

State of Illinois) SS  
Belvidere, Illinois)

BELVIDERE CITY COUNCIL  
REGULAR MEETING  
AGENDA

March 6, 2023

Convened in the Council Chambers, 401 Whitney Blvd, Belvidere IL at 7:00 p.m.

(1) Roll Call:

(2) Pledge of Allegiance:  
Invocation:

(3) Public Comment: (Please register with the City Clerk):

(4) Approval of Minutes:

(A) Approval of Minutes of the regular meeting of the Belvidere City Council of February 20, 2023; as presented.

(5) Public Hearing: None.

(6) Special Messages and Proclamations:

- (A) Proclamation recognizing Ida Public Library's 140<sup>th</sup> Anniversary Celebration.
- (B) Recognition of Fire & Police Commissioner Ed Gonzales.
- (C) Re-Appointment of Matthew Branom to the Police Pension Board.

(7) Approval of Expenditures: None.

(8) Committee Reports and Minutes of City Officers:

(A) Approval of Minutes of Committee of the Whole – Public Safety, Finance & Personnel of February 27, 2023; as presented.

(9) Unfinished Business:

- (A) Ord. #614H – 2<sup>nd</sup> Reading: An Ordinance Amending Section 82-1 of the Belvidere Municipal Code Relating to Planning Fees.
- (B) Ord. #615H – 2<sup>nd</sup> Reading: An Ordinance Repealing and Reserving Section 98-21 of the Belvidere Municipal Code Relating to Barbed Wire Fences.
- (C) Ord. #616H – 2<sup>nd</sup> Reading: An Ordinance Amending Section 114-354(b)(2) and Appendix A of the Belvidere Municipal Code to Modify Sewer Rates.

(10) New Business:

- (A) Ord. #617H – 1<sup>st</sup> Reading: An Ordinance Amending Section 14-452 of the City of Belvidere Municipal Code Video Gaming Under Annexation Agreements.
- (B) Res. #2023-4: A Resolution Establishing a Class II Truck Route.
- (C) Res. #2023-6: A Resolution Authorizing the Mayor to Execute a Local Agency/Company Agreement for The Development of Project Kelly.
- (D) Res. #2023-7: A Resolution Authorizing the Mayor to Execute an Inter-Governmental Agreement with IDOT for a Grant Funding Reconfiguration of Irene Road.
- (E) Res. #2023-8: A Resolution Authorizing Certain Annual Parades for 2023.
- (F) Res. #2023-9: A Resolution Authorizing the Mayor to Execute and the Clerk to Attest an Agreement with Metro Paramedic Services, Inc. for EMS Response and Transport Services.
- (G) Res. #2023-10: A Resolution Authorizing the Mayor the Execute A Billing Service Agreement Between the City of Belvidere and EMS Management & Consultants Inc.

Motions forwarded from Committee of the Whole – Public Safety, Finance & Personnel of February 27, 2023.

Motions of Public Works – Chairman Marsha Freeman:

- (A) Motion to approve the proposal from Baxter & Woodman, in an amount not-to-exceed \$170,700.00 for construction engineering for the primary clarifiers rehabilitation project. This work will be paid for from ARPA Funds and Sewer Depreciation Funds.
- (B) Motion to approve the low bid from B & K Concrete, in the amount of \$19,150.00, for pouring the chlorine room floor and containment walls. The cost of this work will be split between the Water Depreciation Fund and Sewer Depreciation Fund.
- (C) Motion to approve Change Order #4 from N-Trak Group in the amount of \$35,398.54, for the Logan Avenue Rehabilitation Project. This work will be paid for from Line Item #10-5-310-8021.

Motions of Public Safety – Chairman Clayton Stevens:

- (D) Motion to approve the Block Party Request for Ida Public Library at 320 N. State St. for June 10, 2023 from 10:00a.m. to 2:00p.m.

(11) Adjournment:

State of Illinois) SS  
Belvidere, Illinois)

BELVIDERE CITY COUNCIL  
REGULAR MEETING  
MINUTES

Date: February 20, 2023

Convened in the Belvidere Council Chambers, 401 Whitney Blvd, Belvidere Illinois  
at 7:00 p.m.

Call to order by Mayor Morris.

(1) Roll Call: Present: M. Fleury, W. Frank, M. McGee, N. Mulhall, T. Porter  
S. Prather, D. Snow and C. Stevens.

Absent: R. Brereton and M. Freeman.

Other staff members in attendance:

Public Works Director Brent Anderson, Fire Chief Shawn Schadle, Police Chief Shane  
Woody, Community Development Planner Gina DelRose, Director of Buildings Kip  
Countryman, Budget and Finance Officer Shannon Hansen, City Attorney Mike Drella  
and City Clerk Sarah Turnipseed.

(2) Pledge of Allegiance:  
Invocation: Mayor Morris.

(3) Public Comment: None.

(4) Approval of Minutes:

(A) Approval of minutes of the regular meeting of the Belvidere City Council of  
February 6, 2023; as presented.

Motion by Ald. Fleury, 2<sup>nd</sup> by Ald. Mulhall to approve the minutes of the regular meeting  
of the Belvidere City Council of February 6, 2023. Aye voice vote carried. Motion  
carried.

(5) Public Hearing: None.

(6) Special Messages and Proclamations:

(A) Report of Growth Dimensions by Executive Director Pam Lopez-Fettes.  
(B) Report of Ida Public Library by Director Mindy Long.

(7) Approval of Expenditures: General & Special Fund Expenditures: \$1,530,718.76  
Water & Sewer Fund Expenditures: \$ 712,780.40

Motion by Ald. Porter, 2<sup>nd</sup> by Ald. Prather to approve the General & Special Fund Expenditures in the amount of \$1,530,718.76. Roll Call Vote: 8/0 in favor. Ayes: Fleury, Frank, McGee, Mulhall, Porter, Prather, Snow and Stevens. Nays: None. Motion carried.

Motion by Ald. Fleury, 2<sup>nd</sup> by Ald. McGee to approve the Water & Sewer Fund Expenditures in the amount of \$712,780.40. Roll Call Vote: 8/0 in favor. Ayes: Frank, McGee, Mulhall, Porter, Prather, Snow, Stevens and Fleury. Nays: None. Motion carried.

(8) Committee Reports and Minutes of City Officers:

- (A) Monthly Report of Belvidere Police Department Overtime Pay for January 2023.
- (B) Monthly Report of Belvidere Fire Department Overtime Pay for January 2023.
- (C) Monthly Report of Community Development Department/Planning Department for January 2023.
- (D) Monthly Report of Building Department Revenues, Residential Building Permits, Commercial Permits and Case Reports for January 2023.
- (E) Building Department Code Violations CY 2022.
- (F) Monthly General Fund Report for January 2023.
- (G) Monthly Water/Sewer Fund Report January 2023.
- (H) Monthly CD Investments for January 2023.

Let the record show these reports were placed on file.

- (I) Minutes of Committee of the Whole – Building, Planning and Zoning and Public Works of February 13, 2023.

Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Porter to approve the minutes of Committee of the Whole – Building, Planning and Zoning and Public Works of February 13, 2023. Aye voice vote carried. Motion carried.

(9) Unfinished Business:

- (A) Ord. #613H – 2<sup>nd</sup> Reading: An Ordinance Amending Section 10-80 Liquor License of the City of Belvidere Municipal Code.

Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Stevens to pass Ord. #613H. Roll Call Vote: 8/0 in favor. Ayes: McGee, Mulhall, Porter, Prather, Snow, Stevens, Fleury and Frank. Nays: None. Motion carried.

(10) New Business:

- (A) Ord. #614H – 1<sup>st</sup> Reading: An Ordinance Amending Section 82-1 of the Belvidere Municipal Code Relating to Planning Fees.
- (B) Ord. #615H – 1<sup>st</sup> Reading: An Ordinance Repealing and Reserving Section 98-21 of the Belvidere Municipal Code Relating to Barbed Wire Fences.
- (C) Ord. #616H – 1<sup>st</sup> Reading: An Ordinance Amending Section 114-354(b)(2) and Appendix A of the Belvidere Municipal Code to Modify Sewer Rates.

Let the record show that Ordinances #614H, #615H, #616H were placed on file for first reading.

- (D) Res. #2023-3 – A Resolution Authorizing the Participation in the Northern Illinois Municipal Electric Collaborative (NIMEC) and Authorizing the Mayor to Approve a Contract with the Lowest Cost Electricity Provider for A Period up to 36 Months.

Motion by Ald. Prather, 2<sup>nd</sup> by Ald. Stevens to adopt Res. #2023-3. Roll Call Vote: 8/0 in favor. Ayes: Mulhall, Porter, Prather, Snow, Stevens, Fleury, Frank and McGee. Nays: None. Motion carried.

Motions forwarded from Committee of the Whole – Building, Planning and Zoning and Public Works of February 13, 2023.

- (A) Motion to approve the proposal dated February 7, 2023 from EMS/MC (AKA Andres Medical Billing) for Ambulance Billing Services. Aye voice vote carried. Motion carried.
- (B) Motion to consent to and approve the appointment of Mrs. Barbara Volk to the Belvidere Historic Preservation Commission for a three-year term, ending in April 30, 2025. Roll Call Vote: 8/0 in favor. Ayes: Porter, Prather, Snow, Stevens, Fleury, Frank, McGee and Mulhall. Nays: None. Motion carried.
- (C) Motion to approve the design engineering services agreement with IMEG, in an amount not-to-exceed \$35,675.50, for the Newburg Road STBG Project. This work will be paid from MFT Funds. Roll Call Vote: 8/0 in favor. Ayes: Prather, Snow, Stevens, Fleury, Frank, McGee, Mulhall and Porter. Nays: None. Motion carried.
- (D) Motion to approve the construction services change order request from ARC Design Resources, in an amount not-to-exceed \$70,000.00, for the Logan Avenue Rehabilitation Project. This work will be paid from Capital Funds. Discussion took place concerning change order. Roll Call Vote: 8/0 in favor.

Belvidere City Council  
February 20, 2023

Ayes: Snow, Stevens, Fleury, Frank, McGee, Mulhall, Porter and Prather.  
Nays: None. Motion carried.

(E) Motion to approve the change order #2 from Williams Brothers Construction, in the amount of \$17,726.09, for the 2018 WWTP Improvement Project. This work will be paid for from the Sewer Depreciation Fund as part of the IEPA Loan for this project. Roll Call Vote: 8/0 in favor. Ayes: Stevens, Fleury, Frank, McGee, Mulhall, Porter, Prather and Snow. Nays: None. Motion carried.

(F) Motion to approve the low bid from Boller Construction Company, in the amount of \$1,516,000.00, to complete the primary clarifier improvements at the WWTP. This work will be paid for from ARPA Funds and the Sewer Depreciation Fund. Roll Call Vote: 8/0 in favor. Ayes: Fleury, Frank, McGee, Mulhall, Porter, Prather, Snow and Stevens. Nays: None. Motion carried.

(G) Motion to authorize the Mayor to sign the Letter of Intent with Lakeside International Trucks for the purchase of a 2024 IH MV607 five-yard dump truck. Roll Call Vote: 8/0 in favor. Ayes: Frank, McGee, Mulhall, Porter, Prather, Snow, Stevens and Fleury. Nays: None. Motion carried.

(11) Adjournment:

Motion by Ald. Frank, 2<sup>nd</sup> by Ald. Fleury to adjourn meeting at 7:38p.m. Aye voice vote carried. Motion carried.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

# Memo

**To:** Aldermen and Police Pension Board  
**From:** Mayor Clinton Morris  
**cc:** City Clerk  
**Date:** February 21, 2023  
**Re:** Appointment of Matthew Branom to the Police Pension Board

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Please be advised I have re-appointed Mathew Branom to the Police Pension Board pursuant to section 3-128 of the Illinois Pension Code (40 ILCS 5/3-128). This appointment is for a full 3 year term commencing May 1, 2023 (upon expiration of the partial term appointment).

Minutes  
Committee of the Whole  
Public Safety and Finance and Personnel  
February 27, 2023  
6:00 p.m.

Date: February 27, 2023

Convened in the Belvidere Council Chambers, 401 Whitney Blvd., Belvidere, Illinois at 6:00p.m.

Call to Order – Mayor Clinton Morris:

Roll Call:

Present: R. Brereton, M. Fleury, W. Frank, M. Freeman, M. McGee,  
T. Porter, S. Prather, D. Snow and C. Stevens.

Absent: N. Mulhall.

Other staff members in attendance:

Public Works Director Brent Anderson, Director of Buildings Kip Countryman, Police Chief Shane Woody, Fire Chief Shawn Schadle, City Attorney Mike Drella and City Clerk Sarah Turnipseed.

Public Comment: Mayor Clinton Morris commented on Stellantis idling February 28, 2023.

Executive Director Pam Lopez-Fettes of Growth Dimensions spoke as an opponent to the city's proposed reduction in contributions to Growth Dimensions.

Public Forum: None.

Reports of Officers, Boards, and Special Committees:

1. Public Safety, Unfinished Business: None.
2. Public Safety, New Business:  
(A) Police Department – Update.

Police Chief Shane Woody presented an update. Discussion took place concerning update.



(B) Police Department – Life Saving and Valor Awards.

Police Chief Shane Woody presented a Life Saving Award to Officer Anthony Jones and Valor Awards to Officer Ethan Berillo and Sgt. Paul Derry for a water rescue on July 12, 2022.

(C) Fire Department – Update.

Fire Chief Shawn Schadle presented an update.

Budget and Finance Director Shannon Hansen arrived at 6:20p.m.

3. Other:

(A) WWTP Primary Clarifiers Rehabilitation – Construction Engineering.

Motion by Ald. Prather, 2<sup>nd</sup> by Ald. Snow to approve the proposal from Baxter & Woodman, in an amount not-to-exceed \$170,700.00 for construction engineering for the primary clarifiers rehabilitation project. This work will be paid for from ARPA Funds and Sewer Depreciation Funds. Discussion took place concerning the last time the primary clarifiers were rehabbed. Aye voice vote carried. Motion carried.

(B) Chlorine Room Floor Replacement – Bid Tabulation.

Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Prather to approve the low bid from B & K Concrete, in the amount of \$19,150.00, for pouring the chlorine room floor and containment walls. The cost of this work will be split between the Water Depreciation Fund and Sewer Depreciation Fund. Discussion took place concerning chlorine room. Aye voice vote carried. Motion carried.

(C) Irene Road Realignment Project.

Motion by Ald. Fleury, 2<sup>nd</sup> by Ald. Prather to approve the EDP Intergovernmental Grant Agreement with IDOT and authorize the Mayor to sign the agreement for the Irene Road Realignment Project. Discussion took place concerning project. Aye voice vote carried. Motion carried.

(D) Resolution Authorizing the Mayor to Execute a Local Agency/Company Agreement for the Development of Project Kelly.

Motion by Ald. Prather, 2<sup>nd</sup> by Ald. Stevens to forward to City Council to adopt A Resolution Authorizing the Mayor to Execute a Local Agency/Company Agreement for the Development of Project Kelly. Aye voice vote carried. Motion carried.

(E) Resolution Establishing a Class II Truck Route.

Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Porter to forward to City Council to adopt A Resolution Establishing a Class II Truck Route. Discussion took place concerning truck routes. Aye voice vote carried. Motion carried.

(F) Logan Ave. Rehabilitation Project – Change Order #4.

Motion by Ald. McGee, 2<sup>nd</sup> by Ald. Stevens to approve Change Order #4 from N-Trak Group in the amount of \$35,398.54 for the Logan Avenue Rehabilitation Project. This work will be paid for from Line Item #10-5-310-8021.

(G) Block Party Request – 320 N. State Street.

Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Stevens to approve the Block Party Request for Ida Public Library at 320 N. State St. for June 10, 2023, from 10:00a.m. to 2:00p.m. Aye voice vote carried. Motion carried.

(H) Parade Resolution.

Motion by Ald. Porter, 2<sup>nd</sup> by Ald. Fleury to forward to City Council a Resolution Authorizing Certain Annual Parades for 2023. Aye voice vote carried. Motion carried.

(I) Video Gaming Location Permits/ Annexation Agreements & Development Agreements.

Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Porter to amend Section 14-452, Permits Required, to allow video gaming pursuant to an annexation agreement or developer agreement without a location permit. Discussion took place concerning amendment. Aye voice vote carried. Motion carried.

(J) Ambulance Billing Services Agreement.

Motion by Ald. Stevens, 2<sup>nd</sup> by Ald. Prather to forward to City Council a Resolution Authorizing the Mayor to Execute a Billing Services Agreement Between the City of Belvidere and EMS Management & Consultants Inc. Discussion took place concerning agreement. Aye voice vote carried. Motion carried.

4. Finance & Personnel, Unfinished Business: None.

5. Finance & Personnel, New Business:

(A) Finance Department – Update.

No update.

(B) FY 24 – Administrative, Capital and Personnel Budget.

Budget and Finance Officer Shannon Hansen presented the FY 2024 – Administrative, Capital and Personnel Budget. Discussion took place concerning budget. Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Prather to change the proposed amount budgeted for Growth Dimensions in Line Item 01-5-610-6840 from \$30,000 to \$55,000.00. Further discussion took place including Pam Lopez-Fettes Executive Director of Growth Dimensions. Roll Call Vote: 4/5 in favor. Ayes: Fleury, Freeman, Prather and Snow. Nays: Brereton, Frank, McGee, Porter and Stevens. Motion lost. Motion by Ald. Brereton, 2<sup>nd</sup> by Ald. Stevens to change the proposed amount budgeted for Growth Dimension in Line Item 01-5-610-6840 from \$30,000 to \$20,000. Roll Call Vote: 5/4 in favor. Ayes: Frank, McGee, Porter, Stevens and Brereton. Nays: Fleury, Freeman, Prather and Snow. Motion carried. Discussion took place concerning proposed Non-Union FY24 Salary Schedule. Motion by Ald. Snow, 2<sup>nd</sup> by Ald. Prather to eliminate the additional \$7,128.00 scheduled for Budget & Finance Officer. Discussion took place concerning salary of the Budget & Finance Officer. Roll Call Vote: 7/2 in favor. Ayes: Freeman, McGee, Porter, Prather, Snow, Brereton and Fleury. Nays: Frank and Stevens. Motion carried. Motion by Ald. Frank, 2<sup>nd</sup> by Ald. Porter to increase the Budget & Finance Officer FY24 proposed salary by 3% and an additional \$2,000.00. Roll Call Vote: 4/5 in favor. Ayes: McGee, Porter, Stevens and Frank. Nays: Freeman, Prather, Snow, Brereton and Fleury. Motion lost.

6. Adjournment:

Motion by Ald. Prather 2<sup>nd</sup> by Ald. McGee to adjourn meeting at 9:08p.m. Aye voice carried. Motion carried.

\_\_\_\_\_ Mayor

Attest: \_\_\_\_\_ City Clerk

**Ordinance #614H  
AN ORDINANCE AMENDING  
SECTION 82-1  
OF THE BELVIDERE MUNICIPAL CODE  
RELATING TO PLANNING FEES**

WHEREAS, Section 82-1 of the City of Belvidere Municipal Code contains references to fees for plat reviews, rezonings, planned unit developments, special uses and variances; and

WHEREAS, subsequent to the adoption of ordinance 82-1 the City of Belvidere adopted the 2006 City of Belvidere Zoning Code which included Section 150.913 authorizing the City of Belvidere to adopt ordinances setting fees for various zoning activities, including those referenced in Section 82-1; and

WHEREAS, the City of Belvidere subsequently adopted ordinance 21H and later ordinance 153H setting Development Application Fees which included different fees than those referenced in Section 82-1; and

WHEREAS, the adoption of Ordinances 21H and 153H should have acted to repeal Section 82-1, but through scrivener’s errors Section 82-1 still contains incorrect fee references; and

WHEREAS, Appendix A of the City of Belvidere Municipal Code contains a scrivener’s error in that it refers to Section 151-25 with regard to Zoning and Subdivision Fees and should instead refer to Ordinance 153H.

NOW THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Belvidere, Boone County, Illinois, as follows:

**SECTION 1:** Section 82-1, Application fees for plat reviews, rezonings, planned unit developments, special uses, and variances of the City of Belvidere Municipal Code is repealed and reserved.

**SECTION 2:** In Appendix A of the City of Belvidere Municipal Code, the reference to

151-25	Zoning and Subdivision Fees	Planning	
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is amended to read

Ordinance 153H	Zoning and Subdivision Fees	Planning	
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The remainder of Appendix A including the actual fees referenced below that line remain the same and are not amended.

**SECTION 3:** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

**SECTION 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5:** This Ordinance shall be effective upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Ayes:

Nays:

Absent:

Passed:

Approved:

\_\_\_\_\_  
Mayor Clinton Morris

ATTEST: \_\_\_\_\_  
City Clerk Sarah Turnipseed

(SEAL)

J:\Draft Ordinances\planning fee amendment to correct conflict.doc

**Ordinance #615H**  
**AN ORDINANCE REPEALING AND RESERVING**  
**SECTION 98-21**  
**OF THE BELVIDERE MUNICIPAL CODE**  
**RELATING TO BARBED WIRE FENCES**

WHEREAS, the use and construction of barbed wire fences is regulated by the City of Belvidere Zoning Code; and

WHEREAS, Section 98-21 of the City of Belvidere Municipal Code conflicts with the City of Belvidere Zoning Code with regard to the regulation of barbed wire fences.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Belvidere, Boone County, Illinois, as follows:

**SECTION 1:** Section 98-21, Barbed wire fences, of the City of Belvidere Municipal Code is repealed and reserved.

**SECTION 2:** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

**SECTION 3:** This Ordinance shall be effective upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Ayes:

Nays:

Absent:

Passed:

Approved:

\_\_\_\_\_  
Mayor Clinton Morris

ATTEST: \_\_\_\_\_

City Clerk Sarah Turnipseed

(SEAL)

**Ordinance #616H**  
**AN ORDINANCE AMENDING**  
**SECTION 114-354(b)(2) AND APPENDIX A**  
**OF THE BELVIDERE MUNICIPAL CODE**  
**TO MODIFY SEWER RATES**

BE IT ORDAINED by the Mayor and City Council of the City of Belvidere, Boone County, Illinois, as follows:

**SECTION 1:** Section 114-354(b)(2) is amended to read as follows:

- (2) *Basic user rate plus debt service.* A basic user rate shall be applied to each user based upon metered water consumption to pay the cost of operation maintenance, and replacement of the system and debt service at the amount set forth in Appendix A.

**SECTION 2:** That portion of Appendix A of the City of Belvidere Municipal Code identifying fees for section 114-404 is amended to read as set forth in the attached Exhibit A, which is incorporated herein by this reference, 114-404 having previously re-codified as 114-354 and increasing the Basic User rate found section 114-354(b)(2).

**SECTION 3:** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

**SECTION 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5:** This Ordinance shall be effective upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Ayes:

Nays:

Absent:

Passed:

Approved:

\_\_\_\_\_  
Mayor Clinton Morris

ATTEST: \_\_\_\_\_  
City Clerk Sarah Turnipseed

(SEAL)

EXHIBIT A

<u>114-354</u>	Sanitary Sewer Charges	Public Works	
	(b)(1) Basic User Charge		6.50/bi-mo + sewer meter maint. charge.
	Annual <u>sewer flow meter</u> maintenance charge		700.00
	(b)(2) Basic user rate plus debt service		<u>\$2.76/100 cu. Ft.</u>

J:\Draft Ordinances\Ordin 2023 sewer rate increase.doc



ORDINANCE #617H  
AN ORDINANCE AMENDING SECTION 14-452 OF THE  
CITY OF BELVIDERE MUNICIPAL CODE  
VIDEO GAMING UNDER  
ANNEXATION AGREEMENTS

NOW, THEREFORE, be it ordained by the City Council of the City of Belvidere, Boone County, Illinois, as follows:

- Section 1: Section 14-452 of the City of Belvidere Municipal Code is amended to add a new subsection (f) as set forth in the attached Exhibit A which is incorporated herein by this reference.
- Section 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.
- Section 3: This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as required by law.

Ayes: .  
Nays: .  
Absent: .

Approved:

\_\_\_\_\_  
Clinton Morris, Mayor

Attest:

\_\_\_\_\_  
Sarah Turnipseed, City Clerk

Passed:  
Approved:  
Published:

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**Sec. 14-452. Permits required.**

- (a) No licensed location shall operate video gaming terminals without first obtaining a location permit from the city clerk and paying the terminal registration fees provided for in this article. The privilege of operating a licensed location in the city is purely a personal privilege associated with a specific location and a location permit is non-transferable to another location. However, upon the transfer or sale of a licensed location to a new entity, the location permit, that has not been abandoned or surrendered, shall transfer to the new entity upon approval of any new liquor license and payment of the video gaming terminal fees provided for under this article.
- (b) Receipt of a location permit shall not relieve any person from obtaining any other necessary state or local permits, licenses or approvals, including, but not limited to any zoning relief, and a location permit shall not be valid until all such permits, licenses and approvals are received.
- (c) In the event a licensed location ceases operating video gaming terminals for 60 days or more the location permit as well as the video gaming terminal registrations shall be deemed abandoned and forfeited.
- (d) The owner or business operator of a licensed location shall immediately surrender a location permit upon ceasing business operations or upon the removal of all video gaming terminals from the licensed location.
- (e) There shall not be more than 40 licensed locations within the city at any one time nor more than 40 location permits issued by the city clerk.
- (f) In the event an annexation agreement or development agreement, approved by the City Council, contractually guarantees video gaming for a specific location, a location permit shall not be required for that location. All other State and local permits, licenses and permissions shall be obtained including, but not limited to, state gaming licenses, liquor licenses (if applicable), special uses under the City's zoning code, and terminal registrations. Video gaming may continue at such locations without a location permit even upon expiration of an annexation or development agreement. However, any new video gaming location, or one not identified in the annexation agreement or development agreement shall be required to obtain all necessary licenses and permits including a location permit. After expiration of an annexation agreement or development agreement, if video gaming is discontinued as set forth in 14-452(c), video gaming may not be re-initiated without obtaining all necessary licenses and permits, including a location permit. A location legally operating video gaming under this subsection shall not count toward the location permit limit set forth in subsection (E) (14-452(E)) above.



Resolution Establishing a Class II or Prohibited Truck Route

Resolution Number 2023-4

WHEREAS, the State of Illinois by its General Assembly has enacted the Illinois Vehicle Code, and WHEREAS, 625 ILCS 5/1-126.1 provides that local authorities may designate Class II or Prohibited Truck Route highways within their jurisdiction, and its accordance with 625 ILCS 5/15-111(f), weight limitations shall be designated by appropriate signs placed on such highways; and

WHEREAS, City of Belvidere is desirous of designating truck routes under their jurisdiction as follows:

NOW THEREFORE, BE IT RESOLVED, that the portion of roadways as listed below will be designated as shown.

Table with 5 columns: Route/Street Name(s), Beginning Termini, Ending Termini, Length, Designation. Row 1: Irene Road, US Route 20, Union Pacific Railroad, 2,170, Class II Truck Route

Add Row

BE IT FURTHER RESOLVED, that City of Belvidere in accordance with 625 ILCS 5/15-116 which requires local public agencies to provide the Department of Transportation with reference contact names and telephone numbers provides contact information as follows:

in accordance with 625 ILCS 5/15-116 which requires local public agencies to provide the Department of Transportation with reference contact names and telephone numbers provides contact information as follows:

Table with 3 columns: Name, Title, Phone Number. Row 1: Brent Anderson, Director of Public Works, (815) 544-9256

BE IT FURTHER RESOLVED, that the Clerk is hereby directed to transmit three (3) certified originals of this resolution to the district office of the Department of Transportation along with a location map indicating the roadways being classified.

I, Sarah Turnipseed, City of Belvidere, Clerk in and for said City of Belvidere in the State aforesaid, and keeper of the records and files thereof,

as provided by statute, do hereby certify the foregoing to be a true, perfect and complete original of a resolution adopted by City of Belvidere at a meeting held on 03/06/2023

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 7th day of March 2023

(SEAL, if required by the LPA)

Signature & Date

RESOLUTION #2023-6

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
A LOCAL AGENCY / COMPANY AGREEMENT FOR  
THE DEVELOPMENT OF PROJECT KELLY

IT IS THEREFORE RESOLVED by the Mayor and City Council for the City of Belvidere as follows:

1. The Local Agency/Company development agreement between the City of Belvidere and General Mills Operations, LLC, attached hereto and incorporated herein by this reference is approved.
2. The Mayor is authorized to execute and the Clerk to attest the attached Local Agency / Company Agreement.

Adopted by the City Council of the City of Belvidere, Illinois, this            day of March, 2023.

Approved: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

Ayes:  
Nays: .  
Absent: .

Date Approved:

J:\Draft Ordinances\GM Clawback agreement authorization.doc

**LOCAL AGENCY/COMPANY**  
**AGREEMENT**

**THIS AGREEMENT** is made as of the \_\_\_ day of \_\_\_, 2023 by and between the City of Belvidere, Illinois, hereinafter called the LOCAL AGENCY and General Mills Operations, LLC, hereinafter called the COMPANY.

**WHEREAS**, the LOCAL AGENCY is interested in expanding its economic base with the primary emphasis on creating and retaining jobs; and

**WHEREAS**, the LOCAL AGENCY has entered into an annexation agreement calling for the development of a 1.3 million square foot warehouse and distribution facility (the Facility) to be operated by COMPANY; and

**WHEREAS**, construction of the Facility requires reconstruction and re-alignment of Irene Road adjacent to the Facility; and

**WHEREAS**, the LOCAL AGENCY will enter into an agreement (Agreement No. P-92-074-23) with the Illinois Department of Transportation (IDOT), hereinafter called the STATE, to implement an economic development program that significantly impacts upon the LOCAL AGENCY's economic base; and

**WHEREAS**, the COMPANY has proposed a project that will create and/or retain jobs, thus providing a significant benefit to the LOCAL AGENCY's economic base; and

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties agree as follows:

**I. REPORTING REQUIREMENTS**

- 1.1 As required by Public Act 93-552, the COMPANY is required to submit to the STATE an annual progress report of employment for five years from the date of the IDOT/Local Agency funding agreement.
- 1.2 The annual progress report shall consist of job classifications, wages, number of positions, and other pertinent information as shown on Exhibit I.
- 1.3 All annual employee progress reports will be completed on-line through the Department of Commerce and Economic Opportunity. The COMPANY will be notified by letter annually with instructions on how and when to fill out their annual report. This report will then be submitted electronically to IDOT.

**II. DEFAULT AND REMEDIES**

- 2.1 The COMPANY shall make or cause to be made the investment in the Project which shall create and/or retain a minimum of 46 full-time jobs at the facility on or before December 1, 2024.
- 2.2 In the event the COMPANY fails to create or retain or cause to be created or retained the requisite number of full-time jobs, or the COMPANY fails to comply with the reporting requirements herein, the COMPANY may be held in default. If declared in default, the COMPANY shall be put on suspension and shall be prohibited from completing any current or providing any future development assistance until the STATE receives proof that COMPANY has come into compliance with the requirements of Public Act 93-552

**III. TERMINATION**

- 3.1 This Agreement may be terminated at any time by written, mutual agreement of the parties.
- 3.2 This Agreement, and all further obligations of the parties hereunder, will terminate when the Project has been completed and when the COMPANY has satisfied its reporting obligations under Section 1.

**IV. GENERAL PROVISIONS**

- 4.1 Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision shall be invalid under applicable law, such provision shall be ineffective to the extent of such invalidity without invalidating the remaining provisions of this Agreement.
- 4.2 This Agreement represents the full and complete agreement between the parties with respect to the matters addressed herein and there are no oral agreements or understandings between the parties. The foregoing recitals are incorporated herein by this reference.
- 4.3 This Agreement shall be construed in accordance with and governed by the law of the State of Illinois without regard to conflicts of law provisions. Any action brought to enforce, or relating to, this Agreement shall be brought in the 17<sup>th</sup> Judicial Circuit, Boone County Illinois.

**APPROVED BY**

General Mills Operations, LLC

Title: Vice President

Signature: \_\_\_\_\_

Date



2-16-23

**APPROVED**

City of Belvidere

By \_\_\_\_\_

Mayor/President

Date \_\_\_\_\_

RESOLUTION #2023-7

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
AN INTER-GOVERNMENTAL AGREEMENT  
WITH IDOT FOR A GRANT FUNDING  
RECONFIGURATION OF IRENE ROAD

IT IS THEREFORE RESOLVED by the Mayor and City Council for the City of Belvidere as follows:

1. The inter-governmental agreement between the City of Belvidere and the Illinois Department of Transportation, attached hereto and incorporated herein by this reference is approved.
2. The Mayor is authorized to execute and the Clerk to attest the attached inter-governmental agreement.

Adopted by the City Council of the City of Belvidere, Illinois, this            day of  
March, 2023.

Approved: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

Ayes:  
Nays: .  
Absent: .

Date Approved:

J:\Draft Ordinances\GM Clawback agreement authorization.doc

**INTER-GOVERNMENTAL GRANT AGREEMENT**



**BETWEEN**  
**THE STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION (IDOT)**  
**AND**  
City of Belvidere

The Illinois Department of Transportation (Grantor), with its principal office at 2300 South Dirksen Parkway, Springfield IL 62764, and City of Belvidere (Grantee), with its principal office at 401 Whitney Blvd., Belvidere, IL 61008 and payment address (if different than principal office) at \_\_\_\_\_, hereby enter into this Inter-governmental Grant Agreement (Agreement), pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* Grantor and Grantee are collectively referred to herein as "Parties" or individually as a "Party."

**PART ONE – THE UNIFORM TERMS**  
**RECITALS**

WHEREAS, it is the intent of the Parties to perform consistent with all Exhibits and attachments hereto and pursuant to the duties and responsibilities imposed by Grantor under the laws of the state of Illinois and in accordance with the terms, conditions and provisions hereof.

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

**ARTICLE I**  
**AWARD AND GRANTEE-SPECIFIC INFORMATION AND CERTIFICATION**

1.1. DUNS Number; SAM Registration; Nature of Entity. Under penalties of perjury, Grantee certifies that 031050040 is Grantee's correct DUNS Number, that 36-6005792 is Grantee's correct UEI, if applicable, that \_\_\_\_\_ is Grantee's correct FEIN or Social Security Number, and that Grantee has an active State registration and SAM registration. Grantee is doing business as a (check one):

- |  |   |
|--|---|
| <input type="checkbox"/> Individual                            | <input type="checkbox"/> Pharmacy-Non Corporate               |
| <input type="checkbox"/> Sole Proprietorship                   | <input type="checkbox"/> Pharmacy/Funeral Home/Cemetery Corp. |
| <input type="checkbox"/> Partnership                           | <input type="checkbox"/> Tax Exempt                           |
| <input type="checkbox"/> Corporation (includes Not For Profit) | <input type="checkbox"/> Limited Liability Company (select    |
| <input type="checkbox"/> Medical Corporation                   | applicable tax classification)                                |
| <input checked="" type="checkbox"/> Governmental Unit          | <input type="checkbox"/> P = partnership                      |
| <input type="checkbox"/> Estate or Trust                       | <input type="checkbox"/> C = corporation                      |

If Grantee has not received a payment from the state of Illinois in the last two years, Grantee must submit a W-9 tax form with this Agreement.



1.2. Amount of Agreement. Grant Funds (check one)  shall not exceed or  are estimated to be \$1,282,230.00, of which \$0.00 are federal funds. Grantee agrees to accept Grantor's payment as specified in the Exhibits and attachments incorporated herein as part of this Agreement.

1.3. Identification Numbers. If applicable, the Federal Award Identification Number (FAIN) is         , the federal awarding agency is Not Applicable, and the Federal Award date is Not Applicable. If applicable, the Assistance Listing Program Title is No Applicable and Assistance Listing Number is Not Applicable. The Catalog of State Financial Assistance (CSFA) Numbers are 494-00-0957 and 494-00-0958. The State Award Identification Number is         .

1.4. Term. This Agreement shall be effective upon execution of the agreement and shall expire on (See Exhibit E), unless terminated pursuant to this Agreement.

1.5. Certification. Grantee certifies under oath that (1) all representations made in this Agreement are true and correct and (2) all Grant Funds awarded pursuant to this Agreement shall be used only for the purpose(s) described herein. Grantee acknowledges that the Award is made solely upon this certification and that any false statements, misrepresentations, or material omissions shall be the basis for immediate termination of this Agreement and repayment of all Grant Funds.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONAL BLANK**

1.6. Signatures. In witness whereof, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Check if under \$250,000. If under \$250,000 the Secretary's signature may be delegated.

**ILLINOIS DEPARTMENT OF TRANSPORTATION**

**By:** \_\_\_\_\_  
Omer Osman, Secretary

**Date:** \_\_\_\_\_

**By:** N/A \_\_\_\_\_  
Signature of Designee (if applicable)

**Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Printed Title:** \_\_\_\_\_

**By:** \_\_\_\_\_  
Yangu Kim, Chief Counsel

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_  
Vicki L. Wilson, Chief Fiscal Officer

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_  
Signature of Other Approver (if applicable)

**Date:** \_\_\_\_\_

**Printed Name:** Stephen M. Travia, P.E.

**Printed Title:** Director of Highways/Chief Engineer

**(Grantee Name)**

**By:** \_\_\_\_\_  
Signature of Authorized Representative

**Date:** \_\_\_\_\_

**Printed Name:** Clinton Morris

**Printed Title:** Mayor

**E-mail:** cmorris@ci.belvidere.il.us

**By:** \_\_\_\_\_  
Signature of Other Authorized Representative (if applicable)

**Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Printed Title:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**ARTICLE II  
REQUIRED REPRESENTATIONS**

2.1. Standing and Authority. Grantee warrants that:

(a) Grantee is validly existing and in good standing, if applicable, under the laws of the state in which it was incorporated, organized or created.

(b) Grantee has the requisite power and authority to execute and deliver this Agreement and all documents to be executed by it in connection with this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(c) If Grantee is an agency under the laws of a jurisdiction other than Illinois, Grantee warrants that it is also duly qualified to do business in Illinois and is in good standing with the Illinois Secretary of State.

(d) The execution and delivery of this Agreement, and the other documents to be executed by Grantee in connection with this Agreement, and the performance by Grantee of its obligations hereunder have been duly authorized by all necessary entity action.

(e) This Agreement and all other documents related to this Agreement, including the Uniform Grant Application, the Exhibits and attachments to which Grantee is a party constitute the legal, valid and binding obligations of Grantee enforceable against Grantee in accordance with their respective terms.

2.2. Compliance with Internal Revenue Code. Grantee certifies that it does and will comply with all provisions of the federal Internal Revenue Code (26 USC 1), the Illinois Income Tax Act (35 ILCS 5), and all rules promulgated thereunder, including withholding provisions and timely deposits of employee taxes and unemployment insurance taxes.

2.3. Compliance with Federal Funding Accountability and Transparency Act of 2006. Grantee certifies that it does and will comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282) (FFATA) with respect to Federal Awards greater than or equal to \$30,000. A FFATA sub-award report must be filed by the end of the month following the month in which the award was made.

2.4. Compliance with Uniform Grant Rules (2 CFR Part 200). Grantee certifies that it shall adhere to the applicable Uniform Administrative Requirements, Cost Principles, and Audit Requirements, which are published in Title 2, Part 200 of the Code of Federal Regulations, and are incorporated herein by reference. See 44 Ill. Admin. Code 7000.40(c)(1)(A).

2.5. Compliance with Registration Requirements. Grantee certifies that it: (i) is registered with the federal SAM; (ii) is in good standing with the Illinois Secretary of State, if applicable; (iii) have a valid DUNS Number; (iv) have a valid UEI, if applicable; and (v) have successfully completed the annual registration and prequalification through the Grantee Portal. It is Grantee's responsibility to remain current with these registrations and requirements. If Grantee's status with regard to any of these requirements change, or the certifications made in and information provided in the Uniform Grant Application changes, Grantee must notify the Grantor in accordance with ARTICLE XVIII.

**ARTICLE III  
DEFINITIONS**

3.1. Definitions. Capitalized words and phrases used in this Agreement have the following meanings:

“2 CFR Part 200” means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published in Title 2, Part 200 of the Code of Federal Regulations.

“Agreement” or “Grant Agreement” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Allocable Costs” means costs allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Costs allocable to a specific Program may not be shifted to other Programs in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by the terms of this Agreement, or for other reasons of convenience.

“Allowable Costs” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Assistance Listings” has the same meaning as in 2 CFR 200.1.

“Assistance Listing Number” has the same meaning as in 2 CFR 200.1

“Assistance Listing Program Title” has the same meaning as in 2 CFR 200.1.

“Award” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Budget” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Budget Period” has the same meaning as in 2 CFR 200.1.

“Catalog of State Financial Assistance” or “CSFA” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Close-out Report” means a report from the Grantee allowing the Grantor to determine whether all applicable administrative actions and required work have been completed, and therefore closeout actions can commence.

“Conflict of Interest” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Consolidated Year-End Financial Report” or “CYEFR” means a financial information presentation in which the assets, equity, liabilities, and operating accounts of an entity and its subsidiaries are combined (after eliminating all inter-entity transactions) and shown as belonging to a single reporting entity.

“Cost Allocation Plan” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Direct Costs” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Disallowed Costs” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“DUNS Number” means a unique nine-digit identification number provided by Dun & Bradstreet for each physical location of Grantee’s organization.

“FAIN” means the Federal Award Identification Number.

“FFATA” or “Federal Funding Accountability and Transparency Act” has the same meaning as in 31 USC 6101; P.L. 110-252.

“Financial Assistance” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Fixed-Rate” has the same meaning as in 44 Ill. Admin. Code 7000.30. “Fixed-Rate” is in contrast to fee-for-service, 44 Ill. Admin. Code 7000.30.

“GATU” means the Grant Accountability and Transparency Unit of GOMB.

“Generally Accepted Accounting Principles” or “GAAP” has the same meaning as in 2 CFR 200.1.

“GOMB” means the Illinois Governor’s Office of Management and Budget.

“Grant Funds” means the Financial Assistance made available to Grantee through this Agreement.

“Grantee Portal” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Improper Payment” has the same meaning as in 2 CFR 200.1.

“Indirect Costs” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Indirect Cost Rate” means a device for determining in a reasonable manner the proportion of indirect costs each Program should bear. It is a ratio (expressed as a percentage) of the Indirect Costs to a Direct Cost base. If reimbursement of Indirect Costs is allowable under an Award, Grantor will not reimburse those Indirect Costs unless Grantee has established an Indirect Cost Rate covering the applicable activities and period of time, unless Indirect Costs are reimbursed at a fixed rate.

“Indirect Cost Rate Proposal” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Net Revenue” means an entity’s total revenue less its operating expenses, interest paid, depreciation, and taxes. “Net Revenue” is synonymous with “Profit.”

“Nonprofit Organization” has the same meaning as in 2 CFR 200.1.

“Notice of Award” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“OMB” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Obligations” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Period of Performance” has the same meaning as in 2 CFR 200.1.

“Prior Approval” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Profit” means an entity’s total revenue less its operating expenses, interest paid, depreciation, and taxes. “Profit” is synonymous with “Net Revenue.”

“Program” means the services to be provided pursuant to this Agreement.

“Program Costs” means all Allowable Costs incurred by Grantee and the value of the contributions made by third parties in accomplishing the objectives of the Award during the Term of this Agreement.

“Related Parties” has the meaning set forth in Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 850-10-20.

“SAM” means the federal System for Award Management (SAM); which is the federal repository into which an entity must provide information required for the conduct of business as a recipient. 2 CFR 25 Appendix A (1)(C)(1).

“State” means the State of Illinois.

“Term” has the meaning set forth in Paragraph 1.4.

“Unallowable Costs” has the same meaning as in 44 Ill. Admin. Code 7000.30.

“Unique Entity Identifier” or “UEI” means the unique identifier assigned to the Grantee or to subrecipients by SAM.

#### **ARTICLE IV PAYMENT**

4.1. Availability of Appropriation; Sufficiency of Funds. This Agreement is contingent upon and subject to the availability of sufficient funds. Grantor may terminate or suspend this Agreement, in whole or in part, without penalty or further payment being required, if (i) sufficient funds for this Agreement have not been appropriated or otherwise made available to the Grantor by the State or the federal funding source, (ii) the Governor or Grantor reserves funds, or (iii) the Governor or Grantor determines that funds will not or may not be available for payment. Grantor shall provide notice, in writing, to Grantee of any such funding failure and its election to terminate or suspend this Agreement as soon as practicable. Any suspension or termination pursuant to this Section will be effective upon the date of the written notice unless otherwise indicated.

4.2. Pre-Award Costs. Pre-award costs are not permitted unless specifically authorized by the Grantor in Exhibit A, PART TWO or PART THREE of this Agreement. If they are authorized, pre-award costs must be charged to the initial Budget Period of the Award, unless otherwise specified by the Grantor. 2 CFR 200.458.

4.3. Return of Grant Funds. Any Grant Funds remaining that are not expended or legally obligated by Grantee, including those funds obligated pursuant to ARTICLE XVII, at the end of the Agreement period, or in the case of capital improvement Awards at the end of the time period Grant Funds are available for expenditure or obligation, shall be returned to Grantor within forty-five (45) days. A Grantee who is required to reimburse Grant Funds and who enters into a deferred payment plan for the purpose of satisfying a past due debt, shall be required to pay interest on such debt as required by Section 10.2 of the Illinois State Collection Act of 1986. 30 ILCS 210; 44 Ill. Admin. Code 7000.450(c). In addition, as required by 44 Ill. Admin. Code 7000.440(b)(2), unless granted a written extension, Grantee must liquidate all obligations incurred under the Award at the end of the period of performance.

4.4. Cash Management Improvement Act of 1990. Unless notified otherwise in PART TWO or PART THREE, federal funds received under this Agreement shall be managed in accordance with the Cash Management Improvement Act of 1990 (31 USC 6501 *et seq.*) and any other applicable federal laws or regulations. See 2 CFR 200.305; 44 Ill. Admin. Code 7000.120.

4.5. Payments to Third Parties. Grantee agrees that Grantor shall have no liability to Grantee when Grantor acts in good faith to redirect all or a portion of any Grantee payment to a third party. Grantor will be deemed to have acted in good faith when it is in possession of information that indicates Grantee authorized Grantor to intercept or redirect payments to a third party or when so ordered by a court of competent jurisdiction.

4.6. Modifications to Estimated Amount. If the Agreement amount is established on an estimated

basis, then it may be increased by mutual agreement at any time during the Term. Grantor may decrease the estimated amount of this Agreement at any time during the Term if (i) Grantor believes Grantee will not use the funds during the Term, (ii) Grantor believes Grantee has used funds in a manner that was not authorized by this Agreement, (iii) sufficient funds for this Agreement have not been appropriated or otherwise made available to the Grantor by the State or the federal funding source, (iv) the Governor or Grantor reserves funds, or (v) the Governor or Grantor determines that funds will or may not be available for payment. Grantee will be notified, in writing, of any adjustment of the estimated amount of this Agreement. In the event of such reduction, services provided by Grantee under **Exhibit A** may be reduced accordingly. Grantee shall be paid for work satisfactorily performed prior to the date of the notice regarding adjustment. 2 CFR 200.308.

4.7. Interest.

(a) All interest earned on Grant Funds held by a Grantee shall be treated in accordance with 2 CFR 200.305(b)(9), unless otherwise provided in **PART TWO** or **PART THREE**. Any amount due shall be remitted annually in accordance with 2 CFR 200.305(b)(9) or to the Grantor, as applicable.

(b) Grant Funds shall be placed in an insured account, whenever possible, that bears interest, unless exempted under 2 CFR 200.305(b)(8).

4.8. Timely Billing Required. Grantee must submit any payment request to Grantor within fifteen (15) days of the end of the quarter, unless another billing schedule is specified in **PART TWO**, **PART THREE** or **Exhibit C**. Failure to submit such payment request timely will render the amounts billed an unallowable cost which Grantor cannot reimburse. In the event that Grantee is unable, for good cause, to submit its payment request timely, Grantee shall timely notify Grantor and may request an extension of time to submit the payment request. Grantor's approval of Grantee's request for an extension shall not be unreasonably withheld.

4.9. Certification. Pursuant to 2 CFR 200.415, each invoice and report submitted by Grantee (or sub-grantee) must contain the following certification by an official authorized to legally bind the Grantee (or sub-grantee):

By signing this report [or payment request or both], I certify to the best of my knowledge and belief that the report [or payment request] is true, complete, and accurate; that the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the State or federal pass-through award; and that supporting documentation has been submitted as required by the grant agreement. I acknowledge that approval for any other expenditure described herein shall be considered conditional subject to further review and verification in accordance with the monitoring and records retention provisions of the grant agreement. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812; 30 ILCS 708/120).

## **ARTICLE V SCOPE OF GRANT ACTIVITIES/PURPOSE OF GRANT**

5.1. Scope of Grant Activities/Purpose of Grant. Grantee will conduct the Grant Activities or provide the services as described in the Exhibits and attachments, including **Exhibit A** (Project Description) and **Exhibit B** (Deliverables), incorporated herein and in accordance with all terms and conditions set forth herein and all applicable administrative rules. In addition, the State's Notice of Award is incorporated herein by reference. All Grantor-specific provisions and programmatic reporting required under this Agreement are described in **PART**

**TWO** (The Grantor-Specific Terms). All Project-specific provisions and reporting required under this Agreement are described in **PART THREE**.

5.2. **Scope Revisions.** Grantee shall obtain Prior Approval from Grantor whenever a Scope revision is necessary for one or more of the reasons enumerated in 2 CFR 200.308. All requests for Scope revisions that require Grantor approval shall be signed by Grantee's authorized representative and submitted to Grantor for approval. Expenditure of funds under a requested revision is prohibited and will not be reimbursed if expended before Grantor gives written approval. See 2 CFR 200.308.

5.3. **Specific Conditions.** If applicable, specific conditions required after a risk assessment will be included in **Exhibit G**. Grantee shall adhere to the specific conditions listed therein.

## **ARTICLE VI BUDGET**

6.1. **Budget.** The Budget is a schedule of anticipated grant expenditures that is approved by Grantor for carrying out the purposes of the Award. When Grantee or third parties support a portion of expenses associated with the Award, the Budget includes the non-federal as well as the federal share (and State share if applicable) of grant expenses. The Budget submitted by Grantee at application, or a revised Budget subsequently submitted and approved by Grantor, is considered final and is incorporated herein by reference.

6.2. **Budget Revisions.** Grantee shall obtain Prior Approval from Grantor whenever a Budget revision is necessary for one or more of the reasons enumerated in 2 CFR 200.308 or 44 Ill. Admin. Code 7000.370(b). All requests for Budget revisions that require Grantor approval shall be signed by Grantee's authorized representative and submitted to Grantor for approval. Expenditure of funds under a requested revision is prohibited and will not be reimbursed if expended before Grantor gives written approval.

6.3. **Discretionary and Non-discretionary Line Item Transfers.** Discretionary and non-discretionary line item transfers may only be made in accordance with 2 CFR 200.308 and 44 Ill. Admin. Code 7000.370. Neither discretionary nor non-discretionary line item transfers may result in an increase to the total amount of Grant Funds in the Budget unless Prior Approval is obtained from Grantor.

6.4. **Notification.** Within thirty (30) calendar days from the date of receipt of the request for Budget revisions, Grantor will review the request and notify Grantee whether the Budget revision has been approved, denied, or the date upon which a decision will be reached.

## **ARTICLE VII ALLOWABLE COSTS**

7.1. **Allowability of Costs; Cost Allocation Methods.** The allowability of costs and cost allocation methods for work performed under this Agreement shall be determined in accordance with 2 CFR 200 Subpart E and Appendices III, IV, and V.

7.2. **Indirect Cost Rate Submission.**

(a) All Grantees must make an Indirect Cost Rate election in the Grantee Portal, even grantees that do not charge or expect to charge Indirect Costs. 44 Ill. Admin. Code 7000.420(d).

(i) Waived and de minimis Indirect Cost Rate elections will remain in effect until the Grantee elects a different option.



(b) A Grantee must submit an Indirect Cost Rate Proposal in accordance with federal regulations, in a format prescribed by Grantor. For Grantees who have never negotiated an Indirect Cost Rate before, the Indirect Cost Rate Proposal must be submitted for approval no later than three months after the effective date of the Award. For Grantees who have previously negotiated an Indirect Cost Rate, the Indirect Cost Rate Proposal must be submitted for approval within 180 days of the Grantee's fiscal year end, as dictated in the applicable appendices, such as:

- (i) Appendix V and VII to 2 CFR Part 200 governs Indirect Cost Rate Proposals for state and local governments,
- (ii) Appendix III to 2 CFR Part 200 governs Indirect Cost Rate Proposals for public and private institutions of higher education,
- (iii) Appendix IV to 2 CFR Part 200 governs Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations, and
- (iv) Appendix V to 2 CFR Part 200 governs state/Local Governmentwide Central Service Cost Allocation Plans.

(c) A Grantee who has a current, applicable rate negotiated by a cognizant federal agency shall provide to Grantor a copy of its Indirect Cost Rate acceptance letter from the federal government and a copy of all documentation regarding the allocation methodology for costs used to negotiate that rate, e.g., without limitation, the cost policy statement or disclosure narrative statement. Grantor will accept that Indirect Cost Rate, up to any statutory, rule-based or programmatic limit.

(d) A Grantee who does not have a current negotiated rate, may elect to charge a de minimis rate of 10% of modified total direct costs which may be used indefinitely. No documentation is required to justify the 10% de minimis Indirect Cost Rate. 2 CFR 200.414(f).

7.3. Transfer of Costs. Cost transfers between Grants, whether as a means to compensate for cost overruns or for other reasons, are unallowable. See 2 CFR 200.451.

7.4. Higher Education Cost Principles. The federal cost principles that apply to public and private institutions of higher education are set forth in 2 CFR Part 200 Subpart E and Appendix III.

7.5. Government Cost Principles. The federal cost principles that apply to state, local and federally-recognized Indian tribal governments are set forth in 2 CFR Part 200 Subpart E, Appendix V, and Appendix VII.

7.6. Financial Management Standards. The financial management systems of Grantee must meet the following standards:

(a) **Accounting System**. Grantee organizations must have an accounting system that provides accurate, current, and complete disclosure of all financial transactions related to each state- and federally-funded Program. Accounting records must contain information pertaining to state and federal pass-through awards, authorizations, obligations, unobligated balances, assets, outlays, and income. These records must be maintained on a current basis and balanced at least quarterly. Cash contributions to the Program from third parties must be accounted for in the general ledger with other Grant Funds. Third party in-kind (non-cash) contributions are not required to be recorded in the general ledger, but must be under accounting control, possibly through the use of a memorandum ledger. To comply with 2 CFR 200.305(b)(7)(i) and 30 ILCS 708/520, Grantee shall use reasonable efforts to ensure that funding streams are delineated within Grantee's accounting system. See 2 CFR 200.302.

(b) **Source Documentation**. Accounting records must be supported by such source documentation as canceled checks, bank statements, invoices, paid bills, donor letters, time and attendance records, activity reports, travel reports, contractual and consultant agreements, and

subaward documentation. All supporting documentation should be clearly identified with the Award and general ledger accounts which are to be charged or credited.

(i) The documentation standards for salary charges to grants are prescribed by 2 CFR 200.430, and in the cost principles applicable to the entity's organization (Paragraphs 7.4 through 7.5).

(ii) If records do not meet the standards in 2 CFR 200.430, then Grantor may notify Grantee in **PART TWO, PART THREE** or **Exhibit G** of the requirement to submit Personnel activity reports. See 2 CFR 200.430(i)(8). Personnel activity reports shall account on an after-the-fact basis for one hundred percent (100%) of the employee's actual time, separately indicating the time spent on the grant, other grants or projects, vacation or sick leave, and administrative time, if applicable. The reports must be signed by the employee, approved by the appropriate official, and coincide with a pay period. These time records should be used to record the distribution of salary costs to the appropriate accounts no less frequently than quarterly.

(iii) Formal agreements with independent contractors, such as consultants, must include a description of the services to be performed, the period of performance, the fee and method of payment, an itemization of travel and other costs which are chargeable to the agreement, and the signatures of both the contractor and an appropriate official of Grantee.

(iv) If third party in-kind (non-cash) contributions are used for Grant purposes, the valuation of these contributions must be supported with adequate documentation.

(c) **Internal Control.** Effective control and accountability must be maintained for all cash, real and personal property, and other assets. Grantee must adequately safeguard all such property and must provide assurance that it is used solely for authorized purposes. Grantee must also have systems in place that provide reasonable assurance that the information is accurate, allowable, and compliant with the terms and conditions of this Agreement. 2 CFR 200.303.

(d) **Budget Control.** Records of expenditures must be maintained for each Award by the cost categories of the approved Budget (including indirect costs that are charged to the Award), and actual expenditures are to be compared with Budgeted amounts at least quarterly.

(e) **Cash Management.** Requests for advance payment shall be limited to Grantee's immediate cash needs. Grantee must have written procedures to minimize the time elapsing between the receipt and the disbursement of Grant Funds to avoid having excess funds on hand. 2 CFR 200.305.

7.7. **Federal Requirements.** All Awards, whether funded in whole or in part with either federal or State funds, are subject to federal requirements and regulations, including but not limited to 2 CFR Part 200, 44 III. Admin. Code 7000.30(b) and the Financial Management Standards in Paragraph 7.6.

7.8. **Profits.** It is not permitted for any person or entity to earn a Profit from an Award. See, e.g., 2 CFR 200.400(g); see also 30 ILCS 708/60(a)(7).

7.9. **Management of Program Income.** Grantee is encouraged to earn income to defray program costs where appropriate, subject to 2 CFR 200.307.

## ARTICLE VIII REQUIRED CERTIFICATIONS

8.1. **Certifications.** Grantee shall be responsible for compliance with the enumerated certifications to the extent that the certifications apply to Grantee.

(a) **Bribery.** Grantee certifies that it has not been convicted of bribery or attempting to

bribe an officer or employee of the state of Illinois, nor made an admission of guilt of such conduct which is a matter of record (30 ILCS 500/50-5).

(b) **Bid Rigging.** Grantee certifies that it has not been barred from contracting with a unit of state or local government as a result of a violation of Paragraph 33E-3 or 33E-4 of the Criminal Code of 1961 (720 ILCS 5/33E-3 or 720 ILCS 5/33E-4, respectively).

(c) **Debt to State.** Grantee certifies that neither it, nor its affiliate(s), is/are barred from receiving an Award because Grantee, or its affiliate(s), is/are delinquent in the payment of any debt to the State, unless Grantee, or its affiliate(s), has/have entered into a deferred payment plan to pay off the debt, and Grantee acknowledges Grantor may declare the Agreement void if the certification is false (30 ILCS 500/50-11).

(d) **Educational Loan.** Grantee certifies that it is not barred from receiving State agreements as a result of default on an educational loan (5 ILCS 385/1 *et seq.*).

(e) **International Boycott.** Grantee certifies that neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provision of the U.S. Export Administration Act of 1979 (50 USC Appendix 2401 *et seq.*) or the regulations of the U.S. Department of Commerce promulgated under that Act (15 CFR Parts 730 through 774).

(f) **Dues and Fees.** Grantee certifies that it is not prohibited from receiving an Award because it pays dues or fees on behalf of its employees or agents, or subsidizes or otherwise reimburses them for payment of their dues or fees to any club which unlawfully discriminates (775 ILCS 25/1 *et seq.*).

(g) **Pro-Children Act.** Grantee certifies that it is in compliance with the Pro-Children Act of 2001 in that it prohibits smoking in any portion of its facility used for the provision of health, day care, early childhood development services, education or library services to children under the age of eighteen (18), which services are supported by federal or state government assistance (except such portions of the facilities which are used for inpatient substance abuse treatment) (20 USC 7181-7184).

(h) **Drug-Free Work Place.** If Grantee is not an individual, Grantee certifies it will provide a drug free workplace pursuant to the Drug Free Workplace Act. 30 ILCS 580/3. If Grantee is an individual and this Agreement is valued at more than \$5,000, Grantee certifies it shall not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of the Agreement. 30 ILCS 580/4. Grantee further certifies that it is in compliance with the government-wide requirements for a drug-free workplace as set forth in 41 USC 8102.

(i) **Motor Voter Law.** Grantee certifies that it is in full compliance with the terms and provisions of the National Voter Registration Act of 1993 (52 USC 20501 *et seq.*).

(j) **Clean Air Act and Clean Water Act.** Grantee certifies that it is in compliance with all applicable standards, order or regulations issued pursuant to the Clean Air Act (42 USC §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended (33 USC 1251 *et seq.*).

(k) **Debarment.** Grantee certifies that it is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal department or agency 2 CFR 200.205(a), or by the State (*See* 30 ILCS 708/25(6)(G)).

(l) **Non-procurement Debarment and Suspension.** Grantee certifies that it is in compliance with Subpart C of 2 CFR Part 180 as supplemented by 2 CFR Part 376, Subpart C.

(m) **Grant for the Construction of Fixed Works.** Grantee certifies that all Programs for the construction of fixed works which are financed in whole or in part with funds provided by this Agreement

shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*) unless the provisions of that Act exempt its application. In the construction of the Program, Grantee shall comply with the requirements of the Prevailing Wage Act including, but not limited to, inserting into all contracts for such construction a stipulation to the effect that not less than the prevailing rate of wages as applicable to the Program shall be paid to all laborers, workers, and mechanics performing work under the Award and requiring all bonds of contractors to include a provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract.

(n) **Health Insurance Portability and Accountability Act.** Grantee certifies that it is in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law No. 104-191, 45 CFR Parts 160, 162 and 164, and the Social Security Act, 42 USC 1320d-2 through 1320d-7, in that it may not use or disclose protected health information other than as permitted or required by law and agrees to use appropriate safeguards to prevent use or disclosure of the protected health information. Grantee shall maintain, for a minimum of six (6) years, all protected health information.

(o) **Criminal Convictions.** Grantee certifies that neither it nor any managerial agent of Grantee has been convicted of a felony under the Sarbanes-Oxley Act of 2002, nor a Class 3 or Class 2 felony under Illinois Securities Law of 1953, or that at least five (5) years have passed since the date of the conviction. Grantee further certifies that it is not barred from receiving an Award under 30 ILCS 500/50-10.5, and acknowledges that Grantor shall declare the Agreement void if this certification is false (30 ILCS 500/50-10.5).

(p) **Forced Labor Act.** Grantee certifies that it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the State under this Agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction (30 ILCS 583).

(q) **Illinois Use Tax.** Grantee certifies in accordance with 30 ILCS 500/50-12 that it is not barred from receiving an Award under this Paragraph. Grantee acknowledges that this Agreement may be declared void if this certification is false.

(r) **Environmental Protection Act Violations.** Grantee certifies in accordance with 30 ILCS 500/50-14 that it is not barred from receiving an Award under this Paragraph. Grantee acknowledges that this Agreement may be declared void if this certification is false.

(s) **Goods from Child Labor Act.** Grantee certifies that no foreign-made equipment, materials, or supplies furnished to the State under this Agreement have been produced in whole or in part by the labor of any child under the age of twelve (12) (30 ILCS 584).

(t) **Federal Funding Accountability and Transparency Act of 2006.** Grantee certifies that it is in compliance with the terms and requirements of 31 USC 6101.

(u) **Illinois Works Review Panel.** For Awards made for public works projects, as defined in the Illinois Works Jobs Program Act, Grantee certifies that it and any contractor(s) or sub-contractor(s) that performs work using funds from this Award, shall, upon reasonable notice, appear before and respond to requests for information from the Illinois Works Review Panel. 30 ILCS 559/20-25(d).

## ARTICLE IX CRIMINAL DISCLOSURE

9.1. Mandatory Criminal Disclosures. Grantee shall continue to disclose to Grantor all violations of

criminal law involving fraud, bribery or gratuity violations potentially affecting this Award. See 30 ILCS 708/40. Additionally, if Grantee receives over \$10 million in total Financial Assistance, funded by either State or federal funds, during the period of this Award, Grantee must maintain the currency of information reported to SAM regarding civil, criminal or administrative proceedings as required by 2 CFR 200.113 and Appendix XII of 2 CFR Part 200, and 30 ILCS 708/40.

## **ARTICLE X UNLAWFUL DISCRIMINATION**

10.1. Compliance with Nondiscrimination Laws. Both Parties, their employees and subcontractors under subcontract made pursuant to this Agreement, remain compliant with all applicable provisions of state and federal laws and regulations pertaining to nondiscrimination, sexual harassment and equal employment opportunity including, but not limited to, the following laws and regulations and all subsequent amendments thereto:

- (a) The Illinois Human Rights Act (775 ILCS 5/1-101 *et seq.*), including, without limitation, 44 Ill. Admin. Code Part 750, which is incorporated herein;
- (b) The Public Works Employment Discrimination Act (775 ILCS 10/1 *et seq.*);
- (c) The United States Civil Rights Act of 1964 (as amended) (42 USC 2000a- and 2000h-6). (*See also* guidelines to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons [Federal Register: February 18, 2002 (Volume 67, Number 13, Pages 2671-2685)]);
- (d) Section 504 of the Rehabilitation Act of 1973 (29 USC 794);
- (e) The Americans with Disabilities Act of 1990 (as amended) (42 USC 12101 *et seq.*); and
- (f) The Age Discrimination Act (42 USC 6101 *et seq.*).

## **ARTICLE XI LOBBYING**

11.1. Improper Influence. Grantee certifies that no Grant Funds have been paid or will be paid by or on behalf of Grantee to any person for influencing or attempting to influence an officer or employee of any government agency, a member of Congress or Illinois General Assembly, an officer or employee of Congress or Illinois General Assembly, or an employee of a member of Congress or Illinois General Assembly in connection with the awarding of any agreement, the making of any grant, the making of any loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any agreement, grant, loan or cooperative agreement. 31 USC 1352. Additionally, Grantee certifies that it has filed the required certification under the Byrd Anti-Lobbying Amendment (31 USC 1352), if applicable.

11.2. Federal Form LLL. If any funds, other than federally-appropriated funds, were paid or will be paid to any person for influencing or attempting to influence any of the above persons in connection with this Agreement, the undersigned must also complete and submit Federal Form LLL, Disclosure of Lobbying Activities Form, in accordance with its instructions.

11.3. Lobbying Costs. Grantee certifies that it is in compliance with the restrictions on lobbying set forth in 2 CFR 200.450. For any Indirect Costs associated with this Agreement, total lobbying costs shall be separately identified in the Program Budget, and thereafter treated as other Unallowable Costs.

11.4. Procurement Lobbying. Grantee warrants and certifies that it and, to the best of its knowledge, its sub-grantees have complied and will comply with Executive Order No. 1 (2007) (EO 1-2007). EO 1-2007 generally prohibits Grantees and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments, if that procurement may result in a contract valued at over \$25,000. This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.

11.5. Subawards. Grantee must include the language of this ARTICLE XI in the award documents for any subawards made pursuant to this Award at all tiers. All sub-awardees are also subject to certification and disclosure. Pursuant to Appendix II(I) to 2 CFR Part 200, Grantee shall forward all disclosures by contractors regarding this certification to Grantor.

11.6. Certification. This certification is a material representation of fact upon which reliance was placed to enter into this transaction and is a prerequisite for this transaction, pursuant to 31 USC 1352. Any person who fails to file the required certifications shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

## **ARTICLE XII MAINTENANCE AND ACCESSIBILITY OF RECORDS; MONITORING**

12.1. Records Retention. Grantee shall maintain for three (3) years from the date of submission of the final expenditure report, adequate books, all financial records and, supporting documents, statistical records, and all other records pertinent to this Award, adequate to comply with 2 CFR 200.334, unless a different retention period is specified in 2 CFR 200.334 or 44 Ill. Admin. Code 7000.430(a) and (b). If any litigation, claim or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims or audit exceptions involving the records have been resolved and final action taken.

12.2. Accessibility of Records. Grantee, in compliance with 2 CFR 200.337 and 44 Ill. Admin. Code 7000.430(e), shall make books, records, related papers, supporting documentation and personnel relevant to this Agreement available to authorized Grantor representatives, the Illinois Auditor General, Illinois Attorney General, any Executive Inspector General, the Grantor's Inspector General, federal authorities, any person identified in 2 CFR 200.337, and any other person as may be authorized by Grantor (including auditors), by the state of Illinois or by federal statute. Grantee shall cooperate fully in any such audit or inquiry.

12.3. Failure to Maintain Books and Records. Failure to maintain books, records and supporting documentation, as described in this ARTICLE XII, shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this Agreement for which adequate books, records and supporting documentation are not available to support disbursement.

12.4. Monitoring and Access to Information. Grantee must monitor its activities to assure compliance with applicable state and federal requirements and to assure its performance expectations are being achieved. Grantor shall monitor the activities of Grantee to assure compliance with all requirements and performance expectations of the award. Grantee shall timely submit all financial and performance reports, and shall supply, upon Grantor's request, documents and information relevant to the Award. Grantor may make site visits as warranted by program needs. See 2 CFR 200.329 and 200.332. Additional monitoring requirements may be in **PART TWO** or **PART THREE**.

## **ARTICLE XIII FINANCIAL REPORTING REQUIREMENTS**

13.1. Required Periodic Financial Reports. Grantee agrees to submit financial reports as requested and in the format required by Grantor. Grantee shall file quarterly reports with Grantor describing the expenditure(s) of the funds related thereto, unless more frequent reporting is required by the Grantee pursuant to specific award conditions. 2 CFR 200.208. Unless so specified, the first of such reports shall cover the first three months after the Award begins, and reports must be submitted no later than the due date(s) specified in **PART TWO** or **PART THREE**, unless additional information regarding required financial reports is set forth in **Exhibit G**. Failure to submit the required financial reports may cause a delay or suspension of funding. 30 ILCS 705/1 *et seq.*; 2 CFR 208(b)(3) and 200.328. Any report required by 30 ILCS 708/125 may be detailed in **PART TWO** or **PART THREE**.

13.2. Close-out Reports.

(a) Grantee shall submit a Close-out Report no later than the due date specified in **PART TWO** or **PART THREE** following the end of the period of performance for this Agreement or Agreement termination. The format of this Close-out Report shall follow a format prescribed by Grantor. 2 CFR 200.344; 44 Ill. Admin. Code 7000.440(b).

(b) If an audit or review of Grantee occurs and results in adjustments after Grantee submits a Close-out Report, Grantee will submit a new Close-out Report based on audit adjustments, and immediately submit a refund to Grantor, if applicable. 2 CFR 200.345.

13.3. Effect of Failure to Comply. Failure to comply with reporting requirements shall result in the withholding of funds, the return of Improper Payments or Unallowable Costs, will be considered a material breach of this Agreement and may be the basis to recover Grant Funds. Grantee's failure to comply with this ARTICLE XIII, ARTICLE XIV, or ARTICLE XV shall be considered prima facie evidence of a breach and may be admitted as such, without further proof, into evidence in an administrative proceeding before Grantor, or in any other legal proceeding. Grantee should refer to the State of Illinois Grantee Compliance Enforcement System for policy and consequences for failure to comply. 44 Ill. Admin. Code 7000.80.

#### **ARTICLE XIV PERFORMANCE REPORTING REQUIREMENTS**

14.1. Required Periodic Performance Reports. Grantee agrees to submit Performance Reports as requested and in the format required by Grantor. Performance Measures listed in **Exhibit E** must be reported quarterly, unless otherwise specified in **PART TWO**, **PART THREE** or **Exhibit G**. Unless so specified, the first of such reports shall cover the first three months after the Award begins. If Grantee is not required to report performance quarterly, then Grantee must submit a Performance Report at least annually. Pursuant to 2 CFR 200.208, specific conditions may be imposed requiring Grantee to report more frequently based on the risk assessment or the merit-based review of the application. In such cases, Grantor shall notify Grantee of same in **Exhibit G**. Pursuant to 2 CFR 200.329 and 44 Ill. Admin. Code 7000.410(b)(2), periodic Performance Reports shall be submitted no later than the due date(s) specified in **PART TWO** or **PART THREE**. For certain construction-related Awards, such reports may be exempted as identified in **PART TWO** or **PART THREE**. 2 CFR 200.329. Failure to submit such required Performance Reports may cause a delay or suspension of funding. 30 ILCS 705/1 *et seq.*

14.2. Close-out Performance Reports. Grantee agrees to submit a Close-out Performance Report, in the format required by Grantor, no later than the due date specified in **PART TWO** or **PART THREE** following the end of the period of performance or Agreement termination. See 2 CFR 200.344; 44 Ill. Admin. Code 7000.440(b)(1).

14.3. Content of Performance Reports. Pursuant to 2 CFR 200.329(b) and (c), all Performance Reports must relate the financial data and accomplishments to the performance goals and objectives of this Award and

also include the following: a comparison of actual accomplishments to the objectives of the award established for the period; where the accomplishments can be quantified, a computation of the cost and demonstration of cost effective practices (e.g., through unit cost data); performance trend data and analysis if required; and reasons why established goals were not met, if appropriate. Appendices may be used to include additional supportive documentation. Additional content and format guidelines for the Performance Reports will be determined by Grantor contingent on the Award's statutory, regulatory and administrative requirements, and are included in **PART TWO** or **PART THREE** of this Agreement.

14.4. **Performance Standards.** Grantee shall perform in accordance with the Performance Standards set forth in **Exhibit F.** See 2 CFR 200.301 and 200.210.

## **ARTICLE XV AUDIT REQUIREMENTS**

15.1. **Audits.** Grantee shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC 7501-7507) and Subpart F of 2 CFR Part 200, and the audit rules and policies set forth by the Governor's Office of Management and Budget. See 30 ILCS 708/65(c); 44 Ill. Admin. Code 7000.90.

15.2. **Consolidated Year-End Financial Reports (CYEFR).** All grantees are required to complete and submit a CYEFR through the Grantee Portal. The CYEFR is a required schedule in the Grantee's audit report if the Grantee is required to complete and submit an audit report as set forth herein.

(a) This Paragraph 15.2 applies to all Grantees, unless exempted pursuant to a federal or state statute or regulation, which is identified in **PART TWO** or **PART THREE.**

(b) The CYEFR must cover the same period as the Audited Financial Statements, if required, and must be submitted in accordance with the audit schedule at 44 Ill. Admin. Code 7000.90. If Audited Financial Statements are not required, however, then the CYEFR must cover the Grantee's fiscal year and must be submitted within 6 months of the Grantee's fiscal year-end.

(c) CYEFRs must include an in relation to opinion from the auditor of the financial statements included in the CYEFR.

(d) CYEFRs shall follow a format prescribed by Grantor.

15.3. **Audit Requirements.**

(a) **Single and Program-Specific Audits.** If, during its fiscal year, Grantee expends \$750,000 or more in Federal Awards (direct federal and federal pass-through awards combined), Grantee must have a single audit or program-specific audit conducted for that year as required by 2 CFR 200.501 and other applicable sections of Subpart F of 2 CFR Part 200. The audit report packet must be completed as described in 2 CFR 200.512 (single audit) or 2 CFR 200.507 (program-specific audit), 44 Ill. Admin. Code 7000.90(h)(1) and the current GATA audit manual and submitted to the Federal Audit Clearinghouse, as required by 2 CFR 200.512. The results of peer and external quality control reviews, management letters, AU-C 265 communications and the Consolidated Year-End Financial Report(s) must be submitted to the Grantee Portal. The due date of all required submissions set forth in this Paragraph is the earlier of (i) 30 calendar days after receipt of the auditor's report(s) or (ii) nine (9) months after the end of the Grantee's audit period.

(b) **Financial Statement Audit.** If, during its fiscal year, Grantee expends less than \$750,000 in Federal Awards, Grantee is subject to the following audit requirements:



(i) If, during its fiscal year, Grantee expends \$500,000 or more in Federal and state Awards, singularly or in any combination, from all sources, Grantee must have a financial statement audit conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS). Grantee may be subject to additional requirements in **PART TWO, PART THREE** or **Exhibit G** based on the Grantee's risk profile.

(ii) If, during its fiscal year, Grantee expends less than \$500,000 in Federal and state Awards, singularly or in any combination, from all sources, but expends \$300,000 or more in Federal and state Awards, singularly or in any combination, from all sources, Grantee must have a financial statement audit conducted in accordance with the Generally Accepted Auditing Standards (GAAS).

(iii) If Grantee is a Local Education Agency (as defined in 34 CFR 77.1), Grantee shall have a financial statement audit conducted in accordance with GAGAS, as required by 23 Ill. Admin. Code 100.110, regardless of the dollar amount of expenditures of Federal and state Awards.

(iv) If Grantee does not meet the requirements in subsections 15.3(a) and 15.3(b)(i-iii) but is required to have a financial statement audit conducted based on other regulatory requirements, Grantee must submit those audits for review.

(v) Grantee must submit its financial statement audit report packet, as set forth in 44 Ill. Admin. Code 7000.90(h)(2) and the current GATA audit manual, to the Grantee Portal within the earlier of (i) 30 calendar days after receipt of the auditor's report(s) or (ii) 6 months after the end of the Grantee's audit period.

15.4. **Performance of Audits.** For those organizations required to submit an independent audit report, the audit is to be conducted by the Illinois Auditor General, or a Certified Public Accountant or Certified Public Accounting Firm licensed in the state of Illinois or in accordance with Section 5.2 of the Illinois Public Accounting Act (225 ILCS 450/5.2). For all audits required to be performed subject to Generally Accepted Government Auditing standards or Generally Accepted Auditing standards, Grantee shall request and maintain on file a copy of the auditor's most recent peer review report and acceptance letter. Grantee shall follow procedures prescribed by Grantor for the preparation and submission of audit reports and any related documents.

15.5. **Delinquent Reports.** Notwithstanding anything herein to the contrary, when such reports or statements required under this section are prepared by the Illinois Auditor General, if they are not available by the above-specified due date, they will be provided to Grantor within thirty (30) days of becoming available. Otherwise, Grantee should refer to the State of Illinois Grantee Compliance Enforcement System for the policy and consequences for late reporting. 44 Ill. Admin. Code 7000.80.

## **ARTICLE XVI TERMINATION; SUSPENSION; NON-COMPLIANCE**

### **16.1. Termination.**

(a) This Agreement may be terminated, in whole or in part, by either Party for any or no reason upon thirty (30) calendar days' prior written notice to the other Party. If terminated by the Grantee, Grantee must include the reasons for such termination, the effective date, and, in the case of a partial termination, the portion to be terminated. If Grantor determines in the case of a partial termination that the reduced or modified portion of the Award will not accomplish the purposes for which the Award was made, Grantor may terminate the Agreement in its entirety. 2 CFR 200.340(a)(4).

(b) This Agreement may be terminated, in whole or in part, by Grantor without advance notice:

(i) Pursuant to a funding failure under Paragraph 4.1;

(ii) If Grantee fails to comply with the terms and conditions of this or any Award, application or proposal, including any applicable rules or regulations, or has made a false representation in connection with the receipt of this or any Grant;

(iii) If the Award no longer effectuates the program goals or agency priorities as set forth in **Exhibit A, PART TWO** or **PART THREE**; or

(iv) If Grantee breaches this Agreement and either (1) fails to cure such breach within 15 calendar days' written notice thereof, or (2) if such cure would require longer than 15 calendar days and the Grantee has failed to commence such cure within 15 calendar days' written notice thereof. In the event that Grantor terminates this Agreement as a result of the breach of the Agreement by Grantee, Grantee shall be paid for work satisfactorily performed prior to the date of termination.

16.2. Suspension. Grantor may suspend this Agreement, in whole or in part, pursuant to a funding failure under Paragraph 4.1 or if the Grantee fails to comply with terms and conditions of this or any Award. If suspension is due to Grantee's failure to comply, Grantor may withhold further payment and prohibit Grantee from incurring additional obligations pending corrective action by Grantee or a decision to terminate this Agreement by Grantor. Grantor may determine to allow necessary and proper costs that Grantee could not reasonably avoid during the period of suspension.

16.3. Non-compliance. If Grantee fails to comply with the U.S. Constitution, applicable statutes, regulations or the terms and conditions of this or any Award, Grantor may impose additional conditions on Grantee, as described in 2 CFR 200.208. If Grantor determines that non-compliance cannot be remedied by imposing additional conditions, Grantor may take one or more of the actions described in 2 CFR 200.339. The Parties shall follow all Grantor policies and procedures regarding non-compliance, including, but not limited to, the procedures set forth in the State of Illinois Grantee Compliance Enforcement System. 44 Ill. Admin. Code 7000.80 and 7000.260.

16.4. Objection. If Grantor suspends or terminates this Agreement, in whole or in part, for cause, or takes any other action in response to Grantee's non-compliance, Grantee may avail itself of any opportunities to object and challenge such suspension, termination or other action by Grantor in accordance with any applicable processes and procedures, including, but not limited to, the procedures set forth in the State of Illinois Grantee Compliance Enforcement System. 2 CFR 200.342; 44 Ill. Admin. Code 7000.80 and 7000.260.

16.5. Effects of Suspension and Termination.

(a) Grantor may credit Grantee for expenditures incurred in the performance of authorized services under this Agreement prior to the effective date of a suspension or termination.

(b) Grantee shall not incur any costs or obligations that require the use of these Grant Funds after the effective date of a suspension or termination, and shall cancel as many outstanding obligations as possible.

(c) Costs to Grantee resulting from obligations incurred by Grantee during a suspension or after termination of the Agreement are not allowable unless:

(i) Grantor expressly authorizes them in the notice of suspension or termination;  
and

(ii) The costs result from obligations properly incurred before the effective date of suspension or termination, are not in anticipation of the suspension or termination, and the costs

would be allowable if the Agreement was not suspended or terminated. 2 CFR 200.343.

16.6. Close-out of Terminated Agreements. If this Agreement is terminated, in whole or in part, the Parties shall comply with all close-out and post-termination requirements of this Agreement. 2 CFR 200.340(d).

## **ARTICLE XVII SUBCONTRACTS/SUB-GRANTS**

17.1. Sub-recipients/Delegation. Grantee may not subcontract nor sub-grant any portion of this Agreement nor delegate any duties hereunder without Prior Approval of Grantor. The requirement for Prior Approval is satisfied if the subcontractor or sub-grantee has been identified in the Uniform Grant Application, such as, without limitation, a Project Description, and Grantor has approved. Grantee must notify any potential sub-recipient that the sub-recipient shall obtain and provide to the Grantee a Unique Entity Identifier prior to receiving a subaward. 2 CFR 25.300.

17.2. Application of Terms. Grantee shall advise any sub-grantee of funds awarded through this Agreement of the requirements imposed on them by federal and state laws and regulations, and the provisions of this Agreement. The terms of this Agreement shall apply to all subawards authorized in accordance with Paragraph 17.1. 2 CFR 200.101(b)(2).

17.3. Liability as Guaranty. Grantee shall be liable as guarantor for any Grant Funds it obligates to a sub-grantee or sub-contractor pursuant to Paragraph 17.1 in the event the Grantor determines the funds were either misspent or are being improperly held and the sub-grantee or sub-contractor is insolvent or otherwise fails to return the funds. 2 CFR 200.345; 30 ILCS 705/6; 44 Ill. Admin. Code 7000.450(a).

## **ARTICLE XVIII NOTICE OF CHANGE**

18.1. Notice of Change. Grantee shall notify the Grantor if there is a change in Grantee's legal status, federal employer identification number (FEIN), DUNS Number, UEI, SAM registration status, Related Parties, or address. See 30 ILCS 708/60(a). If the change is anticipated, Grantee shall give thirty (30) days' prior written notice to Grantor. If the change is unanticipated, Grantee shall give notice as soon as practicable thereafter. Grantor reserves the right to take any and all appropriate action as a result of such change(s).

18.2. Failure to Provide Notification. To the extent permitted by Illinois law, Grantee shall hold harmless Grantor for any acts or omissions of Grantor resulting from Grantee's failure to notify Grantor of these changes.

18.3. Notice of Impact. Grantee shall immediately notify Grantor of any event that may have a material impact on Grantee's ability to perform this Agreement.

18.4. Circumstances Affecting Performance; Notice. In the event Grantee becomes a party to any litigation, investigation or transaction that may reasonably be considered to have a material impact on Grantee's ability to perform under this Agreement, Grantee shall notify Grantor, in writing, within five (5) calendar days of determining such litigation or transaction may reasonably be considered to have a material impact on the Grantee's ability to perform under this Agreement.

18.5. Effect of Failure to Provide Notice. Failure to provide the notice described in Paragraph 18.4 shall be grounds for immediate termination of this Agreement and any costs incurred after notice should have been given shall be disallowed.

**ARTICLE XIX  
STRUCTURAL REORGANIZATION**

19.1. Effect of Reorganization. Grantee acknowledges that this Agreement is made by and between Grantor and Grantee, as Grantee is currently organized and constituted. No promise or undertaking made hereunder is an assurance that Grantor agrees to continue this Agreement, or any license related thereto, should Grantee significantly reorganize or otherwise substantially change the character of its corporate structure, business structure or governance structure. Grantee agrees that it will give Grantor prior notice of any such action or changes significantly affecting its overall structure, and will provide any and all reasonable documentation necessary for Grantor to review the proposed transaction including financial records and corporate and shareholder minutes of any corporation which may be involved. This ARTICLE XIX does not require Grantee to report on minor changes in the makeup of its governance structure. Nevertheless, PART TWO or PART THREE may impose further restrictions. Failure to comply with this ARTICLE XIX shall constitute a material breach of this Agreement.

**ARTICLE XX  
AGREEMENTS WITH OTHER STATE AGENCIES**

20.1. Copies upon Request. Grantee shall, upon request by Grantor, provide Grantor with copies of contracts or other agreements to which Grantee is a party with any other State agency.

**ARTICLE XXI  
CONFLICT OF INTEREST**

21.1. Required Disclosures. Grantee must immediately disclose in writing any potential or actual Conflict of Interest to the Grantor. 2 CFR 200.113 and 30 ILCS 708/35.

21.2. Prohibited Payments. Grantee agrees that payments made by Grantor under this Agreement will not be used to compensate, directly or indirectly, any person currently holding an elective office in this State including, but not limited to, a seat in the General Assembly. In addition, where the Grantee is not an instrumentality of the State of Illinois, as described in this Paragraph, Grantee agrees that payments made by Grantor under this Agreement will not be used to compensate, directly or indirectly, any person employed by an office or agency of the state of Illinois whose annual compensation is in excess of sixty percent (60%) of the Governor's annual salary, or \$106,447.20 (30 ILCS 500/50-13). An instrumentality of the State of Illinois includes, without limitation, State departments, agencies, boards, and State universities. An instrumentality of the State of Illinois does not include, without limitation, municipalities and units of local government and related entities. 2 CFR 200.64.

21.3. Request for Exemption. Grantee may request written approval from Grantor for an exemption from Paragraph 21.2. Grantee acknowledges that Grantor is under no obligation to provide such exemption and that Grantor may, if an exemption is granted, grant such exemption subject to such additional terms and conditions as Grantor may require.

**ARTICLE XXII  
EQUIPMENT OR PROPERTY**

22.1. Transfer of Equipment. Grantor shall have the right to require that Grantee transfer to Grantor any equipment, including title thereto, purchased in whole or in part with Grantor funds, if Grantor determines that Grantee has not met the conditions of 2 CFR 200.439. Grantor shall notify Grantee in writing should Grantor

require the transfer of such equipment. Upon such notification by Grantor, and upon receipt or delivery of such equipment by Grantor, Grantee will be deemed to have transferred the equipment to Grantor as if Grantee had executed a bill of sale therefor.

22.2. Prohibition against Disposition/Encumbrance. The Grantee is prohibited from, and may not sell, transfer, encumber (other than original financing) or otherwise dispose of said equipment, material, or real property during the Grant Term without Prior Approval of Grantor. Any real property acquired using Grant Funds must comply with the requirements of 2 CFR 200.311.

22.3. Equipment and Procurement. Grantee must comply with the uniform standards set forth in 2 CFR 200.310–200.316 governing the management and disposition of property which cost was supported by Grant Funds. Any waiver from such compliance must be granted by either the President’s Office of Management and Budget, the Governor’s Office of Management and Budget, or both, depending on the source of the Grant Funds used. Additionally, Grantee must comply with the standards set forth in 2 CFR 200.317-200.326 for use in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Grant Funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable federal and state statutes and executive orders.

22.4. Equipment Instructions. Grantee must obtain disposition instructions from Grantor when equipment, purchased in whole or in part with Grant Funds, are no longer needed for their original purpose. Notwithstanding anything to the contrary contained within this Agreement, Grantor may require transfer of any equipment to Grantor or a third party for any reason, including, without limitation, if Grantor terminates the Award or Grantee no longer conducts Award activities. The Grantee shall properly maintain, track, use, store and insure the equipment according to applicable best practices, manufacturer’s guidelines, federal and state laws or rules, and Grantor requirements stated herein.

22.5. Domestic Preferences for Procurements. In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, the Grantee should, to the greatest extent practicable under this Award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this paragraph must be included in all subawards and in all contracts and purchase orders for work or products under this Award.

### **ARTICLE XXIII PROMOTIONAL MATERIALS; PRIOR NOTIFICATION**

23.1. Publications, Announcements, etc. Use of Grant Funds for promotions is subject to the prohibitions for advertising or public relations costs in 2 CFR 200.421(e). In the event that Grantor funds are used in whole or in part to produce any written publications, announcements, reports, flyers, brochures or other written materials, Grantee shall obtain Prior Approval for the use of those funds (2 CFR 200.467) and agrees to include in these publications, announcements, reports, flyers, brochures and all other such material, the phrase “Funding provided in whole or in part by the [Grantor].” Exceptions to this requirement must be requested, in writing, from Grantor and will be considered authorized only upon written notice thereof to Grantee.

23.2. Prior Notification/Release of Information. Grantee agrees to notify Grantor ten (10) days prior to issuing public announcements or press releases concerning work performed pursuant to this Agreement, or funded in whole or in part by this Agreement, and to cooperate with Grantor in joint or coordinated releases of information.

## ARTICLE XXIV INSURANCE

24.1. Maintenance of Insurance. Grantee shall maintain in full force and effect during the Term of this Agreement casualty and bodily injury insurance, as well as insurance sufficient to cover the replacement cost of any and all real or personal property, or both, purchased or, otherwise acquired, or improved in whole or in part, with funds disbursed pursuant to this Agreement. 2 CFR 200.310. Additional insurance requirements may be detailed in **PART TWO** or **PART THREE**.

24.2. Claims. If a claim is submitted for real or personal property, or both, purchased in whole with funds from this Agreement and such claim results in the recovery of money, such money recovered shall be surrendered to Grantor.

## ARTICLE XXV LAWSUITS

25.1. Independent Contractor. Neither Grantee nor any employee or agent of Grantee acquires any employment rights with Grantor by virtue of this Agreement. Grantee will provide the agreed services and achieve the specified results free from the direction or control of Grantor as to the means and methods of performance. Grantee will be required to provide its own equipment and supplies necessary to conduct its business; provided, however, that in the event, for its convenience or otherwise, Grantor makes any such equipment or supplies available to Grantee, Grantee's use of such equipment or supplies provided by Grantor pursuant to this Agreement shall be strictly limited to official Grantor or state of Illinois business and not for any other purpose, including any personal benefit or gain.

25.2. Liability. Neither Party shall be liable for actions chargeable to the other Party under this Agreement including, but not limited to, the negligent acts and omissions of Party's agents, employees or subcontractors in the performance of their duties as described under this Agreement, unless such liability is imposed by law. This Agreement shall not be construed as seeking to enlarge or diminish any obligation or duty owed by one Party against the other or against a third party.

## ARTICLE XXVI MISCELLANEOUS

26.1. Gift Ban. Grantee is prohibited from giving gifts to State employees pursuant to the State Officials and Employees Ethics Act (5 ILCS 430/10-10) and Executive Order 15-09.

26.2. Access to Internet. Grantee must have Internet access. Internet access may be either dial-up or high-speed. Grantee must maintain, at a minimum, one business e-mail address that will be the primary receiving point for all e-mail correspondence from Grantor. Grantee may list additional e-mail addresses at any time during the Term of this Agreement. The additional addresses may be for a specific department or division of Grantee or for specific employees of Grantee. Grantee must notify Grantor of any e-mail address changes within five (5) business days from the effective date of the change.

26.3. Exhibits and Attachments. **Exhibits A through G, PART TWO, PART THREE**, if applicable, and all other exhibits and attachments hereto are incorporated herein in their entirety.

26.4. Assignment Prohibited. Grantee acknowledges that this Agreement may not be sold, assigned, or transferred in any manner by Grantee, to include an assignment of Grantee's rights to receive payment hereunder, and that any actual or attempted sale, assignment, or transfer by Grantee without the Prior Approval of Grantor in writing shall render this Agreement null, void and of no further effect.

26.5. Amendments. This Agreement may be modified or amended at any time during its Term by mutual consent of the Parties, expressed in writing and signed by the Parties.

26.6. Severability. If any provision of this Agreement is declared invalid, its other provisions shall not be affected thereby.

26.7. No Waiver. No failure of either Party to assert any right or remedy hereunder will act as a waiver of either Party's right to assert such right or remedy at a later time or constitute a course of business upon which either Party may rely for the purpose of denial of such a right or remedy.

26.8. Applicable Law; Claims. This Agreement and all subsequent amendments thereto, if any, shall be governed and construed in accordance with the laws of the state of Illinois. Any claim against Grantor arising out of this Agreement must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1 *et seq.* Grantor does not waive sovereign immunity by entering into this Agreement.

26.9. Compliance with Law. This Agreement and Grantee's obligations and services hereunder are hereby made and must be performed in compliance with all applicable federal and State laws, including, without limitation, federal regulations, State administrative rules, including 44 Ill. Admin. Code 7000, and any and all license requirements or professional certification provisions.

26.10. Compliance with Confidentiality Laws. If applicable, Grantee shall comply with applicable state and federal statutes, federal regulations and Grantor administrative rules regarding confidential records or other information obtained by Grantee concerning persons served under this Agreement. The records and information shall be protected by Grantee from unauthorized disclosure.

26.11. Compliance with Freedom of Information Act. Upon request, Grantee shall make available to Grantor all documents in its possession that Grantor deems necessary to comply with requests made under the Freedom of Information Act. (5 ILCS 140/7(2)).

26.12. Precedence.

(a) Except as set forth in subparagraph (b), below, the following rules of precedence are controlling for this Agreement: In the event there is a conflict between this Agreement and any of the exhibits or attachments hereto, this Agreement shall control. In the event there is a conflict between PART ONE and PART TWO or PART THREE of this Agreement, PART ONE shall control. In the event there is a conflict between PART TWO and PART THREE of this Agreement, PART TWO shall control. In the event there is a conflict between this Agreement and relevant statute(s) or rule(s), the relevant statute(s) or rule(s) shall control.

(b) Notwithstanding the provisions in subparagraph (a), above, if a relevant federal or state statute(s) or rule(s) requires an exception to this Agreement's provisions, or an exception to a requirement in this Agreement is granted by GATU, such exceptions must be noted in PART TWO or PART THREE, and in such cases, those requirements control.

26.13. Illinois Grant Funds Recovery Act. In the event of a conflict between the Illinois Grant Funds Recovery Act and the Grant Accountability and Transparency Act, the provisions of the Grant Accountability and Transparency Act shall control. 30 ILCS 708/80.

26.14. Headings. Article and other headings contained in this Agreement are for reference purposes only and are not intended to define or limit the scope, extent or intent of this Agreement or any provision hereof.

26.15. Entire Agreement. Grantee and Grantor acknowledge that this Agreement constitutes the entire

agreement between them and that no promises, terms, or conditions not recited, incorporated or referenced herein, including prior agreements or oral discussions, shall be binding upon either Grantee or Grantor.

26.16. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart. Duplicated signatures, signatures transmitted via facsimile, or signatures contained in a Portable Document Format (PDF) document shall be deemed original for all purposes.

26.17. Attorney Fees and Costs. Unless prohibited by law, if Grantor prevails in any proceeding to enforce the terms of this Agreement, including any administrative hearing pursuant to the Grant Funds Recovery Act or the Grant Accountability and Transparency Act, the Grantor has the right to recover reasonable attorneys' fees, costs and expenses associated with such proceedings.

26.18. Continuing Responsibilities. The termination or expiration of this Agreement does not affect: (a) the right of the Grantor to disallow costs and recover funds based on a later audit or other review; (b) the obligation of the Grantee to return any funds due as a result of later refunds, corrections or other transactions, including, without limitation, final Indirect Cost Rate adjustments and those funds obligated pursuant to ARTICLE XVII; (c) the Consolidated Year-End Financial Report; (d) audit requirements established in ARTICLE XV; (e) property management and disposition requirements established in 2 CFR 200.310 through 2 CFR 200.316 and ARTICLE XXII; or (f) records related requirements pursuant to ARTICLE XII. 44 Ill. Admin. Code 7000.450.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**



**EXHIBIT A**


**PROJECT DESCRIPTION**

**PROJECT DESCRIPTION**

CSFA Number: 494-00-0957/494-00-0958

NOSA/SAIN Number: [REDACTED]

GATA Registration Number: 679660

 <b>Illinois Department of Transportation</b>	Grantee City of Belvidere		Day Labor <input type="checkbox"/>	Grantee Administered <input checked="" type="checkbox"/>	RR Force Account <input type="checkbox"/>
	Section Number 21-00113-00-FP		Fund Type EDP/TARP	ITEP, SRTS, or HSIP Number(s) [REDACTED]	
<b>Construction</b>		<b>Engineering</b>		<b>Right-of-Way</b>	
Job Number	Project Number	Job Number	Project Number	Job Number	Project Number
C-92-027-23	[REDACTED]	P-92-074-23	[REDACTED]	[REDACTED]	[REDACTED]

**Location**

Local Name Irene Rd Route \_\_\_\_\_ Length 0.47 (mi)

Termini Union Pacific Railroad to US 20

Current Jurisdiction City of Belvidere TIP Number 14-23-1 Existing Structure No [REDACTED]

**PROJECT DESCRIPTION**

**(PROJECT is defined as the work proposed and financed by the terms of this Agreement)**

The project includes preliminary engineering, removal of existing roadway, construction of new 80,000 lb. three-lane roadway section including appurtenances and construction engineering.

## EXHIBIT B

### DELIVERABLES OR MILESTONES

**As applicable, contracts or side agreements referenced below are identified with the same project identifying numbers as noted in Exhibit A.**

**Construction:** Completion of construction activities as specified by the construction contract herein incorporated by reference.

**Preliminary and Construction Engineering:** Completion of engineering work as specified by the Grantee's engineering agreement herein incorporated by reference.

**Right-of-Way:** Preparation of right-of-way documents and/or purchase of right-of-way.

**Utilities:** Completion of utility relocation or adjustment as specified by the Grantee's agreement with the utility herein incorporated by reference.

**Materials:** Purchase and delivery of the materials specified by the material proposal herein incorporated by reference.

**Railroads:** Completion of railroad force account work, flagging, or other work specified by the Grantee's agreement with the railroad herein incorporated by reference.

**EXHIBIT C**

**PAYMENT**

**Division of Cost/Budget**

Type of Work	State Funds			Grantee Funds			Totals
	Fund Type	Amount	%	Fund Type	Amount	%	
Participating Construction	TARP	76,900.00	100				76,900.00
Participating Construction	EDP	196,830.00	100				196,830.00
Participating Construction	EDP	905,340.00	50	Local Match	905,340.00	50	1,810,680.00
Preliminary Engineering	EDP	50,560.00	50	Local Match	50,560.00	50	101,120.00
Construction Engineering	EDP	52,600.00	50	Local Match	52,600.00	50	105,200.00
							0.00
							0.00
							0.00
<b>Totals</b>		<b>1,282,230.00</b>			<b>1,008,500.00</b>		<b>2,290,730.00</b>

The costs shown in the Division of Cost table are approximate and subject to change. The final **GRANTEE** share is dependent on final State participation. The actual costs will be used in the final division of cost for reimbursement.

**NOTE:** Check all that apply:

- The **GRANTOR** will reimburse the **GRANTEE** for eligible EDP construction and engineering cost of the project subject to a maximum of \$1,250,330.
- 80,000 lb Truck Access Road Program -There is available a lump sum amount of \$76,900 to applied solely to construction costs.
- 

Any remaining balance shall be the responsibility of the **GRANTEE** in the event state funds are not sufficient to cover the project costs.

**Payment Method (check one):**

- The **GRANTOR** will reimburse the **GRANTEE** for the **GRANTOR** share of project costs on the basis of periodic billings, provided said billings contain sufficient cost information and show evidence of payment by the **GRANTEE**.
- Upon execution of the construction contract and request of payment from the **GRANTEE**, the **GRANTOR** will pay the **GRANTEE** 95% of its share of the project costs. The remaining 5% will be paid to the **GRANTEE** upon receipt of the final invoice.



**EXHIBIT D**

**CONTACT INFORMATION**

**CONTACT FOR NOTIFICATION:**

Unless specified elsewhere, all notices required or desired to be sent by either Party shall be sent to the persons listed below.

**GRANTOR CONTACT**

Name: Shawn Orgiesen, P.E.  
Title: District 2 - (Acting) Local Roads Engineer  
Address: 819 Depot Ave., Dixon, IL 61021  
Phone: 815-284-5381  
TTY#: [REDACTED]  
Fax#: [REDACTED]  
E-mail Address: Shawn.Orgiesen@illinois.gov

**GRANTEE CONTACT**

Name: Brent Anderson  
Title: Director of Public Works  
Address: 401 Whitney Blvd., Belvidere, IL 61008-3693  
Phone: 815-544-9256  
TTY#: [REDACTED]  
Fax#: [REDACTED]  
E-mail Address: banderson@ci.belvidere.il.us

Additional Information: [REDACTED]

## EXHIBIT E

### PERFORMANCE MEASURES

**For All Projects:** The **GRANTEE** will submit to the **GRANTOR** a complete and detailed final invoice with applicable supporting documentation of all incurred costs, less previous payments, no later than twelve (12) months from the date of completion of this phase of the improvement or from the date of the previous invoice, which ever occurs first. If a final invoice is not received within this time frame, the most recent invoice may be considered the final invoice and the obligation of the funds closed.

The **GRANTEE** shall provide the final report to the appropriate **GRANTOR** district within twelve (12) months of the physical completion date of the project so that the report may be audited and approved for payment. If the deadline cannot be met, a written explanation must be provided to the district prior to the end of the twelve months documenting the reason and the new anticipated date of completion. If the extended deadline is not met, this process must be repeated until the project is closed. Failure to follow this process may result in the immediate close-out of the project and loss of further funding.

**For Construction Projects:** For Construction projects the period of performance (end date) is five (5) years for projects under \$1,000,000 or seven (7) years for projects over \$1,000,000 from the execution date of the agreement.

**For Preliminary Engineering:** For preliminary Engineering projects, the period of performance (end date) is ten (10) years from the execution date of the agreement.

**For Right-of-Way Acquisition:** For Right-of-Way projects the period of performance (end date) is fifteen (15) years from the execution date of the agreement.

**For EDP Funds Only:** The **GRANTEE** has entered into an economic development agreement with [REDACTED] herein referred to as the "COMPANY". As required by Public Act 93-552, the COMPANY agrees to annually submit to the **GRANTOR** for a period of five complete calendar years from the execution of this Agreement, a progress report of employment. All annual progress reports will be completed on-line through the Department of Commerce and Economic Opportunity. The initial Employee Reporting Form and the agreement between the **GRANTEE** and the COMPANY delineating the reporting requirements shall be attached in Part Three.

It is mutually agreed that in the event of a default by the COMPANY on their commitment to create and/or retain jobs, the **GRANTOR** will seek reimbursement of the Economic Development funds provided for this project from the **GRANTEE**. This determination to seek reimbursement will be based on an evaluation of the information reported in the annual progress report of employment required above. Failure to submit the required employment report will be considered default on the COMPANY's commitment

**EXHIBIT F**

**PERFORMANCE STANDARDS**

Performance standards are contained herein and incorporated by reference:

The current Standard Specifications for Road and Bridge Construction

The current Supplemental Specifications and Recurring Special Provisions

The IDOT Bureau of Local Roads and Streets Manual

The IDOT Bureau of Construction Manual

The IDOT Project Procedures Guide

Other relevant IDOT policy manuals and guides that may govern the specific work contemplated by this Agreement

**EXHIBIT G**

**SPECIFIC CONDITIONS**

Grantor may remove (or reduce) a Specific Condition included in this **Exhibit G** by providing written notice to the Grantee, in accordance with established procedures for removing a Specific Condition.

Enter ICQ/PRA Risks Here (refer to GATA Sharepoint site for standard ICQ/PRA language by going to: GATA Documents / 7. Agreements / Exhibits/ FY19 / Exhibit G - ICG Language-PRA-Merit)

**SEE FOLLOWING PAGE**



## PART TWO – THE GRANTOR-SPECIFIC TERMS

In addition to the uniform requirements in PART ONE, the Grantor has the following additional requirements for its Grantee:

### AUDIT

Grantee shall permit, and shall require its contractors and auditors to permit, the Grantor, and any authorized agent of the Grantor, to inspect all work, materials, payrolls, audit working papers, and other data and records pertaining to the Project; and to audit the books, records, and accounts of the Grantee with regard to the Project. The Grantor may, at its sole discretion and at its own expense, perform a final audit of the Project. Such audit may be used for settlement of the grant and Project closeout. Grantee agrees to implement any audit findings contained in the Grantor's authorized inspection or review, final audit, the Grantee's independent audit, or as a result of any duly authorized inspection or review

### ETHICS

#### Code of Conduct

1. Personal Conflict of Interest – The Grantee shall maintain a written code or standard of conduct which shall govern the performance of its employees, officers, board members, or agents engaged in the award and administration of contracts supported by state or federal funds. Such code shall provide that no employee, officer, board member or agent of the Grantee may participate in the selection, award, or administration of a contract supported by state or federal funds if a conflict of interest, real or apparent would be involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm selected for award:
  - a. the employee, officer, board member, or agent;
  - b. any member of his or her immediate family;
  - c. his or her partner; or
  - d. an organization which employs, or is about to employ, any of the above.

The conflict of interest restriction for former employees, officers, board members and agents shall apply for one year.

The code shall also provide that Grantee's employees, officers, board members, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts. The Grantor may waive the prohibition contained in this subsection, provided that any such present employee, officer, board member, or agent shall not participate in any action by the Grantee or the locality relating to such contract, subcontract, or arrangement. The code shall also prohibit the officers, employees, board members, or agents of the Grantee from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

2. Organizational Conflict of Interest – The Grantee will also prevent any real or apparent organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be

performed under a proposed third party contract or subcontract may, without some restriction on future activities, result in an unfair competitive advantage to the third party contractor or Grantee or impair the objectivity in performing the contract work.

### **DISPUTE RESOLUTION**

In the event of a dispute in the interpretation of the provisions of this Agreement, such dispute shall be settled through negotiations between the Grantor and the Grantee. In the event that agreement is not consummated at this negotiation level, the dispute will then be referred through proper administrative channels for a decision and ultimately, if necessary, to the Secretary of the Illinois Department of Transportation. The Grantor shall decide all claims, questions and disputes which are referred to it regarding the interpretation, prosecution and fulfillment of this Agreement. The Grantor's decision upon all claims, questions and disputes shall be final and conclusive.

### **PROCUREMENT PROCEDURES**

Procurements shall follow procedures outlined in the Bureau of Local Roads and Streets Manual.

### **REPORTING.**

Grantee agrees to submit periodic financial and performance reporting on the approved IDOT BoBS 2832 form. Grantee shall file quarterly\_BoBS 2832 reports with Grantor describing the expenditure(s) of the funds and performance measures related thereto.

The first BoBS 2832 report shall cover the first reporting period after the effective date of the Agreement. Quarterly\_reports must be submitted no later than 30 calendar days following the period covered by the report.

For the purpose of reconciliation, the Grantee must submit a BoBS 2832 report for the period ending with the Grantee's most recent fiscal year.

A BoBS 2832 report marked as "Final Report" must be submitted to the Grantor 60 days after the end date of the Agreement. Failure to submit the required BoBS 2832 reports may cause a delay or suspension of funding.

### **THE GRANTEE AGREES:**

1. It is mutually agreed that the project will be processed, let and constructed in accordance with Motor Fuel Tax standards, policies and procedures.
2. The **GRANTEE** agrees to retain jurisdiction and to maintain or cause to be maintained the completed project in a manner satisfactory to the **GRANTOR** unless otherwise specified by addendum.
3. To provide for all utility adjustments, and to regulate the use of the right-of-way of this improvement by utilities, public and private, in accordance with the current Utility Accommodation Policy for Local Agency Highway and Street Systems.

4. To provide for surveys and the preparation of plans for the proposed improvement and engineering supervision during construction of the proposed improvement.
5. To retain jurisdiction of the completed improvement unless specified otherwise by addendum (addendum should be accompanied by a location map). If the improvement location is currently under road district jurisdiction, an addendum is required.
6. To provide if required, for the improvement of any railroad-highway grade crossing and rail crossing protection within the limits of the proposed improvement.
7. The **GRANTEE** will certify to the **GRANTOR** that all necessary right-of-way, temporary and permanent easements, and temporary use permits have been obtained or are not required, prior to the **GRANTEE** advertising for bids for the project.
8. To regulate parking and traffic in accordance with the approved project report.
9. To regulate encroachments on public right-of-way in accordance with current Illinois Compiled Statutes.
10. To regulate the discharge of sanitary sewage into any storm water drainage system constructed with this improvement in accordance with current Illinois Compiled Statutes.
11. If the **GRANTEE** signature is by an appointed official, a resolution authorizing said appointed official to execute this agreement is required.
12. Upon approval of the final plans and specifications by the **GRANTOR** and the **GRANTEE**, the **GRANTEE** agrees to accept bids and award the contract to the lowest responsible bidder after receipt of a satisfactory bid and concurrence in the award has been received from the **GRANTOR**.
13. The **GRANTEE** agrees to provide, or cause to be provided, all of the initial funding necessary to complete the project subject to reimbursement by the **GRANTOR**.
14. The **GRANTEE** will submit supporting documentation with each request for reimbursement from the **GRANTOR**. Supporting documentation is defined as verification of payment, certified time sheets or summaries, vendor invoices, vendor receipts, cost plus fix fee invoice, progress report, and personnel and direct cost summaries and other documentation supporting the requested reimbursement amount (Form BLRS 05621 should be used for consultant invoicing purposes). **GRANTEE** invoice requests to the **GRANTOR** will be submitted with sequential invoice numbers by project.

**THE GRANTOR AGREES:**

1. (**GRANTEE** Administered Projects) For agreements with **GRANTOR** funds in engineering, right-of-way, utility work and/or construction work:
  - (a) To reimburse the **GRANTEE** for the **GRANTOR** share on the basis of periodic billings within timeframes specified in Exhibit E, provided said billings contain sufficient cost information and show evidence of payment by the **GRANTEE**;

- (b) To provide independent assurance sampling, to furnish off-site material inspection and testing at sources normally visited by **GRANTOR** inspectors of steel, cement, aggregate, structural steel and other materials customarily tested by the **GRANTOR**.

**IT IS MUTALLY AGREED:**

1. Construction of the project will utilize domestic steel as required by Section 106.01 of the current edition of the Standard Specifications for Road and Bridge Construction.

### **PART THREE – THE PROJECT-SPECIFIC TERMS**

In addition to the uniform requirements in **PART ONE** and the Grantor-Specific Terms in **PART TWO**, the Grantor has the following additional requirements for this Project:

**Attachments:**

Location Map

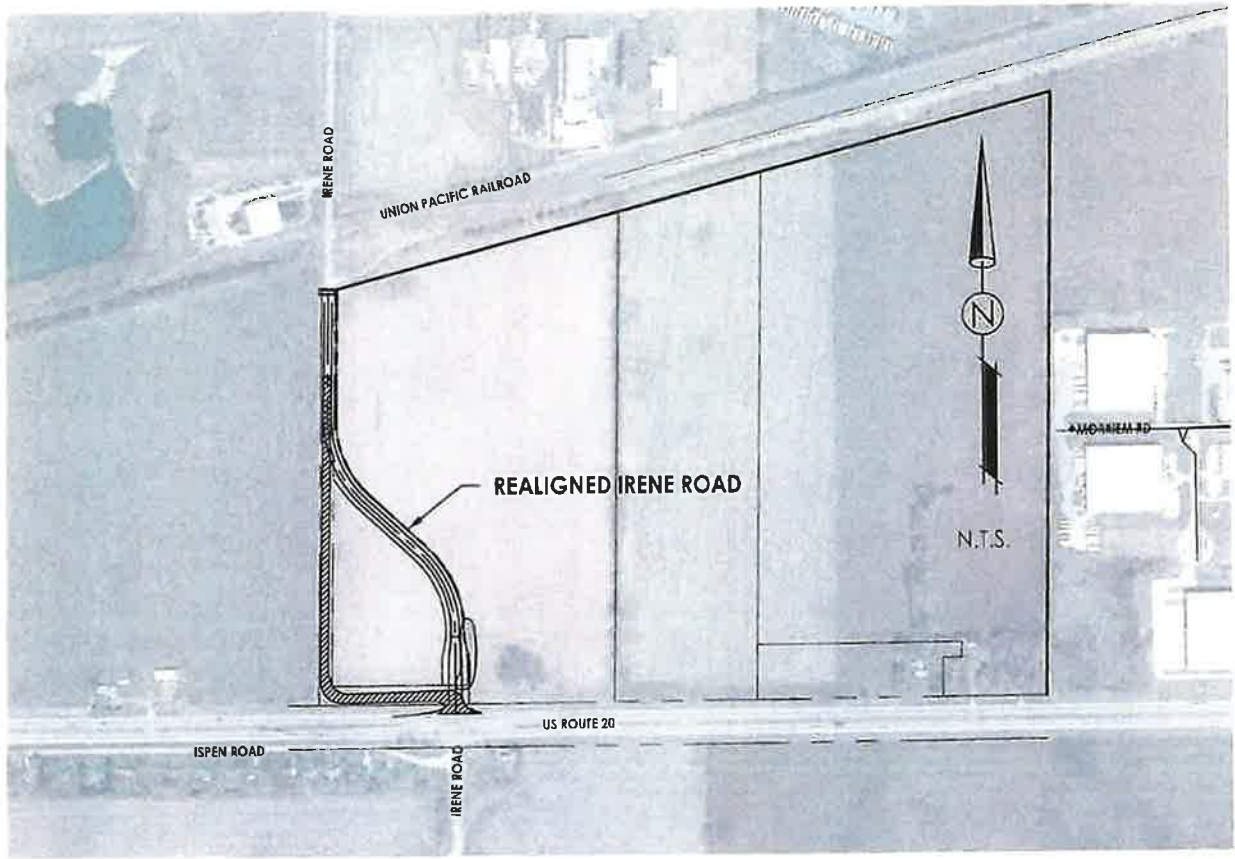
Employment Reporting Form (*when EDP funds are used*)

Local Public Agency/Company Agreement (*when EDP funds are used*)

80,000 lb. Truck Access Resolution (*when TARP funds are used*)



# IRENE ROAD REALIGNMENT



N.T.S.



700 WEST LOCUST ST., BELVIDERE, ILLINOIS 61008  
PHONE: (815) 547-8435, FAX: (815) 544-0421  
ILLINOIS DESIGN FIRM NO. 184-001260

**Resolution #2023-8**

**A RESOLUTION AUTHORIZING CERTAIN ANNUAL PARADES FOR 2023**

WHEREAS, the City of Belvidere allowed certain organizations to conduct parades on city streets in 2022, and

WHEREAS, the City Council finds it to be in the best interest of the City to allow the same parades in 2023,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BELVIDERE, ILLINOIS AS FOLLOWS:

**SECTION 1:** That the Mayor and City Council of the City of Belvidere approve the annual parades as set forth in Exhibit A, which is incorporated herein by reference.

**SECTION 2:** That the Mayor is authorized to approve amendments to the parade routes and the times and dates of the parades.

**SECTION 3:** The Police, Fire, and Public Works Departments are directed to provide such parade assistance as the Mayor directs.

Ayes:

Nays:

Absent:

Date Approved:

Approved:

\_\_\_\_\_ Mayor

Attest:

\_\_\_\_\_ City Clerk

ANNUAL PARADES  
EXHIBIT A

- EVENT:** **GOOD FRIDAY**  
**SPONSOR:** Members of St James Church  
**ROUTE:** Assembles on Church Street right on Main Street right Buchanan Street right on Warren Avenue and ending at Church Street.
- EVENT:** **MEMORIAL DAY**  
**SPONSOR:** Veteran's Memorial Commission  
**ROUTE:** Assembles at City Lot #5, proceeds West on Pleasant to State St. Brief ceremony at State Street Bridge.
- EVENT:** **4<sup>TH</sup> OF JULY/HERITAGE DAY CELEBRATION**  
**SPONSOR:** Heritage Day Committee  
**ROUTE:** Assembles at Whitney Blvd, proceeds to South State Street, heading north to Harrison Avenue.
- EVENT:** **HOMECOMING PARADE**  
**SPONSOR:** Belvidere High School  
**ROUTE:** Assembles at the Community Building and proceeds South on Pearl Street to 6<sup>th</sup> Street, East on 6<sup>th</sup> Street to East Avenue to High School.
- EVENT:** **HOMECOMING PARADE**  
**SPONSOR:** Belvidere North High School  
**ROUTE:** Assembles at the corner of Buchanan Street and Main Street and proceeds north on Main Street ending at West Street.
- EVENT:** **ANNUAL HALLOWEEN PARADE**  
**SPONSOR:** IOU Club  
**ROUTE:** Assembles on North State Street between Perry and Boone and proceeds to the Community Building.
- EVENT:** **VETERAN'S DAY PARADE**  
**SPONSOR:** Veteran's Memorial Commission  
**ROUTE:** Assembles at State Street and Lincoln Avenue, March to WWII Memorial in Belvidere Park then to VFW for ceremony.
- EVENT:** **CHRISTMAS PARADE**  
**SPONSOR:** Belvidere Park District  
**ROUTE:** North of Ida Public Library proceed south on State Street ending at Community Building.



RESOLUTION #2023-9

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
AND THE CLERK TO ATTEST AN AGREEMENT WITH  
METRO PARAMEDIC SERVICES, INC. FOR EMS  
RESPONSE AND TRANSPORT SERVICES

IT IS THEREFORE RESOLVED by the Mayor and City Council for the City of Belvidere as follows:

1. The EMS Staffing and Ambulance Vehicles Agreement, attached hereto and incorporated herein by this reference is approved.
2. The Mayor is authorized to execute and the Clerk to attest the attached EMS Staffing and Ambulance Vehicles Agreement.

Adopted by the City Council of the City of Belvidere, Illinois, this            day of February, 2023.

Approved: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

Ayes:  
Nays: .  
Absent: .

Date Approved:

# Metro

Paramedic Services, Inc.

## **EMS STAFFING AND AMBULANCE VEHICLES AGREEMENT FOR THE CITY OF BELVIDERE**

**May 1, 2023 – April 30, 2028**

## **AGREEMENT FOR EMS STAFFING AND AMBULANCE VEHICLES**

THIS AGREEMENT made this 1st day of May, 2023, by and between the City of Belvidere, Illinois, hereinafter referred to as "CITY" and METRO Paramedic Services, Inc., an Illinois corporation with registered offices at 395 W. Lake St., Elmhurst, IL, hereinafter referred to as "METRO", hereinafter each referred to as "Party" or collectively as "Parties".

### **NATURE OF THE AGREEMENT – UNDERSTANDING OF THE PARTIES**

**WHEREAS**, METRO is in the business of providing emergency medical service personnel who possess necessary skills, training and licensure; and

**WHEREAS**, the CITY deems to provide emergency medical services for residents of the CITY; and

**WHEREAS**, the CITY wishes to out-source with METRO for personnel to provide emergency medical services and METRO wishes to provide such services on an independent contractor basis to the CITY ; and

**WHEREAS**, as used in the Agreement, the terms "personnel" and "employees" mean the METRO's employees placed with the CITY pursuant to this Agreement; and

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants and promises hereinafter set forth, the Parties agree as follows:

### **1. TERM**

The term of this agreement shall be for five (5) years, beginning on May 1, 2023, at 12:00 AM (or such other time mutually agreeable to the parties) and terminating on April 30, 2028, at 12:00 AM. During said term, METRO shall provide CITY with ALS ambulance services.

### **2. SCOPE OF SERVICE**

- a) METRO shall assign twelve (12) of its employees for work at CITY who meet the qualifications set forth in this Agreement, hereinafter referred to as "Personnel". Personnel shall be assigned to CITY. METRO shall ensure coverage is provided 24 hours per day, each day of the year (365 days / 366 in a leap year). Personnel will be required to work shifts as deemed necessary by CITY and METRO to achieve CITY's and METRO's goal in delivering Emergency Medical Services

while meeting the requirements of the Illinois Department of Public health (IDPH) and the EMS System agreed upon by CITY and METRO.

- b) In the event of the absence of any employee of METRO's Personnel from their assigned shift, METRO shall provide a suitably qualified replacement to fulfill the assigned duties of the regularly scheduled employee. METRO personnel assigned to CITY shall be on permanent assignment and shall not be assigned to any other customer of METRO, except those temporary replacements may be used that are assigned to another METRO contract.
- c) METRO shall provide, own, and maintain two (2) fully equipped, ALS ambulances. Both vehicles shall serve as front line units to CITY. An itemized listing of METRO's owned assets is hereby attached as Exhibit "A". All vehicles will be licensed as specified by the Illinois Department of Public Health and the Hospital EMS System which is mutually agreed upon by CITY and METRO. METRO will supply a reserve ambulance vehicle licensed as a basic life support vehicle, but able to be upgraded to an advance life support vehicle if in the event one of the front-line ambulance vehicles are taken out of service for maintenance or become inoperable. METRO shall provide these vehicles to CITY twenty-four (24) hours per day, seven (7) days per week. METRO shall be available the same hours to receive and respond to calls for ambulance service within the corporate limits of CITY and to thereafter dispatch without delay a mobile intensive care unit provided however, that METRO shall also respond to locations outside the corporate limits when so requested pursuant to mutual aid agreement. The Parties agree that all vehicles referenced in this Article 2 (c) are to be permanently assigned to the CITY throughout the duration of the Term of this Agreement, except that the Parties agree that the Reserve Ambulance Unit can be used by METRO to service its other clients or other needs as long as such use does not impede the needs of the City as detailed herein.

METRO shall be responsible for keeping all vehicles it supplies to CITY in good working order, free from material defect and free from any visible or invisible major damage throughout the term of this Agreement

- d) METRO agrees to assume all responsibility for ownership and on-going maintenance and repair of the vehicles assigned to CITY, and furthermore agrees that the ambulance vehicles and non-transport unit shall be solely dedicated to serve CITY and shall remain the property of METRO. METRO shall supply and install any and all two-way VHF radios, portable VHF radios, and mobile data computers (used to interface with the CITY's 9-1-1 Dispatch center) in the ambulances.
- f) CITY agrees that METRO owns, operates, and provides certain medical equipment that is contained on the ambulances and provided to CITY. CITY agrees to promptly return said equipment to METRO upon termination of the Agreement.

- g) METRO agrees to honor any current or future mutual aid agreements to which CITY is or becomes a party. There shall be no charge to CITY nor any other fire department connected with the mutual aid response.
- h) METRO shall respond to all emergency calls for service within the CITY within eight (8) minutes of receipt of an emergency call from the CITY's/COUNTY dispatch at least 90% of the time.
- i) Each ambulance shall be staffed by two (2) employees of METRO one of whom shall hold a valid EMT-P license issue by the State of Illinois. All METRO employees, included but not limited to EMT's are employees of METRO and are not in any manner considered employees/agents of the CITY. METRO and METRO employees and agents shall in no way hold themselves out to employees or agents of the CITY.
- j) Ambulances shall be dispatched through Belvidere/BooneCounty 911 center. METRO shall equip all ambulances with communication equipment capable of communicating with the CITY's Fire Department.
- k) METRO may not utilize any of its Ambulances dedicated to the CITY as a primary responder for any other jurisdiction or for non-emergency transports.
- l) METRO agrees to enter into and/or honor agreements for mutual aid or back up provision of Ambulance/emergency medical services providing for the provision of such services within the CITY whether the services are provided by a public entity or a competing third-party private company.
- m) METRO shall respond, at no charge to the CITY, to all structural fires until released by the on-scene CITY Fire Department commander.
- n) The CITY Fire Department is currently a certified non-transport provider of emergency medical services and intends to continue responding to medical calls with ALS or BLS certified non-transport fire equipment.
- o) METRO agrees to assist the CITY in the training of its emergency medical staff (EMT-B, EMT-I, EMT-P) both for continuing education and initial training. Such assistance may include, but is not limited to, allowing CITY personnel to ride along on METRO' ambulances and calls as a part of the practical requirements for EMT training.
- p) METRO at no charge to the CITY, shall participate in any disaster planning and training activities or exercises up to six (6) times per year. METRO acknowledges receipt of, and agrees to comply with the Boone County Emergency Operations Plan.

- q) METRO shall provide EMS and ambulance service without regard to race, creed, color, sex, sexual preference, age, physical or mental handicaps, national origin, ancestry, or financial ability to pay, or other protective category.

### **3. PERSONNEL:**

- a) METRO shall provide six (6) EMT-Paramedics and six (6) EMT-B's to CITY. Personnel shall continue to meet all education requirements required by all applicable regulatory agencies to include IDPH and the EMS System. Evidence of the maintenance and completion of all required continuing education, license, and certification requirements shall be provided upon request by CITY's Fire Chief (hereinafter Fire Chief) or designee.
  - 1. METRO shall schedule the EMT-Paramedics and EMT-B's to sufficiently staff and operate the two (2) front line ambulances as deemed necessary to achieve the CITY and METRO's goals and objective of delivering EMS. The METRO employees will be assigned to accomplish the CITY's and METRO's goals and objectives in delivering Emergency Medical Services to the City of Belvidere while meeting the requirements of the Illinois Department of Public Health and the EMS System.
  - 2. METRO shall provide replacement personnel in the event of illness, vacation, or other vacancy caused by the absence of the regularly assigned personnel.
  - 3. Replacement personnel assigned to fill planned or unplanned vacancies shall be either regularly assigned paramedics or those from METRO's parent company Superior Air-Ground Ambulance Service, Inc. In addition, due to the nationwide shortage of Paramedics, METRO shall be able to utilize an advanced life support ambulance provided and staffed by Superior Air-Ground Ambulance Services if METRO and CITY mutually agree that extenuating circumstances exist necessitating the need to use an ambulance and Paramedics supplied by Superior Air-Ground Ambulance Service to provide services to the City of Belvidere.

### **4. SELECTION, QUALIFICATIONS, AND DUTIES OF PERSONNEL:**

- a) Paramedics or EMTs performing services under this Agreement shall have the necessary and required State of Illinois Certifications and be approved to work in the resource hospital committed to by CITY. Further, all paramedics and EMTs assigned to this Agreement shall be investigated and approved as to reasonable health, habits, and character. A record of convictions for violations of criminal or traffic laws may be grounds for rejection.
- b) Paramedics and EMTs shall continue their professional education and meet all requirements of the resource hospital/EMS System committed to by CITY, the

U.S. Department of Transportation, and the Illinois Department of Public Health and any other requirements that from time to time may be imposed by law or regulation.

- c) METRO shall use its best efforts to provide Paramedics that have a minimum of one (1) year of experience in working in a contract paramedic service or municipal employment as a paramedic, or any combination of the two and METRO shall use its best efforts to not assign Paramedics that have less than one (1) year experience in a medical environment in which major trauma injuries are common.
- d) There shall be no charge to CITY for education and training of the paramedics nor shall same cause on-duty paramedics to be absent from paramedic duty as set forth herein.
- e) To assist CITY in maintaining quality control, METRO shall provide CITY with resumes for Personnel who are being considered for assignment to CITY. So that CITY is certain that METRO's Personnel can effectively assist CITY and perform their duties, METRO shall, at its sole expense, require all prospective Personnel to take a pre-employment physical, which shall include a drug test and background screening, so long as such requirement is not contrary to federal, state, or local laws.
- f) For quality control purposes, each METRO employee assigned to CITY will be interviewed by a representative of CITY prior to his/her assignment. CITY shall advise METRO of Personnel who meet the CITY's quality requirements for full-time assignment to CITY.
- g) If the employment of any assigned Personnel is terminated from METRO and the Fire Chief is not aware, notice thereof shall be provided to the Fire Chief or his designee.
- h) METRO shall not assign any employee to the CITY in a permanent or temporary basis who is under disciplinary or law enforcement investigation or who is on a suspension status with METRO, IDPH or an EMS System.
- i) CITY shall have the right to direct METRO to no longer assign any given METRO employee to CITY when CITY determines that such action is in its best interests; provided, however, that both Parties agree to only undertake re-assignments that are consistent with their goals and commitments as equal opportunity employers. CITY shall notify METRO of such direction in writing. Upon receipt of notice, METRO shall replace its employee with another qualified employee and shall provide a permanent replacement within a reasonable period. All temporary and permanent replacement METRO employees shall be selected in accordance with the foregoing provisions of this agreement.
- j) Duties and Responsibilities: All paramedics shall be directly responsible to the Fire Chief for designated administrative and logistics matters as follows:

1. METRO and assigned paramedics shall abide by the "Paramedic Rules and Regulations and Paramedic Procedure", of the State of Illinois, or other government units applicable to ambulances and the operation of the paramedic programs, as now constituted or as from time to time amended. In addition to regular on-duty assignments, paramedics shall:
  - i. Perform demonstrations of the ambulance and equipment.
  - ii. Instruct cardiopulmonary resuscitation classes.
  - iii. Work in cooperation with the American Heart Association to create an extensive blood pressure screening program for CITY's Fire Department.
  - iv. Provide the EMT training and Public Education services required by the Belvidere Fire Department.
  
- e) Personnel shall not be excluded from or ineligible to participate in a "Federal Health Care Program" as defined in 42 U.S.C. Section 1320a-7b (f) (or any applicable successor statutory section) or in any other government payment program, including but not limited to the Illinois Medicaid Program. Personnel shall be enrolled in the Illinois Department of Healthcare and Family Services' Illinois Medicaid Program Advanced Cloud Technology (IMPACT) system and shall be screened by METRO against:
  - i) The OIG List of Excluded Individuals/Entities available at: <http://oig.hhs.gov/exclusions/exclusionslist.asp>.
  - ii) Any exclusion database maintained by the state agency that oversees the State Medicaid Program.
  - iii) The U.S. General Services Administration Excluded Parties List System. This list can be accessed at: <http://www.sam.gov>.
  
- f) METRO has established an Employee Drug Testing Program for its employees. METRO represents that it will enforce the terms of said program as set forth therein, provided that it is specifically acknowledged and understood that CITY in no way requires said program and that the establishment thereof is the sole and voluntary act of METRO in compliance with existing Drug-Free Workplace Acts. In the event laws or regulations are put into effect by any government agency which shall require or negate employee drug testing of paramedic personnel beyond that required or negated, if at all, by existing Drug-Free Workplace Acts, METRO shall comply therewith.
  
- g) METRO shall conduct employee background checks of Personnel assigned to CITY. Background checks will be performed by METRO at its own expense and shall consist of the following at a minimum:
  1. Live Scan fingerprint performed by METRO.



2. InfoTrack background package to include Social Security number trace, county criminal trace, and Drivers' License Trace (all States that the Personnel has resided in).
  3. Upon request of the CITY's Fire Chief, METRO shall provide CITY's Fire Chief or designee with an opportunity to review all background investigations or results.
  4. CITY and its Fire Chief have the right to reject candidates based on the results of a background check.
  5. CITY's Fire Chief, with written permission of METRO and of METRO's Personnel, can periodically update the background check on any of METRO's Personnel.
  6. Should METRO's Personnel refuse to comply with METRO to accomplish the above items stipulated within this Article 5 (g), CITY shall have the right to refuse assignment of METRO's Personnel not willing to comply with any of the requirements stipulated in this Article 5 herein.
- h) If background check reveals information or statements that are incorrect or reveals information showing any of the following, the applicant should not be approved for hire:
1. The applicant has been convicted of a felony based upon his or her conduct or involvement in such business activity or similar business within the past ten (10) years.
  2. The applicant has been convicted of a felony or misdemeanor unrelated to his or her conduct or involvement in such business activity or similar business, which felony or misdemeanor involves any of the following offenses:
    - i. Unlawful possession with the intent to deliver; any controlled substance, as such term is defined in the Illinois Controlled Substances Act (720ILCS 570/100 et seq.), as amended from time to time, as defined in the Cannabis Control Act (720 ILCS 550/1 et seq.), as amended from time to time; or an intoxicating compound, as listed or defined in the Intoxicating Compounds Act (720 ILCS 690/0.01 et seq.), as amended from time to time, or any like offense of another state or country within the past ten (10) years.
    - ii. Unlawful possession of any controlled substance, cannabis, or intoxicating compound, within the past five years.
    - iii. The offenses of criminal sexual assault and criminal sexual abuse, as such offenses are defined in the Illinois Criminal Code 720 ILCS 5/1-1 et seq., or any like offense of another state or country.
    - iv. Any offense involving violence against another person or threatened

violence against another person under the Illinois Criminal Code (720 ILCS 5/1-1et seq.), within the past ten (10) years.

- v. Any offense involving moral turpitude, including but not limited to any offense involving the misapplication, misappropriation, or misuse of funds of another person, within the past five years.
- vi. The applicant has been convicted of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Illinois law (325 ILCS 5/11-501 et seq.), as amended from time to time of similar provision of local ordinance or any like offense of another state or county within the past five (5) years.
- vii. The applicant has been convicted of driving under the influence of a controlled substance, cannabis, or an intoxicating compound under Illinois law (625 ILCS 5/11-501 et seq.), as amended from time to time or similar provision of a local ordinance or any like offense of another state or country, within the past five (5) years.
- viii. The applicant has been convicted of reckless driving under Illinois law (625 ILCS 5/11-503 et seq.), as amended from time to time or similar provision of a local ordinance or any like offense of another state or county within the past five (5) years.
- ix. Other criminal convictions deeming a candidate ineligible for placement at the CITY as determined by the Fire Chief.
- x. METRO is solely responsible for ensuring that all personnel assigned to the CITY are legally eligible to work in the United States of America and have provided all documentation necessary for completion of the Federal I9 form.

#### **5. Consideration:**

In consideration for the services to be provided by METRO to the CITY pursuant to the provisions of this Agreement, the CITY will pay METRO the total sum of \$1,659,733.00 in Year One (1). This sum shall be paid in twelve equal monthly payments of \$138,311.08. METRO will send monthly invoice for services. All payments shall be made by CITY in accordance with the Illinois Prompt Payment Act.

In the event that CITY requests METRO's assigned Paramedic/ Emergency Medical Technician-Paramedic to work hours in excess of those specified in this Agreement, CITY

shall pay METRO \$47.37 per hour, for hours worked in excess of those specified in this Agreement. This provision shall not apply to cases where a paramedic is held over due to completing an EMS call for service.

The Parties shall negotiate in good faith to set compensation for Year 2, Year 3, Year 4, and Year 5 of this Agreement, provided, however, that any increase or decrease in Contractor's compensation, assuming no change in the number or hours of personnel (as specified in Article 2) to be provided, shall not exceed 3% per contract year excluding increases necessitated due to local, state or federal law. Once the Parties reach an agreement with regard to the compensation to be paid to Contractor for Years 2, 3, 4 and 5 of this Agreement and/or optional renewal for an additional one year terms after the initial three year term, the Parties shall amend this Agreement in accordance with Article 25.

#### **6. EQUIPMENT:**

- a) Uniforms shall be supplied by METRO at no additional expense to CITY in a style or nature as the Fire Chief and METRO shall agree.
- b) All paramedics shall be provided by METRO with a complete set of Personal Protective Equipment.
- c) Temporary replacement personnel shall have available all required equipment and uniforms as indicated in Subsection 6 (a) and 6 (b) hereof at the start of their tour of duty.
- d) METRO shall provide one (1) complete set of medical equipment and supplies per each front-line ambulance (not reserve ambulance) as specified by the resource hospital/EMS System as committed to by CITY.
- e) METRO shall provide one (1) complete set of telemetry equipment and one (1) cardiac monitor assigned to each front-line ambulance.
- f) Metro shall provide and equip two (2) front-line ambulance vehicles with portable and mobile VHF radios so that METRO's personnel can communicate with CITY's first responders.
- g) METRO shall have the responsibility for maintenance, repair, and replacement of all equipment and supplies therefore required under this Agreement including fuel and oil for the vehicles. If the equipment with a serious mechanical defect is not repaired or replaced within a reasonable time period, CITY may undertake necessary repairs and METRO shall reimburse CITY for the full cost of such repairs incurred by CITY. Any replacement equipment shall be the same or better than that which it replaced.
- h) METRO shall replace any equipment (including ALS type transporting vehicle)

lost, stolen, damaged, or removed from service for repair within one (1) hour of notification by the Belvidere Fire Chief or designee.

#### **7. FACILITIES:**

- a) METRO shall provide equipped facilities, bunkroom facilities, and day room facilities for use by METRO's on-duty employees assigned to the CITY of Belvidere. METRO shall provide indoor parking of ambulances. If feasible, and if the Parties agree, METRO shall re-locate its equipment and personnel to CITY owned facilities (either at a fire station or otherwise). In such an event, the consideration paid by the CITY shall be reduced by the amount of METRO's costs of providing the facilities set forth herein.

#### **8. ADMINISTRATION OF EMS PROGRAM AND EMS BILLING:**

- a) METRO shall handle or cause to be handled all necessary reports as required by the State of Illinois, federal government, resource hospital, CITY or any other agency requiring information on all calls for service. METRO shall cooperate with the CITY to bill for services rendered, including, but not limited to, appropriate reporting with shared resources.
- b) METRO shall provide any other reasonable service necessary as determined by CITY Fire Chief or their designee to maintain an efficient paramedic program in CITY.
- c) Neither Party shall provide information, nor any response shall be divulged to any agency or individual other than those required by state or federal law or regulations promulgated pursuant thereto except with express consent of CITY and METRO.
- d) CITY shall notify its dispatch provider that authorized METRO personnel are authorized to receive data and other information from CITY's dispatch center provided the data or information being sought is within the scope of services being provided to CITY.

#### **9. INSURANCE:**

METRO shall provide:

- a. **Workers Compensation Insurance.** METRO shall purchase and maintain, and upon request shall provide evidence that it has secured workers' compensation insurance for its employees in amounts required by Illinois law.
- b. **Professional Liability Insurance.** METRO shall purchase, maintain and upon request shall provide evidence that it has secured comprehensive professional liability insurance with a single limit of One Million Dollars and No Cents

(\$1,000,000.00) per occurrence, and aggregate coverage of at least Ten Million Dollars and No Cents (\$10,000,000.00).

- c. **Non-Owned, Owned and Hired Automobile Insurance.** METRO shall purchase, maintain and upon request shall provide evidence that they have secured, coverage for METRO and METRO's employees for occurrences arising while METRO's employees are driving the CITY's vehicles, with a minimum single limit of One Million Dollars and No Cents (\$1,000,000.00 ), and additional aggregate coverage of at least Five Million Dollars and No Cents (\$5,000,000.00).
- d. **Comprehensive General Liability Insurance.** METRO shall maintain, and upon request shall produce evidence that it has comprehensive general liability insurance, or equivalent coverage, affording the following: METRO's insurance, including contractual liability and errors and omissions insurance, which shall include employment-related practices, products and complete operations insurance, bodily injury, property damage and personal injury insurance, with a minimum of One Million Dollars and No Cents (\$1,000,000.00) combined single limit of liability for all underlying coverage. With an "umbrella" or excess insurance coverage on a following form basis to the underlying coverage of a minimum of Ten Million Dollars and No Cents (\$10,000,000.00). METRO may purchase a single excess policy for both CGL and professional liability coverage.
- e. **Crime Insurance.** METRO shall provide and maintain Blanket Crime coverage that covers it employees against dishonesty, robbery, burglary, theft, destruction, disappearance as well as other related crime risks to CITYs/patient property with limits no less than Five Hundred Thousand Dollars and No Cents (\$500,000.00).
- f. **Health Insurance.** METRO shall purchase and maintain, and upon request shall provide evidence that it has secured, health insurance for its employees.
- g. **METRO's Insurance.** In the event that any claim or suit is brought against the CITY and the claim is directly attributable to the fault/negligence of METRO's employees, METRO's insurance shall be primary. METRO agrees to assume all liability for, and shall protect, and shall defend, and indemnify and hold harmless the CITY, its elected and appointed officials, employees, servants and agents, from and against all claims, actions, judgements, costs, losses, expenses and liabilities of whatsoever kind or nature including legal fees incurred by the CITY relating to such claims.
- h. **City's Insurance.** In the event that any claim or suit is brought against METRO and the claim is directly attributable to the fault/negligence of CITY's employees, CITY's insurance shall be primary. CITY agrees to assume all liability for, and shall protect, and shall defend, and indemnify and hold harmless the METRO, its Officers and officials, employees, and agents, from and against all claims, actions, judgements, costs, losses, expenses and liabilities of whatsoever kind or nature including legal fees incurred by METRO relating to such claims.

- i. **CITY as Additional Insured.** METRO shall name CITY, its elected officials, and its officers, agents and employees as additional insureds on all applicable insurance policies. All applicable insurance policies shall contain a provision requiring sixty (60) day advance notice to CITY in the event of cancellation. Before METRO commences services hereunder, a copy of METRO's insurance policy or policies evidencing compliance with the provisions hereof shall be provided to CITY.
- j. **METRO as Additional Insured.** CITY shall name METRO, and its officers, agents and employees as additional insureds on all applicable insurance policies. All applicable insurance policies shall contain a provision requiring sixty (60) day advance notice to METRO in the event of cancellation. Before services commence hereunder, a copy of CITY's insurance policies evidencing compliance with the provisions hereof shall be provided to CITY.
- k. **Coverage Not to Be Changed By Sale of METRO.** In the event that a controlling interest of METRO's business is sold or transferred, the insurance coverage described in this Agreement shall not in any way be materially changed.
- l. **Notice of Change in Coverage or Cancellation.** METRO shall notify CITY within forty-eight (48) hours of being notified of any change in coverage limits or status of its insurance policies. METRO's election to provide any coverage required by this Agreement through a plan of self-insurance shall be considered a material change and default of this Agreement unless CITY, in its sole discretion, approves such a plan.

At all times during the term of the Agreement, and throughout any renewal periods, METRO will maintain insurance coverage. CITY shall be designated as an additional insured on all applicable policies. All insurance will be furnished by an insurance carrier appropriately licensed to write such policies.

#### **10. INDEMNIFICATION:**

It is expressly understood and agreed that each Party, to the extent permitted by law, shall in all events defend, indemnify, save, and hold harmless the other, their parents, affiliates, successors and assigns, elected and appointed officials, and their respective present and former agents, officers, volunteers, elected and appointed officials, and employees from any and all claims, liabilities, obligations, debts, charges, settlements or judgments (including attorneys' fees) arising from death, illness, physical injuries or property damage to any third Party or the other Party's present and former agents, officers, volunteers, and employees, including but not limited to any and all employment-related causes of action, attributable to the acts or omissions of the indemnifying Party, its agents, officers, and employees while engaged in the performance of duties under this Agreement provided that no Party shall have any obligation under this Article with respect to liabilities caused by the gross negligence, reckless, fraudulent or deliberately dishonest conduct, or intentional

misconduct of the Party seeking indemnification; and in the event that a final determination that such claims or liabilities resulted from the indemnified Party's gross negligence, reckless, fraudulent or deliberately dishonest conduct, or intentional misconduct is made by a court of competent jurisdiction, the indemnified Party shall immediately refund such monies and expenses paid pursuant to this Article. Neither Party shall be obligated to indemnify the other Party for any claim or liability: (a) involving a claim by one Party against the other Party; (b) to the extent prohibited by law; (c) to the extent the Party seeking indemnification receives indemnification or insurance coverage from any other source. Provided that a Party is not in breach of its indemnification obligations hereunder, no Party being indemnified shall settle or compromise any claim subject to indemnification hereunder without the consent, of the Party providing such indemnification. Each Party also agrees to indemnify and hold each other harmless for: (a) any settlement or judgment based upon the sole theory of apparent agency arising from the negligent acts or omissions of the other and/or its employees or agents, and (b) any settlement or judgment of an employment discrimination charge or claim arising from one Party's employees committing discriminatory, retaliatory, or harassing acts against the other Party's employees.

Notwithstanding the above paragraph, neither Party shall be liable to the other for indemnification for, and each Party hereby releases the other from, any liability for punitive, exemplary and consequential damages which may be suffered by such Party arising directly or indirectly out of the performance of this Agreement, including but not limited to the loss of use, loss of profits or business interruption (collectively, the "excluded damages"); provided that amounts owed as consideration under this Agreement shall not be deemed excluded damages.

Notwithstanding the foregoing, nothing contained within this Agreement is intended to be a waiver or estoppel of METRO, CITY, or its respective insurer's ability to rely upon the limitations, defenses and immunities contained within Illinois law, including, but not limited to Illinois Local Government Tort Immunity Act or the Emergency Medical Systems act that may be applicable to the CITY or METRO. To the extent that indemnification is available and enforceable, the Parties or their respective insurers shall not be liable to in indemnity or contribution for an amount greater than the limits of liability for claims established by law. Each Party's obligation to indemnify hereunder is subject to the availability and limits of applicable insurance coverage. Under no circumstances shall either Party be required to indemnify the other Party for its own negligent or intentional conduct.

This indemnification obligation shall be deemed to be contractual in nature and shall survive any termination of this Agreement.

#### **11. MISCELLANEOUS PROVISION:**

- a) All personnel provided by METRO shall be and remain at all times properly licensed to operate or drive the mobile intensive care vehicles to be provided under

this Agreement.

- b) All rights, duties and acts of METRO and CITY which may be or are required to be performed after termination of this Agreement shall survive such termination.
- c) If METRO requests that a CITY EMT or Firefighter assist in the transport of a patient, METRO shall arrange for the return of the CITY EMT or Firefighter at the earliest possible time to the appropriate Fire Station.

## **12. TERMINATION OF AGREEMENT:**

After the initial Five (5) Year Term, this Agreement shall automatically renew for successive one (1) year terms upon the same terms and conditions herein, unless amended or renewed pursuant to Article 22 herein. CITY or METRO may terminate this Agreement at any time without cause by providing the other Party with one hundred eighty (180) calendar day written notice of such intent via certified mail, or via personal service, which notice shall set forth the reason for the termination.

## **13: ADMINISTRATION OF REPORTS AND RECORDS:**

- a) METRO shall be responsible for completing all reports required under federal law, state law, resource hospital rules, or local rules and regulations for the provision of Emergency Medical Services. CITY will cooperate fully in completing such reports.
- b) If this Agreement or any report prepared in accordance with this Agreement is subject to request by any governmental agency, METRO shall have primary responsibility for complying with such request with notice to CITY. If necessary, METRO will assist the CITY in complying with any document, not in the CITY's possession, necessary to comply with a request under the Illinois Freedom of Information Act, within forty-eight (48) hours of request.
- c) METRO shall keep original records at METRO's principal place of business to allow CITY and its agents to obtain information regarding the personnel furnished and services rendered under this Agreement. This provision shall survive the termination of this Agreement. METRO shall maintain the records pertaining to the services rendered upon the behalf of CITY during the term of this Agreement and for a period of not less than seven (7) years following any termination. If necessary, METRO shall assist the CITY in complying with any document, not in the CITY's possession, necessary to comply with a request under the Illinois Freedom of Information Act, within forty-eight(48) hours of request.

## **14: RELATIONSHIP OF THE PARTIES:**

- a) Notwithstanding anything to the contrary in this Agreement or elsewhere, METRO



is an independent contractor with respect to the CITY. There is no agency, employment relationship, partnership, or joint venture between METRO, its employees, and CITY and/or CITY's employees. No one connected with METRO, except in a writing signed by the chief executive of METRO, has any authority to make any binding promises or agreements contrary to the foregoing.

- b) METRO's employees shall be, for all purposes, bona fide employees of METRO and not of CITY. All employment-related costs, benefits and expenses arising out of the relationship between CITY and METRO, including, but not limited to wages, state, local and federal taxes, benefits, insurance premiums, and contributions to insurance, pension, or other deferred compensation plans, including Social Security, unemployment insurance and workers' compensation obligations, shall be the sole responsibility of METRO. METRO's employees shall also be subject to all personnel policies and regulations applicable to METRO's employees generally, including time off with or without pay and leaves of absence, including under the Family and Medical Leave Act or any similar state law. It is recognized by the Parties that the provision of emergency medical and firefighting service is inherently dangerous. CITY shall provide a safe, healthy and non-discriminatory working environment in compliance with all applicable federal, state and local laws, regulations and ordinances. METRO and CITY agree that METRO is an independent contractor and shall be liable for its own actions. Neither Party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other Party, except as specifically outlined herein. METRO, including its employees, shall not be considered, entitled or eligible to participate in any benefits or privileges given or extended by CITY or be deemed an employee of CITY for any purposes, including but not limited to, for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation, and other employer contributions not specifically provided for in this Agreement. METRO shall retain the exclusive right to hire, discipline, compensate and terminate its employees pursuant to METRO's policies and procedures and consistent with the terms of this Agreement.

#### **15: COMPLIANCE WITH LAWS:**

The Parties agree to use their best efforts to adhere to all county, state and federal rules, regulations, codes, ordinances, and charters as they may apply to fire protection and emergency medical services, including but not limited to the following:

- a) **State of Illinois Anti-Discrimination Laws (775 ILCS 5/101/ et. seq.).** In carrying out the performance required under this Agreement, the Parties agree to use their best efforts to comply with all applicable provisions of the Illinois Human Rights Act, and rules and regulations promulgated by the Illinois Department of Human Rights, prohibiting unlawful discrimination in employment. METRO's deliberate, willful, or repeated failure to comply with all applicable provisions of the Illinois Human Rights Act, as determined by the Illinois Human Rights

Commission or a court of competent jurisdiction, including specifically, provisions related to sexual harassment, or applicable rules and regulations promulgated thereunder, may result in a determination that METRO is ineligible for future contracts with CITY or any of its political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, provided that the provisions of this Agreement for the termination of this Agreement are followed, METRO is given a thirty (30) day period in which to cure any non-compliance or violations, and an opportunity to be heard by the City Council of CITY or similar entity before any decision has been made to cancel or void this Agreement and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

- b) **Drug-free Workplace Act (30 ILCS 580/1, et. seq.).** All Parties must comply with all of the provisions of the Drug-free Workplace Act, which are applicable to METRO. Knowing or repeated false certifications or violations of the requirements of the Drug-free Workplace Act as determined by CITY's city council or similar entity may result in sanctions including, but not limited to, termination of this Agreement.
- c) **Freedom of Information Act (5 ILCS 140/1 et. seq.).** Applications, program reports and other information obtained by the CITY pursuant to this Agreement shall be administered in accordance with the Freedom of Information Act. CITY shall give METRO at least two (2) business days advanced written notice of any FOIA requests related to this Agreement and opportunity to review and object to any FOIA requests.
- d) **Educational Loan Default Act (5 ILCS 385/3).** METRO certifies that this Agreement is not in violation of the Educational Loan Default Act prohibiting certain contracts to individuals who are in default on an educational loan.
- e) **Americans with Disabilities Act.** As a condition of receiving this Agreement, METRO certifies that services and activities provided under this Agreement comply and will continue to comply with The Americans with Disabilities Act (hereinafter "ADA") (42 U.S.C. 12101 et. seq.) and the regulations there under (28 CFR 35.130).

CITY shall not require METRO to perform any act which is contrary to the aforesaid and METRO shall use its best efforts to prohibit its employees from performing any act which violate the aforesaid acts and will take prompt remedial action to rectify or resolve any such violations.

The Parties recognize that this Agreement is at all times subject to applicable federal, state, and local law, including, but not limited to, the Social Security Act and its rules and policies and guidelines issued by the United States Department of Health and Human Services and its agencies such as CMS and the Office of the Inspector General. The Parties intend to comply fully with all applicable federal, state and municipal laws and regulations,

including, but not limited to, the Balanced Budget Act of 1997, the Social Security Act, the federal Anti-Kickback Statute, and the federal False Claims Act. This Agreement shall be subject to amendments of such laws and regulations, and to new legislation and regulation. Any provisions of law that invalidate or are otherwise inconsistent with the terms of this Agreement, or that would cause one or both Parties to be in violation of law, shall be deemed to have superseded the terms of this Agreement; provided however, that the Parties shall exercise their best effort to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either Party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. Additionally, insofar as any terms or conditions of this Agreement are determined by any court or by the OIG to be contrary to any statutes or regulations, the Parties will promptly and in good faith confer and resolve any issues in order to amend this Agreement so that the performance of this Agreement is consistent with all applicable statutes and regulations. In the event that the Parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, either Party may terminate this Agreement pursuant to Article 3, unless this Agreement would expire earlier by its terms. If either Party becomes aware of any actual or potential violations by the other Party, whether intentional or inadvertent, of any applicable state or federal statutes or regulations, it shall promptly notify the other Party in writing.

Each Party, their respective directors, trustees, officers and employees shall abide by their respective organization's ethical guidelines, including but not limited to guidelines related to gifts, political contributions, the federal Anti-Kickback Act (Section 1128B(b) of the Social Security Act) and the False Claims Act (31 USC 3729) and any amendments thereto.

METRO warrants that it is properly licensed to provide the personnel described in this Agreement to CITY under all applicable federal, state, and local laws. METRO shall maintain all such licenses and all others as may be required by law during the term of this Agreement and will furnish a copy of each license and license renewal to CITY upon request. For purposes of any defenses or immunities to claims and liabilities to third Parties that CITY and/or its employees may be entitled under applicable laws, the Parties agree that, to the extent permitted by law, METRO will be deemed the agent of CITY or standing in the shoes of CITY with respect to such defenses and immunities available to CITY.

#### **16: PAYMENT TO THIRD PARTIES:**

METRO shall not pay any salaries, commissions or fees, or make any payments or rebates to any employee or officer of CITY or any of its affiliates, or to any designee of any employee or officer of CITY or any of its affiliates, or favor any employee or officer of CITY or any of its affiliates, or any designee of any employee or officer of CITY or any of its affiliates, or enter into any business arrangements with any employee or officer of CITY or any of its affiliates, other than as a representative of CITY.

Without limiting any provision herein, METRO further agrees that METRO will not, either directly or indirectly, offer, pay, promise to pay or authorize the payment of money or anything of value to any government official, candidate for office, political party, vendor or other third Party in violation of any law.

**17: CONFIDENTIALITY:**

Trade secrets and confidential information that may be received by any Party or its employees, directly or indirectly, that are exempt from public disclosure under applicable laws, including, but not limited to, the Illinois Freedom of Information Act, shall remain the property of the disclosing Party and shall be kept confidential by the Party to whom such trade secrets or confidential information was disclosed. Such information will be utilized only for the purposes of carrying out the services and purposes of this Agreement, and each Party to which such information is disclosed shall cause each of its employees to comply with the foregoing. Upon termination of this Agreement, each Party agrees to surrender to the disclosing Party any and all trade secrets, confidential information, material or tangible items or written information supplied by the disclosing Party. The obligations of this Article will survive the termination or expiration of this Agreement.

**18: PUBLICITY:**

CITY agrees to allow METRO to list CITY as a reference in any of METRO's written or digital material for the sole purpose of listing CITY as a reference. With the exception of listing CITY as a reference on any of METRO's written and/or digital material, METRO shall not, without the prior written consent of the CITY: (a) refer to, identify, or use the name or any trade name or trademark of the CITY or any of its employees in any advertising or communications to the public by METRO made in any form or (b) take any photographs, video or other recordings of the property of the CITY or any of its employees.

**19: NON-SOLICITATION AGREEMENT:**

CITY agrees not to, directly or indirectly, solicit, or cause or induce on its own behalf or for any third party to solicit, for the purpose of hiring any of METRO's employees placed with CITY to perform like services for CITY for the duration of this Agreement, unless mutually agreed by METRO and CITY unless the employee choses to apply for a position with the Belvidere Fire Department and establishes themselves on the Belvidere Fire Department's eligibility list.

**20: FORCE MAJEURE:**

Neither Party shall be liable for any delay in delivery or nonperformance in whole of its obligations under this Agreement if prevented from doing so by a cause or causes beyond its control, including, without limitations, acts of nature or public enemy, fire, floods, storms, earthquakes, riots, strikes, war, pandemics, epidemics, labor shortages, paramedic shortages, and restraints of government. The suspension of performance shall be of no greater scope and no longer duration than is reasonably required and the non-performing

Party shall promptly notify the other Party of such event and use reasonable efforts to remedy its inability to perform.

**21: COUNTERPARTS:**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**22: NOTICES:**

All notices provided for or permitted herein shall be in writing and shall be delivered personally sent by a national overnight courier service, or sent by United States certified or registered mail, postage prepaid, return receipt requested, directed to the Parties at the following addresses or to such address as any Party shall designate by notice delivered or sent in the above manner. If a notice is sent by mail, it shall be deemed to have been received by the addressee two (2) days after the post marked date which it bears.

**METRO:** Michael G. Tillman, Vice President  
Metro Paramedic Services, Inc.  
395 West Lake Street  
Belvidere, Illinois 60126

**CITY:** Clerk  
City of Belvidere  
401 Whitney Blvd.  
Belvidere, IL. 61008

With Copy to CITY Attorney: City Attorney  
City of Belvidere  
401 Whitney Blvd.  
Belvidere, IL. 61008

**23: ENTIRE AGREEMENT, AMENDMENT, WAIVER, AND USE OF SUBCONTRACTOR:**

This Agreement contains the entire agreement and understanding between the Parties regarding the subject matter hereof; it supersedes and replaces all prior agreements, negotiations, and arrangements concerning its subject matter; and this Agreement is not subject to modification, alteration or amendment, except by further written Agreement signed by all Parties. No waiver of any provision shall constitute a waiver of any other provision, nor shall any waiver be deemed continuing unless otherwise expressly so

provided in writing by the Party against which the waiver is asserted. A waiver of right or remedy on any one occasion will not be construed as a bar to or waiver of any such right to remedy on any other occasion. If the consent of either Party is necessary pursuant to the terms of this Agreement, such consent shall not be unreasonably withheld.

Except for EMT and Paramedic positions discussed and described throughout this Agreement, METRO may use sub-contractors to provide the personnel necessary to fulfill its obligations under this Agreement; provided that METRO agrees that it will require its sub-contractors and agents to make the same covenants and agreements contained in this Agreement. Subject to the preceding sentence, neither METRO nor CITY may assign this Agreement or its obligations without the other Party's prior written consent that shall not be unreasonably withheld, provided that METRO may utilize the employees or METROs of third Parties to provide CITY with qualified personnel without obtaining the prior written consent of CITY. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

**24: GOVERNING LAW:**

This Agreement and the Parties' relationship shall be construed in accordance with and governed by the laws of the State of Illinois without regard to applicable conflict of laws provisions. The Parties further agree that any dispute arising under, or in any way related to, this Agreement shall be brought in the 17<sup>th</sup> Judicial Circuit, Boone County, Illinois, unless a different venue is agreed to in writing by both parties.

**25: SEVERABILITY:**

If any portion of this Agreement is determined to be invalid by subsequent passage of law or court interpretation, the court or other tribunal may "blue pencil" or revise said portion so that it is enforceable to the fullest extent permitted by law or, if such revision is deemed impermissible, that portion shall be removed from this Agreement. All other portions of this Agreement shall remain in full force and effect. Should any provision of this Agreement be deemed by either Party to be contrary to the provisions of said Laws, then the court may revise such provision so that it is enforceable, or the Parties agree to attempt in good faith to renegotiate the problematic provision to the mutual satisfaction of the Parties. In the event the Parties are not able to mutually agree on modification of the problematic provision, then either Party may terminate this Agreement upon thirty (30) calendar days written notice to the other Party if the terminating Party has a good faith belief based on the advice of legal counsel that the problematic provision creates an unfavorable exposure under applicable laws.

**26: AUTHORITY:**

METRO represents that this Agreement is executed pursuant to approval of its President, and CITY represents that this Agreement is executed pursuant to authority of its city council.

**27: HEADINGS:**

The headings and subheadings in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

**28: HIPAA:**

The Parties agree that any duties undertaken under this Agreement will comply in all material respects with all federal and state-mandated regulations, rules, or orders applicable to the obligations undertaken pursuant to this Agreement, including but not limited to regulations promulgated under Title II Subtitle F of the Health Insurance Portability and Accountability Act (Public Law 104-91) and all subsequent amendments, regulations, and guidance thereto ("HIPAA"). The Parties agree that for purposes of HIPAA, METRO's employees and personnel shall be considered workforce members, as that term is defined in 45 CFR 160.103, of CITY and that no business associate agreement is necessary. Furthermore, the Parties shall amend this Agreement or execute any additional documentation to amend the Agreement to conform with HIPAA or any new or revised legislation, rules, or regulations to which they are subject now or in the future (collectively, "Code") in order to ensure that the Parties are at all times in conformance with HIPAA and the Code. If, within thirty (30) days of either Party first providing notice to the other of the need to review the Agreement or execute any other document to comply with HIPAA or the Code, the Parties do not reach a mutually agreeable resolution, and such agreement may not be unreasonably withheld, either Party may immediately terminate this Agreement.

**29: ASSIGNMENT:**

This Agreement cannot be assigned or delegated to a third party by either Party without the prior written consent of the other Party, which shall not be unreasonably withheld, and any attempted assignment without such consent shall be considered null and void; except that either Party may assign this Agreement to a parent, sister, subsidiary or affiliated corporation. Subject to the foregoing limitation, this Agreement shall be binding upon and inure to the benefit of the Parties' successors, assigns, affiliates or other legal representatives.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF** , the parties hereto have caused this agreement to be executed by their duly authorized officials on the date first above written.

**CITY OF BELVIDERE**

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

**Attest:**  
  
\_\_\_\_\_  
(title)

**METRO PARAMEDIC SERVICES, INC.**

By:           *Paul S. Williams*           , Vice President  
(title)

Date:           3/1/2023          

**Attest:**  
  
\_\_\_\_\_  
(title)



## **Exhibit “A”**

### **Itemized List of Metro’s Owned Assets Assigned to the City of Belvidere**

**Equipment Name**

Stryker Power Pro Cot

Stryker Power Pro Cot

Stryker Power LOAD

Stryker Power LOAD

Stryker Stair Pro Stair Chair

Stryker Stair Pro Stair Chair

LUCAS Device

LUCAS Device

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officials on the date first above written.

**CITY OF BELVIDERE**

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
(title)

**METRO PARAMEDIC SERVICES, INC.**

By: *Paul A. Hadden*, Vice President  
(title)

Date: 3/1/2023

Attest: *Ted Beck*, OPERATIONS MGR.  
(title)

RESOLUTION # 2023-10

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
A BILLING SERVICES AGREEMENT BETWEEN THE CITY OF BELVIDERE AND  
EMS MANAGEMENT & CONSULTANTS INC.

IT IS THEREFORE RESOLVED by the Mayor and City Council for the City of  
Belvidere as follows:

1. The Billing Services Agreement between the City of Belvidere and EMS  
Management & Consultants Inc., attached hereto and incorporated herein by  
this reference is approved.
2. The Mayor is authorized to execute and the Clerk to attest the attached Billing  
Services Agreement.

Adopted by the City Council of the City of Belvidere, Illinois, this            day of  
March, 2023.

Approved: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

Ayes:  
Nays: .  
Absent: .

Date Approved:  
J:\Draft Ordinances\Resolution approving Andres Billing Agreement.doc

## BILLING SERVICES AGREEMENT

THIS BILLING SERVICES AGREEMENT (hereinafter "Agreement") is entered into this \_\_\_\_\_ day of February 2023 between ANDRES MEDICAL BILLING an EMS MANAGEMENT & CONSULTANTS, INC. company (hereinafter "EMS|MC") and the CITY OF BELVIDERE, (hereinafter "Client").

### WITNESSETH:

WHEREAS, EMS|MC is an ambulance billing service company with experience in providing medical billing and collection services to medical transport providers, including fire and rescue and emergency medical service (EMS) providers; and

WHEREAS, Client is or will be engaged in the business of providing emergency medical services, and billable medical transportation services; and

WHEREAS, Client wishes to retain EMS|MC to provide medical billing, collection and related services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements described below and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

### 1. ENGAGEMENT.

a. During the term of this Agreement, EMS|MC shall provide routine billing, bill processing and fee collection services reasonably required and customary for service providers of similar size and situation to Client (the "Revenue Cycle Management Services" or "RCM Services"). The RCM Services shall include: (1) preparing and submitting initial and secondary claims and bills for Client to insurers and others responsible for payment; (2) performing reasonable and diligent routine collection efforts to secure payments from primary and secondary payers and patients or other entities; (3) issuing up to three patient statements for all unpaid balances; and (4) referring accounts which have not been collected during EMS|MC normal billing cycle to an outside collection agency if so directed by Client.

b. Collectively, the RCM Services that EMS|MC provides to Client shall be referred to as the "Services".

## **2. EMS|MC Responsibilities.**

a. EMS|MC will provide the RCM Services in compliance with all applicable state and federal laws and regulations.

b. EMS|MC will submit all "Completed Claims" to the any applicable third-party payer (e.g. insurance provider, Medicare, Medicaid, or other party responsible for payment). A "Completed Claim" is a claim for emergency medical services and billable medical transportation services that (i) is received by EMS|MC and supported by an ePCR record that contains all necessary and accurate information; (ii) has been reviewed and any identified issues sent to Client for remediation have been rectified; (iii) is for a patient encounter that has been electronically signed off by Client, or Client's agent, in the ePCR; (iv) has been reviewed by Client and deemed ready for billing; and (v) is not subject to a billing hold. EMS|MC will not have any responsibility for any adverse impact to Client that may result from any delay of Client in completing claims.

c. Accounts with outstanding balances after the insurance and/or third-party payer has determined benefits due will be billed by EMS|MC to the patient or other responsible party. EMS|MC will send up to three patient statements to the patient or responsible party, except as to those accounts on which an insurance carrier or third-party payer has accepted responsibility to pay. Once Client has submitted all necessary information, EMS|MC will bill all uninsured patients directly.

d. Within ten (10) business days of the last business day of the month, EMS|MC will provide to Client a month end report, which shall include an account analysis report, aging report and accounts receivables reconciliation report for the previous month. Deposit reports will be provided daily.

e. During the term of this Agreement, EMS|MC shall maintain, provide appropriate storage and data back-up for all billing records pertaining to the RCM Services provided by EMS|MC hereunder. Upon at least five (5) business days' prior written notice, EMS|MC shall make such records accessible to Client during EMS|MC business hours. Upon termination of this Agreement, trip data pertaining to the RCM Services shall be returned to Client. Notwithstanding anything to the contrary herein, Client acknowledges and agrees that EMS|MC is not a custodian of clinical records nor a clinical records repository. Client is responsible for maintaining all clinical records in accordance with Section 3(d).

f. EMS|MC shall notify Client of (i) all patient complaints about clinical services within five (5) business days of receipt; (ii) all patient complaints about billing within ten (10) business days of receipt; and (iii) all notices of audit, requests for medical records or other contacts or inquiries out of the normal course of business from representatives of

Medicare, Medicaid or private payers with which Client contracts or any law enforcement or government agency ("Payer Inquiries") within ten (10) business days of receipt, unless such agency prohibits EMS|MC from disclosing its inquiry to Client.

g. EMS|MC will reasonably assist Client in responding to Payer Inquiries which occur in the normal course of Client's business and arise from EMS|MC's provision of the Services. If EMS/MC believes that (i) Client is excessively utilizing EMS|MC's assistance in responding to Payer Inquiries, (ii) a Payer Inquiry is outside the normal course of Client's business; or (iii) a Payer Inquiry does not arise from the Services provided by EMS|MC EMS/MC shall immediately notify Client. Client may then determine whether to continue authorizing such assistance at EMS/MC's then current hourly rates or direct EMS/MC to cease such assistance with respect to a particular claim.

h. EMS|MC is appointed as the agent of Client under this Agreement solely for the express purposes of this Agreement relating to billing and receiving payments and mail, receiving and storing documents, and communicating with hospitals and other entities to facilitate its duties. EMS|MC will have no authority to pledge credit, contract, or otherwise act on behalf of Client except as expressly set forth herein.

i. As to all payments received from Medicare, Medicaid and other government funded programs, the parties specifically acknowledge that EMS|MC will only prepare claims for Client and will not negotiate checks payable or divert electronic fund transfers to Client from Medicare, Medicaid or any other government funded program. All Medicare, Medicaid and any other government funded program payments, including all electronic fund transfers, will be deposited directly into a bank account designated by Client to receive such payments and as to such account only Client, through its officers and directors, shall have access.

j. The Services provided by EMS|MC to Client under this Agreement are conditioned on Client's fulfillment of the responsibilities set forth in this Agreement.

k. EMS|MC shall have no responsibility to provide any of the following services:

- i. Determining the accuracy or truthfulness of documentation and information provided by Client;
- ii. Providing services outside the EMS|MC billing system;
- iii. Submitting any claim that EMS|MC believes to be inaccurate or fraudulent; or
- iv. Providing any service not expressly required of EMS|MC by this Agreement.

l. For Client's service dates that occurred prior to the mutually agreed go live date for the Services, Client agrees and understands that EMS|MC is not responsible for any services including, but not limited to, submitting claims or managing any denials, refunds or patient calls. As between Client and EMS|MC, Client is fully responsible for the proper billing and accounting of any remaining balances related to service dates that occurred prior to such go live date.

m. Unless otherwise agreed in writing by the parties, upon termination of this Agreement, EMS|MC shall continue to provide services under this Agreement for any claim that was placed with EMS|MC prior to termination and EMS|MC shall be entitled to compensation for such claim as set forth in this Agreement.

**3. RESPONSIBILITIES OF CLIENT.** The following responsibilities of Client are a condition of EMS|MC's services under this Agreement, and EMS|MC shall have no obligation to provide the Services to the extent that Client has not fulfilled these responsibilities:

a. Client will pay all amounts owed to EMS|MC under this Agreement.

b. Client will implement standard commercially reasonable actions and processes as may be requested by EMS|MC from time-to-time to allow EMS|MC to properly and efficiently provide the RCM Services. These actions and processes include, but are not limited to, the following:

- i. Providing EMS|MC with complete and accurate demographic and charge information necessary for the processing of professional and/or technical component billing to third parties and/or patients including, without limitation, the following: patient identification (name, address, phone number, birth date, gender); guarantor identification and address; insurance information; report of services; special claim forms; pre-authorization numbers; and such additional information as is requested by EMS|MC;
- ii. Providing EMS|MC with complete and accurate medical record documentation for each incident or patient service rendered for reimbursement, which is necessary to ensure proper billing and secure claim payment;
- iii. Providing EMS|MC, in a timely manner, with Patient Care Reports (PCRs) that thoroughly detail the patient's full medical condition at the time of service and include a chronological narrative of all services and treatment rendered;

- iv. Obtaining authorizations and signatures on all required forms, including consent to treat, assignment of benefits, release of information and claims;
- v. Obtaining physician certification statements (PCS) forms for all non-emergency transports and other similar medical necessity forms or prior authorization statements as deemed necessary by the payer;
- vi. Obtaining or executing all forms or documentation required by Medicare, Medicaid, CHAMPUS, and any other payer or insurance carriers to allow EMS|MC to carry out its billing and other duties under this Agreement; and
- vii. Implementing reasonable and customary charges for complete, compliant billing.

c. Client represents and warrants that the PCR and any and all associated medical records, forms and certification statements provided to EMS|MC are true and accurate and contain only factual information observed and documented by the attending field technician during the course of the treatment and transport.

d. Client, or Client's agent, shall maintain Client's own files with all original or source documents, as required by law, and only provide to EMS|MC copies of such documents. Client acknowledges that EMS|MC is not the agent of Client for storage of source documentation.

e. Client will provide EMS|MC with a copy of any existing billing policy manuals or guidelines, Medicare or Medicaid reports, or any other record or document related to services or billing of Client's accounts.

f. Client will report to EMS|MC within ten (10) business days of payments received directly by Client, and promptly notify EMS|MC of any cases requiring special handling or billing. Client shall advise EMS|MC of any Payer Inquiries within ten (10) business days of receipt.

g. Client shall ensure that any refunds posted by EMS|MC are actually issued and paid to the patient, insurer, or other payer as appropriate.

h. Client agrees to provide EMS|MC with administrative access to the ePCR system or similar access in order to run reports and review documents and attachments to better service Client's account.



i. Client shall provide EMS|MC with access to its facilities and personnel for the purpose of providing on-site and/or online training to such personnel. Client shall cooperate with EMS|MC and facilitate any training that EMS|MC wishes to provide.

j. Client shall complete EMS|MC's online training course within 90 days of the contract start date and all new hires will complete EMS|MC's online documentation training within 90 days of hire date. Newly developed training materials by EMS|MC should be mutually agreed upon by the parties to be required training.

k. Client shall comply with all applicable federal, state, and local laws, rules, regulations, and other legal requirements that in any way affect this Agreement or the duties and responsibilities of the parties hereunder.

#### **4. EMS|MC WEB PORTALS.**

a. EMS|MC shall provide Client and those individuals appointed by Client ("Users") with access to EMS|MC Web Portals (the "Portals"), which shall be subject to the applicable Terms of Use found on the Portals. To be appointed as a User, the individual must be an employee of Client or otherwise approved by Client and EMS|MC. Client is responsible for all activity of Users and others accessing or using the Portals through or on behalf of Client including, but not limited to, ensuring that Users do not share credentials for accessing the Portals. Client is also responsible for (i) identifying individuals who Client determines should be Users; (ii) determining and notifying EMS|MC of each User's rights; (iii) monitoring Users' access to and use of the Portals; (iv) acting upon any suspected or unauthorized access of information through the Portals; (v) ensuring each User's compliance with this Agreement and the Terms of Use governing the use of the Portals; and (vi) notifying EMS|MC to deactivate a User account whenever a User's employment, contract or affiliation with Client is terminated or Client otherwise desires to suspend or curtail a User's access to and use of the Portals. Client agrees to follow best practices to ensure compliance with this provision.

b. Client acknowledges that EMS|MC may suspend or terminate any User's access to the Portals (i) for noncompliance with this Agreement or the applicable Terms of Use; (ii) if such User poses a threat to the security or integrity of the Portals or information available therein; (iii) upon termination of Client; or (iv) upon notice of suspension or termination of such User by Client. Client may suspend or terminate a User's access to the Portals at any time.

#### **5. COMPENSATION OF EMS|MC.**

a. Client shall pay a fee for the Services of EMS|MC hereunder, on a monthly basis, in an amount equal to 4.0% percent of "Net Collections" as defined below (the

"RCM Fee"). Net Collections shall mean all cash and check amounts including electronic fund transfers (EFTs) received by EMS|MC from payers, patients, attorney's offices, court settlements, collection agencies, government institutions, debt set-off programs, group health insurance plans, private payments, credit cards, healthcare facilities or any person or entity submitting funds on a patient's account, or any amounts paid directly to Client with or without the knowledge of EMS|MC that are paid, tendered, received or collected each month for Client's transports, less refunds processed or any other necessary adjustments to those amounts. Client and EMS|MC shall negotiate any price increase for services each contract year.

b. The RCM Fee is referred to as the "Compensation".

c. EMS|MC shall submit an invoice to Client by the tenth (10<sup>th</sup>) day of each month for the Compensation due to EMS|MC for the previous calendar month. The City shall pay all amounts due in accordance with the Illinois Prompt Payment Act.

d. In the event of a material change to applicable law, the billing process and/or scope of Services provided in this Agreement or a material difference in any of the patient demographics provided by the Client and set forth in Exhibit A, EMS|MC reserves the right to negotiate a fee change with Client and amend this Agreement accordingly or terminate this Agreement.

e. EMS|MC may, in its sole discretion, immediately cease to provide Services for Client should the outstanding balance owed to EMS|MC become more than 120 days in arrears. Claims processing will not resume until all outstanding balances are paid in full or arrangements approved by EMS|MC have been made to wholly resolve any outstanding balances.

## **6. TERM OF AGREEMENT.**

a. This Agreement shall be effective commencing on May 1, 2023, and shall thereafter continue through April 30, 2026, ("Initial Term"). This Agreement shall be binding upon the parties hereto and their respective successors, assigns, and transferees. EMS|MC shall not assign its interest in, or responsibilities under, this Agreement without the written consent of Client, which consent shall not be unreasonably withheld. EMS|MC shall give the Client 90 days' notice prior to the expiration of this Agreement. The Agreement shall automatically renew on the same terms and conditions as stated herein, for successive one (1) year terms (each a "Renewal Term"), unless either party gives written notice of intent not to renew at least 60 days before expiration of any term. Notwithstanding anything herein to the contrary, this Agreement may be

terminated under the provisions provided below. (The Initial Term and any Renewal Terms are referred to as the "Term".)

b. **Termination for Cause.** Notwithstanding Section 6(a), either party may terminate this Agreement if the other party materially breaches this Agreement, unless (i) the breaching party cures the breach within 30 ~~40~~ days following receipt of notice describing the breach in reasonable detail, or (ii) with respect to a breach which may not reasonably be cured within such a ~~40-day~~ period, the breaching party commences, is diligently pursuing cure of, and cures the breach as soon as practical following receipt of notice describing the breach in reasonable detail. Further, either party may terminate this Agreement in the manner set forth above for any of the following reasons:

- i. Injury to any customer, independent contractor, employee or agent of the other party hereto arising from the gross negligence or willful misconduct of a party;
- ii. Harassment of any employee or contractor of a party or commitment of any act by a party which creates an offensive work environment; or
- iii. Commitment of any unethical or immoral act which harms the other party or could have the effect of harming the other party.

c. **Termination For Convenience.** Either party may terminate this Agreement for any reason unrelated to cause upon 120-days' notice to the other party.

## **7. RESPONSIBILITIES UPON TERMINATION / EXPIRATION.**

a. Subject to Client's payment of all amounts due hereunder, upon any termination of this Agreement or the expiration of the Agreement, and during the period of any notice of termination, EMS|MC will make available to Client, or its authorized representatives, data from the billing system regarding open accounts in an electronic format reasonably acceptable to the Client, and will otherwise reasonably cooperate and assist in any transition of the Services to Client, or its successor billing agent. Upon request, EMS|MC will provide to Client trip data associated with the claims submitted by EMS|MC on behalf of Client pursuant to this Agreement. EMS|MC shall retain financial and billing records not tendered or returned to Client on termination hereof for at least ten (10) years following the date of service.

b. Following termination of this Agreement, for a period of ninety (90) days (the "Wind Down"), EMS|MC will continue its billing and collection efforts as to those accounts with dates of services prior to termination, subject to the terms and conditions of this Agreement including, but not limited to, Section 5. Client will continue to provide EMS|MC

with copies of checks and payments on those accounts which were filed by EMS|MC under this Agreement. EMS|MC shall have no further responsibilities as to such accounts after the Wind Down; however, EMS|MC shall be entitled to compensation as provided in Section 5(a) for such amounts filed by EMS|MC, unless Client's receipt of payment on such accounts is directly due to the efforts of another third party (e.g. collection agency or another billing agency). During the Wind Down and for up to twelve months following termination of this Agreement, EMS|MC shall continue to make the Portals available to Client, subject the applicable Terms of Use. In the event EMS|MC terminates the Agreement due to non-payment by Client pursuant to Section 6(b), EMS|MC shall have no obligation to provide continuing billing services during the Wind Down. EMS|MC shall provide the other services contained in section 7.

#### **8. EXCLUSIVITY AND MISCELLANEOUS BILLING POLICIES.**

a. During the term of this Agreement, EMS|MC shall be Client's exclusive provider of the RCM Services. Client may not directly file, submit or invoice for any medical or medical transportation services rendered while this Agreement is in effect.

b. In addition, Client agrees not to collect or accept payment for services covered by this Agreement from any patient. In the event payments are received directly by Client they must be reported to EMS|MC as provided in Section 3(f) hereof and shall be treated as Net Collections for purposes of Section 5(a) hereof.

c. In compliance with CMS regulations, Medicare patients will not be charged by Client a higher rate or amount for identical covered services charged to other insurers or patients. Accordingly, only one fee schedule shall exist and be used in determining charges for all patients regardless of insurance coverage.

d. EMS|MC reserves the right not to submit a claim for reimbursement on any patient in which the PCR and/or associated medical records are incomplete or appear to be inaccurate or do not contain enough information to substantiate or justify reimbursement. This includes missing patient demographic information, insurance information, Physician Certification Statements (PCS) or any required crew and/or patient signatures, or otherwise contradictory medical information.

e. Client shall implement and maintain a working compliance plan ("Compliance Plan") in accordance with the most current guidelines of the U.S. Department of Health and Human Services ("HHS"). The Compliance Plan must include, but not be limited to, formal written policies and procedures and standards of conduct, designation of a compliance officer, quality assurance policy and effective training and education programs. EMS|MC shall assist client in developing said plan.

f. In accordance with the HHS Office of Inspector General ("OIG") Compliance Program Guidance for Third-Party Medical Billing Companies, EMS|MC is obligated to report misconduct to the government, if EMS|MC discovers credible evidence of Client's continued misconduct or flagrant, fraudulent or abusive conduct. In the event of such evidence, EMS|MC has the right to (a) refrain from submitting any false or inappropriate claims, (b) terminate this Agreement and/or (c) report the misconduct to the appropriate authorities. EMS|MC shall immediately notify client if it believes any such conduct is occurring.

**9. NON-INTERFERENCE/NON-SOLICITATION OF EMS|MC EMPLOYEES.**

Client understands and agrees that the relationship between EMS|MC and each of its employees constitutes a valuable asset of EMS|MC. Accordingly, Client agrees that both during the term of this Agreement and for a period beginning on the date of termination of this Agreement, whatever the reason, and ending three (3) years after the date of termination of this Agreement (the "Restricted Period"), Client shall not, without EMS|MC's prior written consent, directly or indirectly, solicit or recruit for employment; attempt to solicit or recruit for employment; or attempt to hire or accept as an employee, consultant, contractor, or otherwise, or accept any work from EMS|MC's employees with whom Client had material contact during the term of this Agreement, in any position where Client would receive from such employees the same or similar services that EMS|MC performed for Client during the term of this Agreement. Client also agrees during the Restricted Period not to unlawfully urge, encourage, induce, or attempt to urge, encourage, or induce any employee of EMS|MC to terminate his or her employment with EMS|MC. Client has carefully read and considered the provisions of Section 9 hereof, and having done so, agrees that the restrictions set forth in such section (including, but not limited to, the time period) are fair and reasonable and are reasonably required for the protection of the legitimate interests of EMS|MC, its officers, directors, shareholders, and employees.

**10. PRIVACY.**

a. Trade secrets and confidential information that may be received by any Party or its employees, directly or indirectly, that are exempt from public disclosure under applicable laws, including, but not limited to, the Illinois Freedom of Information Act, shall remain the property of the disclosing Party and shall be kept confidential by the Party to whom such trade secrets or confidential information was disclosed. Any document deemed to be a trade secret or confidential shall be clearly marked as such. Such information will be utilized only for the purposes of carrying out the services and purposes of this Agreement, and each Party to which such information is disclosed shall cause each of its employees to comply with the foregoing. Upon termination of this Agreement, each

Party agrees to surrender to the disclosing Party any and all trade secrets, confidential information, material or tangible items or written information supplied by the disclosing Party. The obligations of this Article will survive the termination or expiration of this Agreement.

b. *HIPAA Compliance.* The parties agree to comply with the Business Associate Addendum, attached hereto and incorporated by reference herein as Attachment 1, documenting the assurances and other requirements respecting the use and disclosure of Protected Health Information. It is Client's responsibility to ensure that it obtains all appropriate and necessary authorizations and consents to use or disclose any individually identifiable health information in compliance with all federal and state privacy laws, rules and regulations, including but not limited to the Health Insurance Portability and Accountability Act. In the event that this Agreement is, or activities permitted or required by this Agreement are, inconsistent with or do not satisfy the requirements of any applicable privacy or security law, rule or regulation, the parties shall take any reasonably necessary action to remedy such inconsistency.

#### **11. DISCLAIMERS, LIMITATIONS OF LIABILITY AND DISPUTE RESOLUTION**

a. Each Party acknowledges that the liability limitations and warranty disclaimers in the Agreement are independent of any remedies hereunder and shall apply regardless of whether any remedy fails of its essential purpose. Client acknowledges that the limitations of liability set forth in this Agreement are integral to the amount of consideration offered and charged in connection with the Services and that, were EMS|MC to assume any further liability other than as provided in the Agreement, such consideration would of necessity be set substantially higher.

b. EMS|MC and Client acknowledge and agree that despite their best efforts, billing errors may occur from time to time. Each party will promptly notify the other party of the discovery of a billing error. EMS|MC's sole obligation in the event of a billing error will be to correct the error by making appropriate changes to the information in its system, posting a refund if appropriate, and re-billing the underlying claim if permissible.

c. A "Claim" is defined as any claim or other matter in dispute between EMS|MC and Client that arises from or relates in any way to this Agreement or to the Services, or data provided by EMS|MC hereunder, regardless of whether such claim or matter is denominated as a contract claim, tort claim, warranty claim, indemnity claim, statutory claim, arbitration demand, or otherwise.

d. To the fullest extent allowed by law, the total liability of a party to the other party regarding any and all Claims shall be capped at, and shall in no event exceed, the

total fees paid by Client to EMS|MC under this Agreement in the twelve (12) months prior to the event giving rise to the Claim (the "Liability Cap"). All amounts that may be potentially awarded against a party in connection with a Claim are included in and subject to the Liability Cap and shall not cause the Liability Cap to be exceeded, including, without limitation, all direct compensatory damages, interest, costs, expenses, and attorneys' fees. Provided, however, that nothing in the foregoing shall be construed as an admission of liability by either party in any amount or as a waiver or compromise of any other defense that may be available to a party regarding any Claim.

e. To the fullest extent allowed by law, and notwithstanding any statute of limitations, statute of repose, or other legal time limit to the contrary, no Claim shall be brought by a party against the other party for an alleged breach of this Agreement after the earlier of the following to occur (the "Claim Time Limit"): (i) the time period for bringing an action under any applicable state or federal statute of limitations; one (1) year after the date upon which the claiming party discovered, or should have discovered, the facts giving rise to an alleged breach claim; or (ii) two (2) years after the first act or omission giving rise to an alleged breach claim. Any Claim not brought within the Claim Time Limit is waived.

f. To the fullest extent allowed by law, EMS|MC and Client waive claims against each other for consequential, indirect, incidental, special, punitive, exemplary, and treble damages, and for any other damages in excess of direct, compensatory damages including, but not limited to, loss of profits, loss of data, or loss of business, regardless of whether such claim or matter is denominated as a contract claim, tort claim, warranty claim, indemnity claim, statutory claim, arbitration demand, or otherwise, even if a party has been apprised of the possibility or likelihood of such damages occurring (the "Non-Direct Damages Waiver").

g. Indemnification. It is expressly understood and agreed that each Party, to the extent permitted by law, shall in all events defend, indemnify, save, and hold harmless the other, their parents, affiliates, successors and assigns, elected and appointed officials, and their respective present and former agents, officers, volunteers, elected and appointed officials, and employees from any and all claims, liabilities, obligations, debts, charges, settlements or judgments (including reasonable attorneys' fees) arising from death, illness, physical injuries, property damage, or monetary losses to any third Party, provided that no Party shall have any obligation under this Article with respect to liabilities caused by the gross negligence, reckless, fraudulent or deliberately dishonest conduct, or intentional misconduct of the Party seeking indemnification. Neither Party shall be obligated to indemnify the other Party for any claim or liability under this subsection: (a) involving a claim by one Party against the other Party; or (b) to the extent prohibited by

law. No Party being indemnified shall settle or compromise any claim subject to indemnification hereunder without the consent, of the Party providing such indemnification. The limitations contained in Section 11(d) or 11(e) of this Agreement shall not apply to this subsection.

h. Notwithstanding the foregoing, nothing contained within this Agreement is intended to be a waiver or estoppel of either party or their respective insurer's ability to rely upon the limitations, defenses and immunities contained within Illinois law, including, but not limited to Illinois Local Government Tort Immunity Act. To the extent that indemnification is available and enforceable, the Parties or their respective insurers shall not be liable to in indemnity or contribution for an amount greater than the limits of liability for claims established by law. Each Party's obligation to indemnify hereunder is subject to the availability and limits of applicable insurance coverage. Under no circumstances shall either Party be required to indemnify the other Party for its own negligent or intentional conduct. The limitations contained in Section 11 of this Agreement shall not apply to this subsection.

## **12. GENERAL.**

a. Status of Parties. Nothing contained in this Agreement shall be construed as establishing a partnership or joint venture relationship between EMS|MC and Client, or as establishing an agency relationship beyond EMS|MC's service as a billing and collection agent of Client under the express terms of this Agreement. EMS|MC and its employees and representatives shall have no legal authority to bind Client.

b. Assignment. Neither this Agreement nor any rights or obligations hereunder shall be assigned by either party without prior written consent of the other party. Any purported assignment in violation of this Section 12(b) shall be null and void.

c. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns (where permitted), and transferees.

d. Notices. All notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given: (i) on the day received, if personally delivered; (ii) on the day received if sent by a recognized overnight delivery service, according to the courier's record of delivery; and (iii) on the 5th (fifth) calendar day after the date mailed by certified or registered mail. Such notices shall be addressed as follows:

Client:

City Clerk



City of Belvidere  
401 Whitney Blvd.  
Belvidere, IL 61008

With Copy to:  
City Attorney  
City of Belvidere  
401 Whitney Blvd.  
Belvidere, IL 61008

EMS|MC:  
EMS Management & Consultants, Inc.  
Chief Executive Officer  
2540 Empire Drive  
Suite 100  
Winston-Salem, NC 27103

Either party may change its address for notices under this Agreement by giving written notice of such change to the other party in accordance with the terms of this section.

e. **Governing Law.** This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Illinois, notwithstanding any conflicts of law rules to the contrary. Any action, in any way related to this Agreement or the services provided hereunder, shall be brought in the 17<sup>th</sup> Judicial Circuit, Boone County Illinois and both Parties submit to the jurisdiction of and venue in that Court.

f. **Integration of Terms.** This instrument together with all attachments, exhibits and schedules constitutes the entire agreement between the parties, and supersedes all prior negotiations, commitments, representations and undertakings of the parties with respect to its subject matter. Without limiting the foregoing, this Agreement supersedes and takes precedence over any inconsistent terms contained in any Request for Proposal ("RFP") from Client and any response to that RFP from EMS|MC.

g. **Amendment and Waiver.** This Agreement may be amended or modified only by an instrument signed by all of the parties. A waiver of any provision of this Agreement must be in writing, designated as such, and signed by the party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this

Agreement shall not operate or be construed as a waiver of any subsequent or other breach thereof.

h. Severability. If any provision of this Agreement shall not be valid for any reason, such provision shall be entirely severable from, and shall have no effect upon, the remainder of this Agreement. Any such invalid provision shall be subject to partial enforcement to the extent necessary to protect the interest of the parties hereto.

i. Force Majeure. With the exception of Client's payment obligation, a Party will not be in breach or liable for any delay of its performance of this Agreement caused by natural disasters or other unexpected or unusual circumstances reasonably beyond its control.

j. Third Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

k. Counterparts. This Agreement may be executed in multiple counterparts by a duly authorized representative of each party.

l. Survival. All terms which by their nature survive termination shall survive termination or expiration of the Agreement including, but not limited to, Sections 3(c), 3(f) – (h), 5(a), 5(c), 7, 9 – 12.

m. Insurance. EMS|MC shall maintain, and upon request shall produce evidence that it has comprehensive general liability insurance, or equivalent coverage, affording the following: EMS|MC's insurance, including contractual liability and errors and omissions insurance, which shall include employment-related practices, products and complete operations insurance, bodily injury, property damage and personal injury insurance, with a minimum of One Million Dollars and No Cents (\$1,000,000.00) combined single limit of liability for all underlying coverage. With an "umbrella" or excess insurance coverage on a following form basis to the underlying coverage of a minimum of Ten Million Dollars and No Cents (\$10,000,000.00). EMS|MC shall name CITY, its elected officials, and its officers, agents and employees as additional insureds on all applicable insurance policies. All applicable insurance policies shall contain a provision requiring sixty (60) day advance notice to CITY in the event of cancellation. Before EMS|MC commences services hereunder, a copy of EMS|MC's insurance policy or policies evidencing compliance with the provisions hereof shall be provided to CITY.

iv. The limitations contained in Section 11 of this Agreement shall not apply to this subsection m.



IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed on the later of the dates set forth below.

Each person whose signature appears hereon represents, warrants and guarantees that he/she has been duly authorized and has full authority to execute this Agreement on behalf of the party on whose behalf this Agreement is executed.

EMS|MC:

CLIENT:

EMS Management & Consultants, Inc.

City of Belvidere

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 1**  
**Business Associate Addendum**

This Business Associate Addendum (the "Addendum") is made effective the \_\_\_\_ day of February 2023, by and between the City of Belvidere hereinafter referred to as "Covered Entity," and EMS Management & Consultants, Inc., hereinafter referred to as "Business Associate" (individually, a "Party" and collectively, the "Parties").

WITNESSETH:

WHEREAS, the Parties wish to enter into a Business Associate Addendum to ensure compliance with the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA Privacy and Security Rules") (45 C.F.R. Parts 160 and 164); and

WHEREAS, the Health Information Technology for Economic and Clinical Health ("HITECH") Act of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, modified the HIPAA Privacy and Security Rules (hereinafter, all references to the "HIPAA Privacy and Security Rules" include all amendments thereto set forth in the HITECH Act and any accompanying regulations); and

WHEREAS, the Parties have entered into a Billing Services Agreement (the "Agreement") whereby Business Associate will provide certain services to Covered Entity and, pursuant to such Agreement, Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Privacy and Security Rules; and

WHEREAS, Business Associate may have access to Protected Health Information or Electronic Protected Health Information (as defined below) in fulfilling its responsibilities under the Agreement; and

WHEREAS, Covered Entity wishes to comply with the HIPAA Privacy and Security Rules, and Business Associate wishes to honor its obligations as a Business Associate to Covered Entity.

THEREFORE, in consideration of the Parties' continuing obligations under the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Addendum.

I. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms in this Addendum shall have the definitions set forth in the HIPAA Privacy and Security Rules. In the event of an inconsistency between the provisions of this Addendum and mandatory provisions of the HIPAA Privacy and Security Rules, as amended, the HIPAA Privacy and Security Rules in effect at the time shall control. Where provisions of this Addendum are different than those mandated by the HIPAA Privacy and Security Rules, but are nonetheless permitted by the HIPAA Privacy and Security Rules, the provisions of this Addendum shall control.

The term "Breach" means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information. The term "Breach" does not include: (1) any unintentional acquisition, access, or use of protected health information by any employee or individual acting under the authority of a covered entity

or business associate if (a) such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate, and (b) such information is not further acquired, accessed, used, or disclosed by any person; or (2) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and (3) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

The term "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

The term "HIPAA Privacy and Security Rules" refers to 45 C.F.R. Parts 160 and 164 as currently in effect or hereafter amended.

The term "Protected Health Information" means individually identifiable health information as defined in 45 C.F.R. § 160.103, limited to the information Business Associate receives from, or creates, maintains, transmits, or receives on behalf of, Covered Entity.

The term "Electronic Protected Health Information" means Protected Health Information which is transmitted by or maintained in Electronic Media (as now or hereafter defined in the HIPAA Privacy and Security Rules).

The term "Secretary" means the Secretary of the Department of Health and Human Services.

The term "Unsecured Protected Health Information" means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in guidance published in the Federal Register at 74 Fed. Reg. 19006 on April 27, 2009 and in annual guidance published thereafter.

## II. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

a. Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement or this Addendum, provided that such use or disclosure would not violate the HIPAA Privacy and Security Rules if done by Covered Entity. Until such time as the Secretary issues regulations pursuant to the HITECH Act specifying what constitutes "minimum necessary" for purposes of the HIPAA Privacy and Security Rules, Business Associate shall, to the extent practicable, disclose only Protected Health Information that is contained in a limited data set (as defined in Section 164.514(e)(2) of the HIPAA Privacy and Security Rules), unless the person or entity to whom Business Associate is making the disclosure requires certain direct identifiers in order to accomplish the intended purpose of the disclosure, in which event Business Associate may disclose only the minimum necessary amount of Protected Health Information to accomplish the intended purpose of the disclosure.

b. Business Associate may use Protected Health Information in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Business Associate, provided that such uses are permitted under state and federal confidentiality laws.

c. Business Associate may disclose Protected Health Information in its possession to third parties for the purposes of its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that:

1. the disclosures are required by law; or

2. Business Associate obtains reasonable assurances from the third parties to whom the Protected Health Information is disclosed that the information will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and that such third parties will notify Business Associate of any instances of which they are aware in which the confidentiality of the information has been breached.

d. Until such time as the Secretary issues regulations pursuant to the HITECH Act specifying what constitutes “minimum necessary” for purposes of the HIPAA Privacy and Security Rules, Business Associate shall, to the extent practicable, access, use, and request only Protected Health Information that is contained in a limited data set (as defined in Section 164.514(e)(2) of the HIPAA Privacy and Security Rules), unless Business Associate requires certain direct identifiers in order to accomplish the intended purpose of the access, use, or request, in which event Business Associate may access, use, or request only the minimum necessary amount of Protected Health Information to accomplish the intended purpose of the access, use, or request. Covered Entity shall determine what quantum of information constitutes the “minimum necessary” amount for Business Associate to accomplish its intended purposes.

e. Business Associate may use Protected Health Information to de-identify such information in accordance with 45 C.F.R. § 164.514(b) for Business Associate’s own business purposes or in connection with the services provided pursuant to the Agreement or to provide Data Aggregation services to Customer as permitted by 45 C.F.R. 164.504(e)(2)(i)(b). Once the Protected Health Information has been de-identified or aggregated, it is no longer considered Protected Health Information governed by this Addendum.

### III. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

a. Business Associate acknowledges and agrees that all Protected Health Information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity’s behalf shall be subject to this Addendum.

b. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement, this Addendum or as required by law.

c. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Addendum. Specifically, Business Associate will:

1. implement the administrative, physical, and technical safeguards set forth in Sections 164.308, 164.310, and 164.312 of the HIPAA Privacy and Security Rules that reasonably and appropriately protect the confidentiality, integrity, and availability of any Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity, and, in accordance with Section 164.316 of the HIPAA Privacy and Security Rules, implement and maintain reasonable and appropriate policies and procedures to enable it to comply with the requirements outlined in Sections 164.308, 164.310, and 164.312; and

2. report to Covered Entity any use or disclosure of Protected Health Information not provided for by this Addendum of which Business Associate becomes aware. Business Associate shall report to Covered Entity any Security Incident of which it becomes aware. Notice is deemed to have been

given for unsuccessful Security Incidents, such as (i) “pings” on an information system firewall; (ii) port scans; (iii) attempts to log on to an information system or enter a database with an invalid password or user name; (iv) denial-of-service attacks that do not result in a server being taken offline; or (v) malware (e.g., a worms or a virus) that does not result in unauthorized access, use, disclosure, modification or destruction of Protected Health Information.

d. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Addendum to Business Associate with respect to such information.

e. Business Associate agrees to comply with any requests for restrictions on certain disclosures of Protected Health Information to which Covered Entity has agreed in accordance with Section 164.522 of the HIPAA Privacy and Security Rules and of which Business Associate has been notified by Covered Entity. In addition, and notwithstanding the provisions of Section 164.522 (a)(1)(ii), Business Associate agrees to comply with an individual’s request to restrict disclosure of Protected Health Information to a health plan for purposes of carrying out payment or health care operations if the Protected Health Information pertains solely to a health care item or service for which Covered Entity has been paid by in full by the individual or the individual’s representative.

f. At the request of the Covered Entity and in a reasonable time and manner, not to extend ten (10) business days, Business Associate agrees to make available Protected Health Information required for Covered Entity to respond to an individual’s request for access to his or her Protected Health Information in accordance with Section 164.524 of the HIPAA Privacy and Security Rules. If Business Associate maintains Protected Health Information electronically, it agrees to make such Protected Health Information available electronically to the applicable individual or to a person or entity specifically designated by such individual, upon such individual’s request.

g. At the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available Protected Health Information required for amendment by Covered Entity in accordance with the requirements of Section 164.526 of the HIPAA Privacy and Security Rules.

h. Business Associate agrees to document any disclosures of and make Protected Health Information available for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy and Security Rules.

i. Business Associate agrees that it will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Secretary for the purpose of determining Covered Entity’s compliance with the HIPAA Privacy and Security Rules, in a time and manner designated by the Secretary, subject to attorney-client and other applicable privileges.

j. Business Associate agrees that, while present at any Covered Entity facility and/or when accessing Covered Entity’s computer network(s), it and all of its employees, agents, representatives and subcontractors will at all times comply with any network access and other security practices, procedures and/or policies established by Covered Entity including, without limitation, those established pursuant to the HIPAA Privacy and Security Rules.

k. Business Associate agrees that it will not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual without the written authorization of the individual or the individual’s representative, except where the purpose of the exchange is:



Rules;

1. for public health activities as described in Section 164.512(b) of the Privacy and Security

2. for research as described in Sections 164.501 and 164.512(i) of the Privacy and Security Rules, and the price charged reflects the costs of preparation and transmittal of the data for such purpose;

3. for treatment of the individual, subject to any further regulation promulgated by the Secretary to prevent inappropriate access, use, or disclosure of Protected Health Information;

4. for the sale, transfer, merger, or consolidation of all or part of Business Associate and due diligence related to that activity;

5. for an activity that Business Associate undertakes on behalf of and at the specific request of Covered Entity;

6. to provide an individual with a copy of the individual's Protected Health Information pursuant to Section 164.524 of the Privacy and Security Rules; or

7. other exchanges that the Secretary determines in regulations to be similarly necessary and appropriate as those described in this Section III.k.

- l. Business Associate agrees that it will not directly or indirectly receive remuneration for any written communication that encourages an individual to purchase or use a product or service without first obtaining the written authorization of the individual or the individual's representative, unless:

1. such payment is for a communication regarding a drug or biologic currently prescribed for the individual and is reasonable in amount (as defined by the Secretary); or

2. the communication is made on behalf of Covered Entity and is consistent with the terms of this Addendum.

- m. Business Associate agrees that if it uses or discloses patients' Protected Health Information for marketing purposes, it will obtain such patients' authorization before making any such use or disclosure.

- n. Business Associate agrees to implement a reasonable system for discovery of breaches and method of risk analysis of breaches to meet the requirements of HIPAA, The HITECH Act, and the HIPAA Regulations, and shall be solely responsible for the methodology, policies, and procedures implemented by Business Associate.

- o. State Privacy Laws. Business Associate shall understand and comply with state privacy laws to the extent that state privacy laws are not preempted by HIPAA or The HITECH Act.

#### IV. BUSINESS ASSOCIATE'S MITIGATION AND BREACH NOTIFICATION OBLIGATIONS

- a. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Addendum.

b. Following the discovery of a Breach of Unsecured Protected Health Information, Business Associate shall notify Covered Entity of such Breach without unreasonable delay and in no case later than forty-five (45) calendar days after discovery of the Breach. A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate or, through the exercise of reasonable diligence, would have been known to Business Associate.

c. Notwithstanding the provisions of Section IV.b., above, if a law enforcement official states to Business Associate that notification of a Breach would impede a criminal investigation or cause damage to national security, then:

1. if the statement is in writing and specifies the time for which a delay is required, Business Associate shall delay such notification for the time period specified by the official; or

2. if the statement is made orally, Business Associate shall document the statement, including the identity of the official making it, and delay such notification for no longer than thirty (30) days from the date of the oral statement unless the official submits a written statement during that time.

Following the period of time specified by the official, Business Associate shall promptly deliver a copy of the official's statement to Covered Entity.

d. The Breach notification provided shall include, to the extent possible:

1. the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach;

2. a brief description of what happened, including the date of the Breach and the date of discovery of the Breach, if known;

3. a description of the types of Unsecured Protected Health Information that were involved in the Breach, if known (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

4. any steps individuals should take to protect themselves from potential harm resulting from the Breach; and

5. a brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches.

e. Business Associate shall provide the information specified in Section IV.d., above, to Covered Entity at the time of the Breach notification if possible or promptly thereafter as information becomes available. Business Associate shall not delay notification to Covered Entity that a Breach has occurred in order to collect the information described in Section IV.d. and shall provide such information to Covered Entity even if the information becomes available after the forty-five (45)-day period provided for initial Breach notification.

## V. OBLIGATIONS OF COVERED ENTITY

a. Upon request of Business Associate, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520 of the HIPAA Privacy and Security Rules.

Commented [MD1]: We may need assistance with this. Do you have forms you can recommend?

b. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information to which Covered Entity has agreed in accordance with Section 164.522 of the HIPAA Privacy and Security Rules, and Covered Entity shall inform Business Associate of the termination of any such restriction, and the effect that such termination shall have, if any, upon Business Associate's use and disclosure of such Protected Health Information.

## VI. TERM AND TERMINATION

a. Term. The Term of this Addendum shall be effective as of the date first written above, and shall terminate upon the later of the following events: (i) in accordance with Section VII.c., when all of the Protected Health Information provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity or, if such return or destruction is infeasible, when protections are extended to such information; or (ii) upon the expiration or termination of the Agreement.

b. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Addendum by Business Associate and Business Associate's failure to cure such breach within thirty (30) days of receiving notice of same from Covered Entity, Covered Entity shall have the right to terminate this Addendum and the Agreement.

c. Effect of Termination.

1. Except as provided in paragraph 2. of this subsection, upon termination of this Addendum, the Agreement or upon request of Covered Entity, whichever occurs first, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Neither Business Associate nor its subcontractors or agents shall retain copies of the Protected Health Information.

2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible and shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## VII. MISCELLANEOUS

a. **No Rights in Third Parties.** Except as expressly stated herein, the Parties to this Addendum do not intend to create any rights in any third parties.

b. **Survival.** The obligations of Business Associate under Section VII(c) of this Addendum shall survive the expiration, termination, or cancellation of this Addendum, the Agreement, and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

**c. Amendment.** This Addendum may be amended or modified only in a writing signed by the Parties. The Parties agree that they will negotiate amendments to this Addendum to conform to any changes in the HIPAA Privacy and Security Rules as are necessary for Covered Entity to comply with the current requirements of the HIPAA Privacy and Security Rules. In addition, in the event that either Party believes in good faith that any provision of this Addendum fails to comply with the then-current requirements of the HIPAA Privacy and Security Rules or any other applicable legislation, then such Party shall notify the other Party of its belief in writing. For a period of up to thirty (30) days, the Parties shall address in good faith such concern and amend the terms of this Addendum, if necessary to bring it into compliance. If, after such thirty (30)-day period, the Addendum fails to comply with the HIPAA Privacy and Security Rules or any other applicable legislation, then either Party has the right to terminate this Addendum and the Agreement upon written notice to the other party.

**d. Independent Contractor.** None of the provisions of this Addendum are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Addendum and any other agreements between the Parties evidencing their business relationship.

**e. Interpretation.** Any ambiguity in this Addendum shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Privacy and Security Rules.

**f. Certain Provisions Not Effective in Certain Circumstances.** The provisions of this Addendum relating to the HIPAA Security Rule shall not apply to Business Associate if Business Associate does not receive any Electronic Protected Health Information from or on behalf of Covered Entity.

**g. Ownership of Information.** Covered Entity holds all right, title, and interest in and to the PHI and Business Associate does not hold and will not acquire by virtue of this Addendum or by virtue of providing goods or services to Covered Entity, any right, title, or interest in or to the PHI or any portion thereof.

**h. Entire Agreement.** This Addendum is incorporated into, modifies and amends the Agreement, inclusive of all other prior amendments or modifications to such Agreement. The terms and provisions of this Addendum shall control to the extent they are contrary, contradictory or inconsistent with the terms of the Agreement. Otherwise, the terms and provisions of the Agreement shall remain in full force and effect and apply to this Addendum.

IN WITNESS WHEREOF, the Parties have executed this Addendum as of the day and year written above.

Each person whose signature appears hereon represents, warrants and guarantees that he/she has been duly authorized and has full authority to execute this Agreement on behalf of the party on whose behalf this Agreement is executed.

**Business Associate:**

**EMS Management & Consultants, Inc.**

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Covered Entity:**

**City of Belvidere**

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_