

2/6/2014

**10-R-14**

**A RESOLUTION**

**Authorizing the City Manager to Accept Donation of Solar Panels from Alternative Transportation for Chicagoland to be installed at the Ecology Center and Fleetwood-Jourdain Community Center**

**WHEREAS**, Alternative Transportation of Chicagoland has agreed to donate, through the Illinois Department of Commerce and Economic Opportunity 20 kW of solar panels; and

**WHEREAS**, the donation is brought in part by the ARRA Community Renewable Energy Program Grant No. 09-462012 for I-GO Alternative Transportation for Chicagoland, Inc.; and

**WHEREAS**, the donation will consist of 20kW of solar panels, which will be installed at the Ecology Center and the Fleetwood-Jourdain Community Center; and

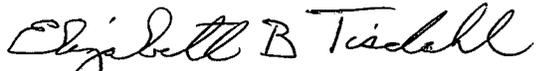
**WHEREAS**, the City Council of the City of Evanston had deemed it in the best interest of the citizens of Evanston, as well as beneficial for the larger community within the County of Cook, to accept the donation of solar panels from Alternative Transportation of Chicagoland,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That the foregoing recitals are found as fact and made a part hereof.

**SECTION 2:** The City Manager is hereby authorized and directed to execute the Solar Panels Donation Agreement (attached hereto as Exhibit A) on behalf of the City of Evanston.

**SECTION 3:** That this Resolution 10-R-14 shall be in full force and effect from the date of its passage and approval in the manner provided by law.

  
Elizabeth B. Tisdahl, Mayor

Attest:

  
Rodney Greene, City Clerk

Adopted: March 10, 2014

EXHIBIT A

**Solar Panels Donation Agreement**

## SOLAR PANELS DONATION AGREEMENT

This Donation Agreement (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and among ALTERNATIVE TRANSPORTATION FOR CHICAGOLAND, INC., an Illinois not-for-profit corporation (the "Donor"), and the CITY OF EVANSTON, an Illinois home rule municipal corporation (the "City"). Donor and City shall be collectively referred to herein as the "Parties."

- A. Donor owns the personal property listed on **Exhibit A** hereto (the "Property"), and desires to convey ownership to the City.
- B. The City desires to accept ownership of the Property for use as specified herein.

NOW THEREFORE, in consideration of the mutual covenants and undertakings contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Donor Commitment.** The Donor hereby agrees to convey possession of the Property to the City and the City agrees to accept such conveyance herein as designated for the benefit of the City. The City acknowledges that the property is, and shall remain, subject to certain restrictions pursuant to that certain ARRA Community Renewable Energy Program Grant No. 09-462012 for I-GO Alternative Transportation for Chicagoland, Inc. dated as of February 1, 2010 by and between Donor and the Illinois Department of Commerce and Economic Opportunity (the "DCEO Agreement") until the expiration or termination thereof. A copy of the DCEO Agreement is attached as **Exhibit B**. Upon such expiration or termination, all right and title to the Property shall pass to the City. An authorized representative of the Illinois Department of Commerce and Economic Opportunity has signed the consent attached to, and incorporated into, this Agreement as **Exhibit C** solely to evidence the DCEO's consent to the transaction specific herein.
2. **City's Obligations.** It is understood and agreed by the Parties that in consideration of the Donor conveying the Property to the City, the City shall perform the following obligations:
  - a. On or before \_\_\_\_\_, the City shall take possession of the Property and be responsible for all costs of storing, installing, maintaining, operating and repairing the Property.
  - b. On or before \_\_\_\_\_, the City shall install the Property on any City facilities/buildings of its own choosing. The location of the installation and placement of the Property on the City's facilities/buildings is solely within the City's discretion. The City will operate, maintain, and repair the Property in good order and repair, with exception of original wear and tear, and in accordance with the manufacturer's specifications, and shall comply with the requirements of the DCEO Agreement as they apply to the Property until the expiration thereof.
3. **Intent.** The Parties to the Agreement agree that the Donor's conveyance of the Property to the City shall constitute the Donor's binding obligation and shall be enforceable at law and

equity including, without limitation, against the Donor and the Donor's successors and assigns. The Donor acknowledges that the City is relying, and shall continue to rely, on the Donor's conveyance of the Property being fully satisfied as set forth herein.

4. **Recognition by the City.** To honor the Donor, and to express the appreciation of the City, publicity in the form of news announcements and/or website recognition, both internal and external, will be made with the permission of the Donor. Donor grants the City permission to use its name and likeness and its President's name and likeness related to the publicity. The City shall install signage in its reasonable discretion, at a prominent location at the Property installation location, acknowledging Donor and other parties designated by Donor in writing to the City.
5. **Representations and Warranties.**
  - a. The Donor represents that it is conveying the Property and the City is accepting the Donor's conveyance of the Property in the Property's existing condition without any representation or warranty of any kind or nature. The Donor acknowledges that it provided the City with a reasonable opportunity to inspect the Property. The Donor makes no warranties, express or implied, in connection with the Property, and all other warranties, including without limitation any implied warranty of merchantability or fitness for a particular purpose, are expressly and specifically disclaimed.
  - b. The Donor represents that it owns and has good and marketable title to the Property, free and clear of any pledges, liens, judgments, encumbrances, security interests, claims, or, excepting the DCEO Agreement, contract rights. The Donor further promises and covenants to refrain from so encumbering the Property from the date of the execution of the Agreement until the City takes ownership of the Property.
  - c. The City acknowledges that the Donor gave it a reasonable opportunity to inspect and investigate the Property.
  - d. Donor represents that any and all required consent and approval from any applicable third party for this donation has been obtained prior to execution of this Agreement. The Parties each warrant that the execution and performance of this Agreement will not violate any agreements to which the Donor or the City is a party or any federal, state or local laws, rules or regulations.
  - e. The Parties' representations, warranties, and covenants in this section shall be true and complete as of the date of the Agreement's execution and shall survive the termination of the conveyance of the Property contemplated by this Agreement.
6. **Notices.** All notices permitted or required hereunder must be in writing and shall be effected by (i) personal delivery, (ii) first class mail, registered or certified, postage fully prepaid, or (iii) reputable same-day or overnight delivery service that provides a receipt

showing delivery date and time, addressed to the following parties, or to such other address as any party may, from time to time, designate in writing in the manner as provided herein:

To City: Catherine Hurley  
Sustainable Programs Coordinator  
City of Evanston  
2100 Ridge Avenue  
Evanston, IL 60201  
Fax: 847-448-8069

With a copy to: W. Grant Farrar  
Corporation Counsel  
City of Evanston  
2100 Ridge Avenue  
Evanston, IL 60201  
Fax: 847-448-8093

To Donor: Alternative Transportation for Chicagoland, Inc.  
2125 W. North Avenue  
Chicago, IL 60647

Any written notice, demand or communication shall be deemed received immediately if personally delivered or delivered by delivery service to the addresses above, and shall be deemed received on the third day from the date of postmark if delivered by mail.

7. **Default.** In the event of failure by either party hereto substantially to perform any material term or provision of this Agreement, the non-defaulting party shall have those rights and remedies provided herein.
- a. **Notice of Default:** In the event of an alleged default, the non-defaulting party shall provide to the defaulting party a written notice of default, identifying with specificity the nature of the alleged default and the manner in which said default may be satisfactorily be cured.
  - b. **Cure of Default:** Upon the receipt of the notice of default, the alleged defaulting party shall promptly commence to cure, correct, or remedy such default within ninety (90) days and shall continuously and diligently prosecute such cure, correction or remedy to completion.
  - c. **Remedy:** In the event of a default by either Party of the terms of this Agreement that has not been cured within the timeframe set forth herein, the non-defaulting Party, at its option, may terminate this Agreement or institute legal action in law or in equity to cure, correct, or remedy such default, enjoin any threatened or attempted violation, or enforce the terms of this Agreement.

8. **Force Majeure.** Neither party shall be liable to the other for any delay or failure in performance under this Agreement arising out of a cause beyond its control. Such causes may include, but are not limited to fires, floods, earthquakes, strikes, unavailability of necessary utilities and/or facilities, blackouts, acts of God, acts of regulatory agencies, or national disasters.
9. **Independent Contractor.** The Parties herein are independent contractors with respect to one another under this Agreement and shall not be construed to be the agent of the other party under any circumstances.
10. **Governing Law.** The internal laws of the State of Illinois, without regard to principles of conflicts of law, shall govern the interpretation and enforcement of this Agreement.
11. **Non-Liability of City Officials and Employees.** No member, official, agent, legal counsel or employee of the City shall be personally liable to the Donor, or any successor in interest in the event of any default or breach by the City under the terms of this Agreement.
12. **Binding Effect.** This Agreement, and the terms, provisions, promises, covenants and conditions herein, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
13. **Authority to Sign.** The Parties hereby represent that the persons executing this Agreement on their behalf have full authority to do so and to bind the Parties to perform pursuant to the terms and conditions of this Agreement.
14. **No Interpretations Against Drafter.** Each party recognizes that this Agreement is a legally binding contract and acknowledges that it had the opportunity to consult with legal counsel of choice. In any construction of the terms of this Agreement, the same shall not be construed against either party on the basis of that party being the drafter of such terms.
15. **Entire Agreement.** This Agreement and the exhibit attached hereto contain the entire understanding of the parties with respect to the subject matter of the Agreement and is subject to the laws of the State of Illinois. This Agreement also supersedes all other agreements and understandings, both oral and written, between the parties relating to the subject matter of the Agreement.
16. **No Waiver.** The failure of any party to insist upon strict performance of any of the terms, covenants, or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder, at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants, or conditions.
17. **Severability.** If any provision of this Agreement or any application thereof is held invalid, illegal or unenforceable, the remaining provisions of this Agreement and any other application of such provision shall remain unimpaired and shall continue in full force and effect.

**18. Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A facsimile copy of a signature shall be as binding as an original signature.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above by their respective officers thereunto duly authorized.

ALTERNATIVE TRANSPORTATION  
FOR CHICAGOLAND, INC.,  
an Illinois not-for-profit corporation

CITY OF EVANSTON,  
an Illinois home rule municipal corporation

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: Wally Bobkiewicz  
Title: City Manager

## **EXHIBIT A**

### **The PROPERTY**

#### **A. The Property**

The Property consists of the following number of solar panels capable of generating twenty (20) kilowatts of electricity:

- Quantity 84 Trina Solar TSM-225PA05 225-watt panels

**EXHIBIT B**  
**THE DCEO AGREEMENT**



ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

ARRA Community Renewable Energy Program

Grant No. 09-462012

for the

I-Go Alternative Transportation for Chicagoland, Inc.

**Illinois Department of Commerce and Economic Opportunity**  
620 E. Adams St.  
Springfield, IL 62701

**STATE OF ILLINOIS  
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY**

**Notice of Grant Award No. 09-462012**

This Grant Agreement (hereinafter referred to as the "Agreement") is entered into between the Illinois Department of Commerce and Economic Opportunity (hereinafter referred to as the "Department" or "DCEO") and I-Go Alternative Transportation for Chicagoland, Inc. (hereinafter referred to as the "Grantee"). Subject to terms and conditions of this Agreement, the Department agrees to provide a Grant in an amount not to exceed \$499,500.00 to the Grantee.

Subject to the execution of this Agreement by both parties, the Grantee is hereby authorized to incur costs against this Agreement from the beginning date of 02/01/2010 through the ending date of 01/31/2012, unless otherwise established within Part II Scope of Work. The Grantee hereby agrees to use the Grant Funds provided under the Agreement for the purposes set forth herein and agrees to comply with all terms of this Agreement.

This Agreement includes the following sections, all of which are incorporated into and made part of this Agreement:

**Parts:**

- I. Budget**
- II. Scope of Work**
- III. Grant Fund Control Requirements**
- IV. Terms and Conditions**
- V. General Provisions**
- VI. Certifications**

This grant is federally funded.

Under penalties of perjury, the undersigned certifies that the name, taxpayer information number and legal status listed below are correct.

Name: I-Go Alternative Transportation for Chicagoland, Inc.

Taxpayer Identification Number:

SSN/FEIN: 680493308

Legal Status:

- |   |   |
|---|---|
| <input type="checkbox"/> Individual (01)                            | <input type="checkbox"/> Estate or Trust (10)   |
| <input type="checkbox"/> Sole Proprietor (02)                       | <input type="checkbox"/> Pharmacy-Noncoporate (11)  |
| <input type="checkbox"/> Partnership/Legal Corporation (03)         | <input type="checkbox"/> Nonresident Alien (13)   |
| <input type="checkbox"/> Corporation (04)                           | <input type="checkbox"/> Pharmacy/Funeral Home/Cemetery Corp (15)                         |
| <input checked="" type="checkbox"/> Not For Profit Corporation (04) | <input type="checkbox"/> Tax Exempt (16)  |
| <input type="checkbox"/> Medical Corporation (06)                   | <input type="checkbox"/> Limited Liability Company (select applicable tax classification) |
| <input type="checkbox"/> Governmental (08)                          | <input type="checkbox"/> C - Corporation  |
|   | <input type="checkbox"/> P - Partnership  |

GRANTEE:

I-Go Alternative Transportation for Chicagoland, Inc.

Grantee's execution of this Agreement shall serve as its attestation that Grantee has read, understands and agrees to all provisions of this Agreement and that the information contained in the Agreement is true and correct to the best of his/her knowledge, information and belief and that the Grantee shall be bound by the same. Grantee acknowledges that the individual executing this Agreement is authorized to act on the Grantee's behalf. Grantee further acknowledges that the award of Grant Funds under this Agreement is conditioned upon the above certification/attestation.

By: Sharon Feigon  
(Authorized Signator)

Date 3/24/10

Sharon Feigon, Chief Executive Officer  
Name and Title

STATE OF ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

By: \_\_\_\_\_  
Warren Ribley, Director

\_\_\_\_\_ Date

Grantee Address:

Please indicate any address changes below

2125 West North Avenue  
Chicago, IL 60647-5415

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In processing this grant and related documentation, the Department will only accept materials signed by the Authorized Signatory or Designee of this Agreement, as designated or prescribed herein. If the Authorized Signatory chooses to assign a designee to sign or submit materials required by this Agreement to the Department, the Authorized Signatory must either send written notice to the Department indicating the name of the designee or provide notice as set forth immediately following this paragraph. Without such notice, the Department will reject any materials signed or submitted on the Grantee's behalf by anyone other than the Authorized Signatory. The Authorized Signatory must approve each Authorized Designee separately by signing as indicated below. If an Authorized Designee(s) appears below, please verify the information and indicate any changes as necessary.

The following are designated as Authorized Designee(s) for the Grantee:

Authorized Designee: Joseph Grant  
Authorized Designee Title: Program Coordinator  
Authorized Designee Phone: 773-278-4446

Authorized Signatory Approval: \_\_\_\_\_

Authorized Designee:  
Authorized Designee Title:  
Authorized Designee Phone:

\_\_\_\_\_  
\_\_\_\_\_

Authorized Signatory Approval: \_\_\_\_\_

**PART I**  
**BUDGET**

Cost Category Description	Cost Cat	DCEO Budget Amount	Variance %	Variance Limit
EQUIPMENT/MATERIAL COSTS	1020	499,500.00	0.00	0.00
CASH MATCH	4000	499,500.00	0.00	0.00
Total		\$999,000.00		

**BUDGET LINE ITEM DEFINITIONS**

The definitions listed below will help to identify allowable costs for each of the budgeted lines in this Agreement. Any costs not specifically named below should be verified to be allowable by the DCEO grant manager prior to incurring the cost.

**EQUIPMENT/MATERIAL COSTS**                      Project related costs for the purchase of renewable energy generation equipment and related metering components.

**CASH MATCH**    Cash match for expenditures directly related to the project. DCEO grant funds can not be included as cash match.

**Pass-Through Entity or Subgrantor Responsibilities.** If Grantee provides any portion of this funding to another entity through a grant agreement or contract, Grantee is considered to be a pass-through entity or subgrantor. Per Section 5.10(M) of the Agreement, Grantee must obtain written approval before it provides any portion of this funding to another entity through a grant agreement or contract. If the Department provides written approval, the Grantee must adhere to the following for any awards or contracts entered into using the Grant Funds listed above:

- (1) Inform any subrecipient(s) of the proper Federal award identifying information (shown below) as required by Federal regulations contained in OMB Circular A-133.

This Federally funded award is identified by the following:

<b>CFDA #</b>	81.041
<b>CFDA Title</b>	State Energy Program
<b>Award #</b>	DE-EE0000119
<b>Federal Awarding Agency</b>	Department Of Energy

- (2) Advise any subrecipient(s) of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements which provided this funding. Advise subrecipient(s) of any supplemental requirements imposed by the pass-through entity or subgrantor (your organization).

## PART II

### SCOPE OF WORK

In consideration for the Grant Funds to be provided by the Department, the Grantee agrees to perform the Project described in Part II (Scope of Work) hereof, in accordance with the provisions of Part I (Budget) hereof.

**Project Description:** The Grantee shall install six solar-powered charging stations at I-GO car sharing locations in the Chicago region. The solar photovoltaic system will provide power to I-GO's plug-in hybrid electric vehicles. Each station will have 32.7 kW of solar PV modules installed for 18 solar shade parking spaces. This project will encourage utilization of renewable energy and support economic development in the state of Illinois.

**Prior Incurred Cost:** Grant funds may be requested for eligible project expenses that were incurred prior to February 1, 2010, but not before February 17, 2009. Grantee shall purchase and/or provide the support, services and equipment identified as the Applicant's Investment in the Part I Budget during the period of the Agreement, and shall maintain a minimum match of 25 percent of the total project costs.

#### **Project Development Tasks:**

##### *Task 1 – Feasibility and Design*

The Grantee shall complete an evaluation of the potential solar resource available and design the system to maximize electricity production.

##### *Task 2 – Obtain Necessary Permits*

The Grantee shall obtain all necessary permits from local, state and federal agencies prior to commencement of installation activities.

##### *Task 3 – Contractor Selection and Installation of Equipment*

The Grantee shall select a contractor certified and experienced with the installation of solar photovoltaic systems, prepare the site, install the solar photovoltaic system and meter.

##### *Task 4 – System Commission*

The Grantee shall certify to the Department that all equipment has been installed in accordance with local, state, and federal codes and that the system is operating at its designed capacity.

#### **Deliverables:**

- Invoices for all purchased services and equipment
- Confirmation that the six solar-powered charging stations are installed and operational (invoices, photos)
- Provide data required for U.S. DOE quarterly reports:
  - Renewable energy installed capacity (MW)
  - CO<sub>2</sub> (& CO<sub>2</sub>e) reduced (metric tons)
  - Jobs created
  - Jobs retained
  - Number of renewable energy systems installed by type
  - Renewable energy produced (MWh)

**Project Monitoring:** During the term of the Grant Agreement, the Department may schedule periodic site visits for monitoring of the program. In addition to written reports, the Grantee shall establish and maintain communication regarding immediate program issues and interim program progress with the Department's project manager through email and phone conversations.

**PART III  
GRANT FUND CONTROL REQUIREMENTS**

**3.1 AUDITS**

- A. Standard Audit If the Grantee is required to have a Standard Audit, the Grantee shall provide the Department with a copy of such audit report, the management letter, and the SAS 114 letter within thirty (30) days of the Grantee's receipt of such audit report, but in no event later than nine (9) months following the end of the period for which the audit was performed. The Audit Report is required to be provided to DCEO any year an audit is performed over the life of the grant.
- B. Federal Requirements If the Grantee is required to have an audit performed pursuant to the Single Audit Act of 1984, as amended in 1996 ("Single Audit Act") and by the Office of Management and Budget Circular A-133 ("OMB Circular A-133"), the Grantee shall provide the Department with a copy of the audit report, the data collection form, the management letter, and the SAS 114 letter, as provided for in the Single Audit Act and OMB Circular A-133, to the Department within thirty (30) days of the Grantee's receipt of such audit report, but in no event later than nine (9) months following the end of the period for which the audit was performed. The Audit Report is required to be provided to DCEO annually for the life of the grant. If no Single Audit is required of federally-funded Grantees, the Grantee is to provide DCEO with an annual letter stating a Single Audit was not required.
- C. Discretionary Audit The Department may, at any time, and at its discretion, request a Grant-Specific Audit or other audit, Management Letter and SAS 114 Letter to be delivered within thirty (30) days of the Grantee's receipt of such audit report, but in no event later than nine (9) months following the end of the period for which the audit was performed.
- D. Audit Performance All Audits shall be performed by an independent certified public accountant or accounting firm licensed by the appropriate licensing body in accordance with applicable auditing standards.
- E. Audit Submission The Grantee shall electronically send all audit reports and related deliverables to the Department at the following address:

externalauditunit@illinois.gov

If the Grantee is unable to submit the aforementioned documents to the Department electronically, the information shall be sent to the Department at the following address:

Illinois Department of Commerce and Economic Opportunity  
Office of Accountability  
External Audit Section  
620 East Adams Street  
Springfield, IL 62701

**3.2 REPORTING REQUIREMENTS**

In addition to any other documents specified in this Agreement, the Grantee must submit the following reports and information in accordance with the provisions hereof.

- A. Expenditures and Project Activity Prior to Grant Execution If the Agreement is executed more than thirty (30) days after the beginning date of the grant term provided in the Notice of Grant Award, the Grantee must submit a Financial Status Report and a Project Status Report, in a format provided by the Department, accounting for expenditures and project activity incurred from the beginning of the grant term up to the end of the month preceding the date of the Department's execution. If these Reports

are required, the Department will not disburse any Grant Funds until the report is submitted to and approved by the Department.

- B. Final Financial Status Report The Final Financial Status Report described in Section 5.3 hereof is due within 45 days following the end date stated in the Notice of Grant Award. The Grantee should refer to the Welcome Package and the Reports Deliverable Schedule for the specific reporting requirements and due dates. Grantee must submit the report in the format provided by the Department. This report must summarize expenditure of the Grant Funds and activities completed during the grant term. The Grantee's failure to comply with the Close-out requirements set forth herein and in Section 5.3 will be considered a material breach of the performance required by this Agreement and may be the basis to initiate proceedings to recover all Grant Funds disbursed to the Grantee. Grantee's failure to comply with this Section shall be considered prima facie evidence of default, and may be admitted as such, without further proof, into evidence before the Department or in any other legal proceeding.
- C. Additional Information Upon request by the Department, the Grantee must, within the time directed by the Department, submit additional written reports regarding the Project, including, but not limited to, materials sufficient to document information provided by the Grantee.
- D. Submittal of Reports Submittal of all reports and documentation required under this Agreement should be submitted to the individual as directed by the Department.
- E. Failure to Submit Reports In the event Grantee fails to timely submit any reports required under this Agreement, the Department may withhold or suspend the distribution of Grant Funds until said reports are filed and approved by the Department.

### 3.3 WELCOME PACKAGE

Upon execution of this Grant Agreement, the Grantee will receive a Welcome Package detailing reporting requirements and procedures relating to the Grant. The Grantee is obligated to comply with those requirements and any revisions thereto in accordance with Section 3.2(B) of this Grant Agreement.

### 3.4 FISCAL RECORDING REQUIREMENTS

The Grantee's financial management system shall be structured to provide for accurate, current, and complete disclosure of the financial results of the Project funded under this grant program. The Grantee is accountable for all Grant Funds received under this Grant, including those expended for subgrantees. The Grantee shall maintain effective control and accountability over all Grant Funds, equipment, property, and other assets under the grant as required by the Department. The Grantee shall keep records sufficient to permit the tracing of Grant Funds to a level of expenditure adequate to insure that Grant Funds have not been inappropriately expended, and must have internal controls consistent with generally accepted accounting practices adopted by the American Institute of Certified Public Accountants.

### 3.5 DUE DILIGENCE IN EXPENDITURE OF FUNDS

Grantee shall ensure that Grant Funds are expended in accordance with the following principles: (i) grant expenditures should be made in accordance with generally accepted sound, business practices, arms-length bargaining, applicable federal and state laws and regulations; (ii) grant expenditures should conform to the terms and conditions of this Agreement; (iii) grant expenditures should not exceed the amount that would be incurred by a prudent person under the circumstances prevailing at the time the decision is made to incur the costs; and (iv) grant accounting should be consistent with generally accepted accounting principles.

### 3.6 MONITORING

The grant will be monitored for compliance in accordance with the terms and conditions of the Grant Agreement, together with appropriate programmatic rules, regulations, and/or guidelines that the Department promulgates or implements. The Grantee must permit any agent authorized by the

Department, upon presentation of credentials, in accordance by all methods available by law, including full access to and the right to examine any document, papers and records either in hard copy or electronic, of the Grantee involving transactions relating to this grant.

3.7 **RECORDS RETENTION**

The Grantee is accountable for all Grant Funds received under this Agreement and shall maintain, for a minimum of four (4) years following the Department's final written approval of all required close-outs, unless the Department notifies the Grantee prior to the expiration of the four years that a longer period is required, adequate books, records, and supporting documents, including digital and electronic data, to verify the amount, recipients and uses of all disbursements of Grant Funds passing in conjunction with this Agreement. This Agreement and all books, records and supporting documents related hereto shall be available for inspection and audit by the Department, the Office of Inspector General, the Auditor General of the State of Illinois, the Illinois Attorney General, or any of their duly authorized representative(s), and the Grantee agrees to fully cooperate with any audit performed by the Auditor General or the Department. Grantee agrees to provide full access to all relevant materials and to provide copies of same upon request. Failure to maintain books, records and supporting documents required by this Agreement shall establish a presumption in favor of the Department for the recovery of any Grant Funds paid by the Department under this Agreement for which adequate books, records and supporting documentation are not available to support their purported disbursement or expenditure.

If any of the services to be performed under this Agreement are subcontracted and/or if subgrants are issued/awarded for the expenditure of Grant Funds provided under this Agreement, the Grantee shall include in all such subcontracts and subgrants, a provision that the Department, the Office of Inspector General, and the Auditor General of the State of Illinois, or any of their duly authorized representatives, will have full access to and the right to examine any pertinent books, documents, papers and records of any such subcontractor or subgrantee involving transactions related to this Agreement for a period of four (4) years following the Department's final approval of all required close-outs (financial and/or programmatic), and any such subcontractor shall be governed by the same requirements to which the Grantee is subject under this Agreement.

**PART IV  
TERMS AND CONDITIONS**

**4.1 AUTHORITY: PURPOSE: REPRESENTATIONS AND WARRANTIES**

- A. Authority The Department is authorized to make this grant pursuant to 20 ILCS 1105/3.

The purpose of this authority is as follows:

DCEO is authorized by 20 ILCS 1105/3 to administer for the State any energy programs and activities under federal law, regulation or guidelines.

- B. Purpose; Representations and Warranties The sole purpose of this grant is to fund the Grantee's performance of the Project, described in Part II hereof, during the term of this grant. The Grantee represents and warrants that the grant proposal/application submitted by the Grantee is in all material respects true and accurate; that it is authorized to undertake the obligations set forth in this Agreement and that it has obtained or will obtain and maintain all permits, licenses or other governmental approvals necessary to perform the Project described in Part II.

**4.2 PROJECT SCHEDULE; EXTENSIONS**

- A. Project Schedule The Grantee must complete the Scope of Work within the grant term. The Department may require the submission of deliverables. Deliverables must be provided as directed by the Department. For purposes of this Agreement, the Grant Period Begin Date shall be the Project Commencement Date and the Grant Period End Date shall be the Project Completion Date unless these dates are clearly identified as distinctly different in the Part II Scope of Work.
- B. Extensions Extensions of the grant term will be granted only for good cause. Grantees requiring an extension of the grant term should submit a written request to the Program Manager prior to the grant expiration date stating the reason for the extension. All extensions must comply with requirements of Section 5.7.

Grantee's failure to adhere to the schedule set forth in Part II may be grounds for suspension or termination of this Agreement pursuant to Section 5.5 herein. Further, failure by the Grantee to comply with the terms and conditions outlined in Part II, or with any additional terms and conditions within the Agreement, may result in the Grantee being deemed ineligible by the Department for future funding.

**4.3 PAYMENT AND EXPENDITURE OF GRANT FUNDS**

- A. Expenditure of Funds; Right to Refund Payment of the grant amount specified in the Notice of Grant Award shall be made to the Grantee as specified herein. Grant Funds provided under this Agreement must be expended only to perform the tasks set forth in the Scope of Work attached as Part II of this Agreement. In addition to reasons set forth in other sections of this Agreement, the Department will require a refund from Grantee if (i) the total grant expenditures are less than the amount vouchered to the Grantee from the Department pursuant to the Notice of Grant Award; or (ii) Grant Funds have not been expended or legally obligated within the grant term in accordance with Parts I and Part II hereof. If the Department requires a refund under either of the above circumstances, the Grant Funds must be returned to the Department within forty-five (45) days of the end of the grant term or the otherwise effective Grant Agreement termination date.
- B. Payment Provisions; Prior Incurred Costs

Reimbursement

Payments to the Grantee are subject to the Grantee's submission and certification of eligible costs and any documentation as required by the Department. Payment shall be initiated upon the Department's approval of eligible costs and cash amount requested for reimbursement of those costs.

Prior Incurred Costs

Reimbursement of costs incurred prior to the beginning date as specified in the Notice of Grant Award will be allowed only if specifically provided for in the Part II, Scope of Work, as approved by the Department. If not clearly identified in Part II, Scope of Work, any costs incurred prior to this Agreement will be disallowed.

**4.4 GRANT SPECIFIC TERMS/CONDITIONS**

**4.5 DEPOSIT OF GRANT FUNDS**

Grant Funds paid in advance of realized costs must be kept in an interest bearing account and maintained therein until used in accordance with the terms and conditions of this Agreement. The Department may waive this requirement upon a written request from the Grantee; however written Departmental approval must be received before any Grant Funds are kept in a non-interest bearing account. Grantee will be responsible for the payment of interest to the Department at a rate equal to twelve percent (12%) per annum on any of the Grant Funds kept in a non-interest bearing account without prior Departmental written approval.

Any interest earned on these Grant Funds must be accounted for as provided in Section 4.6 of this Agreement. Exceptions to Section 4.5 are not permissible without prior written approval by the Department.

Grant Funds paid in reimbursement of previously paid costs may be kept in a non-interest bearing account at the Grantee's discretion.

**4.6 INTEREST EARNED ON GRANT FUNDS**

In accordance with federal Uniform Administrative Requirements for Grants and Cooperative Agreements, the Grantee may be allowed to retain a portion of interest earned on Grant Funds awarded under this Agreement, applying the following guidelines:

**A. Interest retention limits by entity type**

- (1) **Governmental** - Interest earned by units of state or local government on Grant Funds before disbursement of the Grant Funds for activities is not program income and must be returned to the federal Treasury through the Department, except that the unit of state or local government may keep interest amounts of up to \$100 per year for administrative expenses; and
- (2) **Non-governmental** - Interest earned by non-governmental entities on Grant Funds before disbursement of the Grant Funds for activities is not program income and must be returned to the federal Treasury through the Department, except that the non-governmental entities may keep interest amounts of up to \$250 per year for administrative expenses; and

B. Any interest earned in excess of the allowable amount, as calculated in 4.6 A(1) or 4.6 A(2), must be returned as interest to the Department in accordance with the directions provided by the Department in Section 5.3 herein; and

C. All interest earned must be accounted for and reported to the Department in the Final Financial Status Report described in Section 5.3 herein.

4.7 INTENTIONALLY LEFT BLANK

4.8 SUPPORT

Grantee, through its agents, employees and contractors, will provide all equipment, supplies, services and other items of support which are necessary for the effective performance of the Project, unless the Agreement specifically sets forth items of support to be provided by the Department.

4.9 OWNERSHIP, USE AND MAINTENANCE OF PERSONAL PROPERTY

A. Ownership Subject to the provisions of this Section 4.9, and the remedies available to the Department as set forth in Section 4.11 below, equipment and material authorized to be purchased with Grant Funds becomes the property of the Grantee. Grantee will maintain an inventory or property control record for all equipment and material purchased with Grant Funds.

B. Use; Maintenance; Insurance During the Grant term, the Grantee must:

(1) use equipment and materials acquired with Grant Funds only for the approved Project purposes set forth in Part II; and (2) provide sufficient maintenance on the equipment and materials to permit achievement of the approved Project purposes and maintain, at its own expense, insurance coverage on all equipment and material purchased with Grant Funds, for its full insurable value, against loss, damage and other risks ordinarily insured against by owners or users of similar equipment and material in similar businesses.

C. Prohibition Against Disposition/Encumbrance The Grantee is prohibited from, and may not sell, transfer, encumber (other than original financing) or otherwise dispose of said equipment or material during the grant term without prior written approval of the Department.

4.10 PUBLIC INFORMATION REQUIREMENTS

For the duration of the Agreement, the Grantee will prominently acknowledge the participation of the Department in the Project in all press releases, publications and promotional materials presented to the media or otherwise dissemination published concerning the Project. The Grantee must provide the Department with copies of any proposed press releases, publications and promotional materials not less than ten (10) days before these materials are disseminated. Grantee will submit copies of any press releases, publications and promotional materials to the Department's Project Manager.

The Grantee will provide adequate advance notice pursuant to Section 4.12 of promotional events such as open houses, dedications, or other planned publicity events; and will also coordinate in the planning of said events. Any materials or displays to be distributed in connection with the promotional event must be submitted to the Department in advance of publication or dissemination and must prominently acknowledge the Department's participation in the Project.

4.11 DEPARTMENT REMEDIES

In addition to any remedies found elsewhere in this Agreement or at law, the Department may elect any of the following remedies in the event this Agreement is terminated pursuant to Section 5.5 herein. Grantee must comply with the Department's direction within 45 days following written notice or demand from the Department.

- A. The Department may direct the Grantee to refund all grant moneys disbursed to it under this Agreement;
- B. The Department may direct the Grantee to remit an amount equivalent to the "Net Salvage Value" of all equipment or materials purchased with Grant Funds provided under this Agreement. For purposes of this Agreement, "Net Salvage Value" is defined as the amount realized, or that the Parties agree is

likely to be realized from, the sale of equipment or materials purchased with Grant Funds provided under this Agreement at its current fair market value, less selling expenses;

- C. The Department may direct the Grantee to transfer ownership of equipment or material purchased with Grant Funds provided under this Agreement to the Department or its designee.

**4.12 NOTICES**

Notices and other communications provided for herein shall be given in writing by first class mail, by registered, or certified mail, return receipt requested, by receipted hand delivery, by courier (UPS, Federal Express or other similar and reliable carrier), by e-mail, or by fax showing the date and time of successful receipt. Notices shall be sent to the respective party at the address set forth on the signature page hereto, or to such other authorized designees as the parties may designate in writing from time to time. Grantee is responsible for providing the Department with correct address and contact information for itself and its designees. Any notice to the Grantee shall be deemed to have been provided if sent to the address or contact information on the signature page or to the address of an authorized designee. Notice to the Department is deemed to have been provided at the time it is actually received.

**4.13 COMPLAINT PROCESS**

In the event of a Grantee complaint, the Department's Administrative Hearing Rules shall govern and said rules can be found at Title 56 Illinois Administrative Code, Section 2605.

**4.14 GRANT FUNDS RECOVERY ACT (30 ILCS 705/1, ET SEQ.)**

This Agreement is subject to all applicable provisions of the Illinois Grant Funds Recovery Act, including the requirement that any Grant Funds not expended or legally obligated at the expiration or termination of the Grant term must be returned to the Department within 45 days following said expiration or termination. Notwithstanding any provision specified elsewhere in this Agreement regarding the treatment of interest earned on the Grant Funds, any interest earned on Grant Funds that is not expended or legally obligated during the Grant term must also be returned to the Department within 45 days following the expiration or termination of this Agreement.

**4.15 GRANT PROJECT MANAGEMENT**

All necessary and ordinary communications, submittals, approvals, requests and notices related to the Project shall be submitted to:

Wayne Hartel  
Illinois Department of Commerce and Economic Opportunity  
620 E. Adams St.  
Springfield, IL 62701

**4.16 FEDERALLY FUNDED GENERAL GRANT PROVISIONS**

- A. Lobbying Restrictions The Grantee acknowledges that receipt of Grant Funds under the Agreement may require compliance with Section 319 of Public Law 101-121 (31 U.S.C.A. 1352) regarding the certification and disclosure of lobbying activities with the Federal Government and agrees to comply with those provisions, and all federal rules promulgated by the United States Department of Health and Human Services, the funding source for implementation of programs operated under this Agreement; and will require that this assurance of compliance is part of any sub-agreements executed hereunder.

By executing this Agreement on behalf of the Grantee, the Authorized Signatory hereby certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Grantee shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made and entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who failed to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- B. Debarment The Grantee certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Agreement by any Federal department or agency.
- C. Environmental Tobacco Smoke Public Law 103-227, Part C. Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Tobacco Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through States or local governments by Federal grant, contract, loan or loan guarantee. This language must be included in all sub-awards containing provisions for children's services.

**PART V  
GENERAL PROVISIONS**

**5.1 GRANTEE REPRESENTATIONS AND WARRANTIES; GRANTEE GENERAL COVENANTS**

A. Grantee Representations and Warranties In connection with the execution and delivery of this Agreement, the Grantee makes the following representations and warranties to the Department:

- (1) That it has all requisite authority to carry on its business and to execute, deliver and consummate the transactions contemplated by this Agreement;
- (2) That its employees, agents and officials are competent to perform as required under this Agreement;
- (3) That it is the real party in interest to this Agreement and is not acting for or on behalf of an undisclosed party;
- (4) That it has taken all necessary action under its governing documents to authorize the execution and performance of this Agreement under the terms and conditions stated herein;
- (5) That it has no public or private interest, direct or indirect, and shall not acquire, directly or indirectly any such interest which does or may conflict in any manner with the performance of the Grantee's services and obligations under this Agreement;
- (6) That no member of any governing body or any officer, agent or employee of the State, is employed by the Grantee or has a financial or economic interest directly in this Agreement, or any compensation to be paid hereunder except as may be permitted applicable statute, regulation or ordinance;
- (7) That there is no action, suit or proceeding at law or in equity pending, nor to the best of Grantee's knowledge, threatened, against or affecting the Grantee, before any court or before any governmental or administrative agency, which will have a material adverse effect on the performance required by this Agreement;
- (8) That to the best of the Grantee's knowledge and belief, the Grantee, its principals and key project personnel:
  - (a) Are not presently declared ineligible or voluntarily excluded from contracting with any Federal or State department or agency;
  - (b) Have not within a three-year period preceding this Agreement been convicted of any felony; been convicted of a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; had a civil judgment rendered against them for commission of fraud; been found in violation of Federal or State antitrust statutes; or been convicted of embezzlement, theft, larceny, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property; and
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in subparagraph (b) of this certification.

Any request for an exception to the provisions of this paragraph must be made in writing, listing the name of the individual, home address, type of conviction and date of conviction.

(9) That this Agreement has been duly executed and delivered on behalf of the Grantee and constitutes a legal, valid and binding obligation of the Grantee, enforceable in accordance with its terms, except to the extent that enforcement of any such terms may be limited by

- (a) Applicable bankruptcy, reorganization, debt arrangement, insolvency or other similar laws generally affecting creditors' rights; or
- (b) Judicial public policy limitations upon the enforcement of certain remedies including those which a court of equity may in its discretion decline to enforce; and performance required under this Agreement; and

(10) Grantee certifies that it is not currently operating under or subject to any cease and desist order, or subject to any informal or formal regulatory action, and, to the best of Grantee's knowledge, that it is not currently the subject of any investigation by any state or federal regulatory, law enforcement or legal authority. Should it become the subject of an investigation by any state or federal regulatory, law enforcement or legal authority, Grantee shall promptly notify the Department of any such investigation. Grantee acknowledges that should it later be subject to a cease and desist order, Memorandum of Understanding, or found in violation pursuant to any regulatory action or any court action or proceeding before any administrative agency, that the Department is authorized to declare Grantee in default of this Agreement and suspend or terminate the Agreement pursuant to Section 5.5.

B. General Covenants In connection with the execution and delivery of this Agreement, the Grantee makes the following covenants to the Department, which are in addition to any specific covenants contained in this Agreement:

- (1) That it will use Grant Funds only for the purposes set forth in the Budget and Scope of Work, Parts I and II, respectively, of this Agreement;
- (2) That all warranties and representations made by the Grantee in this Agreement shall be true, accurate and complete for the term of the Agreement;
- (3) That it shall be subject to, obey, and adhere to any and all federal, state and local laws, statutes, ordinances, rules, regulations and executive orders as are now or may be in effect during the term of this Agreement which may be applicable to the Grantee;
- (4) That it shall remain solvent and able to pay its debts as they mature. In the event of bankruptcy filing by the Grantee, voluntary or involuntary, the Department may decline to make any further payment, which may otherwise be required under this Agreement;
- (5) That it shall immediately notify the Department of any and all events or actions that may materially adversely affect its ability to carry on its operations or perform any or all of its obligations under this Agreement; and
- (6) That it shall not enter into any other agreement or transaction that would conflict with the performance of its duties hereunder.

5.2

**APPROPRIATION; NONAPPROPRIATION/INSUFFICIENT APPROPRIATION; REDUCED FUNDING SOURCES/REVENUES**

A. Appropriation The Grantee is hereby given actual knowledge that pursuant to the State Finance Act, 30 ILCS 105/30, payments under this grant are contingent upon the existence of a valid appropriation therefore and that no officer shall contract any indebtedness on behalf of the State, or assume to bind the State in an amount in excess of the money appropriated, unless expressly authorized by law.

- B. Non-appropriation/Insufficient Appropriation Payments pursuant to this Agreement are subject to the availability of applicable federal and/or state funding from the Department and their appropriation and authorized expenditures under State law. The Department shall use its best efforts to secure sufficient appropriations to fund this Agreement. However, the Department's obligations hereunder shall cease immediately, without penalty or further payment being required, if the Illinois General Assembly or federal funding source fails to make an appropriation sufficient to pay such obligation. The Department, at its sole discretion, shall determine whether amounts appropriated are sufficient to continue its obligations under this Agreement. Termination resulting from non-appropriation or insufficient appropriation shall be in accordance with Section 5.5(A)(1) hereof. Any grant is void by operation of law if the Department fails to obtain the requisite appropriation to pay the grant in any year in which this Agreement is in effect.
- C. Reduced Funding Sources/Revenues The Department reserves the right to reduce the amount to be paid to Grantee under this Agreement if the Department determines that it is in the best interest of the State of Illinois to reduce its obligation under this Agreement as a result of the occurrence of any of the following events during the term of the Agreement:
- (1) Receipts from revenues which provide the funding for this Agreement either fall significantly short of anticipated levels, or significantly decrease, or
  - (2) Other sources (external grants, contracts, awards, etc.) providing funds for this Agreement are decreased or withdrawn. If such an event occurs, the Department will notify the Grantee as soon as possible. If the Department and Grantee are able to agree on a reduced compensation amount and a corresponding reduced scope of services, the parties shall execute a grant modification so stating. If the Department and Grantee are unable to agree on the reduced compensation and reduced scope of services, the Department shall terminate the Grant in accordance with the provisions of Section 5.5(A)(2) herein.

### 5.3 GRANT CLOSE-OUT

- A. Final Financial Status Report In addition to any other reporting requirements specified in this Agreement, the Grantee shall complete and submit a Final Financial Status Report on forms provided by the Department, within forty-five (45) days of the earlier of the Grant Period end date or the effective date of termination of this Agreement. The Grantee should refer to the Welcome Package and the Reports Deliverable Schedule for the specific reporting requirements and due dates. The Grantee must report on the expenditure of Grant Funds provided by the State, and if applicable, the Grantee's required matching funds. The Grantee is responsible for taking the necessary steps to correct any deficiencies disclosed by such Final Financial Status Report, including such action as the Department, based on its review of the report, may direct.
- B. Grant Refunds In accordance with the Illinois Grant Funds Recovery Act, 30 ILCS 705/1, et seq., the Grantee must, within forty-five (45) days of the earlier of the Grant Period end date or the effective date of termination of this Agreement, refund to the Department, any balance of Grant Funds not spent or not obligated as of said date.

### 5.4 DEFAULT AND REMEDIES

The occurrence of any of the following events, during the grant term, shall constitute a default:

- A. Grantee shall fail to observe or perform any covenant or agreement contained in this Agreement, including the Exhibits hereto;
- B. Any representation, warranty, certificate or statement made by the Grantee in this Agreement, including the Exhibits hereto, or in any certificate, report, financial statement or other document delivered pursuant to this Agreement shall prove to have been incorrect when made in any material respect;

- C. Grantee shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;
- D. An involuntary case or other proceeding shall be commenced against the Grantee seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceedings shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against the Grantee under the federal bankruptcy laws as now or hereby after in effect;
- E. The Grantee permanently ceases the conduct of active trade or business at the location specified in Part II, Scope of Work, for any reason, including, but not limited to, fire or other casualty;
- F. Company fails to provide the Company Contribution, if applicable, as identified in Part II, Scope of Work;
- G. Grantee defaults on a loan from a third party. Grantee shall provide the Department with immediate notice upon making a determination that it will default on a loan.

Grantee shall have 30 days from the date Department notifies it of the occurrence of a default to cure the default to Department's satisfaction. Grantee's failure to cure, or to initiate a cure which is satisfactory to the Department, shall be a sufficient basis for the Department to terminate this Agreement and to direct Grantee to refund all Grant Funds disbursed to it by the Department within thirty (30) days of receipt of the notice of termination.

At the Department's discretion the Grantee shall be responsible for the payment of interest at a rate equal to twelve percent (12%) per annum for any amount of the Grant Funds which it has not refunded to the Department beginning thirty (30) days from the date the termination notice is sent by the Department and continuing to the date that all Grant Funds are refunded by Grantee or recovered through other legal processes available to the Department.

#### 5.5. TERMINATION; SUSPENSION

- A. This Agreement may be terminated as follows:
  - (1) Non-appropriation, Insufficient Appropriation In the event of non-appropriation or insufficient appropriation as described in Section 5.2(B) above, Grantee shall be paid for non-cancelable, allowable expenditures incurred in the performance of authorized services under this Agreement prior to the effective date of termination which shall be the date stated in the written termination notice provided to Grantee. The Department shall provide such notice to Grantee as soon as possible after it becomes aware of such non-appropriation or insufficient appropriation. Any refunds due the Department shall be submitted in accordance with the provisions of Section 5.3(B) hereof.
  - (2) Reduced Funding Sources/Revenues In the event the parties are unable to agree on a reduced amount of compensation and scope of services necessitated due to a reduction in revenues or other funding sources for this Agreement as described in Section 5.2(C) above, Grantee shall be paid for non-cancelable, allowable expenditures incurred in the performance of authorized services under

this Agreement prior to the effective date of termination which shall be the date stated in the written termination notice provided to Grantee. Any refunds due the Department shall be submitted in accordance with the provisions of Section 5.3(B) hereof.

For Cause If the Department determines that the Grantee has failed to comply with any of the covenants, terms, conditions or provisions of this Agreement, or any other application, proposal or grant award executed by the Department and the Grantee, including any applicable rules or regulations, or has made a false representation or warranty in connection with the receipt of the grant, the Department may terminate this Agreement in whole or in part at any time before the expiration date of this Agreement. The Department shall notify the Grantee in writing of the reasons for the termination and the effective date of the termination. Grantee shall not incur any costs after the effective date of the termination. Payments made to the Grantee or recovery by the Department shall be in accord with the legal rights and liabilities of the parties.

In the event of termination for cause, Grantee shall also be subject to any other applicable provisions specified elsewhere in this Agreement.

Termination for cause may render the Grantee ineligible for consideration for future grants from the Department for a period not to exceed two (2) years.

(3) For Convenience The Grantee acknowledges that this grant was made by the Department based on its determination that the activities to be funded under this Agreement are in furtherance of either the Department's statutory requirements or its program objectives. The Grantee further acknowledges that the Department may unilaterally terminate this Agreement based on its good faith determination that the continued expenditure of Grant Funds under this Agreement is no longer in furtherance of said statutory requirements or program objectives. Termination for convenience shall be effective upon delivery of notice to Grantee pursuant to Section 5.10(F) hereof. The Grantee shall not incur new obligations after the effective date of the termination, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Grantee for properly incurred expenditures made in connection with the Grant in accordance with the provisions of Part I (Budget) and Part II (Scope of Work). Grant refunds shall be submitted in accordance with the provisions of Section 5.3(B) hereof.

B. Suspension If the Grantee fails to comply with the specific conditions and/or general terms and conditions of this Agreement, the Department may, upon written notice to the Grantee, suspend this Agreement, withhold further payments and prohibit the Grantee from incurring additional obligations of Grant Funds, pending corrective action by the Grantee or a decision to terminate this Agreement. The Department may determine to allow such necessary and proper costs, which the Grantee could not reasonably avoid during the period of suspension provided that the Department agrees that such costs were necessary and reasonable and incurred in accordance with the provisions of this Agreement.

## 5.6 INDEMNIFICATION

A. Non-Governmental Entities The Grantee agrees to assume all risk of loss and to indemnify and hold the State, its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the negligence or misconduct of Grantee, its employees, agents, or subcontractors or subgrantees in the performance of this Agreement. Grantee shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction or damage to State property and shall, at the State's request and expense, furnish to the State reasonable assistance and cooperation including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the State in obtaining recovery.

The Grantee shall, at its expense, defend the State against all claims asserted by any person that anything provided by Grantee infringes a patent, copyright, trade secret or other intellectual property right and shall, without limitation, pay the costs, damages and attorneys' fees awarded against the State in any such action, or pay any settlement of such action or claim. Each party agrees to notify the other promptly of any matters to which this provision may apply and to cooperate with each other in connection with such defense or settlement.

- B. Governmental Entities In the event that the Grantee is a Governmental Entity, it will indemnify and hold harmless the Department as set out herein to the extent authorized by Federal and/or State constitutions(s) and/or laws.

5.7 **MODIFICATION BY OPERATION OF LAW; BUDGET MODIFICATIONS; DISCRETIONARY MODIFICATIONS**

- A. Modifications by Operation of Law This Agreement is subject to such modifications as the Department determines may be required by changes in Federal or State law or regulations applicable to this Agreement. Any such required modification shall be incorporated into and become part of this Agreement as if fully set forth herein. The Department shall timely notify the Grantee of any pending implementation of or proposed amendment to such regulations of which it has notice.
- B. Budget Modifications Grantee must expend the Grant Funds in accordance with the approved budget set forth in Part I hereof. If the Grantee determines that its expenditures for the grant term will vary from the amounts listed in the approved project budget it must submit a written request for approval from the Department prior to incurring the revised costs. Said request must give the reasons for and amounts of the revisions. If the Department approves the revised expenditures, it will provide the Grantee with a revised Project Budget incorporating the revisions. Grantee's failure to obtain written approval for anticipated budget revisions is a sufficient reason for the Department to disallow any costs not included in the original project budget and require a refund from the Grantee.

The Grantee may make a line item transfer up to the allowable variance percentage/amount of the total approved line item budget as specified in Part I Budget without prior written approval of the Department, subject to the following conditions:

- (1) Modifications Requiring Departmental Approval If the Grantee determines that its expenditures will vary from the approved budgeted line item amounts listed in Part I Budget by more than the allowable variance percentage/amount for any given line item expenditure, but will not exceed the total grant award, it shall submit a written request for approval from the Department prior to incurring the revised costs. Modification requests shall give the reasons for and amounts of the revisions. If the Department approves the revised expenditures, it will provide the Grantee with a revised project Part I Budget incorporating the revisions. Grantee's failure to obtain written approval for anticipated budget revisions shall be deemed sufficient for the Department to disallow any costs not included in the original project budget and require a refund from the Grantee.
- (2) Discretionary Transfers Transfers between approved line items that do not exceed the allowable variance percentage/amount of the original approved budget line item may be made at the Grantee's discretion without the Department's approval. For purposes of the allowable discretionary transfer(s), the line item to which the transfer is made cannot be increased by more than the allowable variance percentage/amount of the original approved line item. Additionally, the allowable discretionary transfer does not apply to an Audit line item (if present). Any and all modifications to an existing Audit line item may only be made with the Department's prior written approval.
- C. Discretionary Modifications If either the Department or the Grantee wishes to modify the terms of this Agreement other than as set forth in Sections 5.7(A) and 5.7(B) above, written notice of the proposed

modification must be given to the other party. Modifications will only take effect when agreed to in writing by both the Department and the Grantee. However, if the Department notifies the Grantee in writing of a proposed modification, and the Grantee fails to respond to that notification, in writing, within thirty (30) days, the proposed modification will be deemed to have been approved by the Grantee. In making an objection to the proposed modification, the Grantee shall specify the reasons for the objection and the Department shall consider those objections when evaluating whether to follow through with the proposed modification. The Department's notice to the Grantee shall contain the Grantee name, Grant number, modification number, purpose of the revision and signature of the Department's Director.

- D. Unilateral Modifications The parties agree that the Department may unilaterally modify this Agreement without prior approval of the Grantee when the modification is initiated by the Department for the sole purpose of increasing the Grantee's funding allocation as additional funds become available for the grant during the program year covered by the term of this Agreement. The parties further agree that the thirty (30) day period for objection described in Section 5.7(C) above does not apply to the unilateral modification authority described in Section 5.7(D).
- E. Management Waiver The parties agree that the Department may issue a waiver of specific requirements of this Agreement after the term of the Agreement has expired. These waivers are limited to requirements relating to the Grantee's compliance with existing audit requirements in the Agreement, retention of interest earned by the Grantee on Grant Funds, variances to budgetary line items, non-material changes to the Scope of Work in Part II, and any other non-material changes to specific grant terms that the Department determines are necessary to place the Grantee in administrative compliance with the terms of this Agreement. A management waiver issued after the term of the Agreement has expired will supersede the original requirements of this Agreement that would normally require a modification of this Agreement to be executed. The Department will make no modifications of this Agreement not agreed to prior to the expiration of the Agreement beyond what is specifically set forth in this section.
- F. Term Extensions The Grantee acknowledges that all Grant Funds must be expended or legally obligated during the grant term set forth in the Notice of Grant Award. Pursuant to the Grant Funds Recovery Act (30 ILCS 705/1 et. seq.), no grant term may be extend beyond a two-year period unless the Grant Funds are expended or legally obligated during that initial two-year period, or unless Grant Funds are disbursed in reimbursement of costs previously incurred by the grantee.

5.8 **CONFLICT OF INTEREST; INTEREST OF PUBLIC OFFICIALS/ EMPLOYEES; BONUS/COMMISSION PROHIBITED; HIRING OF STATE EMPLOYEES PROHIBITED; DUE DILIGENCE IN EXPENDITURE OF GRANT FUNDS**

- A. Conflict of Interest A conflict of interest exists if a Grantee's officers, directors, agents, employees and family members use their position for a purpose that is, or gives the appearance of, being motivated by a desire for a private gain, financial or nonfinancial, for themselves or others, particularly those with whom they have family business or other ties. The Grantee must establish safeguards to prohibit such a conflict of interest from occurring. Safeguards, evidenced by rules or bylaws, shall also be established to prohibit persons from engaging in actions, which create or which appear to create a conflict of interest as described herein.

The Grantee must immediately notify the Department in writing of any actual or potential conflicts of interest, as well as any actions that create or which appear to create a conflict of interest.

B. Interest of Public Officials/Employees

- (1) Governmental Entity If the Grantee is a governmental entity, the Grantee certifies that no conflict of interest as defined in Section 5.8A exists. Further, Grantee certifies that no officer or employee of the Grantee and no member of its governing body and no other public official of the locality in which the program objectives will be carried out who exercises any functions or responsibilities in

the review or approval of the undertaking or carrying out of such objectives shall participate in any decision relating to any contract negotiated under a program grant which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested, or has any financial interest, direct or indirect, in such contract or in the work to be performed under such contract.

- (2) Nongovernmental Entity If the Grantee is a nongovernmental entity, the Grantee certifies that no conflict of interest as defined in Section 5.8A exists. If such a conflict or appearance thereof exists or arises, the Grantee must provide immediate notification to the Department as provided in Section 5.8A. The Department may, in its discretion, issue Grant Funds if it determines that appropriate safeguards are in place and that it is in the best interest of the State to proceed.

Violations of Section 5.8 may result in suspension or termination of this Agreement, and recovery of Grant Funds provided hereunder. Violators may also be criminally liable under other applicable State or Federal laws and subject to actions up to and including felony prosecution.

- C. Bonus or Commission Prohibited The Grantee shall not pay any bonus or commission for the purpose of obtaining the grant awarded under this Agreement.
- D. Hiring State Employees Prohibited No State officer or employee may be hired to perform services under this Agreement, or be paid with Grant Funds derived directly or indirectly through this grant without the written approval of the Department.

#### 5.9 APPLICABLE STATUTES

- A. Grantee Responsibility All applicable Federal, State and local laws, rules and regulations governing the performance required by Grantee shall apply to this Agreement and will be deemed to be included in this Agreement the same as though written herein in full. Grantee is responsible for ensuring compliance with all applicable laws, rules and regulations, including, but not limited to those specifically referenced herein. Except where expressly required by applicable laws and regulations, the Department shall not be responsible for monitoring Grantee's compliance.
- B. Land Trust/Beneficial Interest Disclosure Act ( 765 ILCS 405/2.1) No grant award Grant Funds shall be paid to any trustee of a land trust, or any beneficiary or beneficiaries of a land trust, for any purpose relating to the land, which is the subject of such trust, any interest in such land, improvements to such land or use of such land unless an affidavit is first filed with the Department identifying each beneficiary of the land trust by name and address and defining such interest therein.
- C. Historic Preservation Act (20 ILCS 3420/1 et seq.) The Grantee will not expend Grant Funds under this Agreement which result in the destruction, alteration, renovation, transfer or sale, or utilization of a historic property, structure or structures, or in the introduction of visual, audible or atmospheric elements to a historic property, structure or structures, which will result in the change in the character or use of any historic property, except as approved by the Illinois Historic Preservation Agency.
- D. State of Illinois Discrimination Laws (775 ILCS 5/1-101 et seq.) In carrying out the performance required under this Agreement, the Grantee shall comply with all applicable provisions of the Illinois Human Rights Act, and rules and regulations promulgated by the Illinois Department of Human Rights, prohibiting unlawful discrimination in employment. Grantee's failure to comply with all applicable provisions of the Illinois Human Rights Act, or applicable rules and regulations promulgated thereunder, may result in a determination that Grantee is ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
- E. Drugfree Workplace Act (30 ILCS 580/1 et seq.) Grantee will make the certification required in this Agreement and will comply with all of the provisions of the Drugfree Workplace Act that are

applicable to the Grantee. False certification or violation of the requirements of the Drugfree Workplace Act may result in sanctions including, but not limited to, suspension of grant payments, termination of this Agreement and debarment of contracting or grant opportunities with the State for at least one (1) year but not more than five (5) years.

- F. Freedom of Information Act (5 ILCS 140/1 et seq.) Applications, programmatic reports and other information obtained by the Department under this Agreement shall be administered pursuant to the Freedom of Information Act.
- G. Prevailing Wage Act (820 ILCS 130/0.01 et seq.) All projects for the construction or demolition of fixed works which are financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions; including the Grant Funds provided by this Agreement shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01) unless the provisions of that Act exempt its application. In implementing the project, the Grantee shall comply with the requirements of the Prevailing Wage Act, including, but not limited to, inserting into all contracts for such construction or demolition a stipulation to the effect that not less than the prevailing rate of wages as applicable to the project shall be paid to all laborers, workers and mechanics performing work under the contract and requiring all bonds of contractors to include a provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract. If the Grantee has awarded work without a contract, it shall provide the aforementioned written notice to the contractor on a separate document. The provisions of the Prevailing Wage Act apply to both contractors and sub-contractors performing work on any project funded by this grant.
- H. Victims Economic Security and Safety Act (820 ILCS 180 et seq.) If the Grantee has 50 or more employees, it may not discharge or discriminate against an employee who is a victim of domestic violence, or who has a family or household member who is a victim of domestic violence, for taking up to a total of twelve (12) work weeks of leave from work during any twelve month period to address the domestic violence, pursuant to the Victims Economic Security and Safety Act. The Grantee is not required to provide paid leave under the Victims Economic Security and Safety Act, but may not suspend group health plan benefits during the leave period. Any failure on behalf of the Grantee to comply with all applicable provisions of the Victims Economic Security and Safety Act, or applicable rules and regulations promulgated thereunder, may result in a determination that the Grantee is ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked, as provided by Statute or regulation.
- I. Equal Pay Act of 2003 (820 ILCS 112 et seq.) If the Grantee has four or more employees, it is prohibited by the Equal Pay Act of 2003 from paying unequal wages to men and women for doing the same or substantially similar work. Further, the Grantee is prohibited by the Equal Pay Act of 2003 from remedying violations of the Act by reducing the wages of other employees or discriminating against any employee exercising his/her rights under this Act. Any failure on behalf of the Grantee to comply with all applicable provisions of the Equal Pay Act of 2003, or applicable rules and regulations promulgated thereunder, may result in a determination that the Grantee is ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked, as provided by Statute or regulation.
- J. Steel Products Procurement Act (30 ILCS 565 et seq.) The grantee, if applicable, hereby certifies that any steel products used or supplied in accordance with this grant for a public works project shall be manufactured or produced in the United States per the requirements of the Steel Products Procurement Act (30 ILCS 565 et seq.).

#### 5.10 MISCELLANEOUS PROVISIONS

- A. Independence of Grantee Personnel All technical, clerical, and other personnel necessary for the performance required by this Agreement shall be employed by or contracted with Grantee, and shall in all respects be subject to the rules and regulations of Grantee governing its employees. Neither Grantee nor its personnel shall be considered to be the agents or employees of the Department.
- B. Grantor Authority The Department and its payroll employees, when acting pursuant to this Agreement, are acting as State officials in their official capacity and not personally or as the agents of others.
- C. Governing Law This Grant is awarded in the State of Illinois for execution within the State of Illinois. This Agreement shall be governed by and construed according to Illinois law.
- D. Worker's Compensation Insurance, Social Security, Retirement and Health Insurance Benefits, and Taxes The Grantee shall provide Worker's Compensation insurance where the same is required and shall accept full responsibility for the payment of unemployment insurance, premiums for Workers' Compensation, Social Security and retirement and health insurance benefits, as well as all income tax deduction and any other taxes or payroll deductions required by law for its employees who are performing services specified by this Agreement.
- E. Delivery of Grantee Payments Payment to the Grantee under this Agreement shall be made payable in the name of the Grantee and sent to the person and place specified in the Notice of Grant Award. The Grantee may change the person to whom payments are sent, or the place to which payments are sent by written notice to the Department signed by the Grantee, that complies with the requirements of Section 5.10(F) below. No such change or payment notice shall be binding upon the Department until ten (10) business days after actual receipt.
- F. Notice Any notice, demand, or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth in the Notice of Grant Award by any of the following means: (a) personal service, (b) electronic communication, whether by telex, telegram or telecopy, (c) overnight courier, or (d) registered or certified first class mail, postage prepaid, return receipt requested. Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means, respectively. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received five (5) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.
- The Grantee acknowledges and agrees that its address set forth in the Notice of Grant Award is its current address and shall be considered its last known address for purposes of receiving any and all notice(s) required under this Agreement. The Grantee further acknowledges and agrees that the Department is justified in relying upon the address information furnished to it by the Grantee in absence of notice to the contrary. The Grantee also acknowledges and agrees that it has the burden of notifying the Department of its current/last known address. In the event that the Grantee changes its current address, it shall contact its Program Manager and notify him/her of said change of address and a formal modification will be executed.
- G. Required Notice Grantee agrees to give prompt notice to the Department of any event that may materially affect the performance required under this Agreement. Any notice or approval relating to Section 5.5 (Termination), Section 5.7C (Discretionary Modifications), Section 5.7E (Waivers), and Section 5.10I (Assignment) must be executed by the Director of the Department or her/his authorized designee.
- H. Modifications A modification of any condition of this Agreement must be requested in writing. No modification of any condition of this Agreement may be effective unless in writing from and signed by the Director of the Department.

- I. Assignment The benefits of this Agreement and the rights, duties and responsibilities of the Grantee under this Agreement may not be assigned (in whole or in part) except with the express written approval of the Department acting through its Director. Any assignment by the Grantee in violation of this provision renders this Agreement voidable by the Department.
- J. Severability Clause If any provision under this Agreement or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or its application of this Agreement, which can be given effect without the invalid provision or application.
- K. Integration Clause This Agreement, with attachments, as written, is the full and complete agreement between the parties and there are no oral agreements or understandings between the parties other than what has been reduced to writing herein.
- L. Comptroller Filing Notice The Grantee expressly understands that whenever applicable, a copy of this Agreement and any modification, cancellation or renewal is required to be filed by the Department with the State Comptroller.
- M. Subcontract and Grants The Grantee's services, duties and responsibilities specified herein shall not be subcontracted or subgranted by the Grantee without prior written approval of the Department, unless such subcontracts or subgrants are provided for elsewhere in this Agreement. Any subcontracts or subgrants shall be subject to, and conform with, all applicable State and Federal laws, and shall specifically provide that subcontractors or subgrantees are subject to all of the terms and conditions of this Agreement. For the Department to approve the use of any subcontract or subgrant, the Grantee must employ an open, impartial and reasonably competitive selection process.
- N. Attorney Fees and Costs If the Department is the prevailing party in any proceeding to enforce the terms of this Agreement, the Department has the right to recover reasonable attorney fees, costs and expenses associated with recovering the Grant Funds.

**PART VI  
STATE OF ILLINOIS REQUIRED  
CERTIFICATIONS**

The Grantee makes the following certifications as a condition of this Agreement. These certifications are required by State statute and are in addition to any certifications required by any Federal funding source as set forth in this Agreement. Grantee's execution of this Agreement shall serve as its attestation that the certifications made herein are true and correct.

**6.1 COMPLIANCE WITH APPLICABLE LAW**

The Grantee certifies that it shall comply with all applicable provisions of Federal, State and local law in the performance of its obligations pursuant to this Agreement.

**6.2 CONFLICT OF INTEREST**

The Grantee certifies that it has no public or private interest, direct or indirect, and shall not acquire directly or indirectly any such interest which does or may conflict in any manner with the performance of Grantee's services and obligations under this Agreement.

**6.3 BID-RIGGING/BID-ROTATING**

The Grantee certifies that it has not been barred from contracting with a unit of State or local government as a result of a violation of Section 33E-3 or 33E-4 of the Criminal Code of 1961 (720 ILCS 5/33 E-3 and 5/33 E-4).

**6.4 DEFAULT ON EDUCATIONAL LOAN**

The Grantee certifies that this Agreement is not in violation of the Educational Loan Default Act (5 ILCS 385/3) prohibiting certain contracts to individuals who are in default on an educational loan.

**6.5 AMERICANS WITH DISABILITIES ACT**

The Americans with Disabilities Act (ADA) (42 U.S.C. 12101 et. seq.) and the regulations thereunder (28 CFR 35.130) prohibit discrimination against persons with disabilities by the State, whether directly or through contractual arrangements, in the provision of any aid, benefit or service. As a condition of receiving this grant, the Grantee certifies that services, programs and activities provided under this Agreement are, and will continue to be, in compliance with the ADA.

**6.6 DRUGFREE WORKPLACE ACT**

The Grantee certifies that:

- A)  It is a Corporation, Partnership, or other entity (other than an individual) with 24 or fewer employees at the time of execution of this Agreement.
- B)  That the purpose of this grant is to fund solid waste reduction.
- C)  It is a Corporation, Partnership, or other entity (other than an individual) with 25 or more employees at the time of execution of this Agreement, or
- D)  That it is an individual.

If Option "A" or "B" is checked this Agreement is not subject to the requirements of the Act.

If Option "C" or "D" is checked and the amount of this grant is five thousand dollars (\$5,000.00) or more, the Grantee is notified that the Drugfree Workplace Act (30 ILCS 580/1 et seq.) is applicable to this Agreement, and the Grantee must comply with the terms of said Act, as set forth below:

Grantee will provide a drugfree workplace by:

- (a) Publishing a statement:
  - (i) Notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, including cannabis, is prohibited in the Grantee's workplace.
  - (ii) Specifying the actions that will be taken against employees for violations of such prohibition.
  - (iii) Notifying the employee that, as a condition of employment on such grant, the employee will:
    - (A) abide by the terms of the statement; and
    - (B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- (b) Establishing a drug free awareness program to inform employees about:
  - (i) the dangers of drug abuse in the workplace;
  - (ii) the Grantee's policy of maintaining a drug free workplace;
  - (iii) any available drug counseling, rehabilitation and employee assistance programs; and
  - (iv) the penalties that may be imposed upon an employee for drug violations.
- (c) Providing a copy of the statement required by subparagraph (a) to each employee engaged in the performance of the grant and to post the statement in a prominent place in the workplace.
- (d) Notifying the granting agency within ten (10) days after receiving notice, under part (B) of paragraph (iii) of subsection (a) above, from an employee or otherwise receiving actual notice of such conviction.
- (e) Imposing a sanction on, or requiring the satisfactory participation in, a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by Section 5 of the Drugfree Workplace Act, 30 ILCS 580/5.
- (f) Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation are required and indicating that a trained referral team is in place.
- (g) Making a good faith effort to continue to maintain a drugfree workplace through implementation of the Drugfree Workplace Act, 30 ILCS 580/5.

If Grantee is an individual, it certifies that it will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of this Agreement.

#### 6.7 ANTI-BRIBERY

The Grantee certifies that neither it nor its employees have been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois, nor has Grantee or any of its employees made an admission

of guilt of such conduct which is a matter of record as defined in the Illinois Procurement Code (30 ILCS 500/50-5).

**6.8 DISCRIMINATION/ILLINOIS HUMAN RIGHTS ACT**

The Grantee certifies (i) that it will not commit unlawful discrimination in employment in Illinois as that term is defined in Article 2 of said Act; (ii) that it will comply with the provisions of Article 5 of the Act regarding equal employment opportunities and affirmative action; and, (iii) that it will comply with policies and procedures established by the Department of Human Rights under Article 7 of the Act regarding equal employment opportunities and affirmative action.

The Grantee further certifies that, if applicable, it will comply with "An Act to prohibit discrimination and intimidation on account of race, creed, color, sex, religion, physical or mental handicap unrelated to ability or national origin in employment under contracts for public buildings or public works." (775 ILCS 10/0.01 et seq.)

**6.9 SEXUAL HARASSMENT**

The Grantee certifies that it has written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the Grantee's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department of Human Rights and the Human Rights Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (775 ILCS 5/2-105 (B)(5)). A copy of the policies shall be provided to the Department upon request.

**6.10 INTERNATIONAL ANTI-BOYCOTT CERTIFICATION**

The Grantee hereby certifies that neither the Grantee nor any substantially owned affiliate company of the Grantee is participating or will participate in an international boycott, as defined by the provisions of the U.S. Export Administration Act of 1979, or as defined by the regulations of the U.S. Department of Commerce, promulgated pursuant to that Act (30 ILCS 582/1 et seq.).

**6.11 FEDERAL, STATE AND LOCAL LAWS; TAX LIABILITIES; STATE AGENCY DELINQUENCIES**

The Grantee is required to comply with all federal, state and local laws, including but not limited to the filing of any and all applicable tax returns. In the event that a Grantee is delinquent in filing and/or paying any federal, state and/or local taxes, the Department shall disburse Grant Funds only if the Grantee enters into an installment payment agreement with said tax authority and remains in good standing therewith. Grantee is required to tender a copy of any such installment payment agreement to the Department. In no event may Grantee utilize Grant Funds to discharge outstanding tax liabilities or other debts owed to any governmental unit. **The execution of this Agreement by the Grantee is its certification that (i) it is current as to the filing and payment of any federal, state and/or local taxes applicable to Grantee; and (ii) it is not delinquent in its payment of moneys owed to any federal, state, or local unit of government.**

**6.12 PROHIBITION OF GOODS DERIVED FROM CHILD LABOR**

The Grantee certifies, in accordance with Public Act 94-0264, that no foreign-made equipment, materials, or supplies furnished to the State in connection with this Agreement have been produced in whole or in part by the labor of any child under the age of 12.

**6.13 PREVAILING WAGE**

The Grantee acknowledges that receipt of Grant Funds under this Agreement require compliance with the Prevailing Wage Act (820 ILCS 130 et. seq. ). Persons willfully failing to comply with, or willfully violating this Act may be in violation of the Criminal Code. Questions concerning compliance with the Prevailing Wage Act should be directed to the Illinois Department of Labor.

**6.14 LIEN WAIVERS**

The Grantee shall monitor construction to assure that necessary contractor's affidavits and waivers of mechanics liens are obtained prior to release of Grant Funds to contractors and subcontractors.

**6.15 INTERAGENCY WETLAND POLICY ACT**

The Grantee certifies that the proposed project is compatible with established state policy regarding wetlands, pursuant to the Interagency Wetland Policy Act of 1989. The Grantee acknowledges that the Illinois Department of Natural Resources may, from time to time, monitor the proposed project to ensure continued compliance with the aforementioned Act. In the event that the project does not remain in compliance with the Act, such noncompliance shall constitute a breach of the Agreement, and failure to cure the breach within sixty (60) days after notice thereof will result in the termination of this Agreement.

**EXHIBIT C**  
**DCEO CONSENT**



**Illinois  
Department of Commerce  
& Economic Opportunity**

Pat Quinn, Governor

February 3, 2014

Sharon Feigon  
CEO, IGO Car Sharing  
2125 W. North Avenue  
Chicago, IL 60647

Ms. Feigon,

The Illinois Energy Office at DCEO forwarded your request for consent to donate 60 kW of solar panels to the Illinois Institute of Technology and 20 kW to the City of Evanston (to be installed at the rooftops of the Evanston Ecology Center and the Fleetwood-Jourdain Community Center) to the U.S. Department of Energy. Sharon Gill, a SEP Project Officer from US DOE, has found that these projects fall within the bounded categories of the NEPA template and that your request to donate the remaining solar panels to these two site is approved (please see attached email).

Sincerely,

A handwritten signature in cursive script that reads "Wayne Hartel".

Wayne Hartel  
Illinois Department of Commerce & Economic Opportunity  
Illinois Energy & Recycling Office

---

[www.ildceo.net](http://www.ildceo.net)

500 East Monroe  
Springfield, Illinois 62701-1643  
217/782-7500 • TDD: 800/785-6055

100 West Randolph Street, Suite 3-400  
Chicago, Illinois 60601-3219  
312/814-7179 • TDD: 800/785-6055

2309 West Main, Suite 118  
Marion, Illinois 62959-1180  
618/997-4394 • TDD: 800/785-6055



## Hartel, Wayne

---

**From:** Wilcockson, Sara  
**Sent:** Friday, January 24, 2014 3:13 PM  
**To:** Hartel, Wayne  
**Subject:** FW: ATC ARRA Grant 09-462012 - solar panels donation

See below note from Sharon.

*Thanks,*  
*Sara*

Illinois Energy & Recycling Office  
217/785-3986

---

**From:** Wilcockson, Sara  
**Sent:** Friday, January 24, 2014 3:12 PM  
**To:** 'Gill, Sharon'  
**Subject:** RE: ATC ARRA Grant 09-462012 - solar panels donation

Thanks for your quick response to this request. We're looking forward to getting this one closed out. I will ask Wayne to provide that information when the project is fully installed.

*Thanks,*  
*Sara*

Illinois Energy & Recycling Office  
217/785-3986

---

**From:** Gill, Sharon [mailto:Sharon.Gill@go.doe.gov]  
**Sent:** Friday, January 24, 2014 3:11 PM  
**To:** Wilcockson, Sara  
**Subject:** RE: ATC ARRA Grant 09-462012 - solar panels donation

Sara,  
ATC's request to donate the final 20 kW solar panels to the City of Evanston for installation on the rooftops of the Evanston Ecology Center and the Fleetwood-Jourdain Community Center appear reasonable and the systems fall within the bounded categories of the NEPA template. This request to donate the remaining solar panels to these two sites is approved. Once the transfer is complete, please let me know so I can mark this project as fully complete.

Please contact me if you have any additional questions or concerns.  
Thank you.

Sharon M. Gill  
SEP Project Officer  
GFO @ NREL RSF/C236-5  
U.S. DOE  
Golden, CO 80401  
720-356-1593

---

**From:** Wilcockson, Sara [mailto:Sara.Wilcockson@illinois.gov]  
**Sent:** Wednesday, January 22, 2014 2:54 PM  
**To:** Gill, Sharon  
**Subject:** FW: ATC ARRA Grant 09-462012 - solar panels donation

Please find the below - the original transfer request was approved, but I believe Easter Seals declined the project and they'd like to place the final 20kw in Evanston. I'm hoping this will be an easy approval - will be nice to call this project complete! Let me know if you need any additional information for this.

*Thanks,  
Sara*

Illinois Energy & Recycling Office  
217/785-3986

---

**From:** Hartel, Wayne  
**Sent:** Wednesday, January 22, 2014 2:52 PM  
**To:** Wilcockson, Sara  
**Subject:** FW: ATC ARRA Grant 09-462012 - solar panels donation

Hi Sara,

Could you forward this to Sharon to see if DOE is okay with us reassigning the last 20 kw of solar panels for this project to the City of Evanston instead of the Easter Seals. If that is okay then I will change the attached letter to reflect the change for the 20 kW donation.

thanks

**Wayne Hartel**  
Energy Program Specialist, Illinois Energy Office  
Illinois Department of Commerce and Economic Opportunity  
500 East Monroe  
Springfield, IL 62701  
Phone: (217) 785-3420  
Fax: (217) 558-2647  
[Wayne.Hartel@illinois.gov](mailto:Wayne.Hartel@illinois.gov)

---

**From:** Saul Jaffe [mailto:sjaffe@cnt.org]  
**Sent:** Wednesday, January 15, 2014 11:49 AM  
**To:** Hartel, Wayne  
**Cc:** Sharon Feigon  
**Subject:** ATC ARRA Grant 09-462012 - solar panels donation

Wayne,

I have been working for Sharon Feigon on Alternative Transportation for Chicagoland's solar canopy project. See the attached letter from your office approving the donation of 60 kW solar panels to IIT and 20 kW of panels to Easter Seals. As you know, IIT has installed the 60 kW panels, but Easter Seals since declined the 20 kW donation, only after an agreement had been reached and a contract had been drafted. ATC subsequently found another recipient in the City of

Evanston, who remain very enthusiastic about installing the panels on the rooftops of the Evanston Ecology Center and the Fleetwood-Jourdain Community Center. We are in the process of finalizing a contract.

Could we have an amended version of the attached letter that consents to donating the 20 kW panels to Evanston, and not Easter Seals? Please let me know if you have any questions or if you require anything further from us.

Thanks,

Saul Jaffe  
Accounting Assistant  
Alternative Transportation for Chicagoland  
2125 W. North Ave.  
Chicago, IL 60647  
773-278-4800  
[sjaffe@cnt.org](mailto:sjaffe@cnt.org)

