

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF CHICAGO
AND CHICAGO TRANSIT AUTHORITY

This Intergovernmental Agreement (the "Agreement") is entered into as of November 1, 2008 (the "Closing Date") by and between the City of Chicago, a municipal corporation (the "City"), acting through its Department of Planning and Development ("DPD"), and the Chicago Transit Authority ("CTA"), an Illinois municipal corporation duly organized and existing under the laws of the State of Illinois.

WHEREAS, the City is a home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City is authorized, under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended (the "Act"), to finance projects that eradicate blight conditions and conservation factors that could lead to blight through the use of tax increment allocation financing for redevelopment projects; and

WHEREAS, in accordance with the provisions of the Act, and pursuant to three ordinances adopted on February 7, 1997 and published at pages 38260-38425 of the Journal of Proceedings of the City Council (the "Journal") of such date, the City Council of the City: (i) approved a certain redevelopment plan and project (the "Central Loop Plan") for the Expanded North Loop Redevelopment Project Area (the "Central Loop Redevelopment Area") within the City; (ii) designated the Central Loop Redevelopment Area as a redevelopment project area; and (iii) adopted tax increment allocation financing (the "Central Loop TIF Adoption Ordinance") for the Central Loop Redevelopment Area; and

WHEREAS, in accordance with the provisions of the Act, and pursuant to three ordinances adopted on October 14, 1988 and published at pages 18196-18231 of the Journal of such date, the City Council of the City: (i) approved a certain redevelopment plan and project (the "Howard-Paulina Plan") for the Howard-Paulina Redevelopment Project Area (the "Howard-Paulina Redevelopment Area") within the City; (ii) designated the Howard-Paulina Redevelopment Area as a redevelopment project area; and (iii) adopted tax increment allocation financing (the "Howard-Paulina TIF Adoption Ordinance") for the Howard-Paulina Redevelopment Area; and

WHEREAS, the Central Loop Plan and the Howard-Paulina Plan may collectively be referred to herein as the "Plans," the Central Loop Redevelopment Area and the Howard-Paulina Redevelopment Area may collectively be referred to herein as the "Redevelopment Areas," and the Central Loop TIF Adoption Ordinance and the Howard-Paulina TIF Adoption Ordinance may collectively be referred to herein as the "TIF Adoption Ordinances;" and

WHEREAS, under the Act and the Central Loop TIF Adoption Ordinance, certain ad valorem taxes are allocated and, when collected, are paid to the Treasurer of the City for deposit by the Treasurer into the Central Loop TIF Fund established to pay redevelopment project costs incurred in the Central Loop Redevelopment Area, which taxes may be used to pay all or a portion of the costs of construction of public improvements within the Central Loop Redevelopment Area that are incurred or that are to be incurred in furtherance of the objectives of the Central Loop Plan, to the extent the municipality by written agreement accepts and approves such costs; and

WHEREAS, under the Act and the Howard-Paulina TIF Adoption Ordinance, certain ad valorem taxes are allocated and, when collected, are paid to the Treasurer of the City for deposit by the Treasurer into the Howard-Paulina TIF Fund established to pay redevelopment project costs incurred in the Howard-Paulina Redevelopment Area, which taxes may be used to pay all or a portion of the costs of construction of public improvements within the Howard-Paulina Redevelopment Area that are incurred or that are to be incurred in furtherance of the objectives of the Howard-Paulina Plan, to the extent the municipality by written agreement accepts and approves such costs; and

WHEREAS, pursuant to the Plans, many TIF-funded City programs and redevelopment agreements have been established by the City Council of the City as of the Closing Date, which programs and agreements pledge portions of the Central Loop and Howard-Paulina TIF Funds (collectively, the "Prior Obligations"); and

WHEREAS, the CTA proposes to undertake the rehabilitation of its Howard Street rapid transit station (the "Howard Station Project"), which project is located within the Howard-Paulina Redevelopment Area, and which is described in more detail in Exhibit A, incorporated and attached hereto; and

WHEREAS, the CTA proposes to undertake (i) the replacement of approximately 9500 lineal feet of existing track and wooden rail ties with new composite ties, tie plates and running rail, all on the elevated rail system along Lake and Wabash Streets (the "Track Sub-Project"), and (ii) the replacement of several escalators, escalator-related platforms and the creation of a new escalator service shop, all on or near the subway system underneath State Street (the "Escalator Sub-Project"), which projects are located within the Central Loop Redevelopment Area, and which are described in more detail in Exhibits B1 and B2, incorporated and attached hereto; and

WHEREAS, the Track Sub-Project and the Escalator Sub-Project shall collectively be referred to herein as the "Central Loop Project", and the Howard Station Project and the Central Loop Project, together, may be referred to herein as the "Projects"; and

WHEREAS, the City and the CTA have agreed that the City will pay not more than \$4,400,000 toward the CTA's costs of the Howard Station Project (the "Howard-Paulina Contribution") from Howard-Paulina Available Incremental Taxes (as defined

below) or from any other source of funds available to and selected by the City; and
WHEREAS, the City and the CTA have agreed that the City will pay not more than \$22,200,000 toward the CTA's costs of the Central Loop Project (the "Central Loop Contribution") (the Howard-Paulina Contribution and the Central Loop Contribution, together, may be referred to herein as the "City Contributions") from Central Loop Available Incremental Taxes (as defined below) or from any other source of funds available to and selected by the City; and

WHEREAS, the Projects are the types of public improvement that are contemplated by the Plans, and therefore the costs of the Projects qualify as redevelopment project costs under the Plans; and

WHEREAS, the City and the CTA wish to enter into this Agreement; and

WHEREAS, the City and the CTA have authority to enter into this Agreement pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., and

WHEREAS, on October 8, 2008, the City Council adopted an ordinance (the "Authorizing Ordinance") authorizing the execution of this Agreement; and

WHEREAS, on June 11, 2008, the Chicago Transit Board passed an ordinance (the "CTA Ordinance") authorizing the execution of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this Agreement by reference.

SECTION 2. [intentionally omitted]

SECTION 3. THE PROJECTS

(a) The Howard Station Project shall be completed not later than June 30, 2009, and the Central Loop Project shall be completed not later than November 30, 2008.

(b) The CTA shall provide the City any plans and specifications pertaining to the Projects that the City may reasonably request from time to time during the Term of this Agreement, and shall notify DPD of any significant changes to said plans.

(c) The CTA hereby certifies that the Projects shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders as may be in effect at the time of each Project's completion.

(d) The CTA hereby certifies to the City that the City Contributions, together with available CTA funds, if any, shall be sufficient to complete the Projects. In recognition of the fact that the City will pay the City Contributions as reimbursement payments after the Projects' costs are first incurred and paid for by the CTA, the CTA hereby certifies to the City that it has funds in amounts sufficient to pay for both Projects' costs.

SECTION 4. FINANCING

(a) CTA funds shall be used to pay both Projects' costs.

(b) City Funds (as defined below) shall be used only to reimburse the CTA for its costs of TIF-Eligible Improvements that constitute Redevelopment Project Costs, contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such costs. "TIF-Eligible Improvements" means those improvements of the Projects which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the respective Plan, and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. "Redevelopment Project Costs" means redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budgets set forth in the Plans or otherwise referenced in the Plans. The City agrees that Exhibits A, B1 and B2 hereof represent certain TIF-Eligible Improvements for the Projects and sets forth, by approximate line item amounts, the minimum amount of TIF-Eligible Improvements the CTA plans to expend for the Projects. The CTA may implement changes to the Projects that cause variations in the line item amounts shown on Exhibits A, B1 and B2, provided that all the changes qualify as TIF-Eligible Improvements.

(c) Subject to the terms and conditions of this Agreement, the City shall pay to the CTA an amount not to exceed \$4,400,000 in City funds from Howard-Paulina Available Incremental Taxes ("Howard-Paulina City Funds") to pay all or any portion of the Howard-Paulina Contribution. If the actual costs of the Howard Station Project total less than \$4,400,000, then the maximum the City shall be liable for under this Agreement is 100% of those Howard Station Project costs that constitute TIF-Eligible Improvements. If the actual costs of the Howard Station Project exceed \$4,400,000, then the CTA shall be solely responsible for such excess costs.

(d) Subject to the terms and conditions of this Agreement, the City shall pay to the CTA an amount not to exceed \$22,200,000 in City funds from Central Loop Available Incremental Taxes ("Central Loop City Funds") to pay all or any portion of the Central Loop Contribution. If the actual costs of the Central Loop Project total less than

\$22,200,000, then the maximum the City shall be liable for under this Agreement is 100% of those Central Loop Project costs that constitute TIF-Eligible Improvements. If the actual costs of the Central Loop Project exceed \$22,200,000, then the CTA shall be solely responsible for such excess costs.

(e) "Available Incremental Taxes" means such ad valorem taxes which, pursuant to the TIF Adoption Ordinances and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Howard-Paulina TIF Fund or the Central Loop TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof, and which are not encumbered or pledged for the payment of Prior Obligations.

(f) The City warrants that it has available and has segregated on the books of the City such amounts of City Funds sufficient to make both of the respective City Contributions, and covenants that the respective City Funds will not be used for any purpose other than the respective City Contributions during the Term of this Agreement.

(g) The City Funds being provided hereunder are being granted on a conditional basis, subject to the CTA's compliance with the provisions of this Agreement.

(h) Only those expenditures made by CTA with respect to the Projects prior to the Closing Date hereof, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the budgets for the Projects, shall be considered as previously contributed CTA funds ("Prior Expenditures"). Exhibit D hereto sets forth the prior expenditures approved by DPD as of the date hereof as Prior Expenditures.

SECTION 5. PAYMENTS

(a) The City agrees to pay the City Funds to the CTA in one payment of Howard-Paulina City Funds and one payment of Central Loop City Funds. The CTA shall request the payment of the respective City Funds on properly completed Requisition Forms (one for each) in the form of Exhibit C hereto ("Reimbursement Request"), which the CTA may file with the City at any time following the completion of the respective Project. Prior to or simultaneous with the delivery of each Reimbursement Request to the City, the CTA shall submit documentation substantiating its applicable expenditures (including TIF-Eligible Improvements) to DPD.

(b) Delivery by the CTA to DPD of the Reimbursement Request hereunder shall, in addition to the items expressly set forth therein, constitute a certification to the City, as of the date of each Reimbursement Request, that:

- (i) the total amount of the Reimbursement Request represents the actual amount already expended by the CTA for its own work or paid by the CTA to the general contractor(s), subcontractors or other parties who have performed work on or otherwise provided goods or services in connection with the respective Project;
- (ii) the CTA has approved all work and materials for the Reimbursement Request; and
- (iii) the work that is the subject of the Reimbursement Request was performed in accordance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders at the time of its completion.

(c) Upon presentation of each Reimbursement Request from the CTA, the City shall review it and its supplemental documentation for, among other things, evidence that the CTA incurred and paid TIF-Eligible Expenditures in an amount that equals or exceeds the respective amount of City Funds agreed to herein, and shall inform the CTA of any questions or comments about same as soon as practicable.

(d) Once each Reimbursement Request is approved by the City, the City, by check or wire transfer, shall pay the entire City Funds amount, or portion thereof as stated at that time by the City, within the earlier to occur of (i) 60 days following receipt thereof, or (ii) for Central Loop City Funds, December 31, 2008, and for Howard-Paulina City Funds, July 31, 2009.

SECTION 6. TERM

The term of this Agreement ("Term") shall commence on the Closing Date and shall expire on the date the Howard-Paulina Redevelopment Area is no longer in effect, or on the date of termination of this Agreement according to its terms, whichever occurs first.

SECTION 7. ENVIRONMENTAL MATTERS; SAFETY; INSPECTION

(a) The City makes no covenant, representation or warranty as to the environmental condition of the Projects or the suitability of the Projects for any public rapid transit use whatsoever.

(b) The CTA shall be solely responsible for the safety and protection of the public in connection with the Projects.

(c) The City reserves the right to inspect the Projects from time to time as they are being undertaken or after their completion.

SECTION 8. INSURANCE

(a) The CTA is self-insured. During the term of this Agreement, the CTA shall provide and maintain, at the CTA's own expense, or cause to be provided, insurance or self-insurance equivalent to the coverages and requirements specified below concerning all operations related to this Agreement.

(b) Workers Compensation and Employers Liability. Workers Compensation 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 \$100,000 each accident or illness.

(c) Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent self-insurance with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability. The City of Chicago will be considered an additional insured on a primary, non-contributory basis for any liability arising directly from the work. For those contracts already let or for work already performed prior to the Closing Date, the CTA shall recognize the City of Chicago as an additional insured on a primary, non-contributory basis for any liability arising directly from such work.

(d) Automobile Liability (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the CTA shall provide self-insured Automobile Liability coverage with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage.

(e) Professional Liability. When any architects, engineers or professional consultants engaged by the CTA perform work in connection with this Agreement, the CTA shall provide self-insured Professional Liability covering acts, errors, or omissions with limits of not less than \$1,000,000.

(f) The CTA will furnish the City a letter of self insurance evidencing the required coverage to be in force on the Closing Date, and similar evidence if the coverages change from self-insurance to insurance during the term of this Agreement and prior to the completion of the Projects. The CTA shall submit evidence of self-insurance prior to the Closing Date. The receipt of any self-insurance does not constitute agreement by the City that the insurance requirements in this Agreement have been fully met or that the self-insurance is in compliance with all Agreement requirements. The failure of the City to obtain self-insurance evidence shall not be deemed to be a waiver by the City.

(g) Non-conforming self-insurance shall not relieve the CTA of the obligation to provide or cause to be provided insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of this Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or this Agreement may be terminated.

(h) The required general liability self-insurance shall provide for sixty (60) days prior written notice to be given to the City or the CTA in the event coverage is substantially changed, canceled, or non-renewed. The CTA shall promptly notify the City in the event the CTA receives any such notice.

(i) Any and all self-insured retentions on referenced insurance coverages shall be borne by The CTA and its contractors.

(j) The CTA shall waive its rights of subrogation against the City, its employees, elected officials, agents, or representatives.

(k) The CTA expressly understands and agrees that any coverage and limits furnished by The CTA shall in no way limit The CTA's liabilities and responsibilities specified by this Agreement or by law.

(l) The CTA expressly understands and agrees that any insurance or self insurance programs maintained by the City shall not contribute with insurance provided by the CTA under this Agreement.

(m) The required self-insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

(n) The CTA shall require all contractors for the Projects to provide the insurance required herein or the CTA may provide the coverages for contractors. All contractors shall be subject to the same insurance requirements as is the CTA unless otherwise specified herein. In all contracts relating to the Projects that are let after the Closing Date, the CTA agrees to require the contractor to name the City as an additional insured on insurance coverages as provided above and to require the contractor to indemnify the City from all claims, damages, demands, losses, suits, actions, judgments and expenses including but not limited to attorney's fees arising out of or resulting from work on the Projects by the contractor or contractor's suppliers, employees, or agents.

SECTION 9. EMPLOYMENT OBLIGATIONS

9.01 Employment Opportunity. CTA, on behalf of itself and its successors and

assigns, hereby agrees, and shall contractually obligate its general contractors, subcontractors or any Affiliate of the CTA operating in connection with the Projects (collectively, with CTA, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to CTA and during the period of any other party's provision of services to CTA in connection with the construction of the Projects, to the extent not in conflict with CTA's procurement requirements or applicable federal and state law:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time ("Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Employer ensures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Employer receives Federal assistance awarded by the U.S. DOT or FTA.

(c) Each Employer shall comply with all federal, state and local equal

employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Projects, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate undertaking any portion of the Projects, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

9.02 Construction Worker Hours. Because the Projects are to be federally assisted, CTA has affirmative action requirements or goals for the Projects that impose construction worker hours participation by utilization of minorities and women, respectively. The CTA shall comply, and shall cause its general contractors to comply, therewith.

9.03 [intentionally omitted.]

9.04 CTA's DBE Commitment. CTA agrees for itself and its successors and assigns, that because the construction of the Projects involves use of federal funds as part of CTA's contribution, CTA will meet and satisfy its 30% DBE contract goals. Attached hereto as Exhibit E is a description of CTA contract participation requirements for DBEs predicated on such federal requirements applicable to the Project as well as a listing of the DBE commitment for each Project. . CTA shall provide evidence to the City, in conjunction with its other reporting to the City with respect to compliance matters, that it is complying with federal requirements relating to the hiring of DBEs during the construction of the Projects.

For purposes of this Section 9.04, "DBE(s)" shall mean disadvantaged business enterprises certified as such by the Illinois Universal Certification Program, of which CTA is a member, pursuant to the U.S. Department of Transportation regulations set forth at 49 CFR Part 26.

SECTION 10. INDEMNIFICATION

Except for the City's own negligence or wrongful acts, the CTA shall release, indemnify and hold harmless, to the maximum extent permitted by law, the City and its

officials, employees and agents (the "City Indemnitees") from and against any and all claims, suits, liabilities, losses and damages, including court costs and attorneys' fees and expenses incidental thereto, of whatever nature, arising out of or in connection with the CTA's construction of the Projects, and any failure of performance or negligent or wrongful performance by the CTA, or any contractor or subcontractor for the CTA, and their respective officers, agents or employees, in connection with the Projects, including, but not limited to, claims for damage to property, and/or injury to or death of any person or persons.

SECTION 11. NOTICES

(a) All notices and demands by the CTA to the City shall be in writing and shall be delivered personally or sent by United States mail or reputable overnight or same day courier service, postage prepaid, addressed to the City as specified below, or to such other address as the City may from time to time designate by notice to CTA hereunder:

To the City: City of Chicago
 Department of Planning and Development
 Attention: Commissioner
 City Hall, Room 1000
 121 N. LaSalle Street
 Chicago, Illinois 60602
 (312) 744-9476
 (312) 744-2271 (Fax)

With copies to: City of Chicago
 Department of Law
 Attention: Finance and Economic Development Division
 City Hall, Room 600
 121 N. LaSalle Street
 Chicago, Illinois 60602
 (312) 744-0200
 (312) 744-8538 (Fax)

(b) All notices and demands by the City to the CTA shall be in writing and shall be delivered personally or sent by United States mail or reputable overnight or same day courier service, postage prepaid, addressed to CTA as specified below, or to such other address as the CTA may from time to time designate by notice to the City hereunder:

To the CTA: President
 Chicago Transit Authority
 567 W. Lake Street

Chicago, IL 60661
(312) 681-5000
(312) 681-_____ (Fax)

With copies to: General Counsel
Chicago Transit Authority
567 W. Lake Street
Chicago, IL 60661
(312) 681-2870
(312) 681-2875

SECTION 12. GENERAL PROVISIONS

(a) This Agreement constitutes the entire understanding of the parties with respect to the Projects and the payment of City Funds, and no representations or promises have been made that are not fully set forth herein. The parties understand and agree that no modification of this Agreement shall be binding unless duly accepted and executed by both parties in writing.

(b) This Agreement will be governed in all respects in accordance with the laws of the State of Illinois. A court located in Chicago, Illinois, will hear any disputes which arise hereunder.

(c) Any headings of this Agreement are for convenience of reference only and do not define or limit the provisions of this Agreement. Words of any gender will be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document will be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms hereof and thereof. All references to any person or entity will be deemed to include any person or entity succeeding to the rights, duties, and obligations of such person or entity in accordance with the terms of this Agreement.

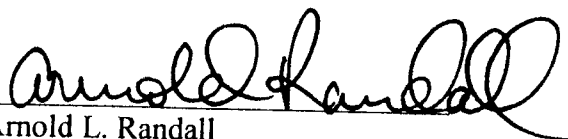
(d) The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part hereof.

(e) This Agreement may be executed in one or more counterparts, and all such counterparts will constitute one and the same Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, through duly authorized representatives, as of the date set forth at the beginning of this Agreement.

CITY OF CHICAGO, a municipal corporation, through its
Department of Planning and Development



Arnold L. Randall
Commissioner

CHICAGO TRANSIT AUTHORITY, a municipal
corporation

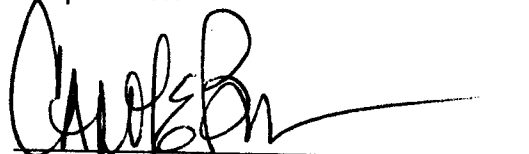
Carole L. Brown
Chairman

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, through duly authorized representatives, as of the date set forth at the beginning of this Agreement.

CITY OF CHICAGO, a municipal corporation, through
its
Department of Planning and Development

Arnold L. Randall
Commissioner

CHICAGO TRANSIT AUTHORITY, a municipal
corporation



Carole L. Brown
Chairman

Exhibit A

Howard Station Project Description and Budget

[see attached]

Howard Station Project

Comments / Description

Comments / Description	Scope	Cost
Replacement of approximately 18,000 square feet of retaining wall at Howard Station which will ensure structural integrity to stationhouse and tracks. Includes rehabilitation of 3,300 square feet retaining wall foundations and viaduct piers over Howard Street.	Concrete Repairs: Retaining Walls/Viaduct Piers/Foundation Walls	\$ 2,406,370.00
Provide enclosures around all six platform entrances from Howard Street entrance. This will protect equipment and customers from weather elements entering from Howard Station Entrance. The enclosures will be constructed of galvanized steel and glass and will be a height equal to the canopy to ensure weather tightness.	Stair Enclosures - Platform Level	\$ 1,500,000.00
Extension of high canopy to further protect station equipment and customers from weather elements. Canopy will be brought down approximately fifteen feet the entire length of the high canopy, which is approximately 90 feet in length.	High Canopy extension	\$ 560,000.00
Total Additional Costs - Howard Station		\$ 4,466,370.00

Exhibit B1

Track Sub-Project Description and Budget
(part of the Central Loop Project)

[see attached]

Loop Signal and Track Replacement Project

Comments / Description	Scope	Cost
Replace Loop track and third rail infrastructure along the Lake and Wabash legs of the elevated rail structure from Lake and LaSalle to Wabash and Jackson. Existing components were installed in 1981 are at the end of their service life.	Demolish 9500 lineal feet existing track, ties and associated fasteners on the Loop elevated track. Replace over the same area with new composite ties, pandrol SRS tie plates and #115 running rail.	\$ 18,184,062.00
Total Cost		\$ 18,184,062.00

Exhibit B2

Escalator Sub-Project Description and Budget
(part of the Central Loop Project)

[see attached]

Subway Escalator Replacement Project

Comments / Description	Scope	Cost
Construct new escalator shop at south end of Red Line continuous platform, between Jackson Van Buren and Congress mezzanines.	Masonry walls, Electrical, Hollow Metal Doors and Frames	\$ 705,200.00
Replace platform to mezzanine escalator at Monroe Adams Red Line mezzanine and widen concrete exit stair from platform to mezzanine	Concrete, Escalator	\$ 1,594,925.00
Replace street to mezzanine escalator at Adams Jackson Red Line mezzanine	Escalator, Plumbing, Street Kiosk Glazing	\$ 1,380,342.00
Replace street to mezzanine escalator at Jackson Van Buren Red Line mezzanine	Escalator, Plumbing, Street Kiosk Glazing	\$ 1,282,342.00
Total Cost		\$ 4,962,809.00

Exhibit C

Requisition Form

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The Chicago Transit Authority (the "CTA"), hereby certifies that with respect to that certain Intergovernmental Agreement between the CTA and the City of Chicago dated _____, ____ (the "Agreement"):

A. Expenditures (final cost) for the [Howard Station] [Central Loop] Project have been made in the total amount of:

\$ _____

B. This paragraph B sets forth and is a true and complete statement of all costs of TIF-Eligible Improvements for the [Howard Station] [Central Loop] Project expended by the CTA and reimbursed by the City to date:

\$ _____ [\$0.00]

C. The CTA requests reimbursement for the following costs of TIF-Eligible Improvements:

\$ _____

D. None of the costs referenced in paragraph C above has previously been reimbursed by the City.

E. The CTA hereby certifies to the City that, as of the date hereof:

(i) the total amount of the reimbursement request herein represents the actual amount already expended by the CTA for its own work or paid by the CTA to the general contractor(s), subcontractors or other parties who have performed work on or otherwise provided goods or services in connection with the [Howard Station] [Central Loop] Project;

(ii) the CTA has approved all work and materials for the reimbursement request;

(iii) the work that is the subject of the reimbursement request herein was performed in accordance with all applicable federal, state and local laws,

statutes, ordinances, rules, regulations, codes and executive orders at the time of its completion; and

(iv) the representations and warranties contained in the Agreement are true and correct and the CTA is in compliance with all applicable covenants contained therein.

All capitalized terms which are not defined herein have the meanings given such terms in the Agreement.

**Chicago Transit Authority, and Illinois
municipal corporation**

By: _____
Name
Title: _____

Subscribed and sworn before me this ___ day of _____, _____

My commission expires: _____

Agreed and accepted:

City of Chicago Department of Planning and Development

Name: _____
Title: _____

Date: _____

Exhibit D
Prior CTA Expenditures

None

Exhibit E

CTA's DBE Special Conditions of Contract and
DBE Commitment for Each Project

[a subset of the budgets set forth in Exhibits A, B1 and B2]

[see attached]

SPECIAL CONDITIONS
DISADVANTAGED BUSINESS ENTERPRISE COMMITMENT
INVITATION FOR BID

I. POLICY AND TERMS

- A. The policy of the Chicago Transit Authority is to create a level playing field on which Disadvantaged Business Enterprises (DBE) as defined in United States Department of Transportation (USDOT) Regulation 49 C.F.R. Part 26 can compete fairly for contracts financed in whole or in part with federal funds.
- B. The Authority has established the following DBE participation goal for this project:

Disadvantaged Business Enterprise Goal: ___%

- C. The DBE participation goal shall be expressed as a percentage of the total contract price. The bidder may also meet the goal by showing good faith efforts to meet the goal as described in 49 C.F.R. Part 26 and as set forth in Section V below. **Any evidence of good faith efforts must be submitted with the sealed bid or the bid will be rejected in its entirety.**
- D. The DBE participation goal shall apply to the total dollar value of this contract, inclusive of all amendments, modifications, options, and change orders. The bidder agrees to make its best effort to include DBE participation in any contract modification work.
- E. The goal may be met, as further explained in Section IV hereof, by the bidder's status as a DBE, by a joint venture with one or more DBEs, by subcontracting a portion of the work to one or more DBEs, by the purchase of materials used in the performance of the contract from one or more DBEs or by any combination of the above or through a showing of good faith efforts as defined in Section V hereof.
- F. A bidder who fails to meet the DBE goal and fails to demonstrate sufficient and reasonable good faith efforts shall not be eligible to be awarded the contract. All documentation of good faith efforts by a bidder **must** be included in the envelope or package containing the bid.
- G. The Authority prohibits agreements between a bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders.

II. DEFINITIONS

- A. **"Area of Specialty"** means the description of the DBE's business, which has been determined by the General Manager, DBE Program, to be most reflective of the DBE's claimed specialty or expertise. Credit toward the DBE participation goal for this contract shall be limited to the participation of firms performing within their Area of Specialty. The Authority reserves the right to investigate and determine active DBE participation and applicable DBE credit specifically identified for this contract prior to award.

NOTICE: The Authority does not make any representations concerning the ability of any DBE to perform work within its Area of Specialty. It is the responsibility of the bidder to determine the capability and capacity of the DBE firms to satisfactorily perform the work proposed.

- B.** “**Bid**” includes the following Authority purchasing requests: Invitation for Bids (IFB).
- C.** “**Bidder**” includes bidders and contractors. The terms “Bidder” and “Contractor” may be used interchangeably in these Special Conditions.
- D.** “**Disadvantaged Business Enterprise**” or “**DBE**” means a small business certified by the Illinois Universal Certification Program (IL UCP) as a business owned and controlled by socially and economically disadvantaged individuals in accordance with USDOT Regulation 49 CFR, Part 26.
- E.** “**Directory**” means the Directory of Certified Disadvantaged Business Enterprises maintained and published by IL UCP and entitled the “IL UCP DBE Directory.” The directory will be available on the Authority’s web site. Bidders are responsible for verifying the current certification status of all proposed DBE’s.
- F.** “**Good Faith Efforts**” means efforts to achieve a DBE contract goal as specified in 49 CFR, Part 26 and Section V hereof.
- G.** “**IL UCP**” means the Illinois Unified Certification Program.
- H.** “**Joint Venture**” means an association of two or more businesses to carry out a single business enterprise for profit, and for which purpose they combine their expertise, property, capital, efforts, skill and knowledge. Bidders may develop joint venture agreements as an instrument to provide participation by DBEs in contract work. A joint venture seeking to be credited for DBE participation may be formed among DBE firms or between a DBE firm and non-DBE firm.
- In order to qualify for credit as a DBE, the DBE must be responsible for a distinct, clearly defined portion of the work and the DBE must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- I.** “**Purchasing Agent**” means the Authority employee who holds the position of General Manager, Purchasing, or the successor position.
- J.** “**Small Business Concern**” means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto except that a small business concern shall not include any concern or groups of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.570 million, or as revised from time to time, over the three (3) previous fiscal years.
- K.** “**Socially and Economically Disadvantaged Individuals**” means any individual who is a citizen of the United States (or lawfully admitted permanent residents) and who is in the following groups, the members of which are rebuttably presumed to be socially and economically disadvantaged:
1. “**Black Americans**”, which includes persons having origins in any of the Black racial groups of Africa;
 2. “**Hispanic Americans**”, which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

3. “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
4. “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Thailand, Malaysia, Indonesia, Vietnam, Laos, Cambodia (Kampuchea), the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific (Republic of Palau), and the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Jauvlu, Nauru, Federated States of Micronesia or Hong Kong; and
5. “Subcontinent Asian Americans”, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.
6. **Women.**
7. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

The General Manager, DBE Program, may determine on a case-by-case basis that individuals who are not members of one of the above-listed groups are socially and economically disadvantaged.

L. “USDOT” or “DOT” refers to the U.S. Department of Transportation.

III. JOINT VENTURES

The General Manager, DBE Program, will evaluate the joint venture agreement submitted on behalf of the proposed joint venture and all related documents to determine whether these DBE requirements have been satisfied. In addition, the General Manager, DBE Program, will consider the record of the joint venturers as joint venturers on other Authority contracts, if any.

NOTE: DBE/non-DBE joint ventures are creditable at any tier. Whenever a joint venture is proposed as the prime Contractor, Authority requires that each joint venturer sign the bid submitted to the Authority.

IV. COUNTING DBE PARTICIPATION TOWARD THE CONTRACT GOAL

The inclusion of any DBE by the bidder in its bid documents shall not conclusively establish the bidder’s eligibility for full DBE credit for the firm’s participation in the contract. The amount of DBE participation credit shall be based upon an analysis by the General Manager, DBE Program, of the specific duties which will be performed by the DBE.

The bidder may count toward its DBE goal only expenditures to firms which are currently certified by the IL UCP and which perform a commercially useful function. A firm is considered to perform a commercially useful function when it is responsible for the performance of a distinct element of the work and carries out its responsibilities by actually performing, managing and supervising the work involved.

To determine whether a firm is performing a commercially useful function, the General Manager, DBE Program, will evaluate the amount of work subcontracted, industry practices and other relevant factors. The General Manager, DBE Program, reserves the right to deny or limit DBE credit to the bidder where any DBE is found to be engaged in substantial pass-through activities with others.

DBE participation shall be counted toward the DBE goal in the contract as follows:

- A. Once a DBE is determined to be eligible in accordance with these rules, the total dollar value of the contract awarded to the DBE may be counted toward the DBE goal except as indicated below.
 - B. A bidder may count toward its DBE goal that portion of the total dollar value of a contract with an eligible joint venture equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces.
 - C. Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE subcontracts more than thirty percent (30%) or a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. Evidence may be presented by the bidder involved to rebut this presumption.
 - D. When a DBE subcontracts a part of the work under the contract to another firm, the value of the subcontracted work may only be counted towards the DBE goal if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count towards the DBE goal.
 - E. The bidder may count one-hundred percent (100%) of its expenditures for materials and supplies required under the contract and which are obtained from a DBE manufacturer towards the DBE goal. The bidder may count sixty percent (60%) of its expenditures for material and supplies under the contract obtained from a DBE regular dealer towards its DBE goal. The terms "manufacturer" and "regular dealer" are defined in 49 C.F.R. Part 26.55(e)(1)(ii) and (2)(ii).
 - F. The bidder may count towards its DBE goal expenditures to DBEs which are not manufacturers or regular dealers, such as fees or commissions charged for services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies and transportation charges as set forth in 49 C.F.R. Part 26. However, the General Manager, DBE Program, must determine the fee or charge to be reasonable and not excessive as compared with fees or charges customarily allowed for similar services.
 - G. The bidder must use good business judgment when negotiating with subcontractors and take a DBE's price and capabilities into consideration. The fact that there may be some additional costs involved in finding and using DBE firms is not sufficient reason to fail to meet the DBE goal set forth in the contract, as long as such costs are reasonable.
- V. **GOOD FAITH EFFORTS**

In order to be responsive, a bidder must make good faith efforts to meet the DBE participation goal set forth in the contract. The bidder must document the good faith efforts it made in that regard. Thus, the Bid submitted to the Authority must be accompanied by written documentation prepared by the bidder evidencing all of its sufficient and reasonable good faith efforts toward fulfilling the goal. These efforts must be active steps, and ones, which could reasonably be expected to lead to sufficient DBE participation to meet the contract DBE participation goal. Mere *pro forma* efforts are not acceptable and will be rejected by the General Manager, DBE Program.

Good Faith Efforts require that the bidder consider all qualified DBEs, who express an interest in performing work under the contract. This means that the bidder cannot reject a DBE as unqualified unless the bidder has sound reasons based on a thorough investigation of the DBE's capabilities. Further, the DBE's standing within its industry, membership in specific groups, organizations or associations and political or social affiliation (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the contract DBE participation goal.

The following list, which is not exclusive or exhaustive, sets forth the types of actions, which indicate good faith efforts on the part of a bidder to meet the DBE goal. The extent and type of actions required will vary depending on such things as industry practice; the time available for submitting a bid and the type of contract involved.

- A. Attendance at a pre-bid meeting, if any, scheduled by the Authority to inform DBEs of subcontracting opportunities under a given solicitation.
- B. Advertisement in general circulation media, trade association publications, and minority-focus media for at least twenty (20) days before bids are due. If 20 days are not available, publication for a shorter reasonable time is acceptable.
- C. Written notification to capable DBEs that their interest in the contract is solicited.
- D. Documentation of efforts to negotiate with DBEs for specific sub-contracts including at a minimum:
 - 1. The names, addresses, and telephone numbers of DBEs that were contacted and the date(s) of contact.
 - 2. A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed.
 - 3. A statement explaining why additional agreements with DBEs were not reached.
- E. For each DBE the bidder contacted but rejected as unqualified, the reason for the bidder's conclusion.
- F. Documentation of efforts made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the bidder or the Authority.
- G. Documentation of efforts to utilize the services of small business organizations, community and contractor groups to locate qualified DBEs.
- H. Documentation that the bidder has broken out contract work items into economically feasible units in fields where there are available DBE firms to perform the work.
- I. Evidence that adequate information was provided to interested DBEs about the plans, specifications and requirements of the contract, and that such information was communicated in a timely manner.
- J. Documentation of any efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.

VI. GOOD FAITH EFFORTS RECONSIDERATION

If it is determined that the apparent successful low bidders have failed to meet the requirements of the contract goal/good faith efforts, the Authority will provide them with **ONE** opportunity for administrative reconsideration, before the Authority awards the contract. This reconsideration will include the following:

- A. The bidder will be permitted to either provide written evidence or to present oral argument at a pre-scheduled time that the documentation it submitted with its bid met the DBE goal and/or showed good faith efforts to do so. **No new evidence of good faith efforts may be presented after the bid submission deadline.**
- B. The Authority's Reconsideration Officer will review the evidence presented by the bidder and issue a written determination that the bidder has: 1) met the DBE goal; 2) not met the DBE goal but has made adequate good faith efforts to do so; or 3) has not met the DBE goal and the good faith efforts made were not adequate.
- C. The decision of the Authority's Reconsideration Officer is final and may not be appealed to the Authority, its funding agencies or the USDOT.
- D. The Authority will not award a contract to any bidder who does not meet the contract DBE participation goal or show good faith efforts to meet that goal. Thus, it is essential that all bidders submit ALL relevant documentation concerning the DBE goal and/or good faith efforts in the envelope or package containing their sealed bid.

VII. PROCEDURE TO DETERMINE BID COMPLIANCE

The bidder must complete and sign Schedule D to the Contract documents and must sign Schedule C. If the bidder is a joint venture, the bidder **MUST** complete and sign Schedule B. Schedule C **MUST** be completed and signed by the DBE subcontractor(s). All three Schedules **MUST** be submitted at the same time as or prior to submittal of the sealed bid. In addition, any documentation evidencing the bidder's good faith efforts to meet the contract DBE goal must be submitted with the bid. Any bids submitted without completed and executed Schedules C & D and/or evidence of good faith efforts, if applicable, will be deemed non-responsive and will be rejected by the Authority.

A. Letters of Certification

- 1. A copy of each proposed DBE firm's current Letter of Certification or Re-certification from the IL UCP should be submitted with the bid. **ALL CERTIFICATIONS BY THE IL UCP MUST BE PRE-CERTIFICATIONS as set forth in 49 CFR Part 26.55. This means that the DBE's certification must be issued by the IL UCP before the due date for bids.**
- 2. All Letters of Certification or Re-certification issued by the IL UCP include a statement of the DBE firm's area of specialization and appropriate DBE goal credit (see Section IV. COUNTING DBE PARTICIPATION TOWARD THE CONTRACT GOAL). The DBE firm's scope of work set forth on Schedule C must conform to its stated area of specialization. Where a DBE is proposed to perform work not covered by its area of specialization, the DBE firm must request an expansion of its area of specialization from the Authority in writing plus any other documentation required by the Authority to process said request prior to the time set by the Authority for bid opening. Further, the DBE's request must be agreed to by the General Manager, DBE Program, and the DBE firm must be certified prior to **DUE DATE OF BIDS.**

B. Joint Ventures

- 1. Where the bidder proposes to include in its bid a DBE, which is a joint venturer, the bidder must submit a fully executed copy of the joint venture agreement with its bid. The joint venture agreement must show that the DBE firm will be responsible for a clearly defined portion of the work to be performed, and that the DBE firm's capital contribution, control, management, risks and profits are commensurate with its ownership interest.

2. Further, the proposed joint venture agreement shall include specific details related to: 1) contributions of capital and equipment; 2) work items to be performed by the DBE's own forces; 3) work items to be performed under the supervision of the DBE; 4) the DBE management, supervisory and operating personnel to be dedicated to the performance of the project; and (5) the authority of each joint venturer to contractually obligate the joint venture and to expend funds. Failure to submit a copy of the joint venture agreement will cause the firm to be considered by the Authority to be non-responsible.

VIII. REPORTING REQUIREMENTS DURING THE TERM OF THE CONTRACT

- A. The bidder shall, within seven (7) calendar days of contract award, or prior to any work being performed by the DBE subcontractor, execute written subcontracts or purchase orders with the DBE subcontractors included in the bid. In the event the bidder cannot complete the agreement with one or more DBE subcontractors within this seven day period, the bidder must provide a written explanation for the delay and an estimated date by which the written agreement will be completed to the General Manager, DBE Program. These written agreements shall be made available to the General Manager, DBE Program, upon request. All contracts between the bidder and its subcontractors must contain a prompt payment clause as set forth in Section IX herein.
- B. During the term of annual contracts, the bidder shall submit regular "Status Reports of DBE Subcontract Payments" in a form acceptable to the Authority. The frequency with which these reports are to be submitted, will be determined by the General Manager, DBE Program, but in no event will reports be required less frequently than quarterly. **In the absence of written notice from the General Manager, DBE Program, the bidder's first "Status Report of DBE Subcontract Payments" will be due ninety (90) days after the date of contract award, with additional reports due quarterly thereafter.**
- C. In the case of a one-time procurement with either a single or multiple deliveries, a "Status Report of DBE Subcontract Payments," in a form acceptable to the Authority, indicating final DBE payments shall be submitted directly to the General Manager, DBE Program. The information must be submitted prior to or at the same time as the bidder's final invoice to the Authority user department identified in the solicitation. (NOTICE: The original invoices must be submitted directly to the Authority's department identified in the contract documents and the Status Report of DBE Subcontract Payments must be submitted directly to the General Manager, DBE Program.) **Failure to follow these directions may delay final payment.**
- D. The address for the General Manager, DBE Program, is: CTA General Manager, Diversity and Small Business Compliance Programs Dept., 567 W. Lake Street, P.O. Box 7562, Chicago, IL 60680-7562.

IX. PROMPT PAYMENT TO SUBCONTRACTORS

- A. The Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than five (5) calendar days after the Contractor has received payment from the Authority. All of the Contractor's contracts with its Subcontractors must state that the Subcontractor will receive payment within 5 days of the date that the Contractor has received payment from the Authority.
- B. In addition, all Retainage amounts must be paid by the Contractor to the Subcontractor no later than fourteen (14) calendar days after the Subcontractor has, in the opinion of the VP Construction, satisfactorily completed its portion of the Work. All of the Contractor's contracts with its Subcontractors must state that the Subcontractor will receive payment of Retainage within fourteen (14) calendar days of the date that the Subcontractor has, in the opinion of the VP Construction, satisfactorily completed its portion of the Work.
- C. A delay in or postponement of payment to the Subcontractor requires good cause and prior written approval of the General Manager, Purchasing.

- D. The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.
- E. The Authority will not pay the Contractor for work performed unless and until the Contractor ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing with the Authority of lien waivers, canceled checks (if requested), invoices and the Contractor's sworn statement that it has complied with the prompt payment requirements. Prime Contractors must submit a prompt payment affidavit, (form to be provided by the Authority) which identifies each subcontractor (both DBE and non-DBE) and the date and amount of the last payment to such subcontractor, with every payment request filed with the Authority, except for the first payment request, on every contract with the Authority.
- F. Failure to comply with these prompt payment requirements is a breach of the Contract which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment. In addition, Contractor's failure to promptly pay its Subcontractors is subject to the provisions of 50 ILCS 505/9.

X. DBE SUBSTITUTIONS

- A. Arbitrary changes by the bidder of the commitments previously indicated in **Schedule D** are prohibited. No changes may be made by the bidder to the DBE firms listed on Schedule D after the opening of bids but prior to contract award. However, in the event the Purchasing Agent, after consulting with the DBE Department, determines that a critical DBE subcontractor is non-responsible, the Authority may require that bidder replace the non-responsible DBE subcontractor prior to contract award. In that event, bidder must replace the non-responsible DBE subcontractor with a responsible, certified DBE subcontractor or show adequate good faith efforts as set forth Section V hereof, must submit all information required in subsection C.5 hereof, and must receive the prior written approval of the General Manager, DBE Program for such substitution.
- B. Further, after entering into each approved DBE subcontract, the Contractor shall neither terminate the subcontract for convenience, nor reduce the scope of the work to be performed by the DBE, nor decrease the price to the DBE, without receiving prior written approval of the General Manager, DBE Program. Such approval is required even if the DBE agrees with the change to the DBE's contract desired by the Contractor.
- C. It may become necessary, at times, to substitute a new subcontractor in order to complete the contract work. The substitution procedure to be followed is:
 - 1. The Contractor must immediately notify the General Manager, DBE Program, in writing, of the proposed substitution of subcontractor. The Contractor's notification must include the specific reasons it intends to reduce the scope of or terminate a DBE subcontract; adequate documentation to support the Contractor's proposed action; and a proposed substitute firm to complete the DBE's portion of work.
 - 2. The following is a non-exclusive list of the types of reasons, which justify substitution: the DBE was found not to be able to perform, or not to be able to perform on time; the DBE's work product was not acceptable; the DBE demands an unreasonable escalation of its price.
 - 3. The following is a non-exclusive list of the types of reasons which do not justify substitution: a replacement firm has been recruited by the Contractor to perform the same work under more advantageous terms; performance issues by the DBE were disputed and every reasonable effort to have the dispute resolved or mediated has not been taken; the DBE has requested a reasonable price escalation which may be justified due to unforeseen circumstances (e.g., a change in scope of DBE's work).

4. If the subcontractor to be substituted for the DBE is not a DBE, the Contractor must show adequate good faith efforts as set forth in Section V hereof.
 5. The Contractor's request for approval of a substitution must include the name, address, and principal official of the proposed substitute subcontractor and the dollar value and scope of work of the proposed subcontract. If the new subcontractor is a DBE, all DBE affidavits and documents required by **Schedule C** shall be attached.
 6. The Authority will evaluate the submitted documentation and respond within fifteen (15) calendar days to the request for approval of a substitution. The Authority's response may approve the request, seek more information, request an interview to clarify the problem or reject the proposed DBE substitution, with the reasons for the rejection stated in the Authority's response. In the case of an expressed emergency need to receive the necessary decision for the sake of job progress, the Authority will respond as soon as practicable.
 7. Actual substitution by the Contractor may not be made prior to the Authority's approval. Once notified of the Authority's approval, the substitute subcontract must be executed within five (5) calendar days, and a copy submitted to the General Manager, DBE Program.
- C. The Authority will not approve extra payment for escalated costs incurred by the Contractor when a substitution of subcontractors becomes necessary in order to comply with the DBE requirements of the contract.

XI. NON-COMPLIANCE

- A. Failure to comply with the DBE requirements of the contract or failure to use DBEs as stated in the bid constitutes a material breach of contract. The General Manager, DBE Program, shall have the discretion to recommend to the Authority's Purchasing Agent that the Purchasing Agent apply suitable sanctions to the Contractor if the Contractor is found to be in non-compliance with the DBE requirements. Such sanctions include, but are not limited to, withholding payment to the Contractor until corrective action is taken; suspension and/or termination of the contract, in whole or in part; and debarring or suspending the Contractor from entering into future contracts with the Authority.
- B. The failure by the Contractor to use a DBE subcontractor to the extent the Contractor committed to use said DBE, gives the underutilized DBE specific contract remedies, including the right to damages, the right to resolve the dispute by binding arbitration before an independent arbitrator and the right to recover its reasonable expenses, including attorneys' fees, if the DBE is the prevailing party, as follows:
1. Damages. In the event the Contractor has not complied with the contractual DBE percentage and the change to the contractual DBE usage has not been approved by the Authority, an affected DBE may recover from the Contractor damages suffered by said DBE as a result of being underutilized. This provision is intended for the benefit of any DBE affected by underutilization and grants such entity third party beneficiary rights. Any rights conferred by this provision are non-waivable and take precedence over any conflicting provisions in the agreement between the Contractor and the DBE.
 2. Arbitration procedures. If requested by the DBE, the DBE shall have the right to initiate binding arbitration of any dispute concerning damages suffered as a result of being underutilized. A DBE desiring to arbitrate must notify the Contractor in writing to initiate the arbitration process. Unless the affected parties agree to a different schedule in writing, within ten (10) days of receipt by the Contractor of the intent to arbitrate from the DBE, the above-described disputes must be arbitrated in

accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 2527, Chicago, Illinois 60601-7601. All such arbitrations must be initiated by the DBE filing a demand for arbitration with the AAA; must be conducted by the AAA; and must be held in Chicago, Illinois.

3. Fees. All fees of the arbitrator are the initial responsibility of the DBE; provided, however, that the arbitrator is authorized to award reasonable expenses, including attorneys' and arbitrator fees, as damages to a prevailing DBE.
4. Entry of judgment. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

C. In addition, federal and state laws apply to false representations, deception and fraud.:

1. Illinois Law. Under Illinois law, it is a Class 2 felony to make certain false representations as to the status of a person or entity in obtaining a governmental contract. In addition, any person convicted of this felony offense must pay to the governmental unit that issued the contract a penalty equal to one and a half times the amount of the contract. 720 ILCS 5/17-29.
2. Federal Law. False, fraudulent, or deceitful statements made in connection with DBE participation in federal Department of Transportation assisted programs could also result in liability under 49 CFR Part 31, Program Fraud and Civil Remedies and possible prosecution under 18 U.S.C. 1001.

D. If the Contractor does not pay any subcontractor listed on a pay request or return a subcontractor's retainage within the time limits required under the prompt payment provision set forth in Section VIII hereof, the Contractor must pay the subcontractor an additional amount for interest at the lower of one percent (1%) per month or the highest lawful rate on the outstanding balance, for each month, prorated per diem for any partial month, that the Contractor fails or refuses to pay the subcontractor. All agreements between the Contractor and its subcontractors must provide for interest as set forth herein.

E. The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Authority deems appropriate.

The Contractor agrees to include this assurance in all subcontracts.

XII. RECORD KEEPING

The Contractor shall maintain records of all relevant data with respect to the utilization of DBEs and shall retain these records for a period of at least three (3) years after final acceptance of the work. Full access to said records shall be granted to the Authority and its Inspector General, its Federal and/or State funding agencies, the U.S. Department of Justice, the USDOT and any duly authorized representatives thereof. In addition, the Contractor shall, at all times, cooperate with the Authority's Inspector General.

The bidder must also create a bidders list, consisting of information about all subcontractors that submitted a bid or quote. The bidders list will include the name, address, DBE/non-DBE status, age of firm and the appropriate range of annual gross receipts. Failure to submit this information will result in the firm being deemed non-responsible for the contract.

XIII. MINORITY FINANCIAL INSTITUTIONS

The bidder is encouraged to utilize financial institutions owned and controlled by socially and economically disadvantaged individuals. Use of such institutions may be considered by the Authority as evidence of bidder's willingness to do business with DBEs. Information about such institutions is available in the Authority's DBE Program Directory, which is available on-line at www.transitchicago.com and a hard copy is available at the Authority's Diversity and Small Business Compliance Programs Department Office, 567 West Lake Street, 4th floor, Chicago, Illinois 60661-1498.

Technical Assistance Agencies

The following agencies are available to the prospective bidders for assistance.

<p>Asian American Alliance 222 W. Cermak Road, #303 Chicago, IL 60616 Ph: (312) 326-2200 Website: asianamericanalliance.com</p>	<p>Cosmopolitan Chamber of Commerce* 1455 South Michigan Avenue, Ste. #240 Chicago, IL 60604 Ph: (312) 786-0212 E-mail: cchamber@ameritech.net</p>
<p>Black Contractors United (BCU)* 400 W. 76th St., Suite 200 Chicago, IL 60620 Ph: (773) 483-4000 E-mail: bcunewera@ameritech.net</p>	<p>Federation of Women Contractors* 330 S. Wells, Suite 1110 Chicago, IL 60606 Ph: (312) 360-1122 E-mail: fwcchicago@aol.com</p>
<p>Bond Guarantee Program Surety Bond <i>c/o Carol Harris</i> 500 W. Madison St., Suite 1250 Chicago, IL 60661 Ph: (312) 353-4528 Fax: (312) 353-1160 E-mail: carol.harris@sba.gov</p>	<p>Hispanic-American Construction Industry* (HACIA) 901 W. Jackson Blvd., Suite #205 Chicago, IL 60607 Ph: (312) 666-5910 Website: www.hacia.org</p>
<p>Chicago Minority Business Development 11 S. LaSalle Ste. #850 Chicago, IL 60603 Ph: (312) 263-0105 Fax: (312) 263-0280 Website: cmbdc.org</p>	<p>Latin American Chamber of Commerce of Illinois* 3512 W. Fullerton Chicago, IL 60647 Ph: (773) 252-5211 Website: www.laccl.com</p>
<p>Chicago Urban League* 1818 S. Paulina Chicago, IL 60653 Ph: (773) 285-5800 Website: cul-chicago.org</p>	<p>Mexican-American Chamber of Commerce 122 S. Michigan Avenue, Suite.#1705 Chicago, IL 60603 Ph: (312) 554 - 0844 Website: maccbusiness.com</p>
<p>Chicagoland Chamber of Commerce & Industry 330 N. Wabash, Suite #2800 Chicago, IL 60611 Ph: (312) 494-6700 Website: chicagolandchamber.org</p>	<p>NAWBO NET 330 S. Wells, Suite 1110 Chicago, IL 60606 Ph: (312) 322-0990 Website: nawbochicago.org</p>

<p>Rainbow/Push Coalition 930 E. 50th Street Chicago, IL 60615 Website: www.rainbowpush.org</p>	<p>Women's Business Development Center <i>c/o Hedy M. Ratner</i> 8 South Michigan Avenue, Suite #400 Chicago, IL 60603 Ph: (312) 853-3477 Fax: (312) 853-0145 Website: www.wbdc.org</p>
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Entity has informational materials available.

Project Information/DBE Directory of Certified local and Out-of-State Construction and Design DBEs.

<p>Chicago Transit Authority Project Information <i>c/o Reginald B. Lovelace</i> Purchasing Department 567 W. Lake Street P.O. Box 7554 Chicago, IL 60680-7560 Ph: (312) 681-2400 Fax: (312) 681-2405 E-mail: rlovelace@transitchicago.com</p>	<p>Chicago Transit Authority DBE Information <i>c/o Pamela Beavers</i> Diversity and Small Business Compliance Programs Dept. 567 W. Lake Street P.O. Box 7562 Chicago, IL 60680-7562 Ph: (312) 681-2600 Fax: (312) 681-2697 E-mail: pbeavers@transitchicago.com</p>
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**DIVERSITY & SMALL BUSINESS COMPLIANCE PROGRAMS DEPARTMENT
DBE UTILIZATION REPORT**

CONTRACT NO.:
CONTRACT FOR:

C06FR100368117
Loop Replace/Upgrade Signals

DBE GOAL:
PROCUREMENT ADMINISTRATOR:

30%

DIVANE BROS. ELECTRIC CO.	TOTAL BID AMOUNT	DBE PARTICIPANT	ETHNIC GROUP	GENDER	DBE PARTICIPANT'S GOOD(S) AND/OR SERVICES	ORIGINAL PROPOSED PARTICIPATION	DBE % PART. TOWARD GOAL
Original Contract	\$ 48,272,000.00	Bonaparte Corporation	B	M	Electrical Construction	\$ 6,000,000.00	12.43%
		Pinto Construction Group, Inc.	H	M	General Construction	\$ 1,000,000.00	2.07%
		Quantum Crossings, LLC	H	M	Electrical Construction	\$ 8,000,000.00	16.57%
Total DBE Participation						\$ 15,000,000.00	31.07%

DIVERSITY & SMALL BUSINESS COMPLIANCE PROGRAMS DEPARTMENT DBE UTILIZATION REPORT

CONTRACT NO.:
CONTRACT FOR:

C07FR100353719
Escalator Replacement Project

DBE GOAL:
PROCUREMENT ADMINISTRATOR:

15%

F. H. PASCHEN, S.N. NIELSEN & ASSOC., LLC	TOTAL BID AMOUNT	DBE PARTICIPANT	ETHNIC GROUP	GENDER	DBE PARTICIPANT'S GOOD(S)/AND/OR SERVICES	ORIGINAL PROPOSED PARTICIPATION	DBE % PART. TOWARD GOAL
Original Contract	\$ 16,581,000.00	MJC Demolition, Inc.	B	M	Demolition	\$ 75,225.00	0.46%
		Garth Construction Services Corp.	B	M	Masonry and Concrete	\$ 468,000.00	2.82%
		Glass Management Services, Inc. d/b/a U.S. Architectural Glass & Metal	B	M	Misc. Metal	\$ 1,375,000.00	8.29%
		Cable Communications, Inc.	C	F	Elect.	\$ 569,000.00	3.43%
Total DBE Participation						\$ 2,487,225.00	15.00%

DIVERSITY & SMALL BUSINESS COMPLIANCE PROGRAMS DEPARTMENT DBE UTILIZATION REPORT

CONTRACT NO.:
CONTRACT FOR:

C05FR100178574

Reconstruct Rail Station, Howard Red Line

DBE GOAL:

PROCUREMENT ADMINISTRATOR:

30%

JAMES MCHUGH CONSTRUCTION COMPANY	TOTAL BID AMOUNT	DBE PARTICIPANT	THING	GROUP	GENDER	DBE PARTICIPANT'S GOOD(S) AND/OR SERVICES	ORIGINAL PROPOSED PARTICIPATION	DBE % PART. TOWARD GOAL
Original Contract	\$ 56,750,000.00	Perdel Contracting Corporation	C	F	F	General Contracting	\$ 9,550,000.00	16.83%
		Accurate Steel Installers, Inc. (Sub to Perdel)	C	F	F	Frn./Erect Steel	\$ 4,050,000.00	7.14%
		Bonaparte Corporation	B	M	M	Frn./Inst. Lighting and Distribution Sys.	\$ 2,000,000.00	3.52%
		Quantum Crossings, LLC	H	M	M	Frn./Inst. Communication Sys.	\$ 1,500,000.00	2.64%
Total DBE Participation							\$ 17,100,000.00	30.13%

ORDINANCE NO. 008-87

AN ORDINANCE AUTHORIZING AN
INTERGOVERNMENTAL
AGREEMENT WITH THE CITY OF
CHICAGO FOR TAX INCREMENT
FINANCING FUNDS FOR THE
HOWARD STATION PROJECT, LOOP
SIGNAL AND TRACK REPLACEMENT
PROJECT, AND SUBWAY
ESCALATOR REPLACEMENT
PROJECT

WHEREAS, The Chicago Transit Authority ("Authority") has undertaken a project to rehabilitate the Howard Station which includes construction of new platforms, canopies, entrances and office space and which will also make the station ADA complaint ("Howard Station project"); and

WHEREAS, The Howard Station project has a total budget of Eighty-two Million Eight Hundred Two Thousand Dollars (\$82,802,000); and

WHEREAS, The Authority has also undertaken a project to replace the signal system and the track ties and third rail infrastructure along the east and north legs of the Loop elevated structure ("Loop Signal/Tie project"); and

WHEREAS, The Loop Signal/Tie project has a total budget of Eighty Million Three Hundred Ninety Thousand Dollars (\$80,390,000); and

WHEREAS, The Authority has also undertaken a project to replace escalators at the Monroe Adams, Adams Jackson and Jackson Van Buren Red Line subway stations as well as construct a new escalator shop and widen stairways ("Subway Escalator project"); and

WHEREAS, The Subway Escalator project has a total budget of Four Million Nine Hundred Sixty-three Thousand Eight Hundred Nine Dollars (\$4,963,809); and

WHEREAS, The Authority applied for tax increment financing funds ("TIF") from the City in the amount of Twenty-two Million Two Hundred Thousand Dollars (\$22,200,000) from the Central Loop TIF and in the amount of Four Million Four Hundred Thousand Dollars (\$4,400,000) from the Howard-Paulina TIF; and

WHEREAS, staff seeks approval of an intergovernmental agreement with the City to fund Twenty-two Million Two Hundred Thousand Dollars (\$22,200,000) of the Loop Signal/Tie and the Subway Escalator projects through the use of the Central Loop TIF revenues and Four Million Four Hundred Thousand Dollars (\$4,400,000) of the