



## Request for Proposals

**Project Name:** Scenario Based Decision Making Simulator  
**Proposal Number:** RFP-PD20-01  
**Proposal Due:** September 21, 2020 at 8:00AM

**City of Elmhurst**  
**DuPage County, Illinois**

Elmhurst Police Department  
125 E. First Street  
Elmhurst, IL 60126

08/18/2020

## **SECTION 1: PROJECT SUMMARY**

### **Overview**

The City of Elmhurst (hereafter referred to as "City") is requesting proposals for the selection of a preferred comprehensive Scenario Based Decision Making Simulator Proposer, (hereinafter "Proposer"), who can assist the City with implementation of this training platform. This training simulator will be used to train Elmhurst Police Department employees in proper communication techniques, with emphasis on using de-escalation tactics to limit the escalation of force, and demonstrate proficiency in decision making related to the proper use of force.

According to the Illinois Compiled Statutes, **50 ILCS 705/7 (h)**, all police officers must annually complete training related to use of force, with that training being scenario based. The Scenario Based Decision Making Simulator proposal must include how this requirement would be met.

Strong preference will be given to proposals where the Scenario Based Decision Making Simulator allows for the integration of current police department weapons, including the Glock 21 Generation 4 firearm, Taser X26P less lethal device and oleoresin capsicum (OC) spray.

### **Project Objective**

The objective of this project is to select a preferred Proposer for the Scenario Based Decision Making Simulator.

## **SECTION 2: PROJECT BACKGROUND**

### **Anticipated Use**

The Elmhurst Police Department currently utilizes use of force instructors, certified through the Illinois Training and Standards Board and certified firearms and Taser instructors to train police officers. These instructors will incorporate the Scenario Based Decision Making Simulator into current training of Elmhurst Police Department Officers to reinforce departmental policies and allow officers to maintain proficiency in proper communication techniques, de-escalation tactics to limit the escalation of force and demonstrate proficiency in decision making related to the proper use of force. Scenarios contained within the Scenario Based Decision Making Simulator shall include scenario-based training related to critical incident response, emotionally disturbed persons, and other realistic situations police officers may encounter.

### **Future Technology Infrastructure**

Preference will be shown to proposals that offer a comprehensive solution to integrate with current police department weapons as described in this RFP and allow for weapon changes in the future. There should also be the ability to add additional projection screens in the future.

## **SECTION 3: CONTACT AND SUBMISSION INFORMATION**

### **Contact Information**

All inquiries about this RFP must be submitted via email to:

**Sergeant Steve Mandat**  
steve.mandat@elmhurst.org

### **Submission Deadline and Address**

Please submit three (3) hard copies of the proposal and one (1) electronic copy of the proposal on a Compact Disk or electronic storage device. Proposals shall be submitted in a sealed envelope/package. Responses must be received by 8:00 am, on September 21, 2020 at the following address:

**Sergeant Steve Mandat  
Elmhurst Police Department (RFP)  
125 E. First Street  
Elmhurst, IL 60126**

Proposals will be publicly opened at 8:30 a.m. on September 21, 2020 in the Elmhurst Police Department front lobby.

After initial review by the proposal screening committee, one or more of the Proposers who submitted proposals may be invited, at the City's sole discretion, to make a public oral presentation and to answer questions regarding their proposal at the City of Elmhurst Police Department or City Hall. If such a public oral presentation and question and answer session is held, it may be used to evaluate the complete proposal, along with the written proposal itself.

Time is of the essence. Any proposal received after the announced time and date for submittal will not be considered. However, nothing in this RFP precludes the City from requesting additional information at any time during the proposal evaluation.

### **RFP Amendments**

The City reserves the right to amend this RFP at any time. Amendments will be posted on the City's website at <http://www.elmhurst.org>.

### **Right to Reject Proposals**

The City reserves the right to reject any and all proposals or to waive any minor defects or irregularities in any proposal or in the proposal process, or to solicit new proposals on the same project or on a modified project, which may include portions of the original proposed project as in the best interest of the City.

### **Award of Project and Approval of Agreement**

Award of a contract to the successful proposer is subject to funding approved by the City of Elmhurst City Council. The City reserves the right to negotiate the terms of an agreement for the Scenario Based Decision Making Simulator with one or more Proposers, as the City deems fit and most advantageous to the City's completion of the project. Upon completion of the review period, the City will notify those Proposers who will be considered for further evaluation and negotiation. Proposers may be requested to make a presentation demonstrating the merits of their proposal or provide references from other clients who have purchased similar Scenario Based Decision Making Simulator and associated software systems.

**Cost of Preparation of Proposal**

The City will not pay costs incurred by the Proposer for the preparation, printing, or negotiation process. All such costs shall be borne by the Proposer.

**Proposals are Public Records**

Each Proposer is hereby notified that, upon submittal of its proposal to the City in accordance with this RFP, the proposal becomes the property of the City and is a public record subject to disclosure in accordance with Illinois Public Records Law. If a Proposer believes that any portion of its proposal is confidential and thus subject to a legal exception to Illinois Public Records Law, the Proposer shall: (1) clearly mark the relevant portions of its proposal "Confidential"; (2) identify, the legal basis for the exception; and (3) defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the "Confidential" portion of the proposal.

**SECTION 4: SCENARIO BASED DECISION MAKING SIMULATOR REQUIREMENTS**

This section of the RFP outlines the requirements the City will use to evaluate the Scenario Based Decision Making Simulator proposals.

The requirements are organized into the following sections:

1. Company Qualifications and Experience
2. General System Specifications, Compatibility, and Integration
3. System Availability
4. System Security
5. System Performance

**1. Company Qualifications and Experience**

The proposing Proposer must have significant experience in the Scenario Based Decision Making Simulator, preferably for projects of at least similar scope and size to the City of Elmhurst.

Proposed project team leads must have experience successfully implementing systems of a similar scope and size to the City of Elmhurst.

The Proposer must have a proven commitment to quality in software/hardware development and customer service (i.e. as evidenced by a high customer retention rate, regular product upgrades, and trouble-free transitions to new software versions).

**2. General System Specifications, Compatibility and Integration**

The following section details the scope of work and requirements of the City.

Please respond to all applicable requirements in your response. Any additional materials and/or documentation can be referenced and attached with your submission.

The City's functional objectives for a Scenario Based Decision Making Simulator shall include (1) one full operational system, preferably portable, with the additional listed features:

- a. Shall have High Definition (HD) video projection
- b. Shall have at least one collapsible projection screen
- c. Shall include stereo speakers
- d. Shall include first year service included in price, with an option for additional service contracts each additional year, not to exceed 10% of cost of the base system
- e. Shall have all software upgrades included at no charge for life of the system and/or maintenance period
- f. Shall include a scenario playback option with shot placement function
- g. Hardware / Weapons
- h. Ability for the system to detect different weapons used (lethal vs less-lethal)
- i. Shall include (3) Non-Tethered, Glock 21 Generation 4 firearms and/or all recoil kit conversion components
- j. Shall include (2) Non-Tethered, M4 / AR-15 style rifles and/or recoil kit conversion components
- k. Shall include (2) Non-Tethered, X26P Taser weapons and/or conversion kits
- l. Shall include (2) Non-Tethered, OC weapons
- m. If CO2 is required, a refill station with all required components needed, including 1 (one) empty CO2 tank
- n. Shall include (2) flashlight and/or flashlight simulator devices to use during low-light scenarios
- o. All weapon options shall have the ability for the instructor to electronically control the round count and / or induce malfunctions
- p. All weapons shall include compressed air recoil kits paired with lasers and should if available include a refill station / option
- q. Software / Courseware
- r. Should include access to the maximum number of scenarios available at time of sale at no additional cost.
- s. Should include additional scenarios when created / released at no cost while the system is under a maintenance plan. For as long as the Elmhurst Police Department maintains an active support agreement, upgrades and enhancements to the software shall be provided automatically at no additional costs. Supporting documentation for software reflecting upgrades and enhancements shall be supplied at no extra cost.
- t. The ability to create custom scenarios, with the ability to incorporate images of, but not limited to City of Elmhurst locations, in addition to the scenarios provided with the system.
- u. The ability to import training media, such as word documents or other types of files to assist during a scenario debrief.
- v. A device an officer would wear to simulate being struck by gunfire and/or receiving an injury
- w. Should include a rebate / trade in discount for our current antiquated FATS system.

### **3. System Availability**

Depending on the overall project funding level and cost of solution, the City intends to purchase 1 (one) single simulator with the above listed accessories. Selected candidate must be able to deliver the system within 1 (one) month of the execution of an agreement with the successful proposer.

#### 4. System Security

All components are able to be contained in secure cases for ease of transport and protection from damage.

#### 5. System Performance

The Scenario Based Decision Making Simulator shall remain compatible with Microsoft's supported operating system upgrades. The computer used to run the simulation program shall be listed in the proposal to include the following information:

- a. Computer (Make/Model/Year of Manufacture)
- b. Processor (Brand/Model/Generation)
- c. RAM (type and amount)
- d. Graphics Card (Description)
- e. Drives (Number of Drives, SSD or HDD and Size of Drive)
- f. Operating System Version

#### SECTION 5: HARDWARE PROCUREMENT

All hardware and software required to implement the solution, excluding any specific existing software defined in this document, is to be included in the proposal. Proposers are also expected to include estimated maintenance costs for a 5-year lifecycle of equipment. Strong preference is given to proposals that include a schedule and cost of installing and implementing the solution by the Proposer, or a specific designee of the Proposer.

#### SECTION 6: PROPOSAL FORMAT

Proposals must include the following information:

- a. **Summary:** Proposal summary that discusses the highlights, key features, and distinguishing points of the proposal.
- b. **Experience:** A detailed description of the Proposer's experience designing, implementing, training, and supporting of similar technology systems in other local governments. The Proposer shall provide at least two references, preferably in the State of Illinois, where the Scenario Based Decision Making Simulator has been implemented.
- c. **Scope of Services:** A complete description of the scope of services and deliverables that the Proposer intends to provide in order to achieve the project objectives and expectations listed in Sections 1 and 4.
- d. **Training:** A description of how training will be provided to City Staff to perform all necessary functions as an end-user or administrator of the system. Please note on-site is the preferred training solution, with all costs related to travel and expenses included in the proposal.
- e. **Ongoing Technical Support:** A description of the Proposer's capacity to provide the City with technical support during and after implementation. The description should include:
  - Extended warranties or maintenance agreements provided by the Proposer.
  - Time periods in which technical support is available on-site or online.
  - Description of how software updates and patches are provided.
- f. **Timeline:** A detailed timeline describing major milestones from award of contract to post-implementation follow up for the Scenario Based Decision Making Simulator. Time is of the

essence in awarding and commencing the delivery of services for the Scenario Based Decision Making Simulator. The City anticipates executing an agreement with the successful Proposer within approximately 30-60 days of the proposal due date.

- g. **Cost:** Include the total project cost to the City for the Scenario Based Decision Making Simulator implementation. Price options should include both an outright purchase and a lease options(s). The Proposer should use its best judgment, based on the information contained in this RFP, to determine all hardware, software, connectivity, and professional services needed for successful implementation.
- h. **Proposer's Contract:** A copy of Proposer's contract or other document(s), if any, that the City would be required/requested to execute prior to Proposer's delivery of the goods and services described in this RFP and in the proposal.

#### **SECTION 7: EVALUATION AND AWARD CRITERIA**

Selection of a proposal(s) will be based on the following criteria:

- a. Functionality, ability to meet specified needs of this RFP, and demonstrated success of the proposed Scenario Based Decision Making Simulator with other law enforcement agencies. This includes addressing all objectives outlined in Section 1 and the specific items in Section 4 above, as well as references for other similar successful projects. Capability to provide training, installation, maintenance, and ongoing technical support.
- b. Cost (Licenses, hardware, software, installation options, maintenance fees, training costs, user support, lifecycle replacement, other labor charges).
- c. Experience and company profile.

## **SECTION 8: TERMS AND CONDITIONS**

### **1. CITY ORDINANCES**

The successful proposer will strictly comply with all ordinances of the City of Elmhurst and laws of the State of Illinois.

### **2. USE OF CITY'S NAME**

The proposer is specifically denied the right of using in any form or medium the name of the City for public advertising unless express permission is granted by the City.

### **3. INDEMNITY AND HOLD HARMLESS AGREEMENT**

To the fullest extent permitted by law, the Proposer shall indemnify, keep and save harmless the City and its agents, officers, and employees, against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, which may arise directly or indirectly from any negligence or from the reckless or willful misconduct of the Proposer, its employees, or its subcontractors, and the Proposer, its employees, or its subcontractors, and the Proposer shall at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the City in any such action, the Proposer shall, at its own expense, satisfy and discharge the same. This Agreement shall not be construed as requiring the Proposer to indemnify the City for its own negligence. The Proposer shall indemnify, keep and save harmless the City only where a loss was caused by the negligent, willful or reckless acts or omissions of the Proposer, its employees, or its Subcontractors.

### **4. NONDISCRIMINATION**

Proposer shall, as a party to a public contract:

- a. Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- b. By submission of this proposal, the Proposer certifies that he is an "equal opportunity employer" as defined by Section 2000(e) of Chapter 21, Title 42, U.S. Code Annotated and Executive Orders #1136 and #11375, which are incorporated herein by reference. The Equal Opportunity clause, Section 6.1 of the Rules and Regulations of the Department of Human Rights of the State of Illinois, is a material part of any contract awarded on the basis of this proposal.
- c. It is unlawful to discriminate on the basis of race, color, sex, national origin, ancestry, age, marital status, physical or mental handicap or unfavorable discharge for military service. Proposer shall comply with standards set forth in Title VII of the Civil Rights Act of 1964, 42 U.S.C. Secs. 2000 et seq., The Human Rights Act of the State of Illinois, 775 ILCS 5/1-101 et seq., and The Americans With Disabilities Act, 42 U.S.C. Secs. 12101 et. seq.

### **5. SEXUAL HARASSMENT POLICY**

The proposer, as a party to a public contract, shall have a written sexual harassment policy that:

- a. Notes the illegality of sexual harassment;



- b. Sets forth the State law definition of sexual harassment;
- c. Describes sexual harassment utilizing examples;
- d. Describes the Proposer's internal complaint process including penalties;
- e. Describes the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and how to contact these entities; and
- f. Describes the protection against retaliation afforded under the Illinois Human Rights Act.

**6. EQUAL EMPLOYMENT OPPORTUNITY**

In the event of the Proposer's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Proposer may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Proposer agrees as follows:

- a. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, sexual orientation, sexual identity or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- b. That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- c. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military services.
- d. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Proposer's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Proposer in its efforts to comply with such Act and Rules and Regulations, the Proposer will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- e. That it will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.

- f. That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purpose of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
- g. That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the Proposer will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the Proposer will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivision or municipal corporations.

**7. DRUG FREE WORK PLACE**

Proposer, as a party to a public contract, certifies and agrees that it will provide a drug free workplace by:

- a. Publishing a statement: (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the City's or proposer's workplace. (2) Specifying the actions that will be taken against employees for violations of such prohibition. (3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will: (A) abide by the terms of the statement; and (B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- b. Establishing a drug free awareness program to inform employee's about: (1) the dangers of drug abuse in the workplace; (2) the City's or proposer's policy of maintaining a drug free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; (4) the penalties that may be imposed upon employees for drug violations.
- c. Providing a copy of the statement required above to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- d. Notifying the contracting or granting agency within ten (10) days after receiving notice of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction from an employee or otherwise receiving actual notice of such conviction.
- e. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by section 5 of the Drug Free Workplace Act.
- f. Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation is required and indicating that a trained referral team is in place.
- g. Making a good faith effort to continue to maintain a drug free workplace through

implementation of the Drug Free Workplace Act.

**8. PATRIOT ACT COMPLIANCE**

The Proposer represents and warrants to the City that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Proposer further represents and warrants to the City that the Proposer and its principals, shareholders, members, partners, or affiliates, as applicable are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Proposer hereby agrees to defend, indemnify and hold harmless the City, and its elected or appointed officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorney's fees and costs) arising from or related to any breach of the foregoing representations and warranties.

**9. INSURANCE REQUIREMENTS/INDEMNIFICATION**

The Proposer shall be required to obtain, from a company or companies lawfully authorized to do business in the jurisdiction in which the project is located, such general liability insurance which, at a minimum, will protect the Proposer from the types of claims set forth below which may arise out of or result from the Proposer's operations under this agreement and for which the Proposer may legally liable:

- a. Claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to the operation to be performed;
- b. Claims for damages resulting from bodily injury, occupational sickness or disease or death of the Proposer's employees;
- c. Claims for damages resulting from bodily injury, sickness or disease, or death of any person other than the Proposer's employees;
- d. Claims for damages insured by the usual personal injury liability coverage which are sustained: (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Proposer, or (2) by another person;
- e. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- f. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- g. Claims for damages as a result of professional or any other type of negligent action by the Proposer or failure to properly perform services under the scope of the agreement between the Proposer and the City.
- h. The Proposer shall demonstrate having insurance coverage for a minimum of \$2 million for

professional liability (errors and omissions).

- i. As evidence of said coverages, Proposer shall provide the City with certificates of insurance naming the City of Elmhurst as an additional insured and include a provision for cancellation only upon at least 30 days prior notice to the City.
- j. In addition to required insurance coverages, the Proposer shall indemnify and hold harmless the City and its officers, employees and agents from any and all liability, losses or damages the City may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature in any way resulting from or arising out of negligent action on the part of the Proposer or any sub-Proposer to the Proposer under the Proposer's agreement with the City.

**10. CAMPAIGN DISCLOSURE**

- a. Any contractor, Proposer, or vendor who responds by submitting a bid or proposal to the City of Elmhurst shall be required to submit with its bid submission, an executed Campaign Disclosure Certificate, attached hereto.
- b. The Campaign Disclosure Certificate is required pursuant to the City of Elmhurst City Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the City Council.
- c. Said Campaign Disclosure Certificate requires any individual or entity bidding to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the City Council within the five (5) year period preceding the date of the bid or proposal release.
- d. By signing the bid documents, contractor/Proposer/vendor agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any City Council member and any challengers seeking to serve as a member of the Elmhurst City Council.

**11. SUBLETTING OF CONTRACT**

No contract awarded by the City shall be assigned or any part sub-contracted without the written consent of the City Manager. In no case shall such consent relieve the Awarded Proposer from their obligation or change the terms of the contract. All approved sub-contracts shall contain language which incorporates the terms and conditions of this contract.

**12. TERM OF CONTRACT**

The term of this contract shall be as set forth in the Detail Specifications set forth in Section III below. This contract is subject to the City purchasing policy with regard to any extensions hereof.

**13. TERMINATION OF CONTRACT**

In the event of the Proposer's nonperformance, breach of the terms of the Agreement, or for any other reason, the Agreement may be canceled, in whole or in part, upon the City's written notice to the Proposer. The City will pay the Proposer's costs actually incurred as of the date of receipt of notice of default. Upon termination, the Proposer will deliver all documents and products of whatever kind, and their reproducible originals related to the project, which have been produced to the date of the notice of default.

**14. BILLING & PAYMENT PROCEDURES**

- a. Payment will be made upon receipt of an invoice referencing City purchase order number. Once an invoice and receipt of materials or service have been verified, the invoice will be processed for payment in accordance with the City payment schedule. The City will comply with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq., in that any bill approved for payment must be paid or the payment issued to the Proposer within 60 days of receipt of a proper bill or invoice. If payment is not issued to the Proposer within this 60 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60 day period, until final payment is made.
- b. The City shall review in a timely manner each bill or invoice after its receipt. If the City determines that the bill or invoice contains a defect making it unable to process the payment request, the City shall notify the Proposer requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under 50 ILCS 505/1 et seq. The notice shall identify the defect and any additional information necessary to correct the defect.
- c. Please send all invoices to the attention of City of Elmhurst, Accounts Payable, 209 N York Rd, Elmhurst, IL 60126.

**15. RELATIONSHIP BETWEEN THE PROPOSER AND THE CITY**

The relationship between the City and the Proposer is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other.

**16. STANDARD OF CARE**

- a. Services performed by Proposer under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representations express or implied, and no warranty or guarantee is included or intended in this Agreement or in any report, opinions, and documents or otherwise.
- b. If the Proposer fails to meet the foregoing standard, Proposer will perform at its own cost, and without reimbursement from the City, the professional services necessary to correct errors and omissions caused by Proposer's failure to comply with the above standard and reported to Proposer within one (1) year from the completion of Proposer's services for the Project.
- c. For Professional Service Agreements (i.e. Engineer, Proposer): Project site visits by Proposer during construction or equipment installation or the furnishing of Project representatives shall not make Proposer responsible for: (i) constructions means, methods, techniques, sequences or procedures; (ii) for construction safety precautions or programs; or (iii) for any construction contractor(s') failure to perform its work in accordance with contract documents.

**17. GOVERNING LAW**

This Agreement will be governed by and construed in accordance with the laws of the State of Illinois without regard for the conflict of laws or provisions. Venue is proper only in the DuPage County and the Northern District of Illinois.

**18. SUCCESSORS AND ASSIGNS**

The terms of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, that neither party will assign this Agreement in whole or in part without the prior written approval of the other. The Proposer will provide a list of key staff, titles, responsibilities, and contact information to include all expected sub Proposers.

**19. WAIVER OF CONTRACT BREACH**

The waiver by one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof will be limited to the particular instance and will not operate or be deemed to waive any future breaches of this Agreement and will not be construed to be a waiver of any provision except for the particular instance.

**20. AMENDMENT**

This Agreement will not be subject to amendment unless made in writing and signed by all parties.

**21. CHANGE ORDERS**

The contract price is a "not-to-exceed" cost. At any time additional work is necessary or requested, and the not-to-exceed price is increased thereby, any change, addition or price increase must be agreed to in writing by all parties.

**22. SEVERABILITY OF INVALID PROVISIONS**

If any provisions of this Agreement are held to contravene or be invalid under the laws of any state, country or jurisdiction, contravention will not invalidate the entire Agreement, but it will be construed as if not containing the invalid provision and the rights or obligations of the parties will be construed and enforced accordingly.

**23. NOTICE**

Any notice will be in writing and will be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party at the party's place of business. Notices shall be addressed to the City as follows:

**City Manager  
City of Elmhurst  
209 N York Rd  
Elmhurst, IL 60126**

And to the Proposer as designated in the Contract Form.

**24. COOPERATION WITH FOIA COMPLIANCE**

Contractor acknowledges that the Freedom of Information Act may apply to public records in possession of the Contractor or a subcontractor. Contractor and all of its subcontractors shall cooperate with the City in its efforts to comply with the Freedom of Information Act . 5 ILCS 140/1 et.seq.

## Campaign Disclosure Certificate

Any contractor, proposer, Proposer or vendor who responds by submitting a bid or proposal to the City of Elmhurst shall be required to submit with its bid submission, an executed Campaign Disclosure Certificate, attached hereto.

The Campaign Disclosure Certificate is required pursuant to the City of Elmhurst Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the City Council.

Said Campaign Disclosure Certificate requires any individual or entity bidding to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the City Council within the five (5) year period preceding the date of the bid or proposal release.

By signing the bid documents, contractor/proposer/Proposer/vendor agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any City Council member and any challengers seeking to serve as a member of the Elmhurst City Council.

\_\_\_\_\_  
Under penalty of perjury, I declare:

- Proposer/vendor has not contributed to any elected City position within the last five (5) years.

\_\_\_\_\_  
Signature

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

- Proposer/vendor has contributed a campaign contribution to a current member of the City Council within the last five (5) years.

Print the following information:

Name of Contributor: \_\_\_\_\_  
(company or individual)

To whom contribution was made: \_\_\_\_\_

Year contribution made: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

\_\_\_\_\_  
Signature

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

## Suspension or Debarment Certificate

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement for goods or services equal to or in excess of \$100,000.00 contractors receiving individual awards for \$100,000.00 or more and all sub-recipients must certify that the organization and its principals are not suspended or debarred.

By submitting this offer and signing this certificate, the Proposer certifies to the best of its knowledge and belief, that the company and its principals:

1. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal, state or local governmental entity, department or agency.
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, or convicted of or had a civil judgment against them for a violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification: and
4. Have not within a three-year period preceding this application/proposal/contract had one or more public transactions (Federal, State or local) terminated for cause or default.

**If the Proposer is unable to certify to any of the statements in this certification, Proposer shall attach an explanation to this certification.**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_ Fax Number: (    ) \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Authorized Company Signature: \_\_\_\_\_

Print Signature Name: \_\_\_\_\_ Title of Official: \_\_\_\_\_

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