

8/6/2015

**82-R-15**

**A RESOLUTION**

**Authorizing the City Manager to Negotiate and Execute a Service  
Provider Agreement for Special Service Area 6**

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

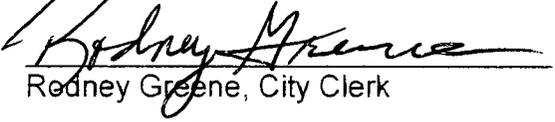
**SECTION 1:** The City Manager is hereby authorized and directed to sign, and the City Clerk is hereby authorized and directed to attest on behalf of the City of Evanston, a Service Provider Agreement ("Agreement") with a not-for-profit corporation to administer this agreement in substantially the form attached hereto as Exhibit A and hereby made a part hereof, and such other supporting documents, if any, as may be necessary to carry out and comply with the provisions of the Agreement for Special Service Area 6.

**SECTION 2:** The City Manager is hereby authorized and directed to negotiate any additional terms and conditions on the Agreement as he may be determine to be in the best interest of the City and in a form acceptable to the Corporation Counsel.

**SECTION 3:** This resolution shall be in full force and effect from and after the date of its passage and approval in the manner provided by law.

  
Elizabeth B. Tisdahl, Mayor

Attest:

  
Rodney Greene, City Clerk

Adopted: August 17, 2015

**EXHIBIT A**

**Service Provider Agreement**

**Agreement for Special Service Area #6**

between

**the City of Evanston**

and

[TO BE INSERTED PRIOR TO EXECUTION]

Effective \_\_\_\_\_, 2015 through December 31, 2017

**Contents**

SERVICE PROVIDER AGREEMENT ..... 4

RECITALS..... 4

ARTICLE 1 INCORPORATION OF RECITALS ..... 4

ARTICLE 2 DEFINITIONS ..... 4

ARTICLE 3 DUTIES AND RESPONSIBILITIES OF CONTRACTOR ..... 5

    3.01 Scope of Services ..... 5

    3.02 Standard of Performance..... 6

    3.03 Personnel ..... 7

    3.04 Nondiscrimination ..... 7

    3.05 Insurance..... 9

    3.06 Indemnification ..... 9

    3.07 Records and Audits ..... 10

    3.08 Subcontracts and Assignments ..... 12

    3.09 License, Permits and Safety Considerations..... 13

    3.10 Performance Bond ..... 13

ARTICLE 4 TERM OF SERVICES ..... 13

ARTICLE 5 COMPENSATION ..... 14

    5.01 Basis of Payment ..... 14

    5.02 Budget for Services ..... 14

    5.03 Method of Payment ..... 15

    5.04 Criteria for Payment..... 15

    5.05 Funding..... 15

    5.06 Non-Appropriation..... 15

ARTICLE 6 SPECIAL CONDITIONS..... 16

    6.01 Warranties and Representations ..... 16

    6.02 Economic Disclosure Statement and Affidavit ..... 17

    6.03 Conflict of Interest..... 17

    6.04 Non-Liability of Public Officials ..... 18

    6.05 Independent Contractor ..... 18

    6.06 Business Relationships with Elected Officials..... 18

    6.07 Deemed Inclusion ..... 18

    6.08 Ethics ..... 19

ARTICLE 7 EVENTS OF DEFAULT, REMEDIES, TERMINATION, RIGHT TO OFFSET,  
SUSPENSION ..... 19

7.01	Events of Default Defined .....	19
7.02	Remedies .....	20
7.03	Suspension .....	21
7.04	No Damages for Delay .....	21
7.05	Early Termination .....	21
ARTICLE 8 GENERAL CONDITIONS .....		22
8.01	Entire Agreement .....	22
8.02	Counterparts .....	22
8.03	Amendments .....	22
8.04	Compliance with All Laws .....	22
8.05	Compliance with ADA and Other Accessibility Laws .....	22
8.06	Assigns .....	23
8.07	Severability .....	23
8.08	Interpretation .....	23
8.09	Miscellaneous Provisions .....	24
8.10	Contractor Affidavit .....	24
8.11	Governing Law and Jurisdiction .....	24
ARTICLE 9 NOTICES .....		24
EXHIBIT 1 .....		26
EXHIBIT 2 .....		27
EXHIBIT 3 .....		28
EXHIBIT 4 .....		31
EXHIBIT 5 .....		34
EXHIBIT 6 .....		38

## SERVICE PROVIDER AGREEMENT

This Service Provider Agreement for the management of Special Service Area Number 6 is entered into by and between [TO BE INSERTED PRIOR TO EXECUTION] an Illinois not-for-profit corporation ("Contractor"), and the City of Evanston ("City"), a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois.

### RECITALS

**WHEREAS**, special service areas may be established pursuant to Article VII, §§ 6(1) and 7(6) of the Constitution of the State of Illinois, and pursuant to the provisions of the Special Service Area Tax Law, 35 ILCS 200/27-5 *et seq.*; and

**WHEREAS**, the City Council of the City of Evanston ("City Council") has established a special service area known and designated as "Special Service Area Number 6" ("Area"), to provide special services in addition to those services provided generally by the City ("Special Services"). The City Council has further authorized the levy of an annual ad valorem real property tax in the Area sufficient to produce revenues required to provide those Special Services but not to exceed 0.45% of the equalized assessed value of all properties within the Area ("Service Tax"), all as provided in the Establishment Ordinance (hereinafter defined); and

**WHEREAS**, the Contractor and the City desire to enter into this Agreement to provide such Special Services in the Area and the Contractor is ready, willing and able to enter into this Agreement to provide the Special Services to the full satisfaction of the City;

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Agreement, the City and the Contractor agree as follows:

### ARTICLE 1 INCORPORATION OF RECITALS

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

### ARTICLE 2 DEFINITIONS

The following words and phrases shall have the following meanings for purposes of this Agreement:

**"Agreement"** means this Special Service Area Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

**"City Manager"** means the City Manager or his/her designee of the City Manager's Office or a duly authorized representative of the City Manager.

**"City Manager's Office"** means the City of Evanston City Manager's Office.

**"Construction"** means that work of a nature constituting "public works" as defined in 820 ILCS 130/2, such as landscaping and building activities, including but not limited to, physical building improvements, installations and other fixed works, but does not include pre-development work (design and preparation of specifications).

**"Days"** means business days in accordance with the City of Evanston business calendar.

**"Establishment Ordinance"** means Ordinance 69-O-15, enacted by City Council on July 13, 2015, and any subsequent amendments thereto authorizing imposition of the Service Tax and setting forth the Special Services to be provided in the Area.

**"Security Firm"** means a business entity certified by the State of Illinois pursuant to the Private Detective, Private Security, Fingerprint Vendor, and Locksmith Act of 2004, 225 ILCS 447/1 *et seq.*, and whose employees are licensed by the State of Illinois.

**"Services"** means, collectively, the services, duties and responsibilities described in Article 3 and Exhibit 1 (Scope of Services) of this Agreement and any revisions thereof and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

**"Service Tax Funds"** means the amount actually collected pursuant to the Service Tax.

**"Subcontractor"** means any person or entity with whom Contractor contracts to provide any part of the Services, including subcontractors of any tier, suppliers and materialmen, whether or not in privity with the Contractor.

**"Surplus Funds"**, also referred to as "Carry-Over Funds", means those Service Tax Funds already collected and disbursed to the Contractor in prior years for the provision of Special Services in the Area which remain unspent, including any interest earned thereon.

## **ARTICLE 3 DUTIES AND RESPONSIBILITIES OF CONTRACTOR**

### **3.01 Scope of Services**

The Services which the Contractor shall provide during the term of this Agreement include, but are not limited to, those described in this Article 3 and in Exhibit 1 which is attached hereto and incorporated by reference as if fully set forth here. The City Manager reserves the right to require the Contractor to perform revised services that are within the general scope of services of this Agreement and of the Special Services identified in the Establishment Ordinance subject to the same terms and conditions herein. Revised services are limited to changes or revisions to the line items in the Budget, do not affect the maximum compensation and require the prior written approval of the City Manager. The City Manager may, by written notice to the Contractor, delete or amend the figures contained and described in the Budget attached hereto as Exhibit 2 and incorporated by reference as if fully set forth herein. The Contractor shall provide the Services in accordance with the standards of performance set forth in Section 3.02.

For each subsequent year during the term of this Agreement, if any, a Scope of Services for that year, comprised of services authorized in the Establishment Ordinance, shall be prepared by the City Manager in consultation with the Contractor, and incorporated into this Agreement by written amendment pursuant to Section 8.03 hereof, together with a Budget for that year and any revised insurance requirements which are recommended by the City of Evanston Corporation Counsel, if any, pursuant to its review of the Scope of Services for that year.

### **3.02 Standard of Performance**

The Contractor shall perform all Services required of it with that degree of skill, care and diligence normally shown by a contractor performing services of a scope, purpose and magnitude comparable with the nature of the Services to be provided hereunder. The Contractor shall at all times use every reasonable effort on behalf of the City to assure timely and satisfactory rendering and completion of its Services.

The Contractor shall act in the best interests of the City at all times, consistent with the professional obligations assumed by it in entering into this Agreement. The Contractor shall perform all Services in accordance with the terms and conditions of this Agreement and to the full satisfaction of the City Manager. The Contractor shall furnish efficient business administration and supervision to render and complete the Services at reasonable cost.

The Contractor shall assure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. The Contractor remains responsible for the professional and technical accuracy of all Services provided, whether by the Contractor or its Subcontractors or others on its behalf.

If the City Manager determines that the Contractor has failed to comply with the foregoing standards, the Contractor shall perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of such failure. Any review, approval, acceptance or payment for any or all of the Services by the City does not relieve the Contractor of its responsibility for the professional and technical accuracy of its Services. This provision in no way limits the City's rights against Contractor, either under this Agreement, at law or in equity.

### **3.03 Personnel**

#### **A. Key Personnel**

The Contractor shall, immediately upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension thereof an adequate staff of competent personnel, who are fully equipped, licensed as appropriate, available as needed, qualified and assigned to perform the Services. Contractor shall pay the salaries and wages due all its employees performing Services under this Agreement unconditionally and at least once a month without deduction or rebate on any account, except only for such payroll deductions as are mandatory by law or are permitted under applicable law and regulations.

#### **B. City Support Staff**

The City shall provide Contractor with a support staff member ("Support Staff") who shall assist Contractor with the following types of projects, including but not limited to: managing requests for proposals and bids for SSA services and preparing agendas and packet materials for SSA board meetings. The Support Staff shall be provided to the Contractor at no cost from the time this agreement is adopted, through and including July 31, 2017. Upon termination of City's Support Staff's assistance period, Contractor agrees that it shall replace the duties and obligations of the Support Staff by hiring its own qualified personnel. Contractor and City acknowledge that the Support Staff is deemed personnel of the City and not of the Contractor during the term of this Agreement.

### **3.04 Nondiscrimination**

#### **A. Contractor**

##### **(i) Federal Requirements**

Contractor must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions or privileges of the individual's employment, because of the individual's race, color, religion, sex, age, handicap/disability or national origin; or (2) limiting,

segregating or classifying Contractor's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967), and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §§ 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34; Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794 (1981); Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

(ii) State Requirements

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*(1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code § 750 Appendix A. Furthermore, Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*(1990), as amended, and all other applicable state statutes, regulations and other laws.

(iii) City Requirements

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with the Evanston Human Rights Ordinance, Section 1-20-1 *et seq.* of the Municipal Code of the City of Evanston (2012), as amended, and all other applicable City ordinances and rules.

**B. Subcontractors**

Contractor must incorporate all of this Section 3.04 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Contractor must furnish and must cause each

of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations.

### **3.05 Insurance**

The Contractor shall comply with the insurance provisions attached hereto as Exhibit 4 and incorporated by reference as if fully set forth herein, and such other insurance provisions as may be required in the reasonable judgment of the City of Evanston Corporation Counsel. If the Contractor enters into a subcontract with a Security Firm, such Security Firm shall comply with the insurance provisions attached hereto as Exhibit 5 and incorporated by reference as if fully set forth herein, and such other insurance provisions as may be required in the reasonable judgment of the City of Evanston Corporation Counsel. If the Contractor subcontracts with a Subcontractor other than a Security Firm, such Subcontractor shall comply with the Contractor insurance provisions attached hereto as Exhibit 4.

The City of Evanston Corporation Counsel may waive or reduce any of the insurance requirements set forth herein.

### **3.06 Indemnification**

#### **A. General Provisions**

On written notice from the City of Losses the City believes are Losses Arising under this Agreement as defined in this Section 3.06, the Contractor shall defend, indemnify, and hold completely harmless the City Indemnitees from and against such Losses, regardless of whether Contractor challenges the City's belief. The defense, indemnification and hold harmless obligations of the Contractor toward City Indemnitees remain an affirmative obligation of Contractor following the City's notice of Losses the City believes are Losses Arising under this Agreement, unless and until a court of competent jurisdiction finally determines otherwise and all opportunities for appeal have been exhausted or have lapsed.

#### **B. Definitions**

For purposes of this Section 3.06,

**"City Indemnitees"** means, individually and collectively, the City of Evanston, its officials, agents, and employees.

**"Losses"** means, individually and collectively, all kinds of liabilities, losses, suits, claims, damages, judgments, fines, and demands, including all reasonable costs for investigation, reasonable attorneys' fees, court costs, and experts' fees, arising by reason of injury or death of any person, damage to property, patent or copyright infringement.

**"Arising under this Agreement"** means (i) arising out of awarding this Agreement, (ii) arising out of the enforcement of this Agreement, including the enforcement of this indemnification provision; (iii) arising out of or in connection with Contractor's performance or non-performance of this Agreement (including the acts or omission of Contractor, its officers, agents, employees, consultants, subcontractors, licensees, or invitees), any breach by any of them of any warranty made under this Agreement, or any failure by any of them to meet any applicable standard of performance under this Agreement; or (iv) any combination of any of the foregoing.

- C. To the extent permissible by law, Contractor waives any limits on Contractor's liability that it would otherwise have by virtue of the Worker's Compensation Act or any other related law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Worker's Compensation Act or under the Illinois Pension Code.
- D. The City has the right, at its option and at its own expense, to participate in the defense of any suit without relieving Contractor of any of its obligations under this indemnity provision. The requirements set forth in this indemnity provision are separate from and not limited by the amount of insurance Contractor is required to obtain under this Agreement or by its bonds pursuant to other provisions in this Agreement. Further, the indemnitees contained in this provision survive the expiration or termination of this Agreement.

### **3.07 Records and Audits**

The Contractor shall deliver or cause to be delivered all documents, data, studies, reports, findings or information to the City Manager promptly in accordance with the time limits prescribed herein and if no time limit is specified, then upon reasonable demand therefore, or upon termination or completion of the Services hereunder.

The Contractor agrees to adopt at its own expense such financial controls, including, without limitation, the employment of a fiscal agent approved by the City Manager, as determined by the City Manager in his or her sole discretion and communicated in writing to the Contractor after the date of execution of this Agreement, to ensure that the Contractor is fulfilling the terms of this Agreement.

The Contractor and any Subcontractors shall furnish the City Manager with semi-annual reports or provide such information by the end of the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) quarters of each fiscal year, and as may be requested by the City Manager relative to the performance and cost of the Services. The Contractor shall maintain records showing actual time devoted and costs incurred. The Contractor shall keep books,

documents, paper, records and accounts in connection with the Services open to inspection, copying, abstracting, transcription, and an independent audit by City employees or agents or third parties, and shall make these records available to the City and any other interested governmental agency at reasonable times during the performance of its Services. In addition, Contractor shall retain them in a safe place and make them available for an independent audit, inspection, copying and abstracting for at least five years after the final payment made in connection with this Agreement.

In addition to the records to be stored by Contractor, all records that are possessed by Contractor in its service to the City to perform a governmental function are public records of the City pursuant to the Illinois Freedom of Information Act ("FOIA"), unless the records are exempt under the Act. FOIA requires that the City produce records in a very short period of time. If the Contractor receives a request from the City to produce records, the Contractor shall do so within seventy-two (72) hours of the notice.

THE CONTRACTOR SHALL NOT COMINGLE SERVICE TAX FUNDS WITH FUNDS FROM OTHER SOURCES, and to the extent that the Contractor conducts any business operations separate and apart from the Services hereunder using, for example, personnel, equipment, supplies or facilities also used in connection with this Agreement, then the Contractor shall maintain and make similarly available to the city detailed records supporting the Contractor's allocation to this Agreement of the costs and expenses attributable to any such shared usages.

The Contractor shall provide an annual audited financial statement (a "Third Party Audit") to the City Manager within 120 calendar days after the end of the calendar year, and the system of accounting shall be in accordance with generally accepted accounting principles and practices, consistently applied throughout. If any Third Party Audit shows that Contractor or any of its Subcontractors has overcharged the City in any period, the City will notify Contractor, and Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges. Any failure to comply with the audit requirements of the City Manager shall constitute an event of default under the Agreement. If such event of default is not corrected to the City's satisfaction within the cure period identified by the City, the City may incur costs to conduct any supplementary audit it deems necessary, and Contractor must then promptly reimburse the City for any such costs. No provision in this Agreement granting the City a right of access to records and documents is intended to impair, limit or affect any right of access to such records and documents that the City would have had in the absence of such provisions.

The City may in its sole discretion audit the records of Contractor or its Subcontractors, or both, at any time during the term of this Agreement or within five years after the Agreement ends, in connection with the goods, work, or services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period." If, as a result of such an audit, it is determined that

Contractor or any of its Subcontractors has overcharged the City in the audited period, the City will notify Contractor. Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges and also some or all of the cost of the audit, as follows:

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

If the City is unable to make a determination regarding overcharges to City as a result of Contractor's not having maintained records as required under this Agreement, Contractor must promptly reimburse the City for some or all of the cost of the audit, as determined in the sole discretion of the City. Failure of Contractor to promptly reimburse the City in accordance with this Section 3.07 is an event of default under Section 7.01 of this Agreement, and Contractor will be liable for all of the City's costs of collection, including any court costs and attorneys' fees.

### **3.08 Subcontracts and Assignments**

The Contractor shall not assign, delegate, subcontract or otherwise transfer all or any part of its rights or obligations under this Agreement or any part hereof, unless otherwise provided for herein or with the express written consent of the City Manager. The absence of such provision or written consent shall void the attempted assignment, delegation or transfer and shall be of no effect as to the Services or this Agreement.

All subcontracts, all approvals of Subcontractors and any assignment to which the City Manager consents are, regardless of their form, deemed conditioned upon performance by the Subcontractor or assignee in accordance with the terms and conditions of this Agreement.

If the Contractor subcontracts for security services, the Subcontractor shall be a Security Firm certified by the State of Illinois and the Security Firm's employees shall be licensed by the State of Illinois. The Contractor, upon entering into any subcontract with a Security Firm, shall furnish the City Manager with a copy of the subcontract for their approval. The City expressly reserves the right to approve all Security Firm subcontracts.

### **3.09 License, Permits and Safety Considerations**

#### **A. Licenses and Permits**

If the Contractor engages in Construction, it is responsible for and, in a timely manner consistent with its obligations hereunder, shall secure and maintain at its expense such permits, licenses, authorizations and approvals as are necessary for it to engage Construction under this Agreement.

#### **B. Safety Considerations**

If the Contractor engages in Construction, it shall at all times exercise reasonable care, shall comply with all applicable provisions of federal, state and local laws to prevent accidents or injuries, and shall take all appropriate precautions to avoid damage to and loss of City property and the property of third parties in connection with the Construction. The Contractor shall erect and properly maintain at all times all necessary safeguards, barriers, flags and lights for the protection of its employees, its Subcontractors' employees, as well as City employees and the public.

If the Contractor engages in Construction, Contractor shall report to the City of any damage on, about, under or adjacent to City property or the property of third persons resulting from Contractor's performance under this Agreement. The Contractor is responsible for any damage to City property and the property of third parties due, in whole or in part, to the Contractor's Construction activities under this Agreement, and the Contractor shall repair such damage to a reasonably acceptable standard.

### **3.10 Performance Bond**

If the Contractor engages in Construction work where expenditures exceed \$100,000, it shall, not later than the date the Contractor begins such work or executes a subcontract for such work, provide or cause to be provided to the City a performance and payment bond in the amount allocated for the Construction work (but not including the amount allocated for design and preparation of specifications), by a surety or sureties acceptable to the City. The performance bond shall be in a form accepted and approved by the City.

If any of the sureties on such bond at any time fail financially, or are deemed to be insufficient security for the penalty of the bond, then the City may, on giving 10 days notice thereof in writing, require the Contractor to furnish a new and additional bond with sureties satisfactory to the City, and, if so required, Contractor must promptly provide such bond.

## **ARTICLE 4 TERM OF SERVICES**

This Agreement shall take effect as of \_\_\_\_\_, 2015 ("Effective Date") and shall continue through December 31, 2017, or until the Agreement is terminated earlier in accordance with its terms.

## **ARTICLE 5 COMPENSATION**

### **5.01 Basis of Payment**

The City shall provide to the Contractor an amount ("Initial Amount") not to exceed \$100,000.00 for the period between \_\_\_\_\_, 2015 through and including August 31, 2016 ("Initial Period"), to be repaid upon the City's receipt of tax proceeds of the 2015 Fiscal Year. The City acknowledges that this Initial Amount is provided to the Contractor prior to the availability of funds from the 2015 Fiscal Year Property Tax Proceeds from Cook County. The Contractor acknowledges that, upon receipt of the 2015 Fiscal Year Property Tax Proceeds from Cook County, the City shall first be reimbursed for the Initial Amount provided during the Initial Period. The disbursements for the Initial Period shall be made in increments of \$25,000.00, upon request from the Contractor. Disbursements shall be made by the City directly to either the Contractor or Subcontractor, when applicable.

Thereafter, the maximum compensation that the Contractor may be paid under this Agreement, between September 1, 2016 through and including December 31, 2017 is the sum of (a) the total amount of Service Tax Funds actually collected for tax year 2015 minus the aforementioned amount reimbursed to the City; (b) the total amount of Service Tax Funds actually collected for tax year 2016; and (c) the total amount of Surplus Funds which are being carried over from the previous program year and which the Contractor hereby acknowledges are in its possession; the maximum compensation that the Contractor may be paid during the term of this Agreement shall not exceed \_\_\_\_\_.

For each subsequent year of this Agreement, if any, the maximum compensation that the Contractor may be paid under this Agreement is the amount set forth in the Budget for that year, pursuant to Section 5.02 and 8.03, or the amount of Service Tax Funds actually collected for the preceding tax year, whichever is less; provided that the maximum amount of compensation for such year of this Agreement may also include the amount of Service Tax Funds collected for prior tax years which remain previously unspent.

### **5.02 Budget for Services**

The Contractor in conjunction with the City Manager has prepared a Budget through August 31, 2016, attached hereto as Exhibit 2 and incorporated by reference as if fully set forth here, covering all services described in the Scope of Services. The Budget for Services shall be designated as a separate fund for Special Service Area Number 6 within the City of Evanston account. Subject to the restriction that the maximum amount that may be spent between \_\_\_\_\_, 2015 and August 31,

2016 may not exceed \$100,000.00, the City Manager reserves the right to transfer funds between line items or make Budget revisions that do not affect the maximum compensation set forth in Section 5.01. The City Manager shall revise the Budget if any part of the Contractor's Services is terminated.

For each subsequent year of this Agreement, if any, and subject to the provisions of Section 3.01, a Budget for that year shall be incorporated into this Agreement by written amendment pursuant to Section 8.03.

### **5.03 Method of Payment**

Pursuant to a schedule to be determined by the City Manager, after the performance of Services pursuant to the terms of this Agreement, Contractor may submit invoices to the City to request reimbursement for such expenses. The Contractor must provide, along with the invoices, such additional documentation as the City Manager requests to substantiate the Services. Upon the City Manager's determination that the invoices are accurate, the City will process payment of the invoices. The Contractor shall establish a separate checking account ("Account") in a bank authorized to do business in the State of Illinois that is insured by the Federal Deposit Insurance Corporation.

All funds remaining in the Account at the expiration or early termination of this Agreement, including any interest earned, shall either (1) be returned to the City at the expiration or termination of this Agreement; or (2) shall be retained by the Contractor if this Agreement is extended.

### **5.04 Criteria for Payment**

The City Manager shall determine the reasonableness and allocability of any rates, costs and expenses charged or incurred by the Contractor.

### **5.05 Funding**

Payments under this Agreement shall be made from Service Tax Funds in Special Service Area Number 6 Tax Proceed Fund, which shall be a separate fund created by the City within the City of Evanston account, and are subject to the availability of funds therein.

### **5.06 Non-Appropriation**

In the event that no funds or insufficient funds are appropriated and budgeted in any City fiscal period for payments to be made under this Agreement, then the City will notify the Contractor of such occurrence and this Agreement shall terminate on the earlier of either the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated

for payment under this Agreement are exhausted. No payments shall be made or due to the Contractor under this Agreement beyond those amounts appropriated and budgeted by the City to fund payments hereunder.

## **ARTICLE 6 SPECIAL CONDITIONS**

### **6.01 Warranties and Representations**

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

- A. That it is financially solvent; that it and each of its employees, agents, and Subcontractors are competent to perform the Services required; that it is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated herein; and
- B. That it shall not knowingly use the services of any ineligible Subcontractor for any purpose in the performance of the Services; and
- C. That it and its Subcontractors are not in default at the time of the execution of this Agreement, or deemed by the City Manager to have, within five years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the City; and
- D. That it and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of Title 1, Chapter 12, "Fair Employment Practices," of the Municipal Code of the City of Evanston, 720 ILCS 5/33E-1 *et seq.* of the Criminal Code of 1961, and 65 ILCS 5111-42.1-1 of the Illinois Municipal Code; and
- E. That, except only for those representations, statements or promises expressly contained in this Agreement and any exhibits attached hereto, no representation, statement or promise, oral or written, or of any kind whatsoever, by the City, its officials, agents or employees, has induced the Contractor to enter into this Agreement; and
- F. That the Contractor understands and agrees that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination for default.
- G. That neither Contractor nor an Affiliate of Contractor (as defined below) appears on the Specially Designated Nationals List, the Denied Persons List, the unverified List, the Entity List or the Debarred List as maintained

by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce (or their successors), or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment. "Affiliate of Contractor" means a person or entity that directly (or indirectly through one or more intermediaries) controls, is controlled by or is under common control with Contractor. A person or entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity (either acting individually or acting jointly or in concert with others) whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

- H. Contractor understands and will abide by all provisions of the Municipal Code of the City of Evanston.

## **6.02 Economic Disclosure Statement and Affidavit**

The Contractor has provided the City with an Economic Disclosure Statement (EDS) and Affidavit, "Familial Relationships with Elected City Officials and Department Heads," which is attached hereto as Exhibit 5 and incorporated by reference as if fully set forth herein. Contractor shall apprise the City Manager promptly of any changes in the information provided in the EDS by completing and submitting a revised EDS.

In addition, the Contractor shall provide the City with copies of its latest articles of incorporation, bylaws and resolutions, or partnership or joint venture agreement, as applicable, and evidence of its authority to do business in the State of Illinois, including without limitation, registrations of assumed names or limited partnerships and certifications of good standing with the Office of the Secretary of State of Illinois.

## **6.03 Conflict of Interest**

Pursuant to 65 ILCS 5/3.1-55-10, no member of the governing body of the City or other unit of government, no other officer, employee, or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement or any related subcontract pertain, shall have any personal economic or financial interest, directly or indirectly, in this Agreement or any such subcontract except to the extent that such benefits are provided equally to all residents and/or business owners in the Area. Furthermore, no City official, agent or employee shall be a Subcontractor, employee or shareholder of the Contractor or receive anything of value from the Contractor.

No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee shall be admitted to

any share or part of this Agreement or to any financial benefit arising from it. The Contractor acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions of Section 1-10-4, "Code of Ethics," of the Municipal Code of the City of Evanston shall be voidable by the City.

The Contractor covenants that it, its officers, directors, and employees, as well as the officers, directors, and employees of each of its members if the members are a joint venture, and its Subcontractors presently have no financial interest and shall acquire no interest, direct or indirect, in the Services undertaken by the Contractor pursuant to the Agreement that would conflict in any manner or degree with the performance of the Services. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed. The Contractor agrees that if the City Manager in his or her reasonable judgment determines that any of the Contractor's services for others conflict with the Services the Contractor is to provide for the City under this Agreement, the Contractor shall terminate such other services immediately upon request of the City.

#### **6.04 Non-Liability of Public Officials**

No official, employee or agent of the City shall be charged personally by the Contractor, or by any assignee or Subcontractor of the Contractor, with any liability or expenses of defense or be held personally liable to them under any term or provision hereof, because of the City's execution or attempted execution hereof, or because of any breach hereof.

#### **6.05 Independent Contractor**

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

#### **6.06 Business Relationships with Elected Officials**

Pursuant to Subsection 1-10-4(C)(3)(b) of the Municipal Code of the City of Evanston, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or in any other public meeting, or to vote on any matter involving the person with whom an elected official has a business relationship. **Violation of Subsection 1-10-4(C)(3)(b) of the Municipal Code of the City of Evanston by any elected official with respect to this Agreement is grounds for termination of this Agreement.**

#### **6.07 Deemed Inclusion**

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

#### **6.08 Ethics**

- A. In addition to other warranties and representations, Contractor warrants that no payment, gratuity or offer of employment will be made in connection with this Agreement by or on behalf of any Subcontractors to Contractor or higher tier subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.
- B. Contractor further acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions of Section 1-10-4 of the Municipal Code of the City of Evanston is voidable as to the City.

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

#### **7.01 Events of Default Defined**

The following constitute events of default:

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to the City.
- B. Contractor's material failure to perform any of its obligations under the Agreement including, but not limited to, the following:
  - (1) failure to commence or ensure timely completion of the Services due to a reason or circumstance within Contractor's reasonable control;
  - (2) failure to perform the Services in a manner satisfactory to the City;
  - (3) failure to promptly re-perform within a reasonable time Services that were rejected as erroneous or unsatisfactory;
  - (4) discontinuance of the Services for reasons within the Contractor's reasonable control;
  - (5) failure to comply with a material term of this Agreement, including but not limited to the provisions concerning insurance and

nondiscrimination; and

(6) any other acts specifically and expressly stated in this Agreement as constituting an event of default.

C. The Contractor's default under any other agreement it may presently have or may enter into with the City during the life of this Agreement. The Contractor acknowledges and agrees that in the event of a default under this Agreement the City may also declare a default under any such other agreements.

## **7.02 Remedies**

The occurrence of any event of default which the Contractor fails to cure within 14 calendar days after receipt of notice specifying such default or which, if such event of default cannot reasonably be cured within 14 calendar days after notice, the Contractor fails, in the sole opinion of the City Manager, to commence and continue diligent efforts to cure, permits the City to declare the Contractor in default. Whether to declare the Contractor in default is within the sole discretion of the City Manager. Written notification of the default, and any intention of the City to terminate the Agreement, shall be provided to Contractor and such decision is final and effective upon Contractor's receipt of such notice. Upon receipt of such notice, the Contractor must discontinue any services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process of completion, to the City. At such time the City may invoke any legal or equitable remedy available to it including, but not limited to, the following:

- A. The right to take over and complete the Services or any part thereof as agent for and at the cost of the Contractor, either directly or through others. The Contractor shall have, in such event, the right to offset from such cost the amount it would have cost the City under the terms and conditions herein had the Contractor completed the Services.
- B. The right to terminate this Agreement as to any or all of the Services yet to be performed, effective at a time specified by the City.
- C. The right of specific performance, an injunction or any other appropriate equitable remedy.
- D. The right to money damages.
- E. The right to withhold all or any part of Contractor's compensation hereunder.
- F. The right to deem Contractor non-responsible in future contracts to be

awarded by the City.

If the City considers it to be in its best interest, it may elect not to declare default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the City permits the Contractor to continue to provide the Services despite one or more events of default, the Contractor is in no way relieved of any of its responsibilities, duties or obligations under this Agreement nor does the City waive or relinquish any of its rights. No delay or omission to exercise any right accruing upon any event of default impairs any such right nor shall it be construed as a waiver of any event of default or acquiescence therein, and every such right may be exercised from time to time and as often as may be deemed expedient.

### **7.03 Suspension**

The City may at any time request that the Contractor suspend its Services, or any part thereof, by giving 15 days prior written notice to the Contractor or upon no notice in the event of emergency. No costs incurred after the effective date of such suspension shall be allowed. The Contractor shall promptly resume its performance upon written notice by the City Manager. The Budget may be revised pursuant to Section 5.02 to account for any additional costs or expenses actually incurred by the Contractor as a result of recommencing the Services.

### **7.04 No Damages for Delay**

The Contractor agrees that it, its members, if a partnership or joint venture and its Subcontractors shall make no claims against the City for damages, charges, additional costs or hourly fees for costs incurred by reason of delays or hindrances by the City in the performance of its obligations under this Agreement.

### **7.05 Early Termination**

In addition to termination for default, the City may, at any time, elect to terminate this Agreement or any portion of the Services to be performed under it at the sole discretion of the City Manager by a written notice to the Contractor. If the City elects to terminate the Agreement in full, all Services shall cease and all materials accumulated in performing this Agreement, whether completed or in the process of completion, shall be delivered to the City Manager within 10 days after receipt of the notice or by the date stated in the notice.

During the final ten days or other time period stated in the notice, the Contractor shall restrict its activities, and those of its Subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination shall be on the same basis as

set forth in Article 5 hereof, but if any compensation is described or provided for on the basis of a period longer than ten days, then the compensation shall be prorated accordingly.

If a court of competent jurisdiction determines that the City's election to terminate this Agreement for default has been wrongful, then such termination shall be deemed to be an early termination.

## **ARTICLE 8 GENERAL CONDITIONS**

### **8.01 Entire Agreement**

This Agreement, and the exhibits attached hereto and incorporated hereby, shall constitute the entire agreement between the parties and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Agreement that are not expressly addressed herein.

### **8.02 Counterparts**

This Agreement is comprised of several identical counterparts, each to be fully executed by the parties and each to be deemed an original having identical legal effect.

### **8.03 Amendments**

No changes, amendments, modifications or discharge of this Agreement, or any part thereof, shall be valid unless in writing and signed by the authorized agent of the Contractor and the City Manager, or their successors and assigns. The City shall incur no liability for revised services without a written amendment to this Agreement pursuant to this Section.

### **8.04 Compliance with All Laws**

The Contractor shall at all times observe and comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government, now existing or hereinafter in effect, which may in any manner affect the performance of this Agreement.

### **8.05 Compliance with ADA and Other Accessibility Laws**

If this Agreement involves services to the public, the Contractor warrants that all Services provided hereunder shall comply with all accessibility standards for persons with disabilities or environmentally limited persons including, but not limited to the following: Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* and the Rehabilitation Act of 1973, 29 U.S.C. §§ 793-94. In the event that the above cited standards are inconsistent, the Contractor shall comply with the standard providing

greater accessibility.

If this Agreement involves design for construction and/or Construction, the Contractor warrants that all design documents produced and/or used under this Agreement shall comply with all federal, state and local laws and regulations regarding accessibility standards for persons with disabilities or environmentally limited persons including, but not limited to, the following: Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities; the Architectural Barriers Act, P.L. 90-480 and the Uniform Federal Accessibility Standards; and the Environmental Barriers Act, 410 ILCS 25/1 *et seq.*, and the regulations promulgated thereto at Ill. Admin. Code tit. 71, ch. 1, § 400.110. In the event that the above cited standards are inconsistent, the Contractor shall comply with the standard providing greater accessibility. If the Contractor fails to comply with the foregoing standards, it shall perform again at no expense all services required to be re-performed as a direct or indirect result of such failure.

#### **8.06 Assigns**

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

#### **8.07 Severability**

If any provision of this Agreement is held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision hereof or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering such provision inoperative or unenforceable in any other case or circumstances, or of rendering any other provision herein invalid, inoperative, or unenforceable to any extent. The invalidity of any one or more phrases, sentences, clauses or sections herein shall not effect the remaining portions of this Agreement or any part thereof.

#### **8.08 Interpretation**

All headings in this Agreement are for convenience of reference only and do not define or limit the provisions thereof. Words of gender are deemed to include correlative words of the other gender. Words importing the singular number include the plural number and vice versa, unless the context otherwise indicates. All references to exhibits or documents are deemed to include all supplements and/or amendments to such exhibits or documents if entered into in accordance with the terms and conditions hereof and thereof. All references to persons or entities are deemed to include any persons or entities succeeding to the rights, duties, and obligations of such persons or



delivered personally shall be deemed effective upon receipt.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date executed by the City ("Effective Date").

**CONTRACTOR:**

[INSERT]  
an Illinois not-for-profit corporation

By: \_\_\_\_\_  
NAME  
Its President

**CITY:**

THE CITY OF EVANSTON, ILLINOIS

By: \_\_\_\_\_  
Wally Bobkiewicz  
Its City Manager

## EXHIBIT 1

Scope of Services  
Special Service Area Number 6

Advertising & Promotion  
Public Way Maintenance  
Public Way Aesthetics  
Business Development  
Administration  
Tenant Retention/Attraction  
District Planning

## EXHIBIT 2

### Budget Evanston Special Service Area No. 6

<b>Expenses</b>	<b>2015- 2016</b>	<b>2017</b>
Advertising and Promotions	\$15,000	\$30,000
Public Way Aesthetics	\$125,000	\$110,000
Public Way Maintenance	\$49,000	\$34,300
Business Development	\$7,500	\$17,500
Administration	\$5,000	\$5,050
<b>Total Expenses</b>	<b>\$201,500</b>	<b>\$196,850</b>

## EXHIBIT 3

### Contractor Insurance Provisions Special Services Area

Contractor must provide and maintain at Contractor's own expense, during the term of the Agreement and time period following expiration if Contractor is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

#### A. INSURANCE TO BE PROVIDED

##### 1) Workers Compensation and Employers Liability

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

##### 2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, separation of insureds, defense and contractual liability. The City of Evanston is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work of Services.

##### 3) Automobile Liability (Primary and Umbrella)

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

##### 4) Professional Liability

When any professional consultants (e.g.; CPA's, Attorney, Architects, Engineers) perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

##### 5) Crime

The Contractor is responsible for all persons handling funds under this Agreement, against loss by dishonesty, robbery, burglary, theft, destruction or disappearance, computer fraud, credit card forgery and other related crime risks.

## B. SECURITY FIRMS

If the Contractor enters into a subcontract with a Security Firm, such Security Firm must be certified by State of Illinois, and the Security Firm's employees must be registered and certified by the State. Contractor must ensure and require any Security Firm subcontractor to comply with the Risk Management Division approved Security Firm Insurance Provision set forth in Exhibit 5 of this Agreement, attached hereto and incorporated by references as though fully set forth herein.

## C. ADDITIONAL REQUIREMENTS

Contractor must furnish to the City Manager, City of Evanston, Civic Center, 2100 Ridge Avenue, Evanston, Illinois 60201, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Contractor must submit evidence of insurance prior to execution of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. Contractor must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

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

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

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

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

Any insurance or self-insurance programs maintained by the City of Evanston do not contribute with insurance provided by Contractor under this Agreement.

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

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

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

In the event Contractor fails to purchase or procure insurance as required above, the parties expressly agree that Contractor shall be in default under this Agreement, and that the City may recover all losses, attorney's fees and costs expended in pursuing a remedy or reimbursement, at law or in equity, against Contractor.

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

Notwithstanding any provision in the Contract to the contrary, the City of Evanston Corporation Counsel maintains the right to modify, delete, alter or change these requirements.

## EXHIBIT 4

### Security Firm Insurance Provisions

#### CONTRACT INSURANCE REQUIREMENTS

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

#### A. INSURANCE TO BE PROVIDED

##### 1) Workers Compensation and Employers Liability

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

##### 2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability. The City of Evanston and Contractor are to be named as an additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

##### 3) Automobile Liability (Primary and Umbrella)

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

##### 4) Professional Liability

Professional Liability Insurance covering acts, errors, or omissions must be maintained by the Security Firm with limits of not less than \$1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

#### B. ADDITIONAL REQUIREMENTS

The Security Firm must furnish the City Manager, City of Evanston, Civic Center, 2100 Ridge Avenue, Evanston, Illinois 60201, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The receipt of any certificate does not constitute agreement by the Contractor that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the Contractor to obtain certificates or other insurance evidence from Security Firm is not a waiver by the Contractor of any requirements for the Security Firm to obtain and maintain the specified coverages. The Security Firm shall advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Security Firm of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the Contractor retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The Security Firm must provide for 60 days prior written notice to be given to the Contractor in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Security Firm.

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

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

Any insurance or self-insurance programs maintained by the Contractor do not contribute with insurance provided by the Security Firm under the Contract.

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

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

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

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

Notwithstanding any provision in the Contract to the contrary, the City of Evanston Corporation Counsel maintains the right to modify, delete, alter or change these requirements.

**EXHIBIT 5**

**Economic Disclosure Statement and Affidavit**

Section 1-18-1 of the Evanston City Code requires all persons seeking to do business with the City to provide the following information with their agreement. Every question must be answered. If the question is not applicable, answer with "NA".

APPLICANT NAME: \_\_\_\_\_

APPLICANT ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

APPLICANT is (**Check One**)

- 1. Corporation ( )
- 2. Partnership ( )
- 3. Sole Owner ( )
- 4. Association ( )
- 5. Other ( ) \_\_\_\_\_

Please answer the following questions on a separate attached sheet if necessary.

**SECTION I - CORPORATION**

1a. Names and addresses of all Officers and Directors of Corporation.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1b. (Answer only if corporation has 33 or more shareholders.) Names and addresses of all those shareholders owning shares equal to or in excess of 3% of the proportionate ownership interest and the percentage of shareholder interest. (Note: Corporations which submit S.E.C. form 10K may substitute that statement for the material required herein.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1c. (Answer only if corporation has fewer than 33 shareholders.) Names and addresses of all shareholders and percentage of interest of each herein. (Note: Corporations which submit S.E.C. form 10K may substitute that statement for the material requested herein.)

---

---

---

**SECTION 2 - PARTNERSHIP/ASSOCIATION/JOINT VENTURE**

2a. The name, address, and percentage of interest of each partner whose interests therein, whether limited or general, is equal to or in excess of 3%.

---

---

---

2b. Associations: The name and address of all officers, directors, and other members with 3% or greater interest.

---

---

---

**SECTION 3 - TRUSTS**

3a. Trust number and institution.

---

3b. Name and address of trustee or estate administrator.

---

---

---

3c. Trust or estate beneficiaries: Name, address, and percentage of interest in total entity.

---

---

---

**SECTION 4 - ALL APPLICANTS - ADDITIONAL DISCLOSURE**

4a. Specify which, if any, interests disclosed in Section 1, 2, or 3 are being held by an agent or nominee, and give the name and address of principal.

---

---

---

4b. If any interest named in Section 1,2, or 3 is being held by a "holding" corporation or other "holding" entity not an individual, state the names and addresses of all parties holding more than a 3% interest in that "holding" corporation or entity as required in 1(a), 1(b), 1(c), 2(a), and 2(b).

---

---

---

4c. If "constructive control" of any interest named in Sections 1,2, 3, or 4 is held by another party, give name and address of party with constructive control. ("Constructive control" refers to control established through voting trusts, proxies, or special terms of venture or partnership agreements.)

---

---

---

I have not withheld disclosure of any interest known to me. Information provided is accurate and current.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Person Preparing Statement

\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_  
Notary Public

(Notary Seal)

Commission Expires: \_\_\_\_\_

**EXHIBIT 6**

**Contractor Affidavit**

Contractor Name:  
Special Service Area Number :  
Agreement ("Agreement"):

Agreement between the City of Evanston and \_\_\_\_\_ dated  
\_\_\_\_\_ relating to the provision of special services.

**AFFIDAVIT**

The undersigned, \_\_\_\_\_, as \_\_\_\_\_, and on behalf of \_\_\_\_\_, having been duly sworn under oath, certifies that in the year \_\_\_\_\_ it performed that portion of the Services described in Exhibit 1 of the Agreement in accordance with the terms of the Agreement, to the extent described in the attached Full-Year Assessment Form and that it spent that portion of funds obtained from the City in connection with that Agreement on the Services described in Exhibit 1, to the extent described in the attached Full-Year Assessment Form . The Full Year Assessment Form shall be in the form prescribed by the City and shall contain such level of detail as the City may require from time to time.

Nothing in this Affidavit may be construed as limiting Contractor's obligations under the Agreement. All terms not defined in this Affidavit will be as defined in the Agreement.

Under penalty of perjury, I certify that I am authorized to execute this Affidavit on behalf of the Contractor, that I have personal knowledge of the certifications made in this Affidavit, and that they are true and correct.

NAME OF CONTRACTOR: \_\_\_\_\_

Signature of Authorized Officer: \_\_\_\_\_

Name of Authorized Officer: \_\_\_\_\_

State of Illinois  
County of Cook

Sworn to and acknowledges before me by \_\_\_\_\_ [Name  
of Signatory] as \_\_\_\_\_ [Title] of \_\_\_\_\_  
[Name of Contracting Party] this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public