Proposer proposes a direct connection to the ORD ATS, the operations and maintenance cost estimate should also estimate the Project's potential impact on ATS ridership and associated ORD ATS operations and maintenance costs (Developer shall compensate the City for such ATS operations and maintenance cost increases).
- c. The cost estimates shall include supporting data, technical memoranda, calculations, formulas, unit and materials prices (if applicable) and such other cost, charge and fee information used by Proposer in the creation and derivation of its cost estimates.

Annex A

Financial Model Instructions

1. General and Structural Requirements

The Financial Model shall be an electronic file constructed in an MS Excel 2007 (or higher version) compatible format and shall not require the use of external modules other than those provided by Microsoft. The Financial Model shall satisfy each of the following requirements:

- a. no part of the Financial Model (cell, column, row, sheet, macro or otherwise) shall be separately hidden, locked or protected with a password;
- b. the Financial Model shall contain no circular references and shall be coded to provide exactly what it is purported to represent, e.g., it should not have any balancing figures or input numbers. Use of macros is acceptable, provided they are visible (e.g., not password protected), well-structured and appropriately documented in the model and the Assumptions and Instructions Book;
- c. the Financial Model shall make use of the following three (3) types of worksheets:
 - i. input worksheets – which shall include data and assumptions to be hardcoded but not main calculations;
 - ii. calculation worksheets – which shall consist of the individual calculations that support each line of all outputs and reports. There shall be no duplication of calculations nor shall input cells be hard-coded in calculation sheets; and
 - iii. output worksheets (including Pro-Forma Tables and graphs worksheets) – which shall be used to display and generate model outputs. No input cells shall be hard coded in output sheets and no calculations, except for simple formulae such as sums and check totals, should be performed here;
- d. a separate color coding scheme (e.g., blue font on yellow fill color) shall be consistently used for input cells and fully explained in the model’s instruction worksheet (if used) and/or the model instruction book; and
- e. each Financial Model shall use columns to denote time periods and rows to denote specific cash flow items. This shall be consistent in all sheets of such Financial Model.

2. Financial Model Inputs and Specifications

The Financial Model shall be developed with reference to the following key inputs and assumptions:

- a. **Currency.** Financial Model shall be in US dollars;
- b. **Revenues.** All demand and fare assumptions, as well as any other assumed revenue sources assumed, shall be clearly stated in each Financial Model, with supporting detail being provided in the supporting Assumptions Book.
- c. **Expenditure.** All cost assumptions shall be clearly stated in each Financial Model, with additional detail being provided in the supporting Assumptions Book.
- d. **Contingencies and Profit Margins.** Each Financial Model shall make clear where contingencies and profit margins have been included.
- e. **Macroeconomic Assumptions.** All macroeconomic assumptions used within each Financial Model shall be clearly stated;
- f. **U.S. GAAP.** Each Financial Model shall be compliant with U.S. GAAP; and
- g. **Taxation Rates & Tax Allowances.** Each Financial Model shall use the appropriate rates for tax in force at the submission date clearly show the assumptions regarding tax allowances being claimed.

3. Financial Model Outputs

The Financial Model shall include:

- a. a summary sheet which includes a sources and uses of funds statement, graphs of cover ratios, a profile of cash balances (that confirms the financial feasibility of the Project, including all anticipated reserves) and any projected revenue payment amount payable to the City;
- b. financial statements (cash flow, sources and uses of funds, balance sheet and profit and loss) in nominal terms for each period;
- c. a schedule outlining calculation of taxes payable in each period, and showing tax carry forward and un-depreciated balances; and
- d. cash cascade in order of seniority.

4. Assumptions and Instructions Book

- a. Proposers shall submit an Assumptions and Instructions Book.
- b. The Assumptions and Instructions Book should describe the basic functionality of the Financial Model, including:

- i. the logical layout and structure of the Financial Model, including the names of all worksheets and a description of the color coding and/or labeling scheme(s);
 - ii. a detailed description of the function and intended use of all macros (and each macro must be logically structured and well documented, i.e., City and the CIT encourages the use of liberal comments within the programming code).
- c. Additionally, fully describe all the assumptions underlying the financial projections within the Financial Model and at a minimum include the items listed below:
 - i. assumptions relating to general inflation and, where different, specific inflation relating to each component of expenditure, including construction costs and revenue for each year; and
 - ii. all financing assumptions, including but not limited to drawdowns, capital repayment moratoria, repayment schedules and maturity, interest rates and margin, and arrangement and other fees.

Exhibit B: Exclusive Negotiations Phase Conditions and Deliverables

[Attached separately to the RFP.]

Exhibit C: Project Agreement Term Sheet

[Attached separately to the RFP]

Exhibit D: Sample Requests for Clarification Form

<u>Instructions</u>	
(1)	Proposers are permitted to submit RFCs with respect to this RFP, or a particular Addendum, as and when they are ready for submission, and in any case on or before, but not after, the deadline specified in the Procurement Schedule.
(2)	Proposers must clearly label any RFC that it deems confidential and/or proprietary in accordance with FOIA as such, including identification of the legal basis for such conclusion. The CIT shall treat any such RFCs in accordance with Section 2.2 of the RFP.
(3)	Proposers should indicate each RFC’s priority by classifying it as a Category 1, 2, 3 or 4 RFC in accordance with the following: <ul style="list-style-type: none"> i. “Category 1 – an issue that, if not resolved in an acceptable fashion, would likely preclude the Proposer from submitting a Proposal; ii. “Category 2” – an issue that, if not resolved in an acceptable fashion, will significantly affect value for money or, taken together with other issues (which should be identified to the extent related or possible), would likely preclude the Proposer from submitting a Proposal; iii. “Category 3” – a substantive issue that does not qualify as a Category 1, 2 or 4 issue; or iv. “Category 4” – a drafting issue, a clarification or a comment concerning conflicts between or within documents, or the equivalent of one of these, in each case which a reasonable Proposer would not interpret as intentional (and therefore should be a Category 1, 2, or 3 comment).
(4)	The CIT emphasizes to Proposers the importance of reasonableness and proportionality when considering RFCs. Proposers should also consider relevance, brevity and clarity when submitting RFCs. As such: <ul style="list-style-type: none"> i. each comment should address a single issue and therefore comments on multiple parts of a defined term or a provision in the document should be divided into separate comments and (unless substantively related) not aggregated into a single comment; ii. any single comment may include list numbering to facilitate review and response, provided that the CIT prefers list bullets not be used; iii. each comment should indicate why it has been made; and iv. with respect to RFCs that have previously been submitted (in whole or part), Proposers shall (i) include as the first line of such comment “The following comment was previously submitted as RFC No. [X] in the submission made on [date]. We are resubmitting it [provide brief explanation].”.

Proposer	Question #	Section Cross-Reference	Priority	Question

Exhibit E: Supplemental Due Diligence Form

Instructions

- (1) Proposers should submit a separate Supplemental Due Diligence Request with respect to each requested Supplemental Due Diligence Activity.
- (2) The CIT reserves the right to reject any Supplemental Due Diligence Request, including on the basis that such request is excessive in scope or otherwise unreasonable (taking into account all other Supplemental Due Diligence Requests submitted by the same Proposer), and to otherwise impose conditions on any Supplemental Due Diligence Request approval (including, appropriate apparel, footwear and protective equipment).
- (3) The CIT will use reasonable efforts:
 - i. to provide a Proposer with written feedback on any Supplemental Due Diligence Request promptly following receipt, provided, however, that the CIT may approve (with or without conditions or modifications) or disapprove any such request in its discretion; and
 - ii. to maintain the confidentiality of any Supplemental Due Diligence Request during the procurement process described in this RFP, provided that the CIT may respond to a Proposer's request by providing all Proposers with such access, either collectively or individually at different times.

Proposer Name: [Proposer to provide]

Date: [Proposer to provide]

O'Hare Express System Project: Supplemental Due Diligence Request No. [.]¹

1. Type of Request

- Restricted Access Inspection
- Public Access Inspection
- Physical Due Diligence

2. Overview

[Provide description.]

3. Method(s) of Inspection/Investigation

[Provide description.]

4. Location(s) and Approximate Duration of Activity

[Provide description.]

5. Identity and Qualifications of Participants in Activity (if applicable/known)

[Provide description.]

6. Permit(s)/Approval(s) Required (and status)

[Provide description.]

7. Potential Benefits to the Procurement

[Provide description.]

¹ Proposers to sequentially number all Supplemental Due Diligence Requests. Pursuant to Section 2.5 of the RFP, Proposers should submit a separate Supplemental Due Diligence Request with respect to each requested Supplemental Due Diligence Activity.

Exhibit F: Proposer's Team Update Submissions

Instructions

- (1) Proposers to sequentially number all Proposer's Team Update Submissions (not by category of Proposer's Team Update Submission). Pursuant to Section 7.4 of the RFP, Proposers should submit a separate Proposer's Team Update Submission for each approval or verification requested.
- (2) Proposers should complete only the relevant portion of Part B (i.e. either "Organizational Change" or "Key Personnel Change" for a particular submission) and delete the other alternatives to the extent not applicable.
- (3) See as reference Sections 1.3.1 to 1.3.3 of Exhibit A to the RFQ.
- (4) See as reference Section 1.3.4 (Key Personnel) of Exhibit A to the RFQ.

Proposer Name: [Proposer to provide]

Date: [Proposer to provide]

Proposer's Team Update Submission No. []

A. Approval or Verification Requested (select one)

- Organizational Change (if selected, leave section B.2 and complete section B.1 only)
- Key Personnel Change (if selected, leave section B.1 and complete section B.2 only)

B. Description of Proposed Change

B.1 Organizational Change

Name of entity to be replaced: [Proposer to provide]

Name of [replacement / additional] entity: [Proposer to provide]

Please (a) describe, and explain the reason for, the proposed change and (b) attach all information and materials that would have been required to be submitted in Proposer's statement of qualifications submitted in response to the RFQ under the terms of the RFQ (see instruction note (3) above) had (i) such replacement or additional entity been identified as a Prime Team Member in such submission and (ii) such submission been provided on the date of this Proposer's Team Update Submission.

[Proposer to provide / attach]

B2. Key Personnel Change

Title of Key Personnel Position: [Proposer to provide]

Name of Person to be Replaced: [Proposer to provide]

Name of Replacement: [Proposer to provide]

Please (a) describe, and explain the reason for, the proposed change and (b) attach all information and materials that would have been required to be submitted, as applicable, in Proposer's statement of qualifications submitted in response to the RFQ under the terms of the RFQ (see instruction note (4) above) had (i) such replacement originally been identified in such Key Personnel position in such submission and (ii) such submission been provided on the date of this Proposer's Team Update Submission.

[Proposer to provide / attach]

Form 1-A: Proposal Checklist

O'HARE EXPRESS SYSTEM REQUEST FOR PROPOSALS (RFP) PROPOSAL SUBMITTAL ADMINISTRATIVE CHECKLIST

NOTE: THIS CHECKLIST IS INTENDED TO ASSIST RESPONDENTS BUT MAY NOT BE A COMPLETE LIST OF REQUIRED DOCUMENTATION. RESPONDENT IS SOLELY RESPONSIBLE FOR ENSURING THAT ITS PROPOSAL INCLUDES ALL REQUIRED DOCUMENTS.

Volume I

- 1.1: Proposal Checklist (Form 1-A)
- 1.2: Proposal Letter (Form 1-B)
- 1.3: Acknowledgement of Exclusive Right to Negotiate (Form 1-C)
- 1.4: Economic Disclosure Statement (Form 1-D)
- 1.5: Letter of Credit (Form 2-A)
- 1.6: Executive Summary (2.5 of Exhibit A)
- 1.7: Exclusive Negotiations Checklist (2.6 of Exhibit A)
- 1.8: Description of Pre-Financial Close Funding (2.7 of Exhibit A)
- 1.9: Proposer Team Information (2.8 of Exhibit A)
- 1.10: MBE/WBE/DBE/ACDBE (as applicable) and Workforce Development (2.9 of Exhibit A)
- 1.11: Updates to Equity Funding Letters (as applicable) (2.10.a of Exhibit A)
- 1.12: Updates to Financial Officer's Certificate (as applicable) (2.10.b of Exhibit A)
- 1.13: Updates to Financial Statements (as applicable) (2.10.c of Exhibit A)
- 1.14: Updates to Financial Letters of Support (as applicable) (2.10.d. of Exhibit A)
- 1.15: Conditions, Qualifications, and Exceptions (2.12 of Exhibit A)

Volume II

- 2.1: O'Hare International Airport Terminus (3.1 of Exhibit A)
- 2.2: Design and Construction Performance Security (3.2 of Exhibit A)

- 2.3: Proposed Performance Standards (3.3 of Exhibit A)
- 2.4: Additional Project Agreement Commercial Terms (3.4 of Exhibit A)
- 2.5: Financing Plan (3.5 of Exhibit A)
- 2.6: Letters of Support (as applicable) (3.6.b of Exhibit A)
- 2.7: Debt Commitment Letters (as applicable) (3.6.c. of Exhibit A)
- 2.8: Debt Term Sheets (as applicable) (3.6.c of Exhibit A)
- 2.9: Equity Letters of Commitment (as applicable) (3.7.b.i of Exhibit A)
- 2.10: Details of Availability of Equity Funding (as applicable) (3.7.b.ii of Exhibit A)
- 2.11: Parent Company Guarantee (as applicable) (3.7.b.iii of Exhibit A)
- 2.12: Financial Model (3.8 of Exhibit A)

Volume III

- 3.1: Anticipated Permits and Approvals (Form 3-A)
- 3.2: Anticipated Material Agreements (Form 3-B)
- 3.3: Approach to Environmental Approvals (4.1 of Exhibit A)
- 3.4: Approach to Right-of-Way (4.2 of Exhibit A)
- 3.5: Approach to Safety Approvals (4.3 of Exhibit A)

Volume IV

- 4.1: Design and Construction Schedule (5.1 of Exhibit A)
- 4.2: Design Approach (5.2 of Exhibit A)
- 4.3: Preliminary Design Drawings (5.3 of Exhibit A)
- 4.4: Construction Approach (5.4 of Exhibit A)
- 4.5: Design, Construction and Equipping Cost Estimates (5.5 of Exhibit A)
- 4.6: Vehicles / Trainsets (5.6 of Exhibit A)
- 4.7: Operations Plan (5.7 of Exhibit A)
- 4.8: Operations and Maintenance Cost Estimates (5.8 of Exhibit A)

Form 1-B: Form of Proposal Letter

[To be duplicated and completed on Proposer's company letterhead]

[Date]

Chicago Infrastructure Trust
35 East Wacker Drive, Suite 1450
Chicago, Illinois 60601

Re: O'Hare Express System RFP Response

Dear [·]:

1. Introduction

- a. On behalf of [Full legal name of Proposer] (the "Proposer"), I am pleased to submit this letter and the documents described in paragraph 1.c below (this letter and such documents, together, this "Proposal") in response to the Request for Proposals (RFP) to Design, Build, Finance and Maintain the O'Hare Express System issued on [] by the Chicago Infrastructure Trust ("CIT") (as amended by Addendum Nos. [], the "RFP").
- b. Capitalized terms not otherwise defined in this letter have the meanings given to them in the RFP.
- c. Enclosed, and by this reference incorporated herein and made a part of this Proposal, are each of Volumes 1 through 4 of the Proposal as required to be submitted in accordance with the RFP. This letter itself constitutes the Proposal Letter as defined in the RFP.

2. Proposal Validity

Proposer undertakes to keep its Proposal open for acceptance for the period described in Section 2.8 of the RFP, without:

- a. unilaterally varying or amending its terms;
- b. making any unapproved Organizational Change or Key Personnel Change; or
- c. first obtaining the prior written consent of CIT.

3. Representations and Warranties

- a. Proposer represents and warrants to the CIT as of the date hereof that:
 - i. the undersigned has full authority to bind Proposer with respect to this proposal and any oral or written presentations and representations regarding this Proposal made to the CIT or the City;

Form-1B-1

- ii. this Proposal Letter is submitted in a form identical to Form 1-B to the RFP, other than with respect to modifications permitted or required by the use of such form;
 - iii. all copies of the Proposal submitted to the CIT are identical to the original in all respects;
 - iv. all statements made in the statement of qualifications previously delivered by Proposer to the CIT pursuant to the RFQ (where applicable, as such statements have been amended, resubmitted and/or updated by any Proposer's Team Update Submission) and/or this Proposal are correct, complete and not materially misleading as of the date hereof;
 - v. neither the undersigned nor the Proposer, nor any Prime Team Member, has any undisclosed beneficial interest in or relationship with any other party working or performing services for, or otherwise affiliated with, the CIT or the City, and has no conflict of interest which could interfere with the provision of services to the City; and
 - vi. Proposer has read and understands the RFP, and Proposer has sufficient information relating to the Project (including with respect to the obligations to be assumed under the terms of any Exclusive Right to Negotiate) for purposes of preparing and submitting this Proposal and Proposer is fully capable and qualified to complete the Project as described within the RFP and its Proposal.
- b. Proposer understands that the CIT and the City will rely upon the representations set forth in the Proposal and that the Proposer has a continuing obligation to update and inform the CIT and City in writing of any material changes, errors or omissions to its Proposal. If the CIT and the City determine that any information provided in this Proposal is false, incomplete or inaccurate, or if any provision of the requirements of the RFP is violated, any subsequent agreement may be void or voidable, and the CIT and the City may pursue any remedies at law or in equity, including terminating the Proposer's participation in the Project or procurement and/or declining to allow the Proposer to participate in future CIT and/or City transactions.

4. Acknowledgments and Agreements

Proposer acknowledges and agrees:

- a. to comply with the terms of the RFP as such apply to it at all relevant times;
- b. that if selected as the Preferred Proposer, the Proposer will comply with the terms and conditions of the Acknowledgement of Exclusive Right to Negotiate during the Exclusive Negotiation Period;

Form-1B-2

- c. that all costs and expenses incurred by the Proposer and each Prime Team Member in preparing this Proposal and in participating in the Project procurement process will be borne solely by Proposer or such Prime Team Member, and that in no case shall any such person have any claim against the CIT or the City for reimbursement or recovery of any such costs and expenses;
- d. that the CIT and the City will not provide, and if selected as the Preferred Proposer the Proposer is not entitled to demand or require, and Proposer covenants that it will not request any such, public funding for the Project, and that in submitting its Proposal, the Proposer re-attests its representation made in submission of its SOQ, and represents that, if selected, it will be responsible for financing (whether by debt, equity, or both) all Project costs and, as compensation for services rendered under the Project Agreement, will be entitled only to Project-specific revenues pursuant to terms to be agreed in a definitive Project Agreement.
- e. that the CIT and the City will rely on accuracy of this Proposal and the Proposer agrees to be bound by its representations and statements made herein and in any oral or written presentation made during the evaluation and selection process;
- f. furthermore, the representations and warranties above and the acknowledgements and agreements in herein are without prejudice to the operation of the provisions of any subsequent Project Agreement, and this letter shall not be admissible as evidence in any dispute arising after execution of the Project Agreement;
- g. that CIT's acceptance of the delivery of this Proposal does not, and shall not be deemed to, constitute any statement or determination as to its completeness, responsiveness or compliance with the requirements of the RFP;
- h. that neither the CIT nor the City shall be liable in any way whatsoever to any Proposer or any Team Member if any information in the Proposal identified by the Proposer as confidential is disclosed in accordance with FOIA or other applicable law;
- i. that under the terms of the RFP the CIT has reserved to itself a number of rights related to the procurement of the Project (including the selection of a Preferred Proposer), including the Reserved Rights; and
- j. that the protest procedures set out in Section 8.6 of the RFP, including the limitations imposed therein.

5. Governing Law

This letter will be governed in accordance with the laws of the State of Illinois, without regard to choice of law principles.

Under penalty of perjury, I hereby swear and affirm that I am authorized to act on behalf of Proposer in signing and delivering this letter, and acknowledge that the CIT and the City are relying on my representation to this effect.

Proposer: [insert Proposer name]

By: _____

Name: [Typed/lettered name of signatory]

Title: [Title]²

State of _____ County of _____

Signed and affirmed before me on [date] by [Typed/lettered name of signatory].

[Signature of Notary Public]

[Seal]

* * *

Under penalty of perjury, each of the undersigned:³

- (a) certifies on behalf of the entity for which he or she signs that:
 - (i) the individual named above is authorized by the Proposer to sign this letter on behalf of Proposer; and
 - (ii) the representations, certifications, statements, disclosures, authorizations and commitments made, and information contained, in this Proposal, including in this letter, by or in respect of such entity have been authorized by such entity, and is or are correct, complete and not materially misleading; and

² Must be signed by an authorized officer of the Proposer (if a legal entity) with authority to bind the Proposer, or if a joint venture by the Proposer's Representative.
³ An authorized representative of each Prime Team Member (other than the Proposer) shall sign this certification.

(b) swears and affirms that he or she is authorized to act on behalf of the entity for which he or she signs and acknowledges that the CIT and the City are each relying on his or her representation to this effect:⁴

[Role]:^{5 6} [insert entity name]

By: _____

Name: [Typed/lettered name of signatory]

Title: [Title]

State of _____ County of _____

Signed and affirmed before me on [date] by [Typed/lettered name of signatory].

[Signature of Notary Public]

[Seal]

⁴ Signature block below to be repeated for each Prime Team Member (other than the Proposer). All signature blocks on this Form may be modified to properly reflect the authority of the person signing.

⁵ For any Prime Team Member that is a Joint Venture, include signature by each Joint Venture member or partner below the name of the relevant member or partner (to be inserted by Proposer).

⁶ Must be signed by an authorized officer of the relevant entity with authority to bind such entity.

Form 1-C: Form of Acknowledgement of Exclusive Right to Negotiate

[To be duplicated and completed on Proposer's company letterhead]

[Date]

Chicago Infrastructure Trust
35 East Wacker Drive, Suite 1450
Chicago, Illinois 60601

Re: Acknowledgement of Exclusive Right to Negotiate

Dear [·]:

On behalf of [Full legal name of Proposer] (the "Proposer"), I am pleased to submit this acknowledgement in connection with the Request for Proposals (RFP) to Design, Build, Finance and Maintain the O'Hare Express System issued on [] by the Chicago Infrastructure Trust ("CIT") (as amended by Addendum Nos. [], the "RFP"). Capitalized terms not otherwise defined in this letter have the meanings given to them in the RFP.

This document constitutes Proposer's Acknowledgement of Exclusive Right to Negotiate as defined in the RFP.

Proposer hereby acknowledges and irrevocably agrees as follows:

1. Effectiveness. The following conditions (the "Conditions") will automatically apply to the Proposer during any Exclusive Negotiations Phase in which it is the Preferred Proposer.

2. Conditions, Qualification and Exceptions to Proposals.⁷ [This Acknowledgement of Exclusive Right to Negotiate is subject to the conditions, qualifications and exceptions made in our Proposal in accordance with Section 4.3.3 of the RFP and Section 2.12 of Exhibit A, provided that the Proposer acknowledges that the CIT may condition any Invitation to Exclusive Negotiations on the withdrawal of any condition, qualification or exception included in the Proposer's Proposal.] [The Proposer confirms that it did not make its Proposal subject to any conditions, qualifications or exceptions as otherwise permitted in accordance with Section 4.3.3 of the RFP and Section 2.12 of Exhibit A.]

3. Preferred Proposer's Obligations; Compliance with RFP. Upon receipt of an Invitation to Exclusive Negotiations, Proposer commits to enter into exclusive negotiations to enter into a Project Agreement and proceed with the Project as provided for in the RFP. As the Preferred Proposer, the Proposer will comply with all relevant provisions of the RFP, and in particular but not exclusively, the rules set out in Section 7 and 8 of the RFP.

4. Exclusivity. During the Exclusive Negotiations Phase, the Preferred Proposer's ongoing compliance with the Conditions contained herein and with the terms and conditions of

⁷ Proposer to include one of the two bracketed alternatives.

the RFP shall be a condition to continuing exclusive negotiations with the CIT and the City with respect to the Project and any related transactions.

5. Good Faith Negotiation. As the Preferred Proposer, Proposer will negotiate with the CIT and the City in good faith in accordance with the standard set out in Section 6.8 of the RFP.

6. Exclusive Negotiations Fee. In consideration of its selection as Preferred Proposer, Proposer agrees it will pay the City a \$2,000,000 fee within 30 days following the start of the Exclusive Negotiations Phase.

7. Exclusivity Security. In consideration of its selection as Preferred Proposer, the Proposer will at all times maintain the Exclusivity Security in accordance with Sections 5.3.1 through 5.3.3 of the RFP. Furthermore, Proposer understands and agrees that the City, or CIT for the City's benefit, will be entitled to draw (demand payment of funds by the issuing bank in accordance with the terms of such standby letter of credit) on its Exclusivity Security in its entirety if, and only if, as the Preferred Proposer it does any one or more of things referenced in Section 5.3.4.a of the RFP.

8. Limitation on Party's Obligations. Without prejudice to the terms of the RFP as it applies to Proposer and its Proposal, or to CIT's rights with respect to any Exclusivity Security held by it, neither delivery of the Proposal, nor identification of Proposer as the Preferred Proposer, nor CIT's acceptance of the Exclusivity Security from the Proposer as the Preferred Proposer, does or will create any legally binding obligations among Proposer, the CIT and the City relating to the Project (including any obligation to enter into the Project Agreement or any other agreement in relation to the Project, as such an obligation will arise only upon the execution and delivery of the Project Agreement or other final definitive agreements relating to the Project). CIT's and the City's obligations with respect to the Project shall be limited to those express obligations set out in Sections 5 and 6 of the RFP, and shall in all cases be subject to the Reserved Rights, and further shall not be construed as requiring the CIT or City to take any of the actions described in Section 6.10 of the RFP.

9. Costs and Expenses. As the Preferred Proposer, Proposer will fully reimburse the CIT and the City for all costs and expenses in excess of the Exclusive Negotiations Fee, including consultants' and attorneys' fees, incurred by them (including in the case of the City, by any City entity or agency). For certainty, subject only to the terms of any definitive and binding Project Agreement, neither the City nor the CIT will be responsible for any costs incurred by the Proposer at any time during its pursuit of the Project.

10. FOIA; Confidentiality. As the Preferred Proposer, Proposer will comply with FOIA in accordance with Section 6.7 of the RFP and with the FOIA protocol to be provided by the Proposer in accordance with Exhibit B of the RFP. The City shall not be liable in any way to the Proposer if any information identified by such Proposer as confidential is disclosed under Applicable Law.

11. Indemnification. In consideration of its designation as the Preferred Proposer, Proposer, and each Prime Team Member, will indemnify, defend, and hold harmless to the

Form-1C-2

maximum extent permitted by law, each of the CIT, the City, and the Chicago Transit Authority, and each of their agents, officials, and employees (collectively the “Indemnified Parties”) against any and all claims or losses accruing to any Indemnified Party arising out of or in any way related to the designation of the Proposer as the Preferred Proposer, its Proposal, its conduct as the Preferred Proposer, its breach of the RFP or of certification, covenant, representation or warranty provided by it to the CIT or the City in connection with such Proposal, or the occurrence of any of the events listed in Section 4.5.4 of the RFP. This indemnity shall include losses resulting from claims made by third parties against any Indemnified Party. This indemnity will survive the termination of the Exclusive Negotiations Phase.

12. Waiver of Consequential Damages. Notwithstanding the foregoing indemnification, neither the Preferred Proposer nor any Prime Team Member will be responsible for any punitive, special, indirect, incidental or consequential damages of any nature (including, for certainty, lost fare revenue) whether arising out of a breach, tort (including negligence) or other legal theory of liability, and the CIT releases it from such liability, provided that the foregoing waiver will not apply to any loss or claim arising out of fraud, willful misconduct, criminal conduct, recklessness, bad faith or gross negligence on the part of the relevant indemnifying party (including in the case of the Proposer, of any Team Member).

13. Defined Terms; Conflicts; Amendment. All capitalized terms not defined herein shall have the meaning ascribed to them in the RFP. Nothing in this Acknowledgement is intended to supersede any provision of the RFP. In the event of any conflict between the terms of this Acknowledgement and the RFP, the RFP shall prevail. No alterations or modifications of this Acknowledgement will be effective unless agreed in writing.

14. RFP and Proposal Remain in Effect. Notwithstanding the execution of this acknowledgement, the RFP and the Proposal remains in full force and effect, including as such applies to the Proposer as Preferred Proposer, and none of the RFP’s or Proposals terms and conditions are, or shall be construed as, being amended or modified.

15. Authority to Bind Preferred Proposer. The undersigned signatory warrants it has the full authority to bind the Proposer with respect to this Acknowledgement and any oral or written presentations and representations regarding the Proposer’s Proposal or the Project made to the CIT or the City.

16. Waive of Protest Right. In consideration of its selection as Preferred Proposer, upon issuance of the Invitation to Exclusive Negotiations Proposer will be deemed to have automatically and unconditionally waived its right of protest under Section 8.6 of the RFP.

17. Governing Law. In This acknowledgement will be governed in accordance with the laws of the State of Illinois, without regard to choice of law principles.

Under penalty of perjury, I hereby swear and affirm that I am authorized to act on behalf of Proposer in signing and delivering this acknowledgement, and acknowledge that the CIT and the City are relying on my representation to this effect.

Form-1C-3

Proposer: *[insert Proposer name]*

By: _____

Name: *[Typed/lettered name of signatory]*

Title: *[Title]*⁸

State of _____ County of _____

Signed and affirmed before me on *[date]* by *[Typed/lettered name of signatory]*.

[Signature of Notary Public]

[Seal]

⁸ Must be signed by an authorized officer of the Proposer (if a legal entity) with authority to bind the Proposer, or if a joint venture by the Proposer's Representative.

Form 1-D: Sample Economic Disclosure Statement (“EDS”) and Affidavit

Instructions

- (1) Proposers will need to complete an EDS and submit with their Proposals.
- (2) All EDS submittals must be in paper form.
- (3) The City requires disclosure of the information requested in this Economic Disclosure Statement and Affidavit ("EDS") before any City agency, department or City Council action regarding the matter that is the subject of this EDS. Please fully complete each statement, with all information current as of the date this EDS is signed. If a question is not applicable, answer with "N.A." An incomplete EDS will be returned and any City action will be delayed.
- (3) Please print or type all responses clearly and legibly. Add additional pages if needed, being careful to identify the portion of the EDS to which each additional page refers.
- (4) Proposers have an ongoing duty to update their EDS.
- (5) For purposes of this EDS:
 - “Applicant”** means any Entity or Person that is an Equity Member of a Proposer.
 - “Disclosing Party”** means any entity or person submitting an EDS.
 - “Entity” or “Legal Entity”** means a legal entity (for example, a corporation, partnership, joint venture, limited liability company or trust).
 - “Person”** means a human being.
- (6) An EDS must be submitted in any of the following three circumstances:
 - i. 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.
 - ii. Entities holding an interest: Whenever a legal entity has a beneficial interest (i.e. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.
 - iii. Controlling entities: Whenever a legal entity directly or indirectly controls the Applicant, each such controlling legal entity must file an EDS on its own behalf.

**CITY OF CHICAGO
ECONOMIC DISCLOSURE STATEMENT
AND AFFIDAVIT**

SECTION I -- GENERAL INFORMATION

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. the Applicant

OR

2. a legal entity currently holding, or anticipated to hold within six months after City action on the contract, transaction or other undertaking to which this EDS pertains (referred to below as the "Matter"), a direct or indirect interest in excess of 7.5% in the Applicant. State the Applicant's legal name:

OR

3. a legal entity with a direct or indirect right of control of the Applicant (see Section II(B)(1))
State the legal name of the entity in which the Disclosing Party holds a right of control:

B. Business address of the Disclosing Party:

C. Telephone: _____ Fax: _____ Email: _____

D. Name of contact person: _____

E. Federal Employer Identification No. (if you have one): _____

F. Brief description of the Matter to which this EDS pertains. (Include project number and location of property, if applicable): _____

G. Which City agency or department is requesting this EDS? _____

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # _____ and Contract # _____

SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- Person
- Publicly registered business corporation
- Privately held business corporation
- Sole proprietorship
- General partnership
- Limited partnership
- Trust
- Limited liability company
- Limited liability partnership
- Joint venture
- Not-for-profit corporation
(Is the not-for-profit corporation also a 501(c)(3))?
 Yes No
- Other (please specify)

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

- Yes
- No
- Organized in Illinois

B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles, if applicable, of: (i) all executive officers and all directors of the entity; (ii) **for not-for-profit corporations**, all members, if any, which are legal entities (if there are no such members, write "no members which are legal entities"); (iii) **for trusts, estates or other similar entities**, the trustee, executor, administrator, or similarly situated party; (iv) **for general or limited partnerships, limited liability companies, limited liability partnerships or joint ventures**, each general partner, managing member, manager or any other person or legal entity that directly or indirectly controls the day-to-day management of the Applicant.

NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title

2. Please provide the following information concerning each person or legal entity having a direct or indirect, current or prospective (i.e. within 6 months after City action) beneficial interest (including ownership) in excess of 7.5% of the Applicant. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture, interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None."

NOTE: Each legal entity listed below may be required to submit an EDS on its own behalf.

Name	Business Address	Percentage Interest in the Applicant
_____	_____	_____
_____	_____	_____
_____	_____	_____

SECTION III -- INCOME OR COMPENSATION TO, OR OWNERSHIP BY, CITY ELECTED OFFICIALS

Has the Disclosing Party provided any income or compensation to any City elected official during the 12-month period preceding the date of this EDS Yes No

Does the Disclosing Party reasonably expect to provide any income or compensation to any City elected official during the 12-month period following the date of this EDS? Yes No

If "yes" to either of the above, please identify below the name(s) of such City elected official(s) and describe such income or compensation:

Does any City elected official or, to the best of the Disclosing Party's knowledge after reasonable inquiry, any City elected official's spouse or domestic partner, have a financial interest (as defined in Chapter 2-156 of the Municipal Code of Chicago ("MCC")) in the Disclosing Party?
 Yes No

If "yes," please identify below the name(s) of such City elected official(s) and/or spouse(s)/domestic partner(s) and describe the financial interest(s).

SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist (as defined in MCC Chapter 2-156), accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll. If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is

required or make the disclosure. Name (indicate whether Business Relationship to Disclosing Party Fees (indicate whether retained or anticipated to be retained) Address (subcontractor, attorney, lobbyist, etc.) paid or estimated. **NOTE:** "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

SECTION V -- CERTIFICATIONS

A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under MCC Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term. Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

Yes No No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

Yes No

B. FURTHER CERTIFICATIONS

1. [This paragraph 1 applies only if the Matter is a contract being handled by the City's Department of Procurement Services.] In the 5-year period preceding the date of this EDS, neither the Disclosing Party nor any Affiliated Entity [see definition in (5) below] has engaged, in connection with the performance of any public contract, the services of an integrity monitor, independent private sector inspector general, or integrity compliance consultant (i.e., an individual or entity with legal, auditing, investigative, or other similar skills, designated by a public agency to help the agency monitor the activity of specified agency vendors as well as help the vendors reform their business practices so they can be considered for agency contracts in the future, or continue with a contract in progress).

2. The Disclosing Party and its Affiliated Entities are not delinquent in the payment of any fine, fee, tax or other source of indebtedness owed to the City of Chicago, including, but not limited to, water and sewer charges, license fees, parking tickets, property taxes and sales taxes, nor is the Disclosing Party delinquent in the payment of any tax administered by the Illinois Department of Revenue

3. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II(B)(1) of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, during the 5 years before the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in subparagraph (b) above;
- d. have not, during the 5 years before the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, during the 5 years before the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

4. The Disclosing Party understands and shall comply with the applicable requirements of MCC Chapters 2-56 (Inspector General) and 2-156 (Governmental Ethics).

5. Certifications (5), (6) and (7) concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity). Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity. With respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;

- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor, nor any Agents have, during the 5 years before the date of this EDS, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the 5 years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty 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. made an admission of such conduct described in subparagraph (a) or (b) above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions referenced in MCC Subsection 2-92-320(a)(4)(Contracts Requiring a Base Wage); (a)(5)(Debarment Regulations); or (a)(6)(Minimum Wage Ordinance).

6. Neither the Disclosing Party, nor any Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

7. Neither the Disclosing Party nor any Affiliated Entity is listed on a Sanctions List maintained by the United States Department of Commerce, State, or Treasury, or any successor federal agency.

8. [FOR APPLICANT ONLY] (i) Neither the Applicant nor any "controlling person" [see MCC Chapter 1-23, Article I for applicability and defined terms] of the Applicant is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any "sister agency"; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If MCC Chapter 1-23, Article I applies to the Applicant, that Article's permanent compliance timeframe supersedes 5-year compliance timeframes in this Section V.

9. [FOR APPLICANT ONLY] The Applicant and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed as having an active exclusion by the U.S. EPA on the federal System for Award Management ("SAM").

10. [FOR APPLICANT ONLY] The Applicant will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in Certifications (2) and (9) above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Applicant has reason to believe has not provided or cannot provide truthful certifications.

11. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

12. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

13. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$25 per recipient, or (iii) a political contribution otherwise duly reported as required by law (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)
 is is not

a "financial institution" as defined in MCC Section 2-32-455(b).

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in MCC Chapter 2-32. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in MCC Chapter 2-32. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

D. CERTIFICATION REGARDING FINANCIAL INTEREST IN CITY BUSINESS

Any words or terms defined in MCC Chapter 2-156 have the same meanings if used in this Part D.

1. In accordance with MCC Section 2-156-110: To the best of the Disclosing Party's knowledge after reasonable inquiry, does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

Yes

No

NOTE: If you checked "Yes" to Item D(1), proceed to Items D(2) and D(3). If you checked "No" to Item D(1), skip Items D(2) and D(3) and proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

Yes

No

3. If you checked "Yes" to Item D(1), provide the names and business addresses of the City officials or employees having such financial interest and identify the nature of the financial interest:

Name	Business Address	Nature of Financial Interest
------	------------------	------------------------------

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either (1) or (2) below. If the Disclosing Party checks (2), the Disclosing Party must disclose below or in an attachment to this EDS all information required by (2). Failure to comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

____ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

____ 2. The Disclosing Party verifies that, as a result of conducting the search in step (1) above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995, as amended, who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995, as amended, have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in paragraph A(1) above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A(1) and A(2) above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities," as that term is defined in the Lobbying Disclosure Act of 1995, as amended.

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A(1) through A(4) above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

Yes

No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

Yes

No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

Yes

No

Reports not required

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

Yes

No

If you checked "No" to question (1) or (2) above, please provide an explanation:

SECTION VII -- FURTHER ACKNOWLEDGMENTS AND CERTIFICATION The Disclosing

Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics Ordinance, MCC Chapter 2-156, imposes certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of this ordinance and a training program is available on line at www.cityofchicago.org/Ethics, and may also be obtained from the City's Board of Ethics, 740 N. Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with this ordinance.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other City transactions. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided in, and appended to, this EDS may be made publicly available on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to MCC Chapter 1-23, Article I (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by MCC Chapter 1-23 and Section 2-154-020.

CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS, and Appendices A and B (if applicable), on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS, and Appendices A and B (if applicable), are true, accurate and complete as of the date furnished to the City.

(Print or type exact legal name of Disclosing Party)

By:
(Sign here)

(Print or type name of person signing)

(Print or type title of person signing)

Signed and sworn to before me on (date) _____,

at _____ County, _____ (state).

Notary Public

Commission expires:

**CITY OF CHICAGO
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS
AND DEPARTMENT HEADS**

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5%. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under MCC Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5% ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

Yes

No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

**CITY OF CHICAGO
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
APPENDIX B**

BUILDING CODE SCOFFLAW/PROBLEM LANDLORD CERTIFICATION

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5% (an "Owner"). It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

1. Pursuant to MCC Section 2-154-010, is the Applicant or any Owner identified as a building code scofflaw or problem landlord pursuant to MCC Section 2-92-416?

Yes

No

2. If the Applicant is a legal entity publicly traded on any exchange, is any officer or director of the Applicant identified as a building code scofflaw or problem landlord pursuant to MCC Section 2-92-416?

Yes
exchange.

No

The Applicant is not publicly traded on any

Rules Regarding
Economic Disclosure Statement and Affidavit

These Rules are promulgated pursuant to Section 2-154-050 of the Municipal Code of Chicago ("Code"). These rules are intended solely to provide guidance on interpretation of Chapter 2-154 of the Code and are not intended to abrogate any disclosure requirements contained in 65 ILCS 5/8-10-8.5, as applicable.

1. The following entities listed in (a) through (i) shall not be required to file an EDS:
 - (a) any unit of government in the United States or any agency or instrumentality thereof;
 - (b) any unit of government of a foreign government recognized by the United States government, or any agency or instrumentality of such unit of government;
 - (c) a pension fund maintained by, or for the benefit of, an entity covered under (a) or (b) above;
 - (d) an enterprise created by Federal or state statute, but not formed as a corporation (e.g., Fannie Mac, Federal Home Loan Corporation, SLM Corporation);
 - (e) an entity directly owned by an entity covered under (a) or (b) above (e.g., Government National Mortgage Association);
 - (f) a foundation having a current tax exemption under Section 501(c) of the Internal Revenue Code, so long as such foundation provides a copy of its most recent IRS Form 990;
 - (g) a registered investment adviser, so long as such registered investment adviser provides a copy of its most recent Form ADV and its most recent amendment thereto;
 - (h) a mutual fund, so long as such mutual fund provides a copy of its form N-1A and the most recent amendment thereto; or
 - (i) such other entity that is regulated by and required to make periodic filings with the federal Securities and Exchange Commission under the Securities Act, the Securities and Exchange Act, the Williams Act the Public Utility Holding Company Act, or the Investment Company Act or pursuant to comparable foreign securities regulatory and filing requirements, provided that (i) such entity provides a copy of such most recent filing or report, and (ii) the Corporation Counsel determines that such filing or report and the entity's disclosures therein reasonably satisfy the purposes and intent of the EDS Form.

2. Section 2-154-010 of the Municipal Code requires disclosures to be made when a person or entity "makes application to the City of Chicago for action." This phrase shall be construed not to apply to a transaction, and thus not to require submission of an EDS in conjunction with that transaction, if either A, B, C or D below applies:

- (a) If the contracting party is providing money or other in-kind goods or services to the City in exchange solely for advertising or promotional rights relating to a City-produced

festival, fair, event or seasonal program (an example of a seasonal program is Riverwalk).

(b) If all of the following circumstances (i) through (iv) are present:

- (i) The action is being undertaken at the request of the City.
- (ii) The action is being undertaken for the primary benefit of the City.
- (iii) The affected party is not seeking the action and would not participate in the action if not for the City's request.
- (iv) The affected party is uniquely situated, such that the City would be unable to seek the benefit at issue from a different party. Examples include an easement granted for the City's benefit, or site access granted by a railroad or airline for the City's benefit.

(c) If the City is legally obligated, pursuant to an ordinance or an existing contract, to execute an agreement with a party for a transaction and the City is not permitted, under its existing legal obligation, to exercise discretion in the selection of such party (e.g., a lender to an Applicant with whom the City is executing a subordination or intercreditor agreement, a third-party depository or escrow agent or the Applicant's landlord or tenant, or a similar co-participant in a deal involving an Applicant).

(d) If the City enters into a subordination agreement or other form of intercreditor agreement with a private lender to an Applicant, which agreement is required by a governmental entity, instrumentality or agency (e.g., the United States Department of Housing and Urban Development) in connection with the provision of financing for affordable housing from the City to such Applicant, such private lender shall not be required to submit an EDS solely by virtue of such agreement.

3. The participation in a transaction by a party solely in that party's capacity as an escrowee or similar administrative capacity, where that party otherwise has no contracting relationship with the City in that transaction, shall not obligate that party to submit an EDS.

4. If a Disclosing Party is required to supplement an EDS filing to comply with the requirements of Chapter 1-23, as incorporated into Section 2-154-020, of the Code, regarding that party's status as eligible to do business with the City, such supplemental disclosure shall be provided in writing to the Office of the Corporation Counsel.

5. The terms "ownership interest" and "beneficial interest" as used in Section 2-154-010(a)(1) shall, for owners of shares in corporations, refer only to those shareholders who have the right to receive dividends or other distributions of money from the corporation.

NOTE: The exceptions in these Rules are set forth as a general matter, and depending on the facts

and circumstances of a particular transaction, the City reserves the right to require an EDS from any one or more of the types of entities listed herein.



Stephen R. Patton



Date

Ver.1-01-16

Form 2-A: Letter of Credit

ISSUER: [Name, Address and Contact Information, including Phone, Fax and Email]

PLACE FOR PRESENTATION OF DRAFT IN PROGRESS: [Name and address of Bank/Branch]⁹

APPLICANT: [Name]

BENEFICIARY: City of Chicago
[address]

LETTER OF CREDIT NUMBER: []

PLACE AND DATE OF ISSUE: []

AMOUNT:¹⁰ \$2,000,000

EXPIRATION DATE: [Date no earlier than [·] days after the [·]]

The Issuer hereby issues this Irrevocable Standby Letter of Credit (this “Letter of Credit”) in favor of the Beneficiaries for any sum or sums in the sum of up to **TWO MILLION UNITED STATES DOLLARS (\$2,000,000)** (the “Stated Amount”), available by draft at sight drawn on the Issuer.

Any drawing under this Letter of Credit may be made by the Beneficiary, shall be in the form of the drawing certificate set out in the Exhibit to this Letter of Credit and shall:

- (a) identify this Letter of Credit by the name of the Issuer, and the Letter of Credit number, amount, and place and date of issue; and
- (b) be signed by a representative of the Beneficiary and contain a statement that such Beneficiary is entitled to make such drawing.

Any such drawing certificate shall be honored by the Issuer if presented in person at [City of Chicago, Illinois Bank/Branch – Name & Address] on or before the Expiration Date.

Drawings by facsimile to the facsimile number specified above or electronically to the email address specified above are also acceptable if made on or before the Expiration Date. Upon the sending of any drawing certificate by facsimile or email the Beneficiary shall confirm, by telephone, the Issuer’s receipt of such facsimile or email drawing by calling the Issuer at the telephone number specified above (provided that no failure or delay by the Issuer in confirming receipt of the drawing certificate shall affect the validity of any drawing properly made by the Beneficiary).

⁹ This must be in the City of Chicago, Illinois unless otherwise approved by CIT.

¹⁰ The amount of a single letter of credit may be less than \$2,000,000, as the case may be, provided that the aggregate amount of all letters of credit equals or exceeds \$2,000,000. Note also the obligation for the Preferred Proposer to increase such amount in accordance with Section 5.3.1 of the RFP.

The obligations of the Issuer hereunder are primary obligations to the Beneficiary and shall not be affected by the performance or non-performance by [*Name of Applicant*] under any agreement with the Beneficiary or the Issuer or by any bankruptcy, insolvency or other similar proceeding initiated by or against [*Name of Applicant*]. [*Name of Applicant*] is not the beneficiary under this Letter of Credit and possesses no interest whatsoever in proceeds of any draw under this Letter of Credit.

This Letter of Credit shall terminate on the earlier of: (a) 3:00 pm Central Standard Time on the Expiration Date and (b) the date on which the Issuer has honored one or more draws in an aggregate amount equal to the Stated Amount.

This Letter of Credit may not be transferred by either Beneficiary to any other person.

To the extent not inconsistent with the express provisions hereof, this Letter of Credit is subject to the rules of the International Standby Practices ISP98 ("ISP98"), as interpreted under the laws of the State of Illinois, and shall, as to matters not governed by ISP98, be governed and construed in accordance with the laws of the State of Illinois.

With respect to any suit, action or proceeding relating to this Letter of Credit ("Proceedings"), the Issuer irrevocably: (i) submits to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois, (ii) waives any objection which it may have at any time to the laying of venue of any Proceeding brought in any such court, (iii) waives any claim that any such Proceeding has been brought in an inconvenient forum and (iv) waives the right to object, with respect to any such Proceeding, that such court does not have any jurisdiction with respect to such Proceeding.

Issuer:

By:

Name: []
Title: []
(Authorized Signatory of Issuer)

**Exhibit
Form of Drawing Certificate**

ISSUER: [Name, Address and Contact Information,
including Phone, Fax and Email]

APPLICANT: [Name]

BENEFICIARY: City of Chicago
(address)

LETTER OF CREDIT NUMBER: []

PLACE AND DATE OF ISSUE: []

AMOUNT:¹¹ \$2,000,000

EXPIRATION DATE: []

Reference is made to the Irrevocable Standby Letter of Credit referenced above (the "Letter of Credit") issued by the Issuer referenced above by order and for account of the Applicant referenced above.

The undersigned, a duly authorized representative of the Beneficiary referenced above (the "Beneficiary"), hereby certifies that the Beneficiary is entitled to draw under the Letter of Credit in the full amount thereof as specified above.

[Name of Beneficiary]

By:

Name: []

Title: []

Date:

(Authorized Signatory of Beneficiary)

¹¹ The amount of a single letter of credit may be less than \$2,000,000, as the case may be, provided that the aggregate amount of all letters of credit equals or exceeds \$2,000,000. Therefore adjust the drawing certificate amount accordingly. Note also the obligation for the Preferred Proposer to increase the letter of credit amount in accordance with Section 5.3.1 of the RFP.

Form 3-A: Permits and Approvals

Proposer reasonably expects the permits and Governmental Approvals set out in the table below to constitute the material permits and approvals that must be secured during the Exclusive Negotiations Phase and otherwise following Project Agreement execution to permit design, construction, Project completion and commencement of revenue service, taking into account the terms of the RFP and its Proposal.

Material Permits and Approvals

No.	Name / Short Reference	Description ¹²	Issuing Authority	Timing ¹³
	<u>Environmental</u>			
1.				
	<u>Right of Way / Property Rights</u>			
2.				
	<u>Surface Transportation Regulatory</u>			
3.				
	<u>Airport Regulatory</u>			
4.				
	<u>Building and Construction</u>			
5.				
	<u>Railroad and Utilities</u>			
6.				
	<u>Other State / Local</u>			
7.				
	<u>Army Corps of Engineers</u>			
8.				
	<u>Other</u>			
9.				

¹² Proposer to provide a summary of why this permit or approval is expected to be necessary, as well as its subject matter.

¹³ Described expected timing, and (if applicable) not later than date. Timing can be calendar based or conditioned relative to other events.

Form 3-B: Material Agreements

Proposer reasonably expects the third-party agreements set out in the table below to constitute the material agreements (excluding financing agreements) that must be executed during the Exclusive Negotiations Phase and otherwise following Project Agreement execution to permit design, construction, Project completion and commencement of revenue service, taking into account the terms of the RFP and its Proposal.

Table of Material Agreements and Timing

No.	Category / Short Reference	Detailed Description ¹⁴	Parties	Timing ¹⁵
	<u>Subcontracts and Supply Agreements</u>			
1.				
	<u>Utility Agreements</u>			
2.				
	<u>Railroads and Airline Agreements</u>			
3.				
	<u>Agreements with State and City-related Entities¹⁶</u>			
4.				
	<u>Property Rights and Acquisition</u>			
5.				
	<u>Other</u>			
6.				

¹⁴ Proposer to provide a summary of what this Material Agreement is expected to achieve and what material terms it may include.

¹⁵ Described expected timing, and (if applicable) not later than date. Timing can be calendar based or conditioned relative to other events.

¹⁶ For example, CTA, CDOT, Metra, CDA, IDOT etc.