



General Terms and Conditions – Bally’s Chicago

1. **Acceptance:** This purchase order becomes a binding contract between Buyer and Seller when accepted and acknowledged in writing by Seller or upon Sellers’ delivery of goods or performance of services hereunder. Acceptance of this purchase order is expressly limited to the terms and conditions set forth herein and on the reverse side hereof. Buyer shall have no obligation to pay for any goods or services until a correct invoice for the goods or services item is received at the “Bill To” address shown on the face of this purchase order. Payment terms commence upon receipt of a correct invoice. Invoicing for goods or services received must include reference to the purchase order number.
2. **Complete Agreement:** This purchase order, including the terms and conditions on the face and reverse side and any attachments hereto, contains the complete, exclusive, and final agreement between Buyer and Seller and supersedes all proposals or prior agreements, oral or written. Reference to Seller’s bid or proposal, if noted on this purchase order, shall not affect terms and conditions hereof, unless specifically provided to the contrary herein. If Seller provides Buyer any document or order form that contains terms contrary or inconsistent with those set forth herein, the provisions of this purchase order shall control and prevail. This purchase order may not be varied, modified, changed or supplemented in any way, unless the change is incorporated into a written change order signed by an authorized representative of Buyer. Execution of change by the Seller will evidence acceptance.
3. **Inspection:** Notwithstanding payment or prior inspection, all goods shall be subject to inspection and approval upon a reasonable time after delivery. If specifications are not met, the goods may be returned at Seller’s expense and risk for all damages incidental to the rejection.
4. **Substitutions:** No substitutions shall be allowed unless expressly permitted by Buyer.
5. **Warranty:** Seller warrants title to all goods sold and services supplied shall be good and marketable and that goods shall be delivered free from any security interests, liens, and encumbrances. Seller expressly warrants that all goods, services, and labor will in all respects conform to applicable specifications, drawings, samples, or other descriptions and be of good quality, material, workmanship and free of defects. Seller warrants that goods shall be merchantable and fit for the particular purpose to which Buyer intends to put them. These warranties shall be in addition to any express warranties made by Seller, any implied warranties made, any warranties deemed made pursuant to any federal or state law, and shall survive any inspection, delivery, and acceptance of payment. Time is of the essence to delivery and other performance required of Seller.
6. **Warranty against Infringement:** Seller warrants that the sale or use of goods of Seller’s design or patents covered by the purchase order either alone, or in combination with other materials, will not infringe or contribute to the infringement of any patents or trademarks or copyrights.
7. **Packing:** Each package shall contain an itemized packing slip with purchase order number and be properly prepared for shipment so as to meet carrier’s requirements unless otherwise specified in purchase order. No additional charges will be allowed Seller for packing, breaking, freight, express, cartage or insurance unless stated in the purchase order.
8. **Compliance with Law:** The performance of this purchase order by Seller shall be subject in all respects to and in compliance with all applicable federal, state and local laws, regulations and orders which now govern or may hereafter govern the manufacture, sale or delivery of the goods covered or services provided pursuant to this purchase order. Seller warrants that they have obtained or will obtain all licenses, permits and similar approvals required to manufacture, sell, deliver and, if applicable, install the goods and perform the services covered under the purchase order. Seller shall furnish a copy of such licenses, permits etc. to Buyer’s Compliance Department. Seller shall also comply with all safety rules and regulations prescribed by Buyer for any of Buyer’s premises at which goods will be delivered or services performed and certifies to Buyer that Seller’s facilities and procedures comply with all applicable occupational, safety and health, and right-to-know rules and regulations, and Seller’s employees are properly trained as required by applicable law. Seller is solely responsible for determining the extent of any hazard involved in delivering the goods or performing the services and for providing its employees and agents with a safe place to work and pertinent safety information and equipment.
9. **Indemnity:** Seller shall defend, protect, indemnify and hold harmless Buyer, the City of Chicago and its contractors, subcontractors, attorneys, consultants, and members of the City of Chicago Casino Evaluation and selection teams, and their parent, subsidiaries and affiliated entities, and their respective officers, directors, employees, agents, underwriters, insurers, lenders involved with the project, successors and assigns (collectively “Buyer Group”) from and against any and all claims, demands and causes of action of any kind, including damages arising from personal

injury or death and damage to real or personal property, and costs and expenses including attorney fees and costs of investigation and suit, arising directly or indirectly from the performance of work or services under this agreement by Seller, its employees, agents, or third parties brought on to the premises by Seller (collectively "Seller Group"), any alleged or actual breach thereof by Seller Group, or from any act or omission of Seller Group. Unless otherwise prohibited by applicable law, Seller shall defend, protect, indemnify, and hold harmless the Buyer Group notwithstanding the simple, gross, sole, joint or concurrent negligence of the Buyer Group and regardless of whether liability is due to strict liability, liability imposed by statute, defects in premises or equipment, or any other event or condition, regardless of whether it preexisted this agreement. In no event whatsoever shall Buyer be liable to Seller for any incidental or consequential damages, lost profits or punitive damages. This section shall survive termination of this purchase order.

10. **Insurance:** No performance under this purchase order shall begin until all required insurance referred to herein has been obtained by the Seller, and evidence thereof provided to Buyer. Seller shall secure, pay for and maintain the following insurance policies in full force and effect during the term of the agreement:
- (a) Property Insurance covering all property used on Buyer's Premises. Buyer bears no responsibility for any property of Seller, and Seller and its property insurance carrier agree to waive their rights to subrogate against Buyer in event of loss.
 - (b) Workers' Compensation insurance coverage at statutory limits and Employers' Liability Insurance with limits, subject to a limit of no less than \$1,000,000 each employee, \$1,000,000 each accident and disease and \$1,000,000 policy limit.
 - (c) Commercial General Liability Insurance with limits not less than \$1,000,000 per occurrence Bodily Injury and Property Damage combined, \$1,000,000 per occurrence Personal and Advertising Injury, \$2,000,000 Aggregate Products and Completed Operations Liability, including coverage for premises-operations and contractual liability, and \$2,000,000 General Aggregate limit per location.
 - (d) Business Automobile Liability Insurance for Bodily Injury and Property Damage with combined single limits each accident not less than \$1,000,000 combined and covering all owned, non-owned and hired vehicles.
 - (e) Upon request, Umbrella Coverage, in excess of General Liability and Automobile Liability and Employer's Liability, of \$5,000,000 (or some higher minimum limit based upon the type of Service and at the sole discretion of Buyer).

The liability policies shall be written on an occurrence basis with no deductible. The liability policies shall be endorsed to name Buyer, and its respective successors and assigns as Additional Insured and waiving all rights of subrogation. The definition of "Additional Insured" shall include partners, officers, directors, employees, agents and representatives of the named entities including any managing agent. Further, coverage for the "Additional Insured" shall apply on a primary basis, regardless of any other insurance, whether collectible or not. All policies noted above shall be written with insurance companies licensed to do business in the state where the Buyer's premises are located and rated no lower than A 10 in the most current edition of A.M. Best's Property-Casualty Key Rating Guide. All policies shall be endorsed to provide that in the event of cancellation, nonrenewal or material modification, Buyer shall receive thirty (30) days' written notice. Seller shall furnish Buyer with certificates of insurance evidencing compliance with all insurance provisions noted herein prior to any services being performed and shall provide Buyer with a certified copy of the above policies if so requested. All certificates or policy termination notices shall be delivered to: Craig L. Eaton, Esq., Executive Vice President and General Counsel, Twin River Management Group, Inc., 100 Twin River Road, Lincoln, RI 02865. All such insurance shall insure performance by Seller of the indemnity provisions of this purchase order but does not limit Seller's obligation to indemnify.

11. **Termination for Default:** If Seller fails to comply with any material provisions of this purchase order, and such failure is deemed significant by Buyer in the exercise of its judgment, Buyer shall have the right to terminate further performance of this purchase order by Seller upon such notice, if any, to Seller as Buyer deems appropriate. In such circumstance, Buyer shall have no liability to Seller as a result of such termination.
12. **No Assignment:** Seller shall not assign this purchase order without the prior written consent of Buyer.
13. **Governing Law:** This purchase order shall be governed in accordance with the laws of the state where Buyer's premises are located. The parties submit to the exclusive jurisdiction and venue of the state and federal courts in such state. The enumeration of certain rights does not exclude others which may be given by law.
14. **Equal Employment Opportunity/ Non-Discrimination:** Incorporated into the purchase order are the provisions of Executive Order 11246 (as amended) and the rules and regulations issued pursuant thereto with which the Seller represents the Seller will comply, unless exempt. Seller, in the performance of this agreement, agrees and obligates itself not to discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition or as otherwise prohibited by law. Seller has considered and shall continue to consider all qualified consultants, subcontractors, and vendors and has not engaged in discrimination of any manner in the solicitation, selection, hiring, or commercial treatment of a vendor,

supplier, consultant, subcontractor, or commercial customer on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics. Without limiting the foregoing, "discrimination" shall include retaliation against any person or entity for reporting any incident of discrimination. In addition, Seller shall comply with all City requirements attached hereto as Attachment 1.

15. **Wages and Hours:** Seller warrants that in the performance of this order Seller has complied with all of the provisions of the Fair Labor Standards Act of 1938 of the United States, as amended.
16. **License:** If any software is necessary to operate the goods, Seller hereby grants to Buyer a perpetual, irrevocable and transferable license to use such software and any accompanying manuals. Seller shall provide Buyer with any updates, changes or modification to such software and user manuals at no additional charge than what, if any, is reflected on the purchase order. Seller warrants that the Seller has the right, title and authority to license any such software and that such software does not infringe on any other part, copyright, patent, trade secret or other intellectual property rights.
17. **Cancellation:** The Buyer may cancel this purchase order at any time upon written notice to the Seller without cost to the Buyer if a petition is filed by or against the Seller under the bankruptcy laws of the United States, or the Seller makes a general assignment for the benefit of their creditors, or if the Seller fails to meet their current obligations as they fall due, or if a receiver is appointed for any of the property of the Seller, or if the Seller fails to comply with any provisions of the General Terms and Conditions of the purchase order.
18. **Independent Contractor:** If labor services, as distinguished from goods, are covered by the purchase order, then it is understood and agreed that this is not a contract of employment, but in so far as the performance of services or labor ordered is concerned, Seller is an independent contractor. Seller shall have full control of the work and installation services, including the duty to supervise all workers and comply with all the laws and regulations concerning their work.
19. **Patent and Trademark Indemnity:** Seller agrees, at its own expense, to defend any suit or actions against Buyer, or against those selling or using the goods covered by this purchase order, for alleged infringement of invention or trademark rights arising from the sale or use of said goods, and to indemnify and save Buyer harmless from any loss, liability, cost and expenses paid or incurred by Buyer in connection with any suit or action, whether against Buyer or against those selling or using the goods covered by this purchase order.
20. **Transportation Charges:** Freight or express charges must be prepaid by the Seller when price is F.O.B. destination. Seller must pay transportation charges to and from destination on rejected goods.
21. **Taxes:** Seller shall pay all governmental taxes, excises, and/or any other charges (except taxes on or measured by net income) that Buyer may be required to pay with respect to production, sale of, transportation of any goods delivered hereunder, except if and as so noted to this purchase order.
22. **Services in Facility:** In the event Seller performs any work or services for Buyer in its facility, Seller shall only allow employees who have reached the legal age to be present within the facility.
23. **Confidentiality:** The terms and existence of this purchase order and everything supplied in connection with it by Buyer shall be held in confidence by Seller. Seller shall not publicly announce or disclose this purchase order or its contents without Buyer's prior written consent. Seller shall not use Buyer's name in any way, including without limitation a general or sample listing of Seller's customers, without Buyer's prior written consent. Any violation of this paragraph shall be deemed a material breach.
24. **Force Majeure:** Neither party shall be liable for failure to perform hereunder due to an act of God, weather, disasters such as floods, earthquakes, hurricanes, epidemics, or pandemics, government action or prohibitive governmental regulation, national or state emergency orders, quarantines, riot, war, strike, labor disturbance, civil disorder, terrorism, vandalism, or other cause beyond that party's reasonable control.
25. **General:** The invalidity of any provision of this purchase order, as determined by a court or governmental body of appropriate jurisdiction, shall not impair the validity of any other provisions. No waiver by Buyer of any breach of any term, covenant or condition contained herein shall be deemed a waiver of the same, or any subsequent breach of the same, or any other term, covenant or condition. No term, covenant or condition of this purchase order shall be deemed waived by Buyer unless waived in writing and signed by the duly authorized officer of Buyer.
26. **Privilege Licenses:** Seller acknowledges that Buyer and its affiliates are engaged in businesses that are or may be subject to and exist because of privileged licenses issued by governmental authorities. If Buyer or any subsidiary or other affiliate of Buyer is directed to cease doing business with Seller by any such authority, or if Buyer shall determine, in Buyer's sole and exclusive judgment, that Seller or any of its officers, directors, key employees, agents or representatives (i) is or might be engaged in, or is about to be engaged in, any activity or (ii) was or is involved in any relationship, either of which could or does jeopardize Buyer's business or such licenses, or those of a parent, subsidiary or other affiliate, or if any such license is threatened to be or is denied, suspended or revoked, then this Purchase Order may be terminated by Buyer without further liability to either party upon notice to Seller, provided that Seller shall be entitled to receive all fees that have accrued or otherwise become due but are unpaid

at the time of termination. Without limiting the foregoing, Buyer shall be entitled to a pro rata refund of any payments hereunder for the period following the date of termination of this purchase order (if applicable).

27. **Publication:** The Seller acknowledges that, only with the prior written consent of the Buyer, will it have the right to include representations of the design of the Project, including photographs of the product supplies, or the exterior or interior, among the Seller's promotional materials. The Seller's materials shall not include the Buyer's or its affiliate's confidential or proprietary information.
28. **Third Party Beneficiaries.** Bally's Corporation, Bally's Chicago Holding Company, LLC, Bally's Chicago, Inc., and their parents, subsidiaries, partnerships, joint ventures and other affiliates, all of whom are intended third party beneficiaries of all Seller's representations, warranties, covenants and obligations under this purchase order and shall have an independent right to enforce the terms of this purchase order. Subject to the foregoing sentence, the Parties agree: (a) this Purchase Order shall not be construed, in whole or in part, to give rise to any rights, claims or benefits to any person, firm or entity other than the signatories to this purchase order; and (b) there are no third-party beneficiaries (other than those expressly mentioned above) to this purchase order and no terms or provisions of this purchase order may be enforced by or for the benefit of any person or party not a signatory to this purchase order.
29. **Attorney Fees:** Should Buyer utilize the services of an attorney to enforce or defend any term or condition herein, Buyer shall be entitled to an award of reasonable attorney's fees and direct costs expended throughout the pendency of the demand, claim and/or litigation.
30. **Subcontractors:** Seller shall not subcontract any portion of the work contemplated by this purchase order without the prior written consent of Buyer, which consent may not be unreasonably withheld. No approval of any subcontractor by Buyer shall relieve Seller from any of its obligations under this purchase order.
31. **Ownership of Drawings:** Buyer shall at all times hold title to all drawings and specifications furnished by it to Seller and intended for use in conjunction with this purchase order. Seller shall use such drawings and specifications only in conjunction with this purchase order and shall not disclose such drawings and specifications to any person, firm, or corporation other than government inspectors or the employees or subcontractors of the Buyer. Seller shall, upon written request from the Buyer, or upon performance of all terms and conditions of this purchase order, promptly return all drawings and specifications.
32. **Illegal Provisions:** If any provision contained within this Purchase Order is finally determined to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the remaining provisions shall not be affected thereby.
33. **Risk of Loss:** Risk of loss or damage to goods covered by this Purchase Order shall remain with Seller until Buyer receives, inspects, and provides written acceptance of the goods.
34. **Title:** Title to goods covered by this Purchase Order shall pass to Buyer Freight on Board (FOB) Point of Shipping, unless specifically provided for otherwise.
35. **Community Benefits Plan.** Seller acknowledges that Buyer is subject to the Community Benefits Plan (the "**Community Benefits Plan**") developed by Buyer and the City of Chicago, which Community Benefits Plan is attached hereto as **Attachment 2**, to ensure the greatest possible participation by all segments of the local community in the economic opportunities available in connection with the design, construction and operation of the Project. In addition, Seller acknowledges that the design, construction, and operation of the Project is subject to certain hiring, workforce utilization and minority/women-owned business utilization requirements imposed on Buyer and its designers, contractors, subcontractors and other agents by Buyer pursuant to the Host Community Agreement and agrees (x) to comply with the terms of the Community Benefits Plan and the local small business requirements of the Host Community Agreement and (y) to cooperate with Buyer's efforts to satisfy the goals established in connection therewith. Seller acknowledges that compliance with the Community Benefits Plan and the local small business requirements of the Host Community Agreement are material terms of this Agreement. Seller shall submit a monthly report to Buyer regarding Seller's compliance with the Community Benefits Plan. Such report shall contain the following information:
 - Seller's compliance with the minority and female workforce participation target of not less than a combined total of thirty-six percent (36%) MBE and 10% WBE;
 - Seller's compliance with participation goals of not less than 50% work hours performed by actual residents of the City and at least 15.5% work hours performed by actual residents of SEDA.
 - A status of Seller's current and planned subcontracts with residents of the City, SEDA, MBE and WBE (as defined in the Community Benefits Plan) suppliers;
 - A status of how Architect is encouraging long-term relationships and partnerships with the City, SEDA, MBE and WBE suppliers; and
 - Such other information as may be required by Buyer related to the Community Benefits Plan.



Attachment 1

City Requirements/ Non-Discrimination

1. Definitions

For purposes of this Exhibit, the terms defined herein below shall have the following meanings:

“Activities” means all of the obligations undertaken by the Contractor, Subcontractor, Vendors, Consultant, or Architect under this Agreement, including designing, building, and operating the Project.

“Contractor” includes all contractors, suppliers and materialmen of any tier, whether in direct privity or not with the Developer (including without limitation design firms, and construction contractors), and which Developer uses to perform the Activities under the Agreement.

“Subcontractor” includes all subcontractors, sub-suppliers which are in direct privity or contract with Contractor.

“Contracts” means all oral or written agreements with Contractors, Subcontractors, Vendors, Consultants, or Architects.

2. Agreements with Contractors

A. Developer shall comply and shall include in all of its agreements entered into in connection with or pursuant to the performance of any acts or obligations under this Agreement a requirement that its Contractors comply, with all applicable federal, state, and local laws, codes, regulations, ordinances, executive orders, rules, and orders.

B. Developer agrees that all of the applicable provisions set forth in this Exhibit will be incorporated in all of its agreements entered into in connection with or pursuant to the performance of any acts or obligations under this Agreement.

C. Further, Developer shall execute, and shall include in all of its agreements entered into in connection with or pursuant to the performance of any acts or obligations under this Agreement a requirement that its Contractors execute, such affidavits and certifications as shall be required by the City setting forth Developer's and its Contractor's, as applicable, agreement to comply with all applicable federal, state, and local laws, codes, regulations, ordinances, executive orders, rules, and orders. Such certifications shall be attached and incorporated by reference in the applicable agreements.

D. In the event that any Contractor is a partnership or joint venture, Developer shall also include provisions in its agreement with the Contractor ensuring that the entities comprising such partnership or joint venture shall be jointly and severally liable for its obligations thereunder.

E. Developer has not and will not use the services of any person or entity for any purpose in its performance of Activities under this Agreement, when Developer has actual knowledge (or would have had such knowledge after due inquiry) that such person or entity is ineligible to perform services under this Agreement or in connection with it, as a result of any local, state or federal law, rule or regulation.

3. Disclosures and Licenses

A. Developer has provided the City with an Economic Disclosure Statement and Affidavit (“EDS”) for itself and EDSs for all entities with an ownership interest of 7.5 percent or more in Developer, which is attached hereto copies of which have been scanned for viewing on the City's website. Upon request by the City, Developer must further cause its Contractors, and proposed transferees (and their respective 7.5 percent owners) to submit an EDS to the City. Developer must provide the City, upon request, a “no change” affidavit if the information in the EDS(s) previously supplied remains accurate, or revised and accurate EDS(s) if the information contained in the EDS(s) has changed. In addition, Developer must provide the City revised and accurate EDS(s) within 30 days of any event or change in circumstance that renders the EDS(s) inaccurate. Failure to maintain accurate EDS(s) on file with the City is an Event of Default.

B. Developer warrants and covenants that the disclosures made in its EDS are true and agrees to update its EDS promptly from time to time if they are no longer true.

C. Developer's EDS contains a certification as required under the Illinois Criminal Code, 720 ILCS 5/33E, and under the Illinois Municipal Code, 65 ILCS 5/8 10 1 et seq. Ineligibility under Section 2-92-320 of the Municipal Code continues for 3 years following any conviction or admission of a violation of Section 2-92-320. For purposes of Section 2-92-320, when an official, agent or employee of a business entity has committed any offense under the section on behalf of such an entity and under the direction or authorization of a responsible official of the entity, the business entity is chargeable with the conduct. If, after Developer enters into a contractual relationship with a Contractor, it is determined that Contractor is in violation of Section 2-92-320, Developer must immediately cease to use the Contractor. All Contracts must provide that Developer is entitled to recover all payments made by it to the Contractor if, before or subsequent to the beginning of the contractual relationship, the use of the Contractor would be violative of this subsection.

D. Developer must in a timely manner consistent with its obligations under this Agreement, secure and maintain, or cause to be secured and maintained at its expense, the permits, licenses, authorizations and approvals as are necessary under federal, state or local law for Developer and Contractors: to construct, operate, use and maintain the Casino; and otherwise to comply with the terms of this Agreement and the privileges granted under this Agreement. Developer must promptly provide copies of any required licenses and permits to the City.

4. **Compliance with Laws**

Contractor must at all times observe and comply with all applicable laws, statutes, ordinances, rules, regulations, court orders and executive or administrative orders and directives of the federal, state and local government, now existing or later in effect (whether or not the law also requires compliance by other parties), including the Americans with Disabilities Act and Environmental Laws, that may in any manner affect the performance of this Agreement (collectively, "Laws"), and must not use the Casino in violation of any Laws or in any manner that would impose liability on the City or Developer under any Laws. Developer must notify the City within ten business days of receiving notice from a competent governmental authority that Developer or any of its Contractors may have violated any Laws. Provisions required by any Law to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement. Without limiting the foregoing, Contractor covenants that it will comply with all Laws, including but not limited to the following:

A. 2014 Hiring Plan Prohibitions

- i. The City is subject to the June 16, 2014 "City of Chicago Hiring Plan" (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.
- ii. Contractor is aware that City policy prohibits City employees from directing any individual to apply for a position with Contractor, either as an employee or as a subcontractor, and from directing Contractor to hire an individual as an employee or as a subcontractor. Accordingly, Contractor must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Contractor under this Agreement are employees or subcontractors of Contractor, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Contractor.
- iii. Contractor will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected

public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

- iv. In the event of any communication to Contractor by a City employee or City official in violation of paragraph (ii) above, or advocating a violation of paragraph (iii) above, Contractor will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General. Contractor will also cooperate with any inquiries by OIG Hiring Oversight.

5. Non Discrimination

A. Contractor for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration of this Agreement, covenants that: (i) no person on the grounds of race, color, or national origin will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in the use of the Casino; (ii) in the construction of any improvements within the Casino and the furnishing of services in them, no person on the grounds of race, color, or national origin will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination; (iii) Contractor will use the Casino in compliance with all other requirements imposed by or under 49 C.F.R. Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as those regulations may be amended; and (iv) Contractor shall operate the Casino on a fair, equal, and not illegally discriminatory basis to all users of it, and shall charge fair, reasonable, and nondiscriminatory prices for products (but Contractor is allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers or as otherwise commercially reasonable.) In addition, Contractor assures that it will comply with all other pertinent statutes, Executive Orders and the rules as are promulgated to assure that no person will, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefitting from federal assistance.

B. It is an unlawful practice for Contractor to, and Contractor must at no time: (i) fail or refuse to hire, or discharge, any individual or discriminate against the individual with respect to his or her compensation, or the terms, conditions, or privileges of his or her employment, because of the individual's race, creed, color, religion, sex, age, handicap or national origin; or (ii) limit, segregate, or classify its employees or applicants for employment in any way that would deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of the individual's race, creed, color, religion, sex, age, handicap or national origin; or (iii) in the exercise of the privileges granted in this Agreement, discriminate or permit discrimination in any manner, including the use of the Casino, against any person or group of persons because of race, creed, color, religion, national origin, age, handicap, sex or ancestry. Contractor must post in conspicuous places to which its employees or applicants for employment have access, notices setting forth the provisions of this non-discrimination clause.

C. Contractor must comply with the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (1981), as amended, and to the extent required by the law, must undertake, implement and operate an affirmative action program in compliance with the rules and regulations of the Federal Equal Employment Opportunity Commission and the Office of Federal Contract Compliance, including 14 CFR Part 152, Subpart E. Attention is called to: Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000e note, as amended by Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §§ 6101 06 (1981); Rehabilitation Act of 1973, 29 U.S.C. §§ 793 94 (1981); Americans with Disabilities Act, 42 U.S.C. § 12101 and 41 CFR Part 60 et seq. (1990) and 49 CFR Part 21, as amended (the "ADA"); and all other applicable federal statutes, regulations and other laws.

D. Contractor must comply with the Illinois Human Rights Act, 775 ILCS 5/1 101 et seq. as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 5 Ill. Admin. Code §750 Appendix A. Furthermore, Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended, and all other applicable state statutes, regulations and other laws.

- i. State of Illinois Equal Employment Opportunity Clause.

In the event of the Contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause or the Illinois Human Rights Act, the Contractor 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 cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Contractor agrees as follows:

- a. That Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service (to the extent that such unfavorable discharge is not the result of conduct that would otherwise constitute grounds for refusal of employment under this Agreement); and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
- b. That, if Contractor hires additional employees in order to perform this Agreement or any portion of this Agreement, Contractor will determine the availability (in accordance with 44 Ill. Admin. Code Part 750) of minorities and women in the areas from which Contractor may reasonably recruit and Contractor will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
- c. That, in all solicitations or advertisements for employees placed by Contractor or on Contractor 's behalf, Contractor will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.
- d. That Contractor will send to each labor organization or representative of workers with which Contractor has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the Contractor's obligations under the Illinois Human Rights Act and 44 Ill. Admin. Code Part 750. If any labor organization or representative fails or refuses to cooperate with the Contractor in Contractor 's efforts to comply with the Act and this Part, the Contractor will promptly notify the Illinois Department of Human Rights and the City and will recruit employees from other sources when necessary to fulfill its obligations under the contract.
- e. That Contractor will submit reports as required by 44 Ill. Admin. Code Part 750, furnish all relevant information as may from time to time be requested by the Illinois Department of Human Rights or the City, and in all respects comply with the Illinois Human Rights Act and 44 Ill. Admin. Code Part 750.
- f. That Contractor will permit access to all relevant books, records, accounts and work sites by personnel of the City and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Illinois Department of Human Rights' Rules and Regulations.
- g. That Contractor will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. The Contractor 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 subdivisions or municipal corporations.

E. Contractor must comply with the Chicago Human Rights Ordinance, sec. 2-160- 010 et seq. of the Municipal Code, as amended, and all other applicable City ordinances and rules. Further, Contractor must furnish or must cause each of its Subcontractor(s) to furnish such reports and information as requested by the Chicago Commission on Human Relations.

F. Contractor must insert these non-discrimination provisions in any agreement by which Contractor grants a right to any person, firm, or corporation to render accommodations and/or services to the public in the Casino. To the extent required by applicable law, Contractor must incorporate all of the above provisions in all agreements entered into with any sublicensees, suppliers of materials, furnishers of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement, and Contractor must require them to comply with the law and enforce the requirements. In all solicitations either by competitive bidding or negotiations by Contractor for work to be performed under a Subcontract, including procurements of materials or Licenses of equipment, each potential Subcontractor or supplier must be notified by Contractor of the Contractor 's obligations under this Agreement relative to nondiscrimination.

G. Contractor must permit reasonable access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal government to be pertinent to ascertain compliance with

the terms of this Section. Contractor must furnish to any agency of the Federal or state government or the City, as required, any and all documents, reports and records required by Title 14, Code of Federal Regulations, Part 152, Subpart E, including an affirmative action plan and Form EEO-1.

6. Conflicts of Interest

A. No member of the governing body of the City or other unit of government and no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Activities to which this Agreement pertains is permitted to have any personal interest, direct or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee is allowed to be admitted to any share or part of this Agreement or to any financial benefit to arise from it.

B. Contractor represents that it, and to the best of its knowledge, its Subcontractors, if any (Contractor and its Subcontractors being collectively referred to in this Section as "Contracting Parties"), presently have no direct or indirect interest that would conflict in any manner or degree with the performance of its Activities under this Agreement.

C. Further, Contracting Parties must not assign any person having any conflicting interest to perform any Activities under this Agreement or have access to any confidential information.

OTHER PROVISIONS

For purposes of this section, the following definitions shall apply:

"Contract" means any agreement or transaction pursuant to which a contractor (i) receives City funds in consideration for services, work or goods provided or rendered, including contracts for legal or other professional services, or (ii) pays the City money in consideration for a license, grant or concession allowing it to conduct a business on City premises, and includes any contracts not awarded or processed by the Department of Procurement Services.

"Contractor" means the person to whom a contract is awarded.

As a condition of contract award, Contractor shall, as prescribed by the Chief Procurement Officer, attest by affidavit that Contractor has a policy that conforms to the following requirements:

- (1) Contractor shall not screen job applicants based on their wage or salary history, including by requiring that an applicant's prior wages, including benefits or other compensation, satisfy minimum or maximum criteria; or by requesting or requiring an applicant to disclose prior wages or salary, either (i) as a condition of being interviewed, (ii) as a condition of continuing to be considered for an offer of employment, (iii) as a condition of an offer of employment or an offer of compensation, or (iv) as a condition of employment; and
- (2) Contractor shall not seek an applicant's wage or salary history, including benefits or other compensation, from any current or former employer.

If Contractor violates the above requirements, Contractor may be deemed ineligible to contract with the City; any contract, extension, or renewal thereof awarded in violation of the above requirements may be voidable at the option of the City. Provided, however, that upon a finding of a violation by Contractor, no contract shall be voided, terminated, or revoked without consideration by the Chief Procurement Officer of such action's impact on the Contractor's MBE or WBE subcontractors.

7. Prohibition on Certain Contributions.

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("**Owners**"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "**Mayor**") or to her political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Licensee, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Contractor represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of these requests) or, if not competitively procured, from the date the City approached the Contractor or the date the Contractor approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution to the Mayor or to her political fundraising committee.

Contractor shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

For purposes of this provision:

“Other Contract” means any agreement entered into between the Contractor and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

“Contribution” means a “political contribution” as defined in MCC Ch. 2-156, as amended.

“Political fundraising committee” means a “political fundraising committee” as defined in MCC Ch. 2-156, as amended.



Attachment 2

Community Benefits Plan

1. Definitions

For purposes of this Exhibit, the terms defined herein below shall have the following meanings:

“Business Enterprise owned or operated by People with Disabilities” or **“BEPD”** means a business certified as a BEPD pursuant to MCC 2-92-586, “Contracts – Business enterprises owned or operated by people with disabilities,” as it may be amended from time to time.

“Certified Firm” means, generically, a BEPD, MBE, VBE, or WBE.

“Chief Financial Officer” means the Chief Financial Officer of the City as defined by MCC 1-4-090, or a designee thereof.

“Gaming Equipment and Related Services” means Slot Machines, or the apparatuses used for Table Games, as defined by 230 ILCS 10/4, as it may be amended from time to time, and in each case equipment directly relating thereto, and assembly, maintenance, and repair services related directly thereto which may only be provided by persons or entities holding a Supplier’s License issued by the Illinois Gaming Board pursuant to 86 Ill. Adm. Code 3000.200, “Classification of Licenses” as it may be amended from time to time.

“Good Faith Effort” means a Good Faith Effort as defined by MCC 2-92-670(k), “Definitions: Good-Faith Efforts,” as it may be amended from time to time. A non-exclusive list of possible Developer actions that would be considered in evaluating Developer’s Good Faith Efforts (substituting Certified Firms for references to DBEs, and Developer for Bidder) are those found in 49 CFR Part 26 Appendix A, “Guidance Concerning Good Faith Efforts,” under section IV.

“Minority-Owned Business” means a business certified as a Minority-Owned Business Enterprise pursuant to MCC Chapter 2-92 Article VI, or a business certified as a Minority- Owned Business pursuant to MCC Chapter 2-92 Article IV, as they may be amended from time to time.

“Socio-Economically Disadvantaged Area” or **“SEDA”** means an area of the City that has been designated as socio-economically disadvantaged by the Commissioner of Planning and Development under authority currently codified under MCC 2-92-390, or as otherwise designated by the City.

“Veteran-Owned Business Enterprise” or **“VBE”** means a business certified as a Veteran- Owned Business Enterprise pursuant to MCC 2-92-930 as it may be amended from time to time.

“Woman-Owned Business” or **“WBE”** means a business certified as a Woman-Owned Business Enterprise pursuant to MCC Chapter 2-92 Article VI, or a business certified as a Woman-Owned Business pursuant to MCC Chapter 2-92 Article IV, as they may be amended from time to time.

2. Construction of Project

Developer will contractually obligate and use reasonable efforts to cause the general contractor and architect/engineer and each subcontractor involved in design and construction work for the Project to abide by the MBE and WBE contracting goals and City resident and SEDA resident goals set forth in this Section 2.

a. Contracting Goals

For all design and construction work associated with the Project, Developer will use reasonable efforts to cause at least 36% of the work to be performed by MBE firms and at least 10% of the work to be performed by WBE firms. These goals should be met individually for the Temporary Project and the Permanent Project, and for the expansion of the hotel to five-hundred rooms when it occurs.

b. Construction Workforce Work Hours

For all construction work associated with the Project, Developer will use reasonable efforts to cause at least 50% of the work hours to be performed by actual residents of the City and at least 15.5% of the work hours to be performed by actual residents of Socio-Economically Disadvantaged Areas of the City. These requirements will be implemented consistently with those of MCC 2-92-330, except that the SEDA goal replaces the 7.5% Project Area Goal currently codified in that section.

c. Participation Schedules and Compliance Reports

No later than the submittal of the final concept design drawings for the Temporary Project, and for the Permanent Project, Developer must submit a preliminary "Projected Utilization Schedule" identifying the MBE and WBE firms that have been engaged to design each facility, and to what extent and when in the design process they will be utilized.

Prior to beginning construction of each the Temporary Project, of the Permanent Project, and of the expansion of the hotel, Developer must submit a "Projected Utilization Schedule," and a "Workforce Compliance Plan" in a form acceptable to the City and must meet with City monitoring staff to demonstrate understanding of the goals and reporting requirements. The Projected Utilization Schedule must show when and to what extent in the schedule for design and construction MBE and WBE firms are expected to be utilized, and to the extent practicable, identifying the specific MBE and WBE firms that will be engaged to perform the work. The "Workforce Compliance Plan" must show how Developer intends to comply with its City and SEDA resident obligations throughout the construction of the applicable facility.

Throughout construction of the Project, Developer must deliver to the City quarterly written progress reports detailing compliance with these requirements, as well as participation by local businesses as described in Section 7 below, and any other metric related to contracting equity and inclusion or economic impact as the City may reasonably request. With respect to MBE and WBE utilization, the reports must compare the Projected Utilization Schedule with actual utilization. City may require submission of reports through electronic means compatible with its contract monitoring systems.

Developer's quarterly reports shall include, inter alia, the name and business address of each MBE and WBE solicited by Developer or its contractors to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining Developer's compliance with its commitments. Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of all construction of the Project, including the hotel expansion. The City's monitoring staff shall, upon providing Developer at least ten (10) Business Days' notice, be provided access to records of Developer reasonably requested by such staff to allow the City to review Developer's compliance with its commitments to MBE/WBE participation and the status of any MBE or WBE performing any portion of the construction work on the project.

Quarterly reports may also include, as directed by City monitoring staff: (i) subcontractor's activity report; (ii) MBE/WBE utilization report by month; (iii) payroll showing worker hours and residency; (iv) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (v) evidence of compliance with job creation/job retention requirements.

If any such reports prior to 100% completion of the Temporary Project, Permanent Project or hotel expansion indicate a shortfall in compliance or discrepancy of greater than 5% in the participation of MBEs or WBEs, or greater than 5% in the employment of City and SEDA residents, Developer must make Good Faith Effort to correct the shortfall and must deliver an explanation for the shortfall or discrepancy and provide a plan outlining, to the Chief Financial Officer's satisfaction, the manner in which Developer will endeavor to correct any shortfall or discrepancy ("Recovery Plan").

3. Sourcing of Goods and Services

a. Contracting Goals

Except for the purchase of Gaming Equipment and Related Services, in the sourcing of goods and services through the life of the Agreement, including but not limited to maintenance, repair, and renovation of the facilities, any construction work after initial development of the Project (other than the hotel expansion), as well as all provisioning and consumables, and professional consulting services, Developer* commits to making a Good Faith Effort to spend, of overall annual spending each year, at least 26% with MBEs, at least 10% with WBEs, at least 2% with BEPDs, and at least 3% with VBEs.

Developer's Good Faith Efforts to achieve these goals must include, but will not be limited to:

- Eliminating disparities in the initial procurement process by issuing all contracts and bids in excess of \$10,000 as a competitive RFP, it being understood that a competitive RFP shall not be required in those

limited situations in which the limited number of vendors or the time pressures make the use of an RFP impracticable.

- Listing all RFP vendor opportunities on Bally's Chicago website.
- Hosting an annual diversity vendor fair onsite.
- Joining or partnering with local business organizations such as the Illinois Black Chamber of Commerce, Illinois Hispanic Chamber of Commerce, Chicago Minority Supplier Development Council, Chicago Urban League, and the Chicago Business Leadership Council.
- Utilizing selection criteria that put a weighted emphasis on MBE, WBE, VBE, and BEPD certifications and Chicago-based vendors.
- Hiring a Diversity, Equity and Inclusion expert in sourcing, monitoring, compliance and contracting MBE, WBE, VBE, and BEPD vendors to leverage their network of vendors, suppliers and individuals seeking jobs to push notifications, recruit bidders, and support bidders in the process.

b. Utilization Schedules and Compliance Reports

By such date as the Chief Financial Officer may direct, but no later than the opening of the Temporary Project, Developer must submit a Business Diversity Program in a form acceptable to the City outlining how Developer intends to comply with obligations under this Section 3, which must be updated prior to the opening of the Permanent Project and then annually. It should include a detailed buying plan, and Projected Utilization Schedule for the year which must show in which quarter of the upcoming year and to what extent Certified Firms are expected to be utilized, and to the extent practicable, identifying the specific Certified Firms that will be engaged to provide the applicable goods or services.

Additionally, throughout the life of this Agreement, Developer must submit quarterly reports, in a format acceptable to the City, regarding compliance with the goals of this Section 3 as well as participation by local businesses as set forth in Section 0 below, and any other metric related to contracting equity and inclusion or economic impact as the City may reasonably request. With respect to Certified Firm utilization, the quarterly reports must compare the Projected Utilization Schedule with actual utilization.

Developer's quarterly reports shall also include, inter alia, the name and business address of each Certified Firm solicited by to provide goods or services, and the responses received from such solicitation, the name and business address of each Certified Firm actually engaged, a description of the work performed or products or services supplied, the date and amount of such work, product or service, the amount paid, and such other information as may assist the City's monitoring staff in determining Developer's compliance with its commitments. If requested by the Chief Financial Officer, Developer must identify all firms engaged to provide goods or services. Developer shall maintain records of all relevant data with respect to the utilization of Certified Firms in connection with the Project for at least five years after purchase of the applicable goods or completion of the applicable service. The City's monitoring staff shall, upon providing Developer at least ten (10) Business Days' notice, be provided access to records of Developer reasonably requested by such staff to allow the City to review Developer's compliance with its commitment to participation by Certified Firms and the status of any Certified Firm providing goods or services.

Quarterly reports must also include the amount of excluded expenses associated with the provision or maintenance of Gaming Equipment, and upon request of the Chief Financial Officer, the details of such transactions.

If any quarterly reports indicate a shortfall in participation by Certified Firms of greater than 7.5% of the applicable goal, Developer must provide an explanation for the shortfall and make Good Faith Efforts to correct the shortfall. However, if Developer does not reasonably believe that the shortfall will be corrected before the next quarterly report is due and so promptly informs the City, Developer should also provide a detailed Recovery Plan and proposed revised Projected Utilization Schedule, and if the shortfall is not corrected when the next quarterly report is due, a detailed Recovery Plan and revised Projected Utilization Schedule are required.

Developer must also submit an annual summary report no later than a date determined by the Chief Financial Officer containing information about the Developer's Business Diversity Program and its compliance with the goals and plans therein. Information to be provided will include information on expenditure of goods and services from Certified Firms during the prior calendar year, expressed in dollars and percentages, and for each year after the first year, information on progress or changes in the program since the prior year. The report should include information about the construction of the Project if construction of the Temporary Project, Permanent Project, or hotel expansion took place during the prior calendar year.

The City may require submission of reports through electronic means compatible with its contract and business diversity monitoring systems.

4. Counting Certified Firm Participation in Contracting

Participation by Certified Firms in contracting will be counted following the applicable rules of the Department of Procurement Services for construction work or non-construction work as they may be amended from time to time. However, from time to time the City may establish alternate rules which will be utilized instead, or Developer may propose alternate rules acceptable to Chief Financial Officer.

However, Certified Firms that hold more than one certification may only be counted under one category to demonstrate compliance with the contracting goals set forth in Sections 2.a. and 3.a above. For example, a firm certified as both an MBE and a WBE may only be counted as an MBE or a WBE, but not as both. To be counted, Certified Firms must be performing a commercially useful function as described in 49 CFR 26.55(c)(2).

5. Requests for Reduction or Waiver of Goals

If Developer believes that it will not be possible to correct a shortfall in Certified Firm contract participation, City resident work hours, or SEDA resident work hours due to causes beyond Developer's reasonable control and despite Developer making Good Faith Efforts, it may request that the Chief Financial Officer grant a reduction or waiver of the applicable goal in accordance with the procedures and standards established by the City for goal reduction or waiver requests under the applicable section of MCC Chapter 2-92. The granting of such requests shall be in the sole discretion of the Chief Financial Officer. Requests for reduction or waiver of goals in contracting for goods and services will be granted only on an annual basis.

6. Remedies for Shortfalls.

Because the utilization of MBE, WBE, and other Certified Firms, and the employment of City residents and SEDA residents is essential to the economic vitality of the City, if (1) there is a shortfall in MBE, WBE contract participation or in City resident work hours or SEDA work hours at 100% completion of Temporary Project, at 100% completion of the Permanent Project or at 100% of the hotel expansion, or there is shortfall in Certified Firm participation in the supply of goods and services at the end of any calendar year, and (2) the Developer has not made a convincing showing that it made Good Faith Efforts to correct the shortfall in connection with the construction of the applicable facility or expansion or annual participation goal, then the City will have been harmed in a manner difficult to quantify. Therefore, the Parties agree that in the event of such a shortfall, the following liquidated damages represent a reasonable estimate of the City's damages, and are not a penalty, provided that no liquidated damages will be payable with respect to a shortfall in missing a goal in any calendar year to the extent that at least 92.5% of such goal is met:

- ii. Shortfall in MBE or WBE participation, construction of Project: the amount of the shortfall, as a percentage of the sum of the final aggregate hard construction costs and architectural design and engineering costs for the Temporary Project, or for the Permanent Project, or for the hotel expansion, as applicable.
- iii. Shortfall in City resident or SEDA resident work hours: 1/20 of 1 percent (0.0005) of the sum of the final aggregate hard construction costs for the Temporary Project, or for the Permanent Project, or for the hotel expansion, as applicable per percent shortfall.
- iv. Shortfall in Certified Firm participation in the sourcing of goods and services: the amount of the shortfall, as a percentage of the annual overall spending for goods and services. With respect to a shortfall in meeting a goal of the type contemplated in this clause (iii) with respect to a calendar year, liquidated damages shall be payable (except as provided below) promptly two years after the end of such calendar years if Developer does not average at least 92.5% of such goal during the next two calendar years (the "Succeeding Years"). Notwithstanding the foregoing such liquidated damages shall be payable immediately if Developer did not meet at least 75% of such goal for such calendar year. Liquidated damages with respect to such goal with respect to either of the Succeeding Years shall be payable promptly after such Succeeding Year.

Any liquidated damages paid to the City under this Exhibit will be placed into a fund to be utilized for support of the City's contracting equity and workforce development programs, and related uses.

Additionally, to prevent future shortfalls and to help ensure continued compliance with the requirements of this Exhibit through the life of the Agreement, if there is a shortfall related to the construction of the Project, either in MBE/WBE participation or work hours, or continuing shortfalls in participation of Certified Firms in sourcing of goods and services, the City may require more stringent reporting requirements and engage in stricter oversight than set forth in this Exhibit, which may include, but is not limited to, engagement of an integrity monitor or other experts or consultants at Developer's expense

to assist the Chief Financial Officer in monitoring compliance with the contracting and workforce goals, and increasing the frequency and/or detail of reporting.

Furthermore, if there are significant or continuing shortfalls in participation of Certified Firms in construction of the Project or the sourcing of goods and services, or in the work hours of City or SEDA residents, the City may exercise a right of specific performance, an injunction, or any other appropriate equitable remedy, as may be applicable.

7. Local Businesses.

In all contracting related to the Project, both during construction and during operation of the Casino, Developer and Casino Manager must provide a reasonable preference for competitively priced firms, that are, to the extent required by applicable law, qualified by or registered with the Illinois Gaming Board, located or based within the City, and secondarily for firms located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois. These preferences should operate similarly to that set forth in MCC 2-92-412 "Contracts – Bid preference for city-based businesses," but Developer may establish alternate preference(s) acceptable to the City, that will serve to encourage local businesses.

8. Independent Venues

Throughout the Term, Developer will engage in good faith discussions with independent venues in the City for the purpose of coordinating the booking of live entertainment events at its Temporary and Permanent Facilities. Developer must report annually to the Chief Financial Officer on its compliance with this section.

9. Monitoring; Transparency

Developer shall at all times designate a management employee to monitor its compliance with the terms set forth in this **Exhibit**, which employee shall meet with the City as requested by the City from time to time to discuss the status of such compliance and any issues relating thereto. In support of the City's commitment to transparency, Developer must comply with City's reasonable requests for redacted versions of any reports to be submitted under this Exhibit that may contain confidential or proprietary business information, suitable for posting on the City website or other public information system of the City.