Illinois Institute of Technology
REQUEST FOR PROPOSAL

TO: Potential Respondents

FROM: Jeffrey R. Barrie
Director of Campus Utilities and Energy

DATE: December 17, 2018

SUBJECT: Illinois Tech Mies (Main) Campus
District Plant Management Services
Request for Proposals (RFP)

Illinois Institute of Technology (Illinois Tech) is soliciting proposals from responsible Contractors to provide operation, maintenance, and management services for the district heating and electrical generating plants located at the University’s Mies (Main) Campus on the South Side of Chicago at 3430 South Federal Street, Chicago, IL 60616.

A brief description of the services sought is set forth below, and detailed requirements are in Paragraph C of the Solicitation Response Requirements. If you are interested and able to meet these requirements, we would appreciate receiving your proposal.

Brief Description:
Illinois Tech, hereafter referred to as “Owner” has six main district heating and cooling facilities, and one primary electricity generating facility serving the 120 acre Mies (Main) Campus on Chicago’s South Side. Owner seeks an experienced firm that can manage the day-to-day operations of the 3430 South Federal Street Heating and Cogeneration Plant, delivering the necessary heating and on-site electricity generation services with a minimum of disruption. These plants include:

Base Scope:
- Steam Plant: 2-Johnston Water Tube 20,700 lb/hr boilers and 1-Keeler D-Type 20,000 lb/hr boiler.
- Cogeneration Plant: 2-4MW Rolls Royce 501KB5 dual fuel turbines and 2-Nebraska Water Tube 60,000 lb/hr Heat Recovery Steam Generators. The HRSGs have been disconnected from the turbines and operate as stand-alone boilers with fresh-air firing at maximum 40,000 lb/hr capacity.

The successful respondent, hereafter referred to as “Contractor” and/or “Operator” will, subject to the terms of the contract (attached to this RFP), be in complete charge and have care, custody, and control over the plants covered by the contract. They shall operate, maintain, and manage the plants in accordance with standards of performance set forth in the contract, and will use its best efforts to keep the costs of managing the plants within the amounts set forth by the Owner each year.
In the event of a change in the Contractor as result of this RFP, the Owner requires that all non-management employees who are not on probation with the previous Contractor be offered a similar position at Contractor's wage and benefits schedule unless Contractor provides proof to the Owner that this offer would present a significant detriment to the proposal requirements and also provided they are eligible for hire by Contractor in accordance with the criminal history and background check requirements. Employees of the out-going Contractor who are hired by Contractor may be placed on probation of no less than sixty (60) days to allow Contractor to evaluate work performance. All healthcare and/or health insurance benefits must be effective the first day of employment. The Contractor shall honor the accrued seniority for all employees. Notwithstanding the provisions of this Section, Contractor shall have the right to terminate any of Contractor’s employees within Contractor’s termination policy for just cause.

Plant Operation and Maintenance staff are required to maintain a current and valid City of Chicago Stationary Operating Engineer License. The current Contractor’s Plant Operation and Maintenance staff are members of the International Union of Operating Engineers – Local 399 and Owner desires that this status be maintained.

The solicitation package consists of the following sections:

1) “Instructions.” This section outlines what you need to know and do when preparing and submitting a response. It also explains how Owner will evaluate responses. The first page of the Instructions, the Custom Page, will provide dates, locations and other information specific to this solicitation.

2) “Solicitation Response Requirements.” We have presented our needs in the form of specifications that explain how the proposal must be priced and the information that must accompany each proposal. Although your response to this solicitation is voluntary, without the requested information, we reserve the right to not consider your response.

3) “Response Form.” This Form requires a signature of an authorized representative of the Respondent and the Respondent’s proposal for providing the Services. Proposals must be received on this Form.

4) “Operation, Maintenance, and Management Agreement.” Owner intends to utilize the content of this Agreement for successful respondent negotiation and execution. This is provided here for your information at this RFP stage.

Please read the entire solicitation package and submit your proposal in accordance with the Instructions. Your return of the Solicitation Response Requirements and an executed Response Form will constitute a proposal. Do not submit the Instruction pages with your proposal. You should keep the Instructions and a copy of your response for future reference.
INSTRUCTIONS

A. SUBMIT PROPOSALS TO:
Jeffrey R. Barrie
Illinois Institute of Technology
Utilities & Energy Department, Machinery Hall, Room 200
100 W. 33rd Street
Chicago, IL 60616

B. DUE DATE & TIME FOR SUBMISSION AND OPENING:
Date: January 30, 2019
Time: 4:00 pm (Local Time)

C. NUMBER OF COPIES: Submit a signed original, two hard copies and one electronic
copy (on a USB flash drive) of your proposal in a sealed container addressed as follows:

Attn: Jeffrey R. Barrie
District Plant Management Proposal Responses
Illinois Institute of Technology
Utilities & Energy Department, Machinery Hall, Room 200
100 W. 33rd Street
Chicago, IL 60616

Please identify your company on the envelope. Proposals may not be e-mailed or faxed.

D. PROPOSAL FIRM TIME: 120 Days from Opening

E. VENDOR CONFERENCE: __X__ Yes _____ No
   Mandatory Attendance: __X__ Yes _____ No
   Date and Time: January 9, 2019 10:00 a.m. – 1:00 p.m.
   Location: Room 200 Conference Room
             Machinery Hall
             100 West 33rd Street

   The conference provides parties an opportunity to discuss Owner’s needs, ask questions,
   and review site conditions. The conference will include a walkthrough of Owner’s Central
   Heating and Cogeneration Plant.

F. PROJECT CONTACT:
Jeffrey R. Barrie
Illinois Institute of Technology
Utilities & Energy Department, Machinery Hall, Room 200
100 W. 33rd Street
Chicago, IL 60616
312.567.7132

G. SUBMISSION OF PROPOSAL: You may mail or hand-deliver a proposal, including
any amendments. We do not allow fax or email submissions. We must receive submissions
as specified herein. It shall not be sufficient to show that you mailed or commenced
delivery before the due date and time. All times are local Chicago, IL times. We are not
responsible for and will not pay any costs associated with the preparation and submission
of your proposal.

H. **FORM AND CONTENT OF PROPOSALS:** The “Solicitation Response
Requirements,” once completed, signed and returned by you, will constitute your proposal.
An original and the designated number of copies of each proposal are required. Failure to
submit the required number of copies may prevent your proposal from being evaluated.
Proposals, including modifications, must be submitted in ink, typed or printed form and
signed by an authorized representative. Your proposal must provide all required
information and address all listed points.

I. **MODIFICATION/WITHDRAWAL OF PROPOSAL:** Written requests to modify or
withdraw a proposal prior to the scheduled opening time will be accepted and will be acted
upon at opening. No oral requests will be allowed. Requests must be addressed and labeled
in the same manner as the proposal and marked as either MODIFICATION or
WITHDRAWAL.

J. **QUESTIONS:** Please direct all questions (and requests for ADA accommodations) to the
Project Contact (see F above). Questions received less than Five (5) calendar days prior to
the due date may be answered at the discretion of Owner. We will provide written answers
to questions of a general nature or which would affect the solicitation. We will send
answers to all Vendor Conference Attendees (see F above). Only written answers to
questions will be binding.

K. **RESPONSIBILITY TO READ AND UNDERSTAND:** Your failure to read, examine
and understand the solicitation will not excuse any failure to comply with the requirements
of the solicitation or any resulting contract, nor shall such failure be a basis for claiming
additional compensation. If you suspect an error, omission or discrepancy in this
solicitation, you must immediately notify the Project Contact. We will issue written
instructions, if appropriate.

L. **OPENING (see B above):** We will open all proposals properly and timely submitted. All
proposals become the property of Owner and will not be returned except in the case of a
late submission. We will not consider proposals received after the stated due date and time.

M. **PROPOSAL FIRM TIME (see D above):** Proposals shall remain firm and unaltered
after opening for the number of days shown. We may accept your proposal, subject to
successful contract negotiations, at any time during the proposal firm time.

N. **PRESENTATIONS AND INSPECTIONS:** You must provide a formal presentation of
the proposal upon request. Contractors submitting proposals represent that they have
reviewed the site conditions and are familiar with the conditions in which they will work,
and that all reasonable costs have been included in their proposal.
O. **BEST & FINAL:** We may request best & final proposals if deemed necessary, and will determine the scope and subject of any best & final request. However, you should not assume that we will ask for best & final, giving you an opportunity to strengthen your proposal. Therefore, you should submit your best proposal based on the terms and condition set forth in this solicitation.

P. **EVALUATION AND AWARD:** We evaluate proposals using criteria shown in this solicitation. If we select your proposal for award, we will so notify you. Such notice will extend the proposal firm time until we sign a contract or determine negotiations with you have failed. All decisions of Owner are final. You must be prepared for Owner to accept your proposal as submitted, but we may require contract negotiations if necessary or desirable. If negotiations do not result in an acceptable agreement, we may reject your proposal or revoke the award and begin negotiations with another vendor. Final contract terms must be approved and signed by an authorized Owner official. If you begin any billable work prior to Owner’s final approval and execution of the contract, this shall be at your own risk.

Q. **RESERVATIONS:** Owner, at its sole discretion, reserves the right to reject all proposals; to reject individual proposals for failure to meet any requirement; to award in part or total; and to waive minor defects and non-compliance. We may seek clarification of the proposal from you at any time, and failure to respond may be cause for rejection. Clarification is not an opportunity to change the proposal. Submission of a proposal confers on you no right to an award or to a subsequent contract. This process is for Owner’s benefit only and is to provide Owner with competitive information to assist in its selection process. All decisions on compliance, evaluation, terms and conditions shall be made solely at our discretion and made to favor Owner.

R. **VENDOR CONTACT:** We will consider the person who signed your proposal to be your contact person for all matters pertaining to the proposal unless you designate some other person in writing.

S. **NON-DISCRIMINATION POLICY:** In compliance with all applicable federal and state laws and regulations Owner does not unlawfully discriminate in employment, contracts, or any other activity.

T. **COMPLETION OF SOLICITATION RESPONSE FORMS:** The Solicitation Response Requirements require responding to and submitting all requested information. By submitting a proposal, you are making an offer to perform in accordance with the terms and conditions of this RFP. Owner may accept your proposal as submitted or may propose a counter.

U. **CRITERIA FOR EVALUATION AND AWARD:** We generally evaluate three categories of information: Administrative Compliance, Vendor Responsibility, Responsiveness and Price, as more fully explained below:
1. **Administrative Compliance.** We will determine whether the proposal complied with the Instructions. We may reject a proposal if it is submitted late. Failure to meet other requirements could result in rejection.

2. **Vendor Responsibility.** We will determine whether the vendor submitting the proposal is one with whom we can and should do business. Factors that we employ to evaluate “responsibility” include, but are not limited to: certifications, conflict of interest disclosures, past performance, references (including those found outside the proposal), financial stability and the perceived ability to perform completely as specified.

3. **Responsiveness and Price.** For this RFP, we will determine Responsiveness as follows: We will rank proposal, without consideration of price, from best to least qualified based on our review. References may be considered again in this portion of the evaluation. We will determine whether any failure to supply information, or the quality of the information supplied, should result in the rejection or downgrading of a proposal. Vendors who do not rank sufficiently high need not be considered for price evaluation and award. The most “responsible” respondent whose proposal meets “administrative” requirements and whose proposal is most financially advantageous to Owner will be eligible for award.

Owner will evaluate responsiveness based on the following criteria:

- Experience and record of performance in previous contracts of similar size and scope.
- Experience, ability, capacity, skill, and financial resources to provide the requested services.
- The comprehensiveness of the solution presented.
- The impact of the management on the unit cost of energy within the campus structure
- The environmental impact of the business operations of the Contractor.

**Alternative Evaluation.** If three or fewer responses are received in response to this RFP, the proposals may be evaluated using simple comparative analysis of the elements of responsiveness and price.

**END OF INSTRUCTIONS**
SOLICITATION RESPONSE REQUIREMENTS

A. OWNER’S GOAL
Owner is a private, Ph.D.-granting university with programs in the sciences, mathematics, engineering, architecture, design, business and law. Owner has approximately 7,200 full-time and part-time, graduate and undergraduate students, which includes a significant international student population. Owner is also a major research institution, which annually receives significant sums of governmental and private researching funding. In addition, Owner has a Campus Sustainability Plan to improve the university’s performance relative to environmental and energy performance. We are looking for vendors who share our commitment to education, research and technology to help us meet our goals.

B. SUMMARY OF SUPPLIES AND SERVICES REQUIRED
Owner requests proposals from qualified contractors to manage our district heating and electricity generation facilities.

Without limiting the generality of the services required under this RFP, the successful respondent shall meet the thermal and electrical energy requirements of the facilities served by the plants covered by this RFP on a reliable and economical basis in the quantities required 24 hours a day, 365 days per year without interruption. The successful respondent shall deliver thermal energy as requested by Owner but not exceeding 125 psig saturated steam to a point to be determined by Owner in the existing main steam distribution line and electrical energy at the switchgear located in the Cogeneration Plant at approximately 4160 volts, alternating current, 60 Hertz, 3 phase. The respondent shall maintain a minimum power factor of 0.80 lagging to avoid power factor penalty if applicable. The services shall specifically include the following:

(a) Maintain and train staff and provide supervisory personnel and employ qualified operations and maintenance personnel in sufficient numbers to accomplish the Services.

(b) Assume responsibility for the projection of quantity of natural gas required for monthly operation and assist Owner with purchase options to buy the most economical natural gas to meet the anticipated energy demands on a day-to-day basis.

(c) Assume responsibility for the procurement and delivery of chemicals, subject to Owner paying the cost of commodity and its transportation to the Site, in sufficient quantities to meet the requirements associated with the proper treatment of steam within the distribution system of the campus. The Operator may make recommendations for chemical treatment at remote locations from the Facilities.

(d) Establish, maintain control, and track inventory and maintain a reasonable supply of spare parts, or arrange access to such inventory as recommended by the manufacturer of all equipment covered by this Agreement.

(e) Maintain operation and maintenance manuals and system drawings ensuring that drawings are updated to reflect any changes or modifications that the Operator may be required to make. Communicate updates to these documents annually, at a minimum, by contacting the staff of the Associate Vice President of Facilities.
(f) Manage and arrange for the disposal of non-hazardous waste and rubbish. Operator may utilize the Owner’s contract for these services to the extent allowable by such contract.

(g) Administer warranty claims and provide all reasonable assistance in processing Owner provided insurance claims.

(h) Recommend and, if approved by the Owner, implement improvements. Submit a plan highlighting recommended capital improvements and recommended financing options for the improvements that would allow increased efficiency of operation with savings to be shared by Owner and the Operator. Alternatively, Owner may finance recommended improvement.

(i) Maintain complete and accurate operating records and logs, maintenance reports, metering data. All such records, logs, reports, and data are to be written in ink and maintained in the Facilities and also recorded and stored electronically in an Operator owned off-site data server. Records of all other applicable transactions including financial and otherwise relating to the provisions contained within this Agreement shall be maintained at the Operator’s home office. The Operator shall maintain in current condition the drawings, specifications, lists, Facilities Manuals, and other materials provided to Operator by Owner. The records to be maintained shall include: vouchers, receipts, memoranda, inventories, and accounts pertaining to this Agreement as well as complete summaries and reports identifying all reimbursable personnel-hours expended, payroll costs incurred, and the salary and hourly rate of each employee whose payroll costs constitute an Operator’s Cost. A compiled report including copies of all invoices, and other related supporting documents and vendor checks written for the operation and maintenance of the Facilities must be prepared and two copies forwarded to the Owner’s Representative by the 10th day of the month following the reported month.

(j) Make periodic reports including:
   (1) Daily production reports by hour indicating thermal and electric performance of the Facilities.
   (2) Monthly production reports including gross hourly electric generation, net hourly electric generation, net thermal energy delivered, total hours during the period reported, total operating hours of the combustion turbines (“CTs”), total gas consumed, and monthly Federal Energy Regulatory Commission efficiency.
   (3) Monthly production reports including a summary of significant events identifying major maintenance, operating statistics, and quantities of fuel compared to budget.
   (4) Annual production report including each of them monthly production reports and a report on year-end physical inventory of parts and supplies.

(k) Periodically test and calibrate meters, measuring devices, relays, and instruments to ensure a high degree of accuracy in accordance with accepted industry standards.

(l) Assist Owner in creating monthly utility cost distributions to various campus users. The cost distribution billing system may be modified from its current form.

(m) Develop monthly historic usage, generation, distribution, efficiency, and cost charts and graphs to illustrate energy efficiency improvements made during the term of this agreement.

(n) Operator shall implement a Planned Maintenance Program (PMP) which shall include predictive, preventative, and corrective maintenance. The predictive maintenance shall include regular inspection of equipment, periodic testing, lube oil analysis, vibration
analysis, and thermography. Preventative maintenance shall include inspection, adjustments, proper lubrication, replacement of worn parts prior to failure, and adhering to recommended operating and maintenance procedures. All corrective maintenance shall be documented by work orders identifying the problem, the corrective action taken, and the recommendations to prevent a recurrence of a similar problem. A work schedule will be implemented which will identify all routine preventative maintenance, scheduled major maintenance, and planned outages. Outage planning will include a schedule of outages, estimated down time, required spare or replacement parts, and the estimated costs.

(o) Operator shall assist in the scheduling, managing, tracking, and documentation associated with any major overhaul of the CTs, however the cost associated with major overhaul work is not included in the budget at this time. Upon access to more specific information on the CTs, the Operator will develop the estimated cost of major overhaul.

(p) Operator will implement practices and policies which will help minimize potential exposure to injury or accident. Measures will be taken to ensure that noise typically associated with the operation of power generation is minimized and the potential for any spill of hazardous or toxic material is minimized.

Operator shall provide and make available as necessary all such labor and professional, supervisory, and managerial personnel as are required to perform the Services.

Operator shall review and shall keep current with the requirements of all Governmental Rules applicable to the operation and maintenance of Facilities and (i) shall assist Owner in securing and complying with, and shall itself comply with, all of the foregoing applicable to the performance of the Agreement, including obtaining and maintaining all necessary permits, licenses, and approvals (and renewals of the same), including those relating to boiler operation, water and sewer use, and handling, storage, transporting, using, and disposing of Hazardous Materials and other chemicals and wastes attributable to the Facilities, and emissions testing and safety, and resolution of building code violations and obtaining EPA air emissions permits and completing and filing all annual documents and reports to obtain such permits, review them and comply with their terms, and (ii) shall initiate and maintain precautions and procedures necessary to comply with, and shall itself comply with, applicable provisions of all Governmental Rules related to prevention of injury to persons or damage to property.

Metering: The respondent will include any added metering of facility inputs and outputs necessary to provide real-time tracking of the efficiency of each plant, including integration of that information into the existing campus metering system subject to Owner paying the cost for such metering.

C. QUALIFICATIONS OF VENDORS

A Respondent must submit the information below, so as to allow Owner to effectively evaluate its proposal. This information should be prepared on standard 8 ½ x 11 paper, bound on the left-hand side, with materials printed on both sides. Separate sections should not be divided by tab dividers, but by colored paper or attachments to the document. The font used should be 12 points, and both sides of the paper should be used unless it is inappropriate.
1. **Title Page Containing:**
   - RFP subject: Illinois Tech Plant Management Services Request for Proposals
   - Your firm’s name
   - Name, address, telephone number, facsimile number and, if available, e-mail address of the contact person. i.e., the person who will be responsible for the firm’s relationship with Owner
   - Date of your proposal submission
   - Indicate if your firm qualifies as a business owned and operated by a minority, female or disabled person

2. **Table of Contents.**

3. A Cover Letter, on your firm’s letter head, specifying the Services for which are submitting a proposal, a commitment to perform these Services in accordance with this RFP and a summary as to why the firm believes itself to best qualified to perform the work, including a discussion of relevant prior experience in this area. The Cover Letter should also contain a statement that (i) all information provided in connection with your proposal is true and accurate as of the date of its submission, and (ii) if any of the information subsequently becomes (or is discovered to be) false or inaccurate, you will promptly so notify Owner.

4. **Implementation Plan and Pricing Page:** Detailed description of how the Contractor plans to meet the criteria of the RFP.

5. References, which shall include no fewer than four references, two of whom should be institutions of higher education. References must include the name and telephone number of a contact person at the referring entity.

6. Identify any conflicts of interest that may arise as a result of your selection under this RFP.

7. Discuss any other factors not mentioned above which you believe should be considered by Owner in its selection process.

**D. SUBCONTRACTING/JOINT VENTURES**

Collection and/or processing may be subcontracted with another firm. Contractor shall provide a list of all current subcontractors including their contact name, address, phone number and what they are contracted to do. All requirements of this RFP will apply to subcontractors and the successful Contractor will remain solely responsible for complying will all provisions.
E. GENERAL CONTRACT TERMS

1. Tentative Timeline
   Release RFP – December 17, 2018
   Due Date & Time – January 30, 2019 before 4:00 pm (Local Time – Central Standard Time)
   Award — TBD by review of proposals, no later than March 31, 2019
   Start of Contract — June 1, 2019

2. Beginning and End Date of Initial Term
   The contract will have a (24) twenty-four month term and will end on June 1, 2021, 12:00 a.m.

3. Renewal
   Contract will provide the option for Owner to renew up to (3) three additional (1) one-year periods.

4. Early Termination
   Owner reserves the right to terminate this contract without cause and without penalty or further payment being required upon 30 days prior written notice. Upon exercise of this right, Owner shall pay for supplies and services satisfactorily provided and for authorized expenses incurred up to the time of termination.
RESPONSE FORM

PROJECT: Illinois Tech District Plant Management
Illinois Institute of Technology
Facilities Department
Machinery Hall, Room 200

SUMBIT TO: Jeffrey R. Barrie
Illinois Institute of Technology
Utilities & Energy Department, Machinery Hall, Room 200
100 W. 33rd Street
Chicago, IL 60616

DUE: January 30, 2019 by 4:00 pm (Local Time – Central Standard Time)

The Undersigned:
1. Acknowledges receipt of the following Documents:
   a. Instructions to Respondents,
   b. Solicitation Response Requirements, and
   c. Response Form
   d. Operation, Maintenance, and Management Agreement
   e. Illinois Institute of Technology MBE/WBE Plan and EEO Plan
   f. Forms 100 and 100M
   g. Certificate of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters
   h. Addenda ____, ____, ____, ____
2. Attests to examination of the site and the Documents and to familiarity with all work stipulated in the Documents and agrees to hold this proposal open for 90 days after the due date.
3. To enter and execute a contract, if awarded, on the basis of the terms and provisions in this RFP and this proposal.

Pricing:
Operator’s Overhead: _____________%  Operator’s Profit: _____________%
Cogeneration: Monthly Operator’s Fee: $ ____________.
Plant  Estimated monthly cost of plant operation $ ____________.
        (Labor and Materials)

The Undersigned agrees to undertake to perform the Services required by this RFP and to be compensated for the same on the basis of a monthly payment application against a lump sum or monthly service retainer as selected by Owner.

__________________________________           _____________________________________
(Name of Corporation)                    (Authorized Signature)
___________________________________           _____________________________________
(Print Name and Title)                             (Date)

Note: Response Form must be completed and accompany proposal.
OPERATION, MAINTENANCE, AND MANAGEMENT AGREEMENT

This Operation, Maintenance and Management agreement (hereinafter the “Agreement”) is made and entered into as of __________________ by and between ILLINOIS INSTITUTE OF TECHNOLOGY, an Illinois not for profit corporation (the “Owner”) with offices located at 10 W 35th Street, Chicago, IL 60616, and __________ ________________________________ (the “Operator”).

RECITALS

WHEREAS, Owner owns a Cogeneration Plant and a Steam Plant, having a common address of 3430 South Federal Street (collectively, the “Facilities”), located on its main campus in Chicago, Illinois (“Campus”); and

WHEREAS, Owner desires to retain an operator to provide, perform and deliver operation, maintenance and management services for such Facilities; and

WHEREAS, Operator desires to provide, deliver and perform such operation, maintenance and management service.

NOW, THEREFORE, in consideration of mutual covenants, undertakings and conditions set forth below, the parties hereto hereby agree as follows:

ARTICLE 1 – AGREEMENT; FACILITIES DOCUMENTS

1.1 Agreement. This agreement consists of the terms and conditions set forth herein, as well as the exhibits hereto, which are hereby incorporated by reference herein and made part hereof, as any and all of the same may be amended, modified or supplemented from time to time in accordance with section 15.6.

1.2 Preference. In the event of a conflict, variation or inconsistency between the exhibits hereto and the terms and conditions set forth herein, the latter shall control and be given priority.

1.3 Facilities Documents. The Facilities Documents shall consist of, and use of said term shall collectively refer to, the following:

(a) This Agreement (as described in Section 1.1);

(b) The following documents to which Operator is not a part, but which are necessary to the performance of Operator’s obligations hereunder:

(1) Fuel delivery and supply agreements (People’s Gas and other suppliers that may exist from time to time, as well as any supplier’s successor and assign);

(2) Commonwealth Edison, as well as its successors and assigns, rate tariffs and related agreements;
Such other documents as the parties hereto hereafter agree, by an amendment to this agreement made in accordance with Section 15.6, should be included in the Facilities Documents because they affect, or must be complied with in, the operation, maintenance and management of the Facilities.

1.4 **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, undertakings, agreements and business term sheets. Neither party will be bound by or deemed to have made in connection herewith any representations, warranties, commitments or undertakings, except those contained herein.

**ARTICLE 2 – DEFINITIONS**

The following defined terms shall have the meanings in this Article 2 and in such definitions, as well as in the definitions of other terms elsewhere in this Agreement, the singular shall include the plural and the masculine shall include the feminine and neuter, as the context requires; “includes” or “including” shall mean “including, without limitation”; the term “ensure” when used herein shall not be construed as a guarantee, but shall imply only a duty to use effective effort and care, consistent with Prudent Operating and Maintenance Practices, as defined herein; and references herein to Articles, Sections and exhibits shall mean the Articles and Sections herein, and exhibits hereto, except where the context indicates otherwise.

“**Annual Operating Plan and Budget**” means the operating plan and budget in effect for any Contract Year in accordance with Section 6.2.

“**Best Efforts**” means, with respect to any Person, the level of effort that is commercially and technically expected in the industry of such Person.

“**Business Day**” means any day other than Saturday, Sunday or a legal holiday in the State of Illinois or on any day which commercial banks are not authorized to be open for business or are required to be closed in the State of Illinois.

“**Contract Year**” means the first period commencing on the Effective Date and ending __________________, and each 12 months or shorter period thereafter commencing immediately after the preceding Contract Year and ending on the next subsequent anniversary of _________________ or on the date of expiration or termination of this Agreement, whichever occurs first.

"**Effective Date**” means the date of this Agreement.
"Environmental Claim" means any and all suits, sanctions, liabilities, legal proceedings, notices of violation, claims, demands, losses, costs and expenses whatsoever kind or character, including reasonable attorneys' fees, civil fines or penalties or other expenses incurred, assessed or sustained by or against Owner or Operator resulting from, arising out of or in connection with its noncompliance with, or violation of, any Environmental Law with respect to the condition, operation or use of the Facilities or the Site on which the Facilities are located.

"Environmental Law" means any statute, ordinance, rule, regulation, restriction, requirement, code, order, determination, ruling, judgment or decree of any Governmental Unit with jurisdiction over the Facilities or the Site, which prohibits, limits, governs, regulates, or establishes duties with respect to any treatment, storage, disposal, dispersal, emission, discharge, release, spillage, exposure, dumping, migration, leaching, use, maintenance, transport, manufacture, ownership or sale of any substance, container, building, facility or process because such activity has been determined to or might affect human health, animal life, plant life, the environment (including ambient air, air in buildings, sound level, soil, surface water, streams or groundwater) and/or natural resources.

"Facilities Manuals" means the equipment and operating manuals for the Facilities, including system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation, including documents designed or developed by previous operators or engineers for the Facilities, provided by Owner to Operator on or prior to the Effective Date, a list of which is set forth in Exhibit A, as the same may be changed, whether by addition, substitution or deletion, from time to time by the parties hereto, due to changes in the equipment comprising the Facilities or changes in the manuals therefor, including the development of such documents by Operator during the term of this Agreement.

"Financing Agreements" means all loan, mortgage, security and other agreements, if any, entered into by Owner, now or in the future, with any lender or investor to finance, refinance or mortgage the Facilities or any part thereof or to obtain credit facilities for Owner for any other purpose.

"Force Majeure" means any event (i) that is beyond the reasonable control of the party affected and (ii) that such party is unable to prevent or provide against by the exercise of reasonable diligence, including, but not limited to, the following events: failure of facilities due to drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disobedience, sabotage, work, stoppages, strike or labor dispute, accident or other event which results in curtailment of supply or unavailability of materials or equipment beyond the affected party's control; inability to obtain and maintain permits, licenses and other required, authorizations from any Governmental Unit or other Person for the
Facilities or equipment necessary to provide the Services hereunder; restraint by court order, or changes in law or regulations.

"Governmental Approval" means any authorization, consent, approval, license, ruling, permit, certification, exemption or registration by or with any Governmental Unit

"Governmental Rule" means any statute, law, regulation, ordinance, rule, judgment, order, decree, directive, guideline (to the extent it is mandatory), policy (to the extent that is mandatory) or requirement, or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing, by any Governmental Unit, whether now or hereafter in effect.

"Governmental Unit” means any federal, state, or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the Services or any matter in question.

“Hazardous Materials" means any substance defined as hazardous or toxic in, or otherwise regulated by, any Environmental Law.

"Notice Address" means:

(1) With respect to the Owner:

Illinois Institute of Technology
Machinery Hall, Room 200
100 West 33rd Street
Chicago, Illinois 60616
Attention: Director of Utilities
Facsimile: (312) 567-3344

With copy to:
Illinois Institute of Technology
Office of General Counsel
10 West 35th Street, Suite 1900-SW
Chicago, Illinois 60616

(2) With respect to the Operator:

________________________
________________________
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Attention:__________________
Facsimile:__________________
With copy to: ______________________

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Attention: ________________________
Facsimile: ________________________

Or, in either case, such changed address of which the party to be notified shall have received notice from the other party in accordance with Section 15.8.

“Person” means any individual, partnership, corporation, association, trust, Governmental Unit or other entity.

“Plant Manager” has the meaning assigned to such term in Section 5.1.

“Prudent Operating and Maintenance Practices” means those practices, methods and acts generally followed by the utilities industry, including: (i) the observance of then current operating procedures established for the Facilities by Operator and approved by Owner, which approval shall not be unreasonably withheld; (ii) the use of equipment and personnel in compliance with industry codes, standards, and Governmental Rule that apply to the Facilities from time to time, and in the case of equipment, in compliance with the manufacturer's published recommendations for the use and maintenance thereof; (iii) the exercise of reasonable judgement in light of the facts known or that should have been known by Operator from time to time; and (iv) the compliance with applicable Governmental Rules and safety and environmental codes, and with the requirements of all the Facilities Documents. Prudent Operating and Maintenance Practices of the utilities of the industry shall also include taking reasonable actions to provide (i) adequate materials, resources and supplies, not required to be supplied by Owner, to the extent within the control of Operator, to meet the needs of the Facilities; (ii) a sufficient number of employees who are available and adequately trained to operate the Facilities; and (iii) the timely performance of preventative, routine and non-routine maintenance and repairs for the Facilities.

"Site" means the parcel of real estate on which the Facilities are located, the legal description of which is set forth in Exhibit B.

ARTICLE 3 - RESPONSIBILITIES OF THE OPERATOR

3.1 Scope of Services. Operator shall, subject to the terms of this Agreement, be in complete charge of and have care, custody and control over the Facilities. Operator shall operate, maintain and manage the Facilities (the "Services") in accordance with the standards of performance set forth in Section 3.3, the Scope of Work set forth in Section 3.4, and the other provisions of this Agreement, except as expressly reserved to Owner under Article 4, and subject to the limitations on Operator's authority set forth in Article
7. In addition, Operator shall use its Best Efforts to keep Operator's Costs, as defined in Section 8.1(a), for any given Contract Year from exceeding the budget amounts set forth in the Annual Operating Plan and Budget for such year.

3.2 Relationship of the Parties. Operator is engaged by Owner as an independent contractor to operate, maintain and manage the Facilities on behalf of Owner pursuant to the terms and conditions hereof. Nothing contained in this Agreement shall be deemed or construed by the parties, or by any third party, to create the relationship of principal and agent, partnership, joint venture, or any other association between the parties.

3.3 Standards for the Performance of the Services. Operator shall perform the Services in accordance with (i) the requirements of any applicable manufacturer's, contractor's and vendor's warranties with respect to equipment comprising the Facilities, as provided by Owner to Operator, (ii) Prudent Operating and Maintenance Practices, (iii) the Facilities Manuals, and (iv) this Agreement. In the event of any conflict between or among the foregoing, the requirements of clauses (i), (ii), (iii) and (iv) in the preceding sentence, in that order, shall control.

3.4 Scope of Work. Without limiting the generality of the Services required under this Agreement, Operator shall meet the thermal and electrical energy requirements of the facilities served by the facilities on a reliable and economical basis in the quantities required, 24 hours a day, 365-days per year, without interruption. Operator shall deliver thermal energy as requested by Owner but not exceeding 125 psig saturated steam to a point to be determined by Owner in the existing main steam distribution line and electrical energy at the switchgear located in the Cogeneration Plant at approximately 4160 volts, alternating current, 60 Hertz, 3 phase. Operator shall maintain a minimum power factor of 0.80 lagging to avoid power factor penalty. The Services shall specifically include the following:

(a) Maintain and train staff and provide supervisory personnel and employ qualified operations and maintenance personnel in sufficient numbers to accomplish the Services.

(b) If requested, assist with the projection of quantity of natural gas required for monthly operation and recommend purchase options to buy the most economical natural gas to meet the anticipated energy demands on a day-to-day basis.

(c) Assume responsibility for the procurement and delivery of chemicals, subject to Owner paying the cost of commodity and its transportation to the Site, in sufficient quantities to meet the requirements associated with the proper treatment of steam within the distribution system of the campus. Operator may make recommendations for chemical treatment at remote locations from the Facilities.
(d) Establish, maintain control, and track inventory and maintain a reasonable supply of spare parts, or arrange access to such inventory as recommended by the manufacturer of all equipment covered by this Agreement.

(e) Maintain operation and maintenance manuals and system drawings ensuring that drawings are updated to reflect any changes or modifications that Operator may be required to make. Communicate updates to these documents annually, at a minimum, by contacting the Owner's Representative and any designated staff of the Assistant Vice President of Facilities Operation and Maintenance or his or her duly appointed and acting successor.

(f) Manage and arrange for the disposal of non-hazardous waste and rubbish. Operator may utilize Owner's contract for these services to the extent allowable by such contract.

(g) Administer warranty claims and provide all reasonable assistance in processing Owner provided insurance claims.

(h) Recommend and, if approved by Owner, implement improvements. Submit a plan highlighting recommended capital improvements and recommended financing options for the improvements that would allow increased efficiency of operation with savings to be shared by Owner and Operator. Alternatively, Owner may finance recommended improvement.

(i) Maintain complete and accurate operating records and logs, maintenance reports, and metering data. All such records, logs, reports, and data are to be written in ink and maintained in the Facilities. Records of all other applicable transactions including financial and otherwise relating to the provisions contained within this Agreement shall be maintained at the Operator's home office. Operator shall maintain in current condition the drawings, specifications, lists, Facilities Manuals and other materials provided to Operator by Owner. The records to be maintained shall include: vouchers, receipts, memoranda, inventories and accounts pertaining to this Agreement as well as complete summaries and reports identifying all reimbursable personnel-hours expended, payroll costs incurred and the salary and hourly rate of each employee whose payroll costs constitute an Operator's Cost. A compiled report including copies of all invoices, and other related supporting documents and vendor checks written for the operation and maintenance of the Facilities must be prepared and two copies forwarded to Owner's Representative by the tenth (10th) day of the month following the reported month.

(j) Make periodic reports including:

(1) Daily production reports by hour indicating thermal and electric performance of the Facilities.

(2) Monthly production reports including gross hourly electric generation, net hourly electric generation, net thermal energy delivered, total hours during the period reported, total operating hours of the combustion turbines ("CTs"), total gas consumed and monthly Federal Energy Regulatory Commission efficiency.
(3) Monthly production reports including a summary of significant events identifying major maintenance, operating statistics and quantities of fuel compared to budget.

(4) Annual production report including each of the monthly production reports and a report on year-end physical inventory of parts and supplies.

(k) Periodically test and calibrate meters, measuring devices, relays and instruments to ensure a high degree of accuracy in accordance with accepted industry standards.

(l) Develop monthly historic usage, generation, distribution, efficiency and cost charts and graphs to illustrate energy efficiency improvements made during the term of this agreement as requested.

(m) Operator shall implement a Planned Maintenance Program (PMP) which shall include predictive, preventative and corrective maintenance. The predictive maintenance shall include regular inspection of equipment, periodic testing, lube oil analysis, vibration analysis and thermography. Preventative maintenance shall include inspection, adjustments, proper lubrication, replacement of worn parts prior to failure and adhering to recommended operating and maintenance procedures. All corrective maintenance shall be documented by work orders identifying the problem, the corrective action taken and the recommendations to prevent a recurrence of a similar problem. A work schedule will be implemented which will identify all routine preventative maintenance, scheduled major maintenance and planned outages. Outage planning will include a schedule of outages, estimated down time, required spare or replacement parts and the estimated costs.

(n) Operator shall assist in the scheduling, managing, tracking and documentation associated with any major overhaul of the CTs; however, the cost associated with major overhaul work is not included in the budget at this time. Upon access to more specific information on the CTs, Operator will develop the estimated cost of major overhaul.

(o) Operator will implement practices and policies which will help minimize potential exposure to injury or accident. Measures will be taken to ensure that noise typically associated with the operation of power generation is minimized and the potential for any spill of hazardous or toxic material is minimized.

3.5 Personnel. Subject to the provisions of this Section 3.5, Operator shall provide and make available as necessary, in accordance with the requirements of the Scope of Work stated in Section 3.4 and the Annual Operating Plan and Budget then in effect, all such labor and professional, supervisory, and managerial personnel as are required to perform the Services.

3.5.1 Personnel Standards. Such personnel shall be qualified and experienced in the duties to which they are assigned and shall be capable of operating the Facilities in accordance with Prudent Operating and
Maintenance Practices. All individuals used by Operator in the performance of the Services shall be the employees of Operator, and their working hours, rates of compensation and all other matters relating to their employment shall be determined by Operator. Operator shall retain sole responsibility with respect to labor matters in connection with the performance of the Services. With respect to hiring of personnel and its employment policies, Operator shall comply with all applicable Governmental Rules and shall exercise control over labor relations in a reasonable manner consistent with the intent and purpose of this Agreement. Notwithstanding the foregoing, Operator acknowledges and agrees that it does not have the authority to enter into any contracts or collective bargaining agreements with respect to labor matters that purport to bind or otherwise obligate Owner.

3.5.2 Selection of Incumbent Personnel and Students. In selecting candidates for full-time employment at the Facilities, Operator will give preference to incumbent employees of Owner and the previous manager of the Facilities, for the positions to be filled; and in selecting candidates for part-time employment at the Facilities, Operator will give preference to Owner’s students; provided that, in either case, that candidates meet the standards established by Operator, in accordance with this Agreement, for the positions to be filled.

3.5.3 Removal of Personnel. Owner shall have the right to require Operator to remove any employee at the Facilities who Owner reasonably determines (i) does not possess the skills, qualifications or experience reasonably required for the performance of the duties and responsibilities assigned to such employee by the Operator, (ii) is involved in the sale, possession, use or is working, at any time, under the influence of drugs or alcohol, or (iii) is otherwise unfit to perform the duties and responsibilities assigned to such employee by the Operator. Operator shall give all due consideration to Owner’s recommendation concerning removal of personnel under this Section, but Operator must remove an employee at the Facilities when Owner advises Operator in writing that such removal is necessary, in Owner’s judgement, to protect property on the Campus or to protect persons on the Campus or to protect the reputation of the Campus as being a safe environment for students, personnel of Owner and tenants and others using the Campus.

3.6 Licenses and permits. Operator shall review and shall keep current with the requirements of all Governmental Rules applicable to the operation and maintenance of Facilities and (i) shall assist Owner in securing and complying with, and shall itself comply with, all of the foregoing applicable to the performance of the Agreement, including obtaining and maintaining all necessary permits, licenses and approvals (and renewals of the same), including those relating to boiler operation; water and sewer use; the handling, storage, transporting, using and disposing of Hazardous Materials and other
chemicals and wastes attributable to the Facilities: emissions testing and safety; resolution of building code violations, obtaining EPA air emissions permits; and completing and filing all annual documents and reports to obtain such permits, review and complying with their terms, and (ii) shall initiate and maintain precautions and procedures necessary to comply with, and shall itself comply with, applicable provisions of all Governmental Rules related to prevention of injury to persons or damage to property.

3.7 **Metering.** Operator will include any added metering of facility inputs and outputs necessary to provide real-time tracking of the efficiency of each plant, including coordination necessary to integrate the meter information into the existing campus metering system on a real-time basis.

3.8 **Emergency Action.** In the event a direct threat to the health or safety of any Person or damage to or destruction of the Facilities or Site is encountered during the operation of the Facilities, then Operator must use Best Efforts to eliminate the threat to the health or safety of any Person or damage to or destruction of the Facilities or Site immediately after its discovery by Operator or written notice from Owner.

**ARTICLE 4 - RESPONSIBILITIES OF THE OWNER**

4.1 **General.** Owner shall furnish to Operator, at Owner's expense, the information, services, materials and other items described in this Article 4. All such items shall be made available at such time and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 **Performance Information**

(a) **Facilities Manuals.** Owner has delivered to Operator the Facilities Manuals listed in Exhibit A, and shall deliver to Operator, as soon as practicable after they come into Owner's possession, two copies of all other Facilities Manuals. At all times during the term of this Agreement, the Facilities Manuals shall be under the care and custody, but not ownership, of Operator at the Facilities. Subject to the provisions of Section 15.4, Owner shall have access at all times at the Facilities to the Facilities Manuals in the possession of Operator.

(b) **Other Information.** Owner shall provide technical, operational and other information with respect to the Facilities reasonably available to Owner or in Owner's possession and necessary for the performance of the Services by Operator under this Agreement, including the records with respect to the operation, maintenance and repair of the Facilities created and/or maintained by the prior operator of the Facilities.
(c) **Reliance.** Subject to Prudent Operating and Maintenance Practice, Operator shall be entitled to rely upon the Facility Manuals and such other information in the performance of its Services hereunder.

4.3 **Spare Parts and Supplies.** As soon as practicable after the Effective Date, Operator and Owner will work together to ensure that the Facilities have a reasonable supply of spare parts on Site or on firm confirmed order and a reasonable supply of consumables on Site, obtained at Owner's expense, which supply of spare parts and consumables shall be obtained and maintained, to the extent reasonably possible, as recommended in the Annual Operating Plan and Budget attached as Exhibit C for the first Contract Year and as recommended in the applicable Annual Operating Plan and Budget for each Contract Year thereafter.

4.4 **Special Tools.** Owner agrees to provide, upon reasonable notice from Operator, Olympus borescope equipment, Allison turbine tools, specialty tools (predictive maintenance equipment) and complete puller set (collectively referred to as "Special Tools") at Owner's expense.

**ARTICLE 5 - REPRESENTATIVES OF THE PARTIES**

5.1 **Representatives of the Operator.** Within a reasonable time frame after the Effective Date, the Operator shall appoint, and notify the owner of the appointment (and address) of an individual employed by Operator who is designated to serve as the "Plant Manager" and who as such is authorized and empowered to act for and on the behalf of the Operator on all matters concerning the day to day operation, maintenance and management of the Facilities, other than agreeing to any amendments or modifications of this Agreement under Section 15.6. In all such matters, Operator shall be bound by the written communications, directions, requests and decisions made by the Plant Manager. Operator shall promptly notify Owner in writing following each change in the identity and/or address of the individual appointed to serve as the Plant Manager. Operator's representative for agreeing to any amendments or modifications of this Agreement under Section 15.6 shall be Operator's Vice President - Finance or his or her duly appointed and acting successor.

5.2 **Representatives of the Owner.** Promptly after the Effective Date, Owner shall appoint, and notify Operator of the appointment (and address) of, an individual employed by Owner (the "Owner's Representative") who is authorized and empowered to act for and on behalf of Owner on all matters concerning this Agreement and Owner's obligations hereunder, other than agreeing to any amendments or modifications of this Agreement under Section 15.6. In all such matters, Owner shall be bound by the written communications, directions, requests and decisions made by the Owner's Representative. Owner shall promptly notify Operator in writing following each change in the identity and/or address of the individual appointed to serve as the Owner's Representative.
Owner's representative for agreeing to any amendments or modifications of this Agreement under Section 15.6 shall be Owner's Vice President for Facilities and Public Safety or his or her duly appointed and acting successor.

ARTICLE 6 -- PROCEDURES, PLANS AND REPORTING

6.1 Administrative Procedures Manual. As promptly as possible, but in any event not later than sixty (60) days after the Effective Date, Operator shall submit a draft for review, and not later than ninety (90) days after the Effective Date, Operator shall submit in final form for review and approval by Owner, a proposed administrative procedures manual providing such information as (i) organization and reporting, (ii) correspondence and review procedures, (iii) procurement and contracting procedures, (iv) accounting, bookkeeping and record-keeping systems and (v) personnel procedures for the performance by Operator of the Services hereunder. Within twenty (20) days after its receipt of such proposed manual, Owner shall submit written comments thereon to Operator, and thereafter the parties shall promptly meet to resolve all outstanding differences and to agree upon a final manual (the "Administrative Procedures Manual"), which shall be approved in writing by both parties hereto. Such final Administrative Procedures Manual shall remain in effect for the term of this Agreement, subject to such revisions and amendments as may be proposed by either party and consented to in writing by the other party.

6.2 Annual Operating Plan and Budget

(a) Adoption. Attached as Exhibit C is the Annual Operating Plan and Budget for the first Contract Year which has been agreed to by the parties hereto. The Annual Operating Plan and Budget covers an operating scenario whereby the combustion turbines operate as standby units with the primary use of the Facilities being to provide steam for the Campus, and any satellite plants are operated for heating or cooling as determined by Owner. After the first Contract Year, and during the term of this Agreement, the Annual Operating Plan and Budget may be modified from time to time by Owner. Ninety (90) days before the first day of the second Contract Year and each Contract Year thereafter, Operator shall prepare and submit to Owner a proposed Annual Operating Plan and Budget for the next Contract Year. The proposed Annual Operating Plan and Budget in each case shall set forth in such detail, as is requested by Owner, an operating plan and budget describing anticipated operations, repairs, routine maintenance, staffing, training activities, spare parts acquisitions, recommended capital improvements, and other work proposed to be undertaken by Operator during such Contract Year in the performance of its Services, based upon the operating scenario which Owner has elected for such Contract Year, and the budget recommended for the operation, maintenance, repair and improvement of the Facilities during such year in accordance with such plan. Owner shall promptly review Operator's proposed Annual Operating Plan and Budget and may, by written notice given within twenty (20) business days after Owner's receipt
of the proposed Annual Operating Plan and Budget, prescribe changes, additions, deletions and modifications. If Owner does not provide Operator any such written notice within twenty (20) business days after Owner's receipt of the proposed Annual Operating Plan and Budget, then the proposed Annual Operating Plan and Budget will be deemed accepted. If the Owner does provide Operator with such written such, Owner and Operator will then meet and use their best efforts to agree upon a final Annual Operating Plan and Budget for the ensuing Contract Year for the Facilities and all satellites, which shall be approved in writing by both parties. Such final Annual Operating Plan and Budget shall remain in effect throughout the applicable Contract Year, subject to such updating, revision and amendments as may be proposed by either party and consented to in writing by the other party. Any actions proposed under an Annual Operating Plan and Budget shall be consistent with the Operating Manuals, the Administrative Procedures Manual prepared pursuant to Section 6.1 and Operator's obligations set forth in this Agreement. As soon as it becomes apparent that significant deviations or discrepancies from the projections contained in any Annual Operating Plan and Budget may be necessary or desirable, Operator shall submit a proposed amendment to the Annual Operating Plan and Budget. Owner shall promptly review Operator's proposed amendment and may, by written notice, prescribe changes, additions, deletions and modifications. If Owner does not provide Operator any such written notice within twenty (20) business days after Owner's receipt of the proposed amendment, then the proposed amendment will be deemed accepted. If Owner does provide Operator such written notice, then Owner and Operator will meet and use their best efforts to agree upon an amendment to the Annual Operating Plan and Budget in question, which shall be approved in writing by both parties. However, no prior notice to Owner or further approval by Owner is required for actions contained in any approved Annual Operating Plan and Budget.

(b) **Failure to Adopt.** If by the first day of any Contract Year the parties are unable to reach agreement concerning any portion of the Annual Operating Plan and Budget for such Contract Year, or if the parties are unable to agree upon an amendment, the parties will resolve the matter in accordance with the dispute resolution process set forth in Section 15.5.

6.3 **Operating Data and Records.** Operator shall monitor and record all operating data for the Facilities required by Owner and shall make such operating data for each month available to Owner (i) on or before the tenth (10th) Business Day immediately following the last day of the month, and (ii) upon request at any time by Owner on the Business Day immediately following such request. Such operating data shall include, in addition to those records required by Section 3.4(i), meter and gauge readings and fuel usage records.

6.4 **Reports for Financing Agreements.** Operator shall cooperate with Owner in complying with the reporting requirements set forth in any Financing Agreement of which Operator is notified by Owner and in the Facilities Documents and shall furnish or
cause to be furnished to Owner the following reports concerning the operation, maintenance and management of the Facilities and the performance of the Services:

(a) **Monthly Reports.** Within fifteen (15) Business Days after the end of each calendar month, Operator shall submit to Owner: (i) a progress report in detail acceptable to Owner, covering all operations, maintenance, repairs and capital improvements conducted during such calendar month and year to month-end date (including information regarding the volumes of electricity and steam produced, efficiency of the Facilities, labor staffing, compliance with emissions permit requirements and other significant matters), which report shall include a comparison of such items to corresponding values for the preceding month and the corresponding month and year to month-end date in the preceding year and to amounts allocated therefore in the then current Annual Operating Plan and Budget and a listing of any significant operating problems experienced at the Facilities, along with remedial actions taken or planned, and a brief summary of major activities planned for the next three monthly reporting periods: (ii) a fuel report summarizing the amounts and type of fuel delivered to and consumed at the Facilities during the month and including a statement or the estimated total inventory of fuel oil on hand at the Facilities as of the close of the month; (iii) a statement setting forth all costs reimbursable to Operator by Owner incurred in such month, including those relating to any capital improvements made to the Facilities or major equipment teardown and overhaul made on behalf of the Owner in conformance with the applicable Annual Operating Plan and Budget and/or the Major Equipment Teardown and Overhaul Schedule in effect pursuant to Section 6.5; and (iv) based on amount of electricity delivered by Commonwealth Edison, or any successor or assign, or any other electric public utility providing service to the Facilities or the Campus, an estimate of the charges therefore for such month. Within thirty (30) days after the submission of each group of monthly reports, the Plant Manager shall meet with Owner, if requested by Owner, to review and discuss the reports and to report upon any other aspects of the operation, maintenance, repair, capital improvements and management of the Facilities that Owner may wish to discuss.

(b) **Annual Reports.** As soon as available, and in any event within sixty (60) days after the end of each Contract Year, Operator shall submit a certified annual report describing, in detail substantially similar to that contained in the monthly reports referred to in Section 6.4 (a) concerning the operation, maintenance, repairs and capital improvements, and the management of the Facilities, during such Contract Year and presenting a comparison with the goals set forth in the Annual Operating Plan and Budget for such Contract Year and with those obtained for the Contract Year, and an explanation of any substantial deviations. Within thirty (30) days after the submission of each annual report, the Plant Manager shall meet with Owner, if requested by Owner, to review and discuss the report and to report upon any other aspects of the operation, maintenance, repair, capital improvements and management of the Facilities that Owner may wish to discuss.
(c) **Litigation: Permit Lapses.** Upon obtaining knowledge thereof, Operator shall submit prompt written notice to Owner of (i) any litigation, or material claims, disputes or actions, threatened or filed, concerning the Facilities or the Services; (ii) any refusal or threatened refusal to grant, renew or extend or any action pending or threatened that might affect the granting, renewal or extension of any license, permit, warranty, approval, authorization or consent for the Facilities, and (iii) any dispute with any Governmental Unit concerning the Facilities or operation thereof.

(d) **Other Information.** Operator shall promptly submit to Owner any material, new development concerning the Facilities or the operation thereof and, upon Owner's request, shall promptly submit to Owner any other information concerning the Facilities or the operation thereof or the Services. Such information may include any information and certification with respect to the Services or the Facilities required by any lender to Owner.

6.5 **Major Equipment Teardown and Overhaul Schedule.** Operator shall submit to Owner on an annual basis concurrent with the submittal of the proposed Annual Operating Plan and Budget for the ensuing Contract Year, a "Major Equipment Teardown and Overhaul Schedule" (as such term is described in this Section) for the next “Term” Contract Years (counting what would be Contract Years for these purposes as if the term of this Agreement were extended for the period covered by such “Term” years). The Major Equipment Teardown and Overhaul Schedule shall include the Operator's best estimate of any major equipment repairs or replacements over the next “Term” Contract Years. The first such Schedule is set forth in Exhibit D. As promptly as is practicable after receipt thereof, Owner will review the Schedule for the next ensuing Contract Year and submit its request for any additions, deletions or modifications to Operator for inclusion in the final Schedule for that Contract Year. If Owner does not provide a written request for changes prior to the beginning of the next ensuing Contract Year, such Schedule as prepared and submitted by Operator will be in effect for at least that Contract Year.

**ARTICLE 7 - LIMITATIONS ON AUTHORITY**

7.1 **General Limitations.** Notwithstanding any provisions in this Agreement to the contrary, unless approved in writing by Owner, Operator shall not (and shall not permit any of its agents or representatives to) do any of the following:

(a) **Disposition of Assets.** Sell, lease, pledge, mortgage, encumber, convey, or make and license, exchange or other transfer or other disposition of any property or assets of Owner, including any property or other assets acquired by Operator for which the cost is, or is to be, paid directly or reimbursed by Owner under this Agreement;

(b) **Contracts.** Make, enter into, execute, amend, terminate, modify or supplement, or hold itself out as having authority to do any of the foregoing with respect
to, any contract or agreement (including any labor or collective bargaining agreement) on behalf of or in the name of Owner;

(c) **Lawsuits and Settlements.** Settle, compromise, assign, pledge, transfer, release or consent to the compromise, assignment, pledge, transfer or release of any claim, suit, debt, demand or judgment against, or due by, Owner or submit any such claim, debt or demand to arbitration or judicial process, or stipulate or consent to any judgment in respect thereof, or hold itself out as having the authority to do any of the foregoing;

(d) **Transactions on Behalf of Others.** Engage in any other transaction on behalf of Owner not expressly authorized by this Agreement or that violates this Agreement or any of the Facilities Documents;

(e) **Changes in Configuration.** Modify or alter the Facilities or any component thereof except as permitted under this Agreement;

(f) **Unauthorized Use.** Use the site or the Facilities for any purpose other than the purposes contemplated in this Agreement; or

(g) **Variances: Emergency Action.** Take or agree to take any other action that materially varies from the applicable Annual Operating Plan and Budget or any Facilities Document; provided, however, in the event of an emergency constituting an imminent threat to the safety or protection of Persons or endangering the Facilities or property located at or about the Site, Operator, without prior approval from Owner, shall be authorized to take all reasonable actions to prevent or reduce such threatened damage, injury or loss, and promptly report such action to Owner.

**ARTICLE 8 - COMPENSATION AND PAYMENT**

8.1 **Compensation.** Owner agrees to pay on a monthly basis and Operator agrees to accept as full payment for the performance of the services required by this Agreement the following:

(a) **Operator's Costs.** All costs incurred by Operator in performing the Services under this Agreement consistent with the Annual Operating Plan and Budget ("Operator's Costs"), including, but not limited to, (i) all employee related costs such as (1) the amount of all wages and salaries, including employee incentives, that Operator pays to its employees that is allocable to the work of such employees in performing the Services ("Wages"); (2) an amount to cover costs of employee benefits (including employee holidays and paid time off, social security, insurance, retirement and other plans, payroll taxes, premiums for unemployment, workers' compensation and employer's liability insurance, Operator's general and administrative expense (all of which expenses are equal to xx% of the Wages paid to employees working at the Site and equal to xx% of the Wages paid to employees working in Operator's headquarters); and (3) costs incurred for travel; subsistence, recruitment with respect to such employees engaged in performing the Services, and (4) Operator's overhead (set at x% of Operator's G&A expenses for purposes of the Annual Operating Plan and Budget); and (ii) all reasonable
costs and expenses actually incurred by Operator in the performance of the Services for supplies, equipment, materials, services and other items including legal, consulting, accounting, engineering and technical services; and

(b) **Operator's Fee.** An annual fixed fee ("Operator's Fee") amounting to $x.xx covering all facilities listed in Exhibit A. Operator's Fee shall be fixed for the period of the first two Contract Years, and thereafter shall be escalated without further action on Operator's part for each of the fourth and fifth Contract Year if applicable. Such escalation for each year shall be based on the percentage increase in the Gross National Product Implicit Price Deflator ("GNPIPD") from the 4th quarter of the year preceding the year in which the escalation will take place, to the 4th quarter of the year in which the escalation will take place. The escalation will be equal to the percentage increase between the two GNPIPD indicators times the Operator's Fee for the Contract Year preceding the Contract Year in which the escalation becomes effective. For example, given the above-specified Operator's Fee, if the 4th quarter GNPIPD for the year 2016 is 110.9, and the 4th quarter GNPIPD for the year 2017 is 114.3, then the percentage increase would be 3.1% and the increase to the Operator's Fee for the Contract Year starting January 1, 2015 would be $x.xx and the Operator's Fee for such Contract Year would be $x.xx.

8.2 **Payment.**

(a) **Invoices.** On or before the tenth (10th) day of each month during the term of this Agreement, Operator shall submit an invoice to Owner setting forth the amount of one-twelfth (1/12) of Operator's Fee and Operator's Costs for the preceding calendar month. Along with each such invoice, Operator shall submit sufficient supporting details for the Operator's Costs to allow Owner to verify such costs, such as: (1) a schedule of salaries and wages by employee in a form acceptable to Owner; (2) copies of vendor invoices and checks as required supporting cost for material and equipment; and (3) supporting details for incidental expenses.

(b) **Payment.** Except for amounts which may be in good faith dispute, Owner shall pay Operator the amount invoiced, on or before the thirtieth (30th) day after the date of the invoice. In the event Owner disputes, in good faith, a portion of an invoice, Owner shall promptly notify Operator of the specific reasons for the disputed portion of the invoice in writing, and the parties will thereafter promptly meet to resolve such dispute. Upon resolution of the dispute, Owner shall pay such amount as is found to be valid with the next invoice.

**ARTICLE 9 - FORCE MAJEURE**

9.1 **Events of Force Majeure: Responsibilities of the Parties:**

(a) Except for obligations to make payments under this Agreement for amounts due prior to the occurrence of an event of Force Majeure, either party hereto shall be excused from performance and shall not be considered to be in default in respect
to any obligation hereunder if, and to the extent, such failure of performance shall be due
to an event of Force Majeure, but such suspension of performance shall be of no greater
scope and no longer duration than that which is necessary and the excused party shall use
its reasonable efforts to remedy its inability to perform as promptly as reasonably can be
achieved.

(b) As to any event of Force Majeure:

(1) The party whose ability to perform its obligations under this Agreement is
or may be affected by an event of Force Majeure shall notify the other party hereto as
soon as possible after the party whose performance is or may be affected has knowledge
thereof or knowledge of the likelihood of the occurrence thereof. Such notice shall
specify the cause of such condition, its estimated duration and the action the affected
party is taking or will take to eliminate or otherwise reduce the effect of such event of
Force Majeure; and such notice shall be supplemented from time to time by further notice
by the affected party to the other party hereto in the event of the occurrence of any
material events affecting such event of Force Majeure; and

(2) The parties shall cooperate and take all necessary and appropriate actions
to eliminate such event of Force Majeure and to resume normal performance of this
Agreement as promptly as reasonably can be achieved.

9.2 Operation of the Facilities During Force Majeure. If an event of Force
Majeure which does not render the Facilities totally unable to operate occurs, Operator
shall operate the Facilities to the extent reasonably possible, in the judgment of Operator,
and

(a) The parties hereto shall make all reasonable efforts to prevent and reduce
to a minimum and mitigate the effect of any delay or other consequence occasioned by
any event of Force Majeure, including recourse to alternate acceptable sources of
services, equipment and materials, and

(b) The parties hereto shall use their reasonable efforts to perform their
obligations under this Agreement to the maximum extent practicable while so affected by
an event of Force Majeure.

9.3 Burden of Proof. The burden of proof shall be on the party asserting
excuse from performance due to such event of Force Majeure to justify such excuse from
performance.
ARTICLE 10 – INSURANCE

10.1 Operator Provided Insurance. Operator shall obtain and maintain the insurance set forth below at all times during the term of this Agreement:

(a) Workers' compensation insurance, including occupational illness, disease and bodily injury coverage, or other similar social insurance as required by any Governmental Rule covering the Operator’s employees and the employer’s liability insurance with a limit per occurrence of not less than $1,000,000.00.

(b) If applicable, automobile liability insurance against claims for personal injury (including bodily injury and death) and property damage, covering automobiles owned, hired or used by Operator, with a limit for bodily injury and property damage of $1,000,000.00 per occurrence, and containing the appropriate no-fault insurance provisions;

(c) Comprehensive general liability insurance covering personal injury (including bodily injury and death) and property damage to third parties and covering liability for damage to property of third parties in the care, custody and control of Owner, Operator and/or their respective employees and subcontractors in connection with operations at the Facilities. The coverage referred to herein shall be provided either in a single policy or through a combination of policies. Such policy or combination of policies shall have a limit of not less than $1,000,000.00 per occurrence and $5,000,000.00 in the aggregate; and

(d) Excess liability/umbrella liability insurance in excess of the insurance described in preceding clauses (b) and (c) of this Section in an aggregate amount of $20,000,000.00.

10.2 Owner Provided Insurance. Owner shall obtain and maintain at its expense at all times during the term of this Agreement permanent property insurance for the Facilities, including boiler and machinery insurance, and other first-party property related insurance coverages, in such amounts as deemed necessary by Owner.

10.3 Evidence of Insurance: Form and Content. All insurance required by this Agreement to be obtained and maintained by either party to this Agreement shall be with companies or governmental agencies and on forms satisfactory to the other party, and no such insurance shall be deemed to be in effect for purposes of satisfying the requirements of Section 10.1 or 10.2, as the case may be, until such time as satisfactory certificates thereof are delivered to the other party, containing therein provisions, to the extent such provisions are permissible under applicable insurance regulations, requiring the insurance carrier to notify each of the parties insured thereunder at least thirty (30) days prior to any expiration, termination, cancellation or material change of the applicable insurance.
policy. If such notification is not allowed under applicable insurance regulations, then the insured under such policies hereby contractually agrees to provide such notice. In addition, the following shall apply to insurance required by this Agreement to be obtained and maintained:

10.3.1 With respect to the insurance described in Sections 10.1 (except (a)) and 10.2 there must be included as additional insureds Owner or Operator (as the case may be), and the officers, directors and employees of each of them, with respect to such parties interests in the Facilities and/or operation, maintenance and management activities on behalf of Owner, with such additional parties to be additional insureds on a primary, noncontributing basis, it being understood that the coverage limits shall in no way limit the liability of the named insureds.

10.3.2 The insurance must provide that it is primary, or in excess to the specific primary policy provided by the same party for such coverages and not in excess or contributing as with respect to any other insurance (or self-insurance) available to Owner, Operator or additional insureds.

10.3.3 The insurance must provide that there will be no recourse against any additional named insured for the payment of premiums or commissions or (if such policies provide for the payment thereof) additional premiums or assessments, it being understood that these are obligations of the party providing such insurance pursuant to this Agreement.

10.3.4 The insurance must waive any right of subrogation of the insurers thereunder against Owner and its Lenders and officers, directors, trustees, employees, and agents of each or any of them, and any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such Person insured under such policy.

10.3.5 With respect to the interest of any additional named insured, the insurance must provide that such insurance shall not be invalidated by any action or inaction of the additional insured and shall insure the additional insured regardless of any breach or violation of any warranty, declaration or condition contained in such insurance by the primary named insured.

10.4 Proof of Loss. The party maintaining each insurance policy hereunder shall make all proofs of loss under each such policy and shall take all other action reasonably required to ensure collection from insurers for any loss under any such policy, except that Owner may require Operator to provide such proof of loss and take such action on behalf of Owner in the case of the insurance maintained by Owner pursuant to Section 10.2.
10.5 Payment of Deductible Amounts. Operator shall promptly pay to Owner any deductible amount related to any claim against or other cost to Owner covered under any insurance policy maintained by Owner which claim or cost arose because of any willful or negligent act or omission of Operator.

ARTICLE 11 - EVENTS OF DEFAULT, REMEDIES AND TERMINATION

11.1 Operator Events of Default. The occurrence of a default by Operator shall be an "Event of Default" only if such default is not cured within thirty (30) days, or forty eight (48) hours if the default is under Section 3.8, after Operator's receipt of written notice from Owner, or Operator is not diligently pursuing a cure for those defaults that cannot reasonably be cured within 30 days due to obtaining equipment or the like. The following shall be a default by Operator:

11.1.1 Failure to perform the Services in accordance with the standards of performance set forth in Section 3.3 above; or

11.1.2 A material breach of any of its other obligations under this Agreement.

11.2 Remedies for Operator Events of Default. Whenever an Event of Default by Operator shall have occurred and be continuing, Owner shall have the following remedies:

11.2.1 Cancel this Agreement for default and recover damages for such default; or

11.2.2 Continue this Agreement in effect but recover damages caused by such default; and

11.2.3 Obtain temporary power or steam or equipment, or repair or replace such of the Facilities as may be required, and recover the costs of same from the Operator.

11.3 Owner Events of Default. The occurrence of a default by Owner shall be an Event of Default only if such default is not cured within 30 days after Owner's receipt of written notice from Operator, or Owner is not diligently pursuing a cure for those defaults that cannot reasonably be cured within 30 days due to obtaining equipment or the like. The following shall be a default by Owner:

11.3.1 Failure to make payment when due under this Agreement, unless such sums are being disputed in accordance with Section 8.2(b); or
11.3.2 A material breach of any of its other obligations under this Agreement.

11.4 **Remedies for Owner Events of Default.** Whenever an Event of Default by Owner shall have occurred and be continuing, Operator shall have the following remedies:

11.4.1 Cancel this Agreement for default and recover damages for such default; or

11.4.2 Correct such failures and add the cost of correction to the next invoice payable by Owner.

11.5 **Remedies Exclusive.** The remedies set forth in this Agreement shall be in addition to any remedies available to either party hereto, in law or equity, for breaches or threatened breaches of this Agreement.

**ARTICLE 12 – TERM**

12.1 **Term.** The term of this Agreement shall commence on the Effective Date and continue to and including the date which is the second anniversary of the Effective Date, unless extended by mutual agreement of the parties hereto, provided that such term may be terminated before its expiration by mutual agreement of the parties hereto or pursuant to Section 11.2.1 or 11.4.1. This agreement will also include the option to extend the term up to three additional one-year periods.

12.2 **Facility Condition at End of Term.**

12.2.1 Upon expiration or termination of the terms of this Agreement, Operator shall remove its personnel, agents and subcontractors from the Facilities; and Operator shall leave the Facilities in as good condition as on the Effective Date, normal wear and tear excepted, and with the equivalent supply of spare parts and consumables (as provided pursuant to Section 4.3), any other items provided by Owner to Operator, or obtained at Owner's expense, or such modified supply thereof as may be acceptable to Owner. All Special Tools, improvements, inventory of supplies, spare parts, safety equipment, Operating Manuals and Administrative Procedures Manuals (in each case as provided to or obtained or provided by Operator during the term of this Agreement) and any other items furnished for which the cost has been (or is to be) paid directly or reimbursed by Owner, will be delivered to Owner or, as appropriate, left at the Facilities and will automatically become or remain the property of Owner without additional charge. Operator shall execute all documents and take all other reasonable steps requested
by Owner that may be required to assign to and vest in Owner all rights, benefits, interests and title in such items and property.

12.2.2 In addition, Owner shall have the right, in its sole discretion, to directly assume and become liable for any contracts or obligations that Operator may have undertaken with third parties in connection with the Facilities or the Services; except for those contracts or obligations the purposes of which are not exclusively for fulfilling Operator's obligations under this Agreement. If Owner elects to assume any such contracts or obligations, Operator shall execute all documents and take all other reasonable steps requested by Owner that may be required to assign to and vest in Owner all rights, benefits, interests and title in connection with such contracts or obligations. Operator shall indemnify and hold harmless Owner for all liabilities arising out of events and obligations incurred or accrued prior to the assignment or vesting of any such contracts or obligations pursuant to this Section 12.2.2, and Owner shall indemnify and hold harmless the Operator for all liabilities arising out of events and obligations incurred or accrued after the assignment or vesting of any such contracts or obligations pursuant to this Section 12.2.2.

12.2.3 In the event of the expiration or termination of the term of this Agreement, Operator shall, at Owner's request and expense, assist Owner for a period of not more than one hundred twenty (120) days in the transfer of the operation, maintenance, and repair and management responsibilities for the Facilities to the successor operator. Notwithstanding any other provision of this agreement to the contrary, solely with respect to any suits, sanctions, liabilities, legal proceedings, claims, demands, losses, costs and expenses that arise during any such transition period, Operator's indemnification obligations under Section 13.1 shall be limited to acts of gross negligence and willful misconduct.

ARTICLE 13 – INDEMNIFICATION

13.1 By Operator. Subject to the limitations in this Agreement, Operator shall indemnify, defend and hold harmless Owner, its affiliates, and any Lender, and their respective officers, trustees, employees and agents (the “Owner Indemnified Parties”), from and against any and all suits, sanctions, liabilities, legal proceedings, claims, demands, losses, costs and expenses of whatsoever kind or character, including, but not limited to, attorneys' fees and expenses, for injury to or death of Persons, or loss of or damage to property, penalties or fines imposed by a Governmental Unit or infringement or unauthorized disclosure or use of any trade secret, patent copyright or trademark, of Persons other than Owner, to the extent arising out of or in any way connected with acts or omissions of Operator or anyone acting on Operator's behalf.
13.2 **Owner.** Owner shall indemnify, defend and hold harmless Operator and its affiliates, and their respective officers, directors, employees and agents (the "Operator Indemnified Parties"), from and against any and all suits, sanctions, liabilities, legal proceedings, claims, demands, losses, costs and expenses of whatsoever kind of character, including, but not limited to, attorneys' fees and expenses, for injury to or death of Persons, or loss of or damage to property, penalties or fines imposed by a Governmental Unit, of Persons other than Operator, to the extent arising out of or in any way connected with acts or omissions of Owner or anyone acting on Owner's behalf.

13.3 **Employees.** Notwithstanding any provisions elsewhere in this Agreement to the contrary, each party hereto shall indemnify, defend and save the other party harmless for any liability for injury to the indemnifying party's employees, except that caused by the sole negligence or intentional misconduct of the other party.

13.4 **Survival.** The parties hereto agree that the indemnification obligations set forth in this Article 13 shall survive termination or expiration of the term of this Agreement.

**ARTICLE 14 - LIABILITIES OF THE PARTIES**

14.1 **Limitations of Liabilities.** Notwithstanding any provisions in this Agreement to the contrary, neither party nor any of their respective shareholders, affiliates, partners, officers, directors, agents, contractors, subcontractors, vendors or employees shall be liable hereunder to the other for consequential, special, incidental or indirect loss or damage to the extent such loss or damage occurred within the performance of this Agreement. The parties hereto agree that any waivers and disclaimers of liability, indemnities, releases from liability, and limitations on liability expressed in this Agreement shall survive termination or expiration of the term of this Agreement, and shall apply at all times, whether in contract, equity, tort or otherwise, regardless of the fault, negligence in whole or in part), strict liability, breach of contract or breach of warranty of the party indemnified, released or whose liabilities are limited, and shall extend to the directors, officers and employees and agents and affiliated entities of such party, and the directors, officers, employees and agents of such affiliated entities.
14.2 **Environmental Liability.**

14.2.1 **Operator Liability.** In no event shall Operator be responsible for present or future Environmental Claims directly or indirectly related to or arising out of the actual or alleged existence, generation, use, collection, treatment, storage, transportation, recovery, removal, discharge or disposal of Hazardous Material at the Facilities and or adjacent areas, arising from the period prior to the Effective Date, except to the extent such materials are, through Operator's negligent acts or omissions or intentional misconduct, improperly handled, stored, removed, generated, used, collected, treated, transported, recovered, discharged or disposed or by Operator. Without limiting the foregoing, Owner hereby agrees to defend, indemnify and hold the Operator Indemnified Parties, harmless against, and shall reimburse each such Person for any costs, losses or expenses incurred in connection with such Environmental Claims.

14.2.2 **Owner Liability.** In no event shall Owner be responsible for present or future Environmental Claims directly or indirectly related to or arising out of the actual or alleged existence, generation, use, collections treatment, storage, transportation, recovery, removal, discharge or disposal of Hazardous Material at the Facilities and adjacent areas arising out of the negligent acts or omissions or intentional misconduct of Operator or any of its employees, agents, contractors or subcontractors, and Operator hereby agrees to defend, indemnify and hold the Owner Indemnified Parties, harmless against, and shall reimburse each such Person for, any costs, losses, or expenses incurred in connection with such Environmental Claims; provided, however, that nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to any Hazardous Material in existence at the Facilities prior to November 1, 1996 unless directed to do so by a Governmental Unit or by Owner in order to comply with any Environmental Law, in which case the corrective actions so undertaken shall be deemed an Environmental Claim covered by Section 14.2.1.

14.2.3 **Operator - Generated Hazardous Materials.** Notwithstanding anything in Section 14.2.1 and 14.2.2 to the contrary, at all times, as between Owner and Operator, Operator shall be responsible for transporting and disposing off the Site any Hazardous Materials generated by Operator at the Facilities in the performance of its obligations under this Agreement, except what is generated by any contractor retained by the Owner, and shall indemnify, defend and hold harmless the Owner Indemnified Parties, from and against all Environmental Claims directly or indirectly relating to or arising out of such transporting, disposal or their offsite handling. Notwithstanding anything in Sections 14.2.1
and 14.2.2 to the contrary, at all times, as between Owner and Operator, Owner shall be responsible for transporting and/or disposing off the Site of Hazardous Materials generated by any contractor (other than Operator) retained by Owner, and shall indemnify, defend and hold harmless the Operator Indemnified Parties, from and against all Environmental Claims directly or indirectly relating to or arising out of such transporting, disposal or their offsite handling.

14.2.4 Governmental Action. If compliance with any federal, state or local environmental clean-up statute, regulation, ordinance, order or directive is required during the term of this Agreement, Operator shall (except to the extent Owner shall otherwise direct in writing) be responsible for preparing and filing with the appropriate governmental authority any notices, plans, submissions or other materials and information necessary for such compliance; provided that the costs of any outside consultants, sampling and remedial work shall be deemed an Environmental Claim, which costs shall be borne by either Owner or Operator in accordance with Sections 14.2.1 and 14.2.2. Any compliance action taken by Operator pursuant to any such statute, regulation, ordinance, order or directive, including proceedings and filings made in connection therewith, shall be performed only after consultation with Owner. Costs and expenses associated with any such compliance action shall only be incurred by Operator with Owner's prior written consent, unless a Governmental Unit requires Operator to incur such costs and expenses prior to obtaining such written consent.

14.3 Limitation of the Operator's Liability. Notwithstanding any other provision in this Agreement to the contrary, and except as provided with respect to property damage below, the liability of Operator to Owner arising from or relating to the services performed under this Agreement which is covered by the insurance coverage required to be maintained by Operator under Article 10 of this Agreement shall not exceed in the cumulative aggregate the total liability limitation of the amount of proceeds received from such insurance coverage, regardless of whether any such liability may be based on contract, guarantee, indemnity, warranty, tort (including, but not limited to, negligence of Operator), strict liability, or otherwise, and Owner hereby releases Operator from any liability in excess thereof.

14.4 No Warranties or Guarantees. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY HERETO MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
ARTICLE 15 - MISCELLANEOUS PROVISIONS

15.1 Materials and Equipment. Title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator for which the cost thereof is paid directly or reimbursed by Owner shall pass immediately to and vest in Owner upon the passage of title from the vendor or supplier thereof; provided, however, that such transfer of title shall in no way affect Operator's obligations as set forth in the other provisions of this Agreement.

15.2 Cooperation in Financing. Operator agrees to cooperate with Owner in the negotiation and execution of any reasonable amendment or addition to this Agreement required from time to time by a Lender, which does not result in a material adverse change in Operator's rights or obligations hereunder. Operator further agrees to provide such data, reports, certifications and other documents or assistance as may be reasonably requested by a Lender and to cooperate with the Lender in connection with the resolution of any claim for indemnification asserted by the Lender pursuant to Article 13 or 14.

15.3 Voluntary Assignment. This Agreement shall not be assignable by either party without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties hereto.

15.4 Access.

(a) The Operator. Operator and its employees, agents and representatives shall have access at all times to the Facilities, and any documents, materials and records and accounts relating to the operation, maintenance and management of the Facilities in the possession of Owner, to the extent necessary to perform its obligations under this Agreement.

(b) The Owner. Upon reasonable notice, which in general shall not be deemed to mean more than forty-eight (48) hours prior notice, from Owner to Operator, Owner and its employees, agents and representatives shall have access at all times to the Facilities, all Facilities operations and any documents, materials and records and accounts in the possession of Operator relating to the operation, maintenance, repair and management of the Facilities, for purposes of inspection, review and copying. Upon the request of Owner, Operator and its agents and representatives shall make available to Owner and any Lender and the Lender's agents and representatives, and provide them with access to (for purposes of inspection, review and copying), any operating data and operating log with respect to the Facilities.

(c) Cooperation. During any such inspection or review of the Facilities or any operating data or logs, as provided in this Section 15.4, Owner shall use best efforts to cause such Persons as are provided access under Section 15.4(b) to comply with Operator's safety and security procedures, and to conduct their inspections and reviews in
such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with Owner in allowing other visitors’ access to the Facilities under conditions mutually agreeable to the parties.

15.5 Dispute Resolution. In the event a dispute arises between Owner and Operator regarding the application or interpretation of this Agreement, either party may notify the other party of its intent to invoke this dispute resolution procedure. If the shall have failed to resolve the dispute within ten (10) Business Days after delivery of such notice, each party shall, within five (5) Business Days thereafter, nominate a senior officer of its management (and notify the other party or the person so nominated) to meet at the Facilities, or at any other mutually agreed location, to resolve the dispute. If the dispute remains unresolved ten (10) Business Days after such senior officers have been nominated, or the time for such nominations has expired without both nominations having been made, whichever first occurs, each party, without further delay or condition, shall have the right to pursue any and all remedies available at law or in with respect to such dispute. The pendency of this dispute resolution mechanism shall not of itself relieve either party hereto of any duty to perform under this Agreement.

15.6 Amendments. No amendments or modifications of this Agreement shall be valid unless evidenced in writing and signed by duly authorized representatives of both parties.

15.7 No Waiver. It is understood and agreed that any delay, waiver or omission by Owner or Operator to exercise any right or power arising from any breach or default by the other party, hereto with respect to any of the terms or provisions of this Agreement shall not be construed to be a waiver by Owner or Operator, as the case may be, of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the other party hereto.

15.8 Notices. Any notice required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given on the date of receipt at the Notice Address for the party to be notified, and shall be either delivered personally to the party to whom notice is given, or sent to the party to whom notice is given by confirmed facsimile, commercial overnight carrier, with written verification of receipt, or first class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at its Notice Address or sent to such addressee at such address by commercial courier or messenger service.

15.9 In the event any of the provisions of this Agreement shall be declared by a court or arbitrator to be void or unenforceable, then such provision shall be severed from this Agreement without affecting the validity and enforceability of any of the other provisions hereof, and the parties shall negotiate in good faith to replace such unenforceable or void provisions with a similar clause to achieve, to the extent permitted under law, the purpose and intent of the provisions declared void and unenforceable.
15.10 **Governing Law.** This Agreement is executed and intended to be performed in the State of Illinois and the laws of that state shall govern its construction interpretation and effect without regard to principles of conflicts of laws. Venue shall be in the state or federal courts of located in Chicago, Illinois, whichever is applicable, for any actions that may arise from this Agreement.

15.11 **Confidentiality.** The information furnished pursuant to the provisions of this Agreement shall be considered confidential, and Owner and Operator shall not furnish such information to any other party absent the other party's prior written consent during the term of this Agreement and for three years thereafter except as may be required by Governmental Rule.

IN WITNESS WHEREOF, the parties have executed this Operation, Maintenance and Management Agreement by their duly authorized officers as of the date first above written.

**OWNER**

Illinois Institute of Technology

By:_____________________
Name:___________________
Title:___________________
Date:___________________

**Operator**

By:_____________________
Name:___________________
Title:___________________
Date:___________________

**OPERATOR**
EXHIBIT A: FACILITIES

The Operator will perform Services at the following facilities:

IIT Co-Generation Plan located on the west side of the 3400 Block of South Federal Street
The following constitutes the MBE/WBE and Equal Employment Opportunity Plan (the "Plan") which shall govern the activities of the Contractor and Subcontractors engaged to perform Work on Illinois Institute of Technology Projects (the “Project”). Each Contractor or Subcontractor who agrees to perform Work or services and supply materials for the Project shall be deemed to have agreed to the terms of this Plan and this Plan shall be deemed incorporated into any Contract for labor or materials for the Project, as is fully set forth therein.

I. DEFINITIONS

As used in this Plan, the following terms shall have the following meanings indicated:

A. "Minority" means a person who is a citizen or lawful resident of the United States and who is Black; Hispanic; Asian-American and Pacific Islander; American Indian or Alaskan native.

B. "Minority Business Enterprise" ("MBE") means a business that is Owned and Controlled (as herein defined) by one or more Minority persons.

C. "Women Business Enterprise" ("WBE") means a business that is Owned and Controlled by one or more women.

D. "Owned" means a business which is (1) a sole proprietorship legitimately Owned by a Minority person or woman, (2) a partnership or joint venture in which at least 51 percent of the beneficial ownership interests legitimately are Owned by Minority persons or women, or (3) a corporation or other entity in which at least 51 percent of the beneficial ownership interests are Owned by Minority persons or women.

E. "Controlled" shall be determined by considering the degree to which Minority group members or women participate in direction and management of this partnership, corporation, joint venture or other entity, including consideration of their participation in the decisions affecting the day-to-day management and operations of the business, and of their proportionate interest in the capital, assets and profits of the business.

F. "Eligible MBE or WBE Firm" includes any qualified Contractor or Subcontractor providing labor, services, products or materials for the Project who has been certified by one of the agencies or programs listed below:

City of Chicago, National Minority Supplier Development Council Affiliates (NMSDC), Chicago Minority Business Development Council (CMBDC), State of Illinois - Department of
Transportation (IDOT), Small Business Administration (SBA-8A), and the Women's Business Development Center.

G. "Contractor" means any person who has a Contract with Illinois Institute of Technology, providing labor, services, products and materials for the Project.

H. "Subcontractor" means any person who has such a Contract with a Contractor or with a Subcontractor providing labor, services, products and materials for the Project.

I. "Joint Venture" means an association of two or more businesses to carry out a single business enterprise in which they may combine their property, capital, efforts, skills and/or knowledge. A joint venture seeking to be credited for MBE and/or WBE participation may be formed among MBE and/or WBE firms or between a MBE and/or WBE firm and a non-MBE/WBE firm.

A Joint Venture is eligible if, and only if, all of the following requirements are satisfied:

- The MBE and/or WBE venturer(s) share in the (1) ownership, (2) control, (3) management responsibilities, (4) risks and (5) profits of the Joint Venture in proportion with the MBE and/or WBE ownership percentage; and

- The MBE and/or WBE venturer(s) are responsible for a clearly defined portion of the work to be performed in proportion with the MBE and/or WBE ownership.

J. “Area of Specialty” means the description of a MBE or WBE firm’s business which has been determined by the M/WBE certifying agency to be most reflective of the MBE or WBE firm’s claimed specialty of expertise. Each MBE and WBE letter of certification contains a description of their Area of Specialty. Credit toward this contract’s MBE or WBE participation goal shall be limited to the participation of firms performing within their Area of Specialty.

K. “Commercially Useful Function” means that a contractor is responsible for execution of a distinct element of work and carries out its responsibilities by actually performing, managing and supervising the work involved.

II. STATEMENT OF INTENT AND PROGRAM IMPLEMENTATION

The Contractor recognizes its obligations to establish and implement aggressive equal employment opportunity programs and appropriate MBE/WBE programs to ensure full participation of minorities and females in this Project. The Contractor also recognizes that minority and female participation in the construction industry has, at times in the past, been found to be significantly below their representation in the general work force in the City of Chicago. In order to assure that minorities and females fully participate in this Project, Contractor agrees to the obligations described below and to designate a Plan Officer who will act on its behalf to fulfill its responsibilities thereunder.

Failure to effectively implement the Plan shall be deemed to be a default under the Contract.
III. M/WBE CONTRACTING & PROCUREMENT

A. Contractor shall make good faith efforts to actively solicit and achieve the participation of M/WBE firms in the contracting and procurement process and to identify and use eligible M/WBE firms for any Work that may be subcontracted by it and material or supplies purchased by it, whenever possible.

B. The goal for MBE utilization is a minimum of 25% of the aggregate dollar value of the contract, including all changes to the Contract. The goal for WBE utilization is a minimum of 5% of the aggregate dollar amount of the Contract, including all changes to the Contract.

C. Contractor shall maintain a documented record of all contacts with M/WBE firms and M/WBE trade associations, and of all bid solicitations and the results thereof. Such documentation shall be available to IIT upon request.

D. Where economically and technically feasible, Contractor shall award contracts to M/WBE firms as a result of competitive bidding processes or negotiations limited to M/WBE firms.

E. Where economically and technically feasible, Contractor shall divide the Work to be contracted into smaller portions to permit greater participation by M/WBE firms. In the preparation of bid packages, Contractor shall carefully analyze and evaluate the requirements for goods and services to identify those which may be assembled into bid packages of a size and scope within the ability of the greatest number of M/WBE firms to provide and perform.

F. Where appropriate, Contractor shall provide technical assistance to M/WBE firms in the bidding, estimating and scheduling processes.

IV. EQUAL EMPLOYMENT OPPORTUNITY

A. Contractor shall not discriminate against employee or applicant for employment because of race, color, religion, sex, sexual orientation, age, national origin, or disability not affecting ability to perform. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, national origin. Such action shall include, but not be limited to the following: employment, job classification, upgrading, promotion, demotion or transfer, recruitment, layoff or termination, rates of pay or other forms of compensation and selection for and quality of training, including apprenticeship.

B. Contractor shall comply, at its own expense, with all applicable laws, ordinances, rules, regulations and orders of any public authority relating to the terms and conditions of employment of any person who is employed in connection with the Project including, without limitation, the applicable provisions of the Fair Labor Standards Act, the Fair Employment’s Practices Law and the Equal Pay Act.
C. In an effort to ensure equal minority and female employment opportunities on the Project, the Contractor shall use good faith efforts to achieve at least 25% minority participation and 7% female participation in employment on the Project. These goals are expressed in percentages of the aggregate hours of Work performed at the Project. While the Contractor must use good faith efforts to achieve the above-stated participation, nothing herein shall be construed as requiring the Contractor to hire persons who are not qualified to perform the Work for which they are hired. Achievement of the goals in each work force and trade category shall be based upon an evaluation of the availability of qualified minority and female workers in each trade category and the extent of documented good faith efforts to achieve the goals.

D. In an effort to ensure that maximum employment opportunities exist for persons who reside in the areas that surround this university, the Contractor shall use good faith efforts to hire at least one community resident to be employed on the Project. This goal also pertains to each subcontractor performing work on the Project. While the Contractor must use good faith efforts to achieve the above stated participation, nothing herein shall be construed as requiring the Contractor to hire persons who are not qualified to perform the work for which they are hired. For the purpose of clarification, local residents are those whose home address is located within the following zip codes: 60616, 60609, 60615, 60653, 60605.

E. Contractor shall make oral and written notifications to labor unions or representatives of workers with which it has a collective bargaining agreement, or understanding of its equal employment obligations, requesting their cooperation and assistance in the referral of qualified minority and female workers. Copies of such notice and requests shall be delivered to IIT.

F. IIT will be actively assisting the contractor by providing lists of certified contractors, sponsoring outreach conferences, and attending meetings to facilitate relationships between M/WBE and non-M/WBE firms. Contractor shall utilize resource organizations identified by IIT for referral of minorities, females, local residents and other resource organizations as may be available.

G. Contractor shall monitor utilization of minority and female workers in its own work force and the work force of its Subcontractors and, when underutilization is evident, take or request that immediate, corrective action be taken to achieve the appropriate levels of participation to ensure equal employment opportunity.

H. When underutilization continues for an extended period of time, IIT will convene a meeting with Contractor and, if required, Contractor shall convene a meeting with Subcontractors not in compliance for the purpose of reviewing their equal employment efforts and all supporting documentation. During the meeting, an agreed upon action to achieve the goals shall be established.
V. ADMINISTRATION AND MONITORING

Contractor's obligation under this Plan is to make good faith efforts to comply with all provisions and to meet all goals set forth herein or otherwise agreed upon. Contractor agrees that the Plan shall be administered in the following manner:

A. Prior to the award of a Contract to any Subcontractor, the Contractor shall be required to submit documentation, provided by the Subcontractor, verifying its good faith efforts via a detailed plan for actual utilization of M/WBE firms in an amount equal to or greater than the commitments or goals incorporated into this Plan.

B. Contractor agrees that these equal employment and MBE/WBE utilization provisions are to be inserted into each contract for any of the Work subcontracted by the Contractor to others, and that the Contractor will be responsible for enforcing or causing Subcontractors to enforce such provisions. The Contractor will report such enforcement efforts to IIT as often as may be required by IIT.

C. Contractor agrees that it will meet with a representative of each subcontractor to review the specific requirements of the Plan, including reporting procedures and documentation, and obtain written acknowledgment from the subcontractor with respect to each such requirement.

D. Contractor agrees that it shall maintain and make available to IIT documentation regarding M/WBE utilization and the employment of minorities, and females and persons residing in the aforementioned zip codes. Documentation shall contain, at a minimum, names and addresses of M/WBE subcontractors and suppliers, evidence of certification by one of the authorized agencies or programs, the actual dollar amount of the contract awards or purchase agreements, affidavits confirming M/WBE participation, and actual numbers and percentage of hours worked by minorities, females and local residents. Documentation shall be maintained in such form as to permit a determination that good faith efforts have been made to achieve the goals of the Plan. After an initial presentation of Contractor's proposed Plan, reports summarizing this information shall be submitted to IIT on a monthly basis. Failure to submit the required reports will result in withholding of payment to Contractor or any Subcontractors failing to report.

E. Referrals of eligible M/WBE firms may be made by IIT or other parties from time to time. These referrals shall not be deemed to be a recommendation by IIT to utilize any such firms or a representation or warranty that such firms are qualified to perform any work associated with the Project. Referrals are solely for the convenience of Contractor and any decision by Contractor to utilize any firms so referred shall be the sole decision of Contractor without participation by IIT. Contractor acknowledges that IIT shall have no responsibility for Contractor's decisions regarding M/WBE utilization.
VI. COUNTING MBE/WBE PARTICIPATION TOWARDS CONTRACT GOALS

MBE/WBE participation shall be counted toward meeting Affirmative Action Goals set in accordance with this contract as follows:

A. Once a firm is determined to be an eligible MBE/WBE in accordance with these rules, the total dollar value of the contract awarded to the MBE/WBE is counted toward the applicable MBE/WBE goals.

B. A Contractor may count towards its MBE/WBE goals a portion of the total dollar value of a contract with a joint venture eligible under the standards of the definition of a joint venture equal to the percentage of the ownership and controls of the MBE/WBE partner in the joint venture.

C. A Contractor may count toward its MBE/WBE goals only expenditures to MBEs/WBEs that perform a commercially useful function in the work of a contract as defined in Section I, Definitions. To determine whether an MBE/WBE is performing a commercially useful function, the Contractor shall evaluate the amount of work subcontracted, industry practices, and other relevant factors.

D. Consistent with normal industry practices, an MBE/WBE may enter into subcontracts. If an MBE/WBE Contractor subcontracts a significantly greater portion of work than would be expected on the basis of normal industry practices, the MBE/WBE shall be presumed not to be performing a commercially useful function. The MBE/WBE may present evidence to rebut this presumption to IIT.

E. A Contractor may count toward its MBE/WBE goals, expenditures for materials and supplies obtained from MBE/WBE suppliers and manufacturers, provided that the MBEs/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies.

VII. RECORD KEEPING

A. The Contractor shall, no later than thirty (30) days after the approval of the M/WBE Utilization Plan, execute formal contracts or purchase orders with those MBEs and WBEs included in its approved MBE/WBE Utilization Plan.

B. The Contractor shall file monthly manpower reports in a form and format approved by IIT. This report will also include manpower reports of any subcontractors. Contractor shall present corrective plans to overcome any present or projected shortfalls in Minority, Women and resident employment.

C. The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs.
VIII. **NON-COMPLIANCE**

Failure to comply with the MBE/WBE requirements of this contract or failure to use MBEs and WBEs as stated in the Form 100 - M/WBE Utilization Plan constitutes a material breach of the Contract, and may lead to the suspension or termination of this Contract in part or in whole. Monthly progress payments will be withheld until corrective action is taken.

IX. **MBE AND WBE CONTRACTOR ASSISTANCE**

Contractors must themselves assist MBEs and WBEs in overcoming barriers to program participation. The following methods may be appropriate:

A. Develop solicitations of subcontract bids so as to increase potential MBE and WBE participation. This can take the form of breaking down large subcontracts into smaller ones, and by issuing notice of solicitations in a timely manner;

B. Provide technical assistance and guidance in bid clarifications, estimating and scheduling process;

C. Purchase supplies and/or lease the required equipment for a job;

D. Provide accelerated payments or establish pro-rated payment and delivery schedules so as to minimize cash flow problems faced by smaller firms;

E. Consider alternative Subcontractor bonding requirements i.e. allowing incremental bonding.

F. Conduct a pre-bid conference for potential Subcontractors.
X. CONTRACTOR ASSISTANCE AGENCIES

The following Minority and Women Business Enterprise assistance agencies and elected officials should be contacted to identify certified contractors:

AGENCIES:

Black Contractors United (BCU)
11906 S. Michigan Avenue
Chicago, IL 60628
Attn: Carl L. Bibbs
Phone: (773) 483-4000 or (708) 389-5730
Fax: (773) 483-4150 or (708) 389-5735
Email: bcunewera@att.net
info@blackcontractorsunited.com
Website: www.blackcontractorsunited.com

Chatham Business Association
8441 S. Cottage Grove
Chicago, IL 60619
Phone: (773) 994-5006
Fax: (773) 994-9871
Email: admin@cbaworks.org

Chicago Urban League
4510 S Michigan Avenue
Chicago, IL 60653
Phone: (773) 285-5800
Fax: (773) 285-7772
Email: keoleman@thechicagourbanleague.org
Website: www.thechicagourbanleague.org

Chicago Women In Trades
2444 W. 16th Street, Suite 3E
Chicago, IL 60608
Attn: Jayne Vellinga, Executive Director
Phone: (312) 942-1444
Fax: (312) 942-1599
Email: cwitinfo@cwit2.org
Website: www.chicagowomenintrades.org

Directory of Certified, Disadvantage Minority and Women Business Enterprise
Department of Procurement Services
Certification and Compliance Division
121 North LaSalle Street Room 403
Chicago, IL 60602
Phone: (312) 744-4900
Website: www.cityofchicago.org/city/en/depts/dps/provdrs/cert.html

Cosmopolitan Chamber of Commerce
30 East Adams
Chicago, IL 60603
Attn: Carnice Carey, Executive Director
Phone: (312) 499-0611
Fax: (312) 701-0095
Email: ccarey@cosmochamber.org
Website: www.chamberofcommerce.com/chicago-il/10412864-cosmopolitan-chamber-of-commerce

Federation of Women Contractors
5650 S. Archer Avenue
Chicago, IL 60638
Attn: Beth Doria
Phone: (312) 360-1122
Email: fwcchicago@aol.com
Website: www.fwcchicago.com/

Hispanic American Construction Industry Assoc.
901 W. Jackson Blvd., Suite 205
Chicago, IL 60607
Attn: Jorge Perez, Executive Director
Phone: (312) 666-5910
Fax: (312) 666-5692
Email: jperez@haciaworks.org; info@haciaworks.org
Website: www.haciaworks.org

Women’s Business Development Center
8 S. Michigan Ave., #400
Chicago, Illinois 60603
Phone: (312) 853-3477
Fax: (312) 853.0145
Email: wbdc@wbdc.org
Website: www.wbdc.org

Chicago Anchors for a Strong Economy
Kathryn Yaros
Anchor Relationship Manager
World Business Chicago
Phone: (312) 763-3653
Email: kyaros@worldbusinesschicago.com
Website: www.worldbusinesschicago.com
ELECTED OFFICIALS:

U.S. Congressman Bobby Rush (1st District)
District Office:
700 East 79th Street
Chicago, IL 60619-3102
Phone: (773) 224-6500
Fax: (773) 224-9624
Website: http://rush.house.gov/

U.S. Congressman Danny Davis (7th District)
District Office:
2746 West Madison Street
Chicago, Illinois 60612
Phone: (773) 533-7520
Fax: (773) 533-7530
Website: www.davis.house.gov/

State Senator Mattie Hunter (3rd District)
District Office:
2929 S. Wabash Avenue, Suite 102
Chicago, IL 60616
Phone: (312) 949-1908
Fax: (312) 949-1958
Email: senator03district@gmail.com
Website: www.senatorhunter.com

State Senator Kwame Raoul (13th District)
1509 E. 53rd Street
2nd Floor
Chicago, IL 60615
Phone: (773) 363-1996
Fax: (773) 681-7166
Email: raoulstaff@me.com
Website: www.illinoissenatedemocrats.com/index.php/sen-raoul-home

State Representative Sonya Harper (6th District)
4926 South Ashland
Chicago, IL 60609
Phone: (773) 925-6580
Fax: (773) 925-6584
Email: repsonyaharper@gmail.com

Alderman Pat Dowell, 3rd Ward
5046 South State Street
Chicago, Illinois 60609
Phone: (773) 373-9273
Email: ward03@cityofchicago.org
Website: www.dowellfor3rdward.com/

Alderman Sophia King, 4th Ward
435 East 35th Street, 1st Floor
Chicago, Illinois 60616
Phone: (773) 536-8103
Email: ward04@cityofchicago.org

Alderman Sophia King, 4th Ward
435 East 35th Street, 1st Floor
Chicago, Illinois 60616
Phone: (773) 536-8103
Email: ward04@cityofchicago.org

Alderman Patrick Thompson, 11th Ward
3659 S Halsted St, Chicago, IL 60609
Phone: (773) 254-6677
Email: ward11@cityofchicago.org

Alderman Willie B. Cochran, 20th Ward
6357 South Cottage Grove Avenue
Chicago, Illinois 60637
Phone: (773) 955-5610
Fax: (773) 955-5612
Email: ward20@cityofchicago.org
Website: the20thward.com

Alderman Brian Hopkins, 2nd Ward
1400 North Ashland
Chicago, IL 60622
Phone: (312) 643-2299
Fax: (312) 786-1736
Email: ward02@cityofchicago.org
Website: www.cityofchicago.org/city/en/about/wards/02.html
XI. EQUAL EMPLOYMENT OPPORTUNITY

Compliance with MBE and WBE requirements will not diminish or supplant Equal Employment Opportunity and Civil Rights provisions as required by law as they relate to Prime Contractor and subcontractor obligations.

XII. INABILITY TO MEET M/WBE GOALS

In the event that Contractor finds it impossible to fully meet the M/WBE goals stated above, the Contractor must submit a signed petition for grant relief from these goals on the Contractor’s letterhead, accompanied by documentation demonstrating that all reasonable “good faith” efforts were made toward fulfilling the goal. To demonstrate sufficient reasonable efforts to meet the M/WBE goals, Contractor shall document the steps it has taken to obtain M/WBE participation, including but not limited to the following:

A. Attendance at a vendor conference, if any, scheduled by IIT to inform M/WBE’s of subcontracting opportunities under a given solicitation.
B. Written notification to M/WBE’s that their interest in the contract/agreement is solicited.
C. Efforts made to select portions of the work proposed to be performed by M/WBE’s in order to increase the likelihood of achieving the stated goals.
D. Efforts to negotiate with M/WBE’s for specific sub-bids including at a minimum:
   i. The names, addresses, and telephone numbers of M/WBE’s that were contacted:
   ii. A description of the information provided to M/WBE’s regarding the plans and specifications for portions of the work to be performed; and
   iii. A statement of why additional agreements with M/WBE’s were not reached.
E. Concerning each M/WBE the respondent contacted but rejected as unqualified, the reason for the respondent’s conclusion.

A Contractor that fails to meet the M/WBE goals and fails to demonstrate sufficient reasonable efforts will be deemed in non-compliance and shall not be eligible to be awarded the contract/agreement.
WE PROPOSE TO AWARD SUBCONTRACTORS AND SUPPLY PURCHASES AS DESCRIBED HEREAFTER:

<table>
<thead>
<tr>
<th>Trade</th>
<th>Description of Work</th>
<th>Furnish</th>
<th>Install</th>
<th>Firm Name and Address</th>
<th>Certification Agency**</th>
<th>M.B.E. ($)</th>
<th>W.B.E. (%)</th>
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**SUMMARY OF AWARDS**

**ATTACH COPIES OF CERTIFICATES**

CONTRACT VALUE=

M.B.E. ($) 
M.B.E. (%) 
W.B.E. ($) 
W.B.E. (%) 

SIGNED: 
TITLE: 
DATE:
FORM 100M
Illinois Institute of Technology
Chicago, Illinois
MBE/WBE AWARD VERIFICATION
(To be Completed by MBE/WBE Firm)

Company: ________________________________________      MBE(  )       WBE(  )

Address: ________________________________________

________________________________________________________________________
________________________________________________________________________

Telephone: ________________________________________

Contact Person: __________________________________

Our Firm: (Check One) (  ) has provided;
(  ) is providing;
(  ) is committed to provide;

The materials or services listed below in conjunction with the construction of the project, Chicago, Illinois.

<table>
<thead>
<tr>
<th>Scope of Work or Materials Provided</th>
<th>Value of Contract or Purchase Order</th>
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We have signed a contract or purchase order: (  ) Yes       (  ) No

Name of prime contractor:__________________________________________________

I affirm that the representations contained in this statement are true and no material facts have been omitted.
Signed:

Name

Title

Date
CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

(Company’s name)
certifies to the best of our knowledge and belief that it and its principles are not listed on The Excluded Party List System maintained by the General Services Administration (GSA) at the World Wide Web site:

https://www.sam.gov/SAM/

This World Wide Web site is provided as a public service by General Services Administration (GSA) for the purpose of efficiently and conveniently disseminating information on parties that are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits, pursuant to the provisions of 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404, and each agency's codification of the Common Rule for Nonprocurement suspension and debarment.

THE PRIMARY PARTICIPANT (APPLICANT OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT) ____________________________ CERTIFIES

(Company name)


__________________________________________
(Signature and Title of Authorized Official)

If you are unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

IIT (11/18)