



**Kane County
Health Department**

DOCUMENT VET SHEET

for

**Karen McConnaughay
Chairman, Kane County Board**

Name of Document: IDPH Grant Tanning and Body Art Program FY2011

Submitted by: Paul Kuehnert X 43021

Date Submitted: February 16, 2011

Examined by: _____

(Print name)

Kenneth C. Shepro

(Signature)

[Handwritten Signature]

(Date)

2-22-2011

Comments: Term July 1, 2010 – June 30, 2011, \$3,000

Provide inspections and investigations under the authority of the Tanning Permit Act to assure compliance with rules and regulations of the State of Illinois for Tanning Facilities within Kane County.

Chairman signed: Yes No

Date: 2-28-11

Return document to: Bev Lopez, KOHD -1240 N. Highland Ave., Suite 26, Aurora

**STATE OF ILLINOIS
DEPARTMENT OF PUBLIC HEALTH**

Grant Agreement

The Illinois Department of Public Health or its successor, hereinafter referred to as the "Department", and, Kane County Health Department, 1240 N. Highland Avenue, Aurora, IL 60506, hereinafter referred to as the "Grantee", hereby agree as follows:

1. Authority:

- 1.1 The Department is authorized to make this grant pursuant to The Tanning Facility Permit Act, 210 ILCS 145/40(b).
- 1.2 The sole purpose of this grant is to fund the Grantee's performance of the services described herein during the term of this grant. The Grantee represents and warrants that the grant application submitted the Grantee is in all material aspects true and accurate; that it is authorized to undertake the obligations set forth in this Agreement and that it has obtained or will obtain all permits, licenses or other governmental approvals that may be necessary to perform the grant services.

2. Services:

- 2.1 The Grantee will provide the following services and agrees to act in compliance with all state and federal statutes and administrative rules applicable to the provision of services pursuant to this grant agreement. The grant application submitted by Grantee related to this grant agreement and on file with the Department is hereby incorporated and made a part of this agreement.
 - 2.1.1 Act as the agent of the Department for the purpose of making inspections and investigations under the authority of the Tanning Facility Permit Act (210 ILCS 145/1) and the Tanning Facilities Code (77 Ill. Adm. Code 795), hereinafter referred to as "the Act and the Code."
 - 2.1.2 Provide qualified personnel to perform inspections, investigation, surveillance, enforcement and administrative activities for the performance of this grant agreement personnel shall be IDPH trained and equipped to carry out this program.
 - 2.1.3 Maintain a current inventory of names and addresses of all tanning facilities within its jurisdiction. The Grantee shall notify the Department within thirty days of the date the Grantee becomes aware of any change of address, ownership, or other change of information originally submitted by a tanning facility on its application for a permit.
 - 2.1.4 Inspect in accordance with the Act and the Code, at least once a year, all tanning facilities in the Grantee's jurisdiction which have not otherwise been retained for inspection by the Department. The Grantee shall use the most recent inspection report form specified by the Department. All inspection remarks shall be written in accordance with the Department's specified format. The Grantee shall provide the tanning facility with the designated (yellow) copy of the inspection report at the time of inspection. The Grantee shall retain a photocopy of the inspection report for its facility file and send the complete original inspection form (white copy) to the Department's central office within fourteen (14) days of completion of an inspection. The Grantee shall follow the program policies which may be established by the Department.
 - 2.1.5 Work with the Department to ensure that all tanning facilities which are not in compliance with the requirements of the Act and the Code at the time of inspection (including tanning facilities operating

without a permit) are brought into compliance. The Grantee shall notify the owner of the tanning facility of violations of the Act and the Code and specify a uniform time for correction via the fully completed inspection report. At or within thirty days of the documented violation, the Grantee shall conduct a reinspection of the tanning facility to ensure that all violations have been corrected. The Grantee shall provide the tanning facility with the designated (yellow) copy of the reinspection report at the time of reinspection. The Grantee shall retain a photocopy of the reinspection form in its facility file and forward the complete original reinspection form (white copy) to the Department's central office within fourteen (14) days of completion of the reinspection. Such reinspection may be a joint inspection by both agencies at the option of the Department. Ensure that tanning facilities that are not brought into compliance with the Act and the Code within the time allotted by the Grantee as verified by reinspection are referred to the Department for appropriate enforcement action. The Grantee shall make available to the Department all necessary elements for enforcement which may include, but are not limited to, personnel to serve as witnesses.

- 2.1.6 Receive requests for and disseminate permit applications on forms provided by the Department. Applicants shall be instructed to send fully completed applications, including all required attachments along with a nonrefundable \$250 permit fee, directly to the Illinois Dept. of Public Health, Division of Food, Drugs and Dairies, 525 West Jefferson Street, Springfield, IL 62761-0001.
- 2.1.7 Investigate all complaints pertaining to a tanning facility within fourteen (14) days of receipt. A written tanning facilities inspection report shall be completed at the time of investigation. The Grantee shall leave the designated (yellow) copy of the inspection report with the tanning facility. The Grantee shall retain a photocopy of the original (white) copy of the completed inspection report in its facility file. The original (white) copy of the inspection report shall be forwarded to the Department's central office within fourteen (14) days of the investigation.
- 2.1.8 Offer and disseminate educational materials and information to tanning facilities and the public in general.
- 2.1.9 Inform the Department's central office of any individuals who have operated a tanning facility within its jurisdiction without a permit, or without having made application for a permit, in violation of the Act.
- 2.1.10 Identify a person employed by the Grantee to be the representative for the operational aspects of this grant agreement. The Grantee shall annually provide to the Department a list of all personnel who have been trained to conduct tanning facility inspections and continue to perform such inspections as employees of the Grantee. The Grantee shall ensure that no employee conducts tanning facility inspections until completion of basic inspector training provided by the Department.
- 2.1.11 Maintain tanning facility inspection records which include, Applications for permit to operate a tanning facility as provided by the facility, inspection forms, complaint reports and investigational findings, correspondence to and from tanning facilities, copies of permits issued by the Department, and enforcement records.
- 2.1.12 Upon written amendment to this Grant Agreement, may assume contractual responsibility for geographic areas outside of its jurisdiction if no local health department exists for the jurisdiction or if the local health department for the jurisdiction declines or fails to exercise a formal agreement with the Department within thirty (30) days of notification by the Department of an opportunity to execute such an agreement.
- 2.1.13 With prior written consent from the Department, may subcontract inspection responsibilities to full-time municipal or district health Departments within its geographic jurisdiction. The Grantee shall retain all responsibilities for a current inventory of tanning facilities within its geographic jurisdiction; inspections and re-inspections; proper report preparation and distribution; complaint investigation; enforcement activities; and interaction with tanning facilities as otherwise described in this grant agreement. All employees of sub-contracted agencies shall be trained by the Department prior to assuming inspection responsibilities.

- 2.2 The Grantee will not use the services of a subcontractor or subgrantee to fulfill any obligations under this agreement without the prior written consent of the Department. All subgrantees shall have an application, including a budget and project deliverables, on file with the grantee and the Department prior to the issuance of any written consent. The Department reserves the right to review all subcontracts and subgrants.
- 2.3 In connection with the services described in Section 2.1 above, the Department will:
- 2.3.1 Promulgate rules pursuant to the Act.
 - 2.3.2 Develop and maintain data processing systems to store data related to the issuance of tanning facility permits, tanning facility equipment, inspections, embargoes, reinsertions and enforcement activities.
 - 2.3.3 Issue permits to tanning facilities.
 - 2.3.4 Initiate legal enforcement action, when necessary, after the Grantee has issued a completed inspection report to the tanning facility and, as necessary, conduct a reinspection within the guidelines provided by the Department.
 - 2.3.5 Conduct hearings.
 - 2.3.6 Assess fines.
 - 2.3.7 File requests for action by the office of the State's Attorney or Attorney General.
 - 2.3.8 Provide the Grantee with assistance, consultation, and training, including copies of applicable laws, rules, policies, informational brochures, warning posters, inspection forms, and other data forms, etc.
 - 2.3.9 Conduct joint inspections, as necessary, with designated Grantee staff.
 - 2.3.10 Evaluate the Grantee program as it relates to the Act and the Code, including the conduct of spot checks of tanning facilities operating in the geographic or contractual jurisdiction of the Grantee.
 - 2.3.11 Provide Reimbursement Certification forms for quarterly submission by the Grantee.
 - 2.3.12 Process payments quarterly in October, January, April and July of each year, based upon the number of initial/change of ownership permit and annual/renewal inspections conducted during the previous quarter, the first payment due after the Grantee has performed in accordance with this agreement for three consecutive months.
 - 2.3.13 Designate the central office of the Division of Food, Drugs and Dairies as the Department's primary representative for the operational aspects of this grant agreement.

3. Term:

The period of this grant agreement is July 1, 2010 through June 30, 2011; however, it may be terminated at any time during this period by either party upon written notice to the other party thirty (30) calendar days prior to the actual termination date. Upon termination, the Grantee shall be paid for work satisfactorily completed prior to the date of termination.

4. Compensation:

- 4.1 The grant funds shall be estimated to be \$3,000.00.

- 4.2 This grant is state funded.
- 4.3 Subject to 4.1 above, the Department will compensate the Grantee on the following basis

Fee for Service:

- A. Initial/change of ownership permits issued within the jurisdiction of the Grantee for which the Grantee has conducted the required tanning facility inspection(s): \$150.00 each.
- B. Annual/renewal permits issued within the jurisdiction of the Grantee for which the Grantee has conducted the required tanning facility inspection(s): \$100.00 each.
- C. Compensate at the rate of 50% of all fines and penalties assessed, upheld and collected against tanning facilities. This payment is to be made provided the Grantee has inspected the tanning facility, issued a fully completed inspection report, re-inspected and provided appropriate documentation as necessary for enforcement activities conducted by the Department (this may include, but is not limited to the Grantee's provision of witnesses, photographs, notes and statements, etc.).
- 4.4 The Grantee will provide its services in accordance with the budget submitted in the grant application and which is on file with the Department.
- 4.5 Grantee, through its agents, employees and contractors, will provide all equipment, supplies, services and other items of support which are necessary for the effective performance of the services, unless the agreement specifically set forth items of support to be provided by the Department.
- 4.6 Grantee and any subgrantees shall not, in accordance with P.A. 096-1456, expend any grant funds paid from the State of Illinois General Revenue Funds for the following promotional items: calendars, pens, buttons, pins, magnets, and any other similar promotional items.
- 4.7 **Expenditure of Grant Funds; Right to Refund**

Payment of the grant amount specified in Section 4.1 shall be made to the Grantee as specified herein. Grant funds provided under this Agreement must be expended only to perform the tasks set forth in Section 2.1 of this agreement and the grant application on file with the Department. In addition to reasons set forth in other sections of this agreement, the Department will require a refund from Grantee if (i) the total grant expenditures are less than the amount vouchered to the Grantee from the Department pursuant to this agreement; or (ii) Grant funds have not been expended or legally obligated within the grant term. If the Department requires a refund under either of the above circumstances, the Grant funds must be returned to the Department within forty-five (45) days of the end of the grant term or the otherwise effective grant agreement termination date.

4.8 **Grants Fund Recovery Act (30 ILCS 705/1, et seq.)**

This Agreement is subject to all applicable provisions of the Illinois Grant Funds Recovery Act, including the requirement that any Grant Funds not expended or legally obligated at the expiration or termination of the Grant term must be returned to the Department within forty-five (45) days following said expiration or termination. Any interest earned on Grant Funds that is not expended or legally obligated during the Grant term must also be returned to the Department within forty-five (45) days following the expiration or termination of this Agreement. Grantee's failure to comply with any reporting requirements of the Department may result in the termination of this agreement or suspension of payments under this agreement.

5. **Notices:**

Notices and other communications provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by courier (UPS, Federal Express or other similar and reliable carrier), by

e-mail, or by fax showing the date and time of successful receipt. Notices shall be sent to the individuals at the following respective addresses or to such other address as either party may from time to time designate by notice to the other party. Each such notice shall be deemed to have been provided at the time it was actually received. By giving notice, either Party may change the contact information.

to the Department: Illinois Department of Public Health
Office of Health Protection/Division of Food, Drugs and Dairies
525 West Jefferson Street
Springfield, Illinois 62761-0001
Attention: Melissa Estes

to the Grantee: Kane County Health Department
1240 N. Highland Avenue
Aurora, IL 60506

6. Public Information Requirements:

For the duration of the Agreement, the Grantee will prominently acknowledge the participation of the Department in the Project in all press releases, publications and promotional materials presented to the media or otherwise dissemination published concerning the Project. The Grantee must provide the Department with copies of any proposed press releases, publications and promotional materials not less than fifteen (15) days before these materials are disseminated. Grantee will submit copies of any press releases, publications and promotional materials to the Department's Project Manager. The Grantee shall not publish, disseminate or otherwise release any promotional materials without the express written approval by the Department.

The Grantee will provide adequate advance notice pursuant to Section 5 of promotional events such as open houses, dedications, or other planned publicity events; and will also coordinate in the planning of said events. Any materials or displays to be distributed in connection with the promotional event must be submitted to the Department in advance of publication or dissemination and must prominently acknowledge the Department's participation in the event.

7. Grant Fund Control Requirements:

7.1 Audits

- A. Standard Audit: The Grantee is required to obtain a Standard Audit and provide the Department with a copy of the audit report, the management letter, and the SAS 114 letter within thirty (30) days of the Grantee's receipt of such audit report, but in no event later than nine (9) months following the end of the period for which the audit was performed. The Audit Report is required to be provided to IDPH annually for the life of the grant.
- B. Single Audit: If the Grantee is required to have a Single Audit performed in accordance with OMB Circular A-133, the Grantee is required to submit copies of the audit report, the data collection form, the management letter, and the SAS 114 letter, as provided for the in the Single Audit Act and OMB Circular A-133, to the Department within thirty (30) days of the Grantee's receipt of such audit report, but in event later than nine (9) months following the end of the period for which the audit was performed. If no Single Audit is required, the Grantee is to provide IDPH with an annual letter stating a Single Audit was not required.
- C. Audit Requirements for State Grants Audited by the Illinois Office of the Auditor General (OAG): Grantees required by the Illinois OAG to obtain a financial audit, compliance examination, performance audit will be notified by the OAG. The Grantee shall provide the Department with a copy of any financial audit, compliance examination, Single Audit or performance audit along with the accompanying management letter, letter of immaterial findings and the SAS 114 letter within thirty (30) days of the Grantee's receipt of

such audit report, but in no event later than nine (9) months following the end of the period for which the audit or examination was performed. The Audit Report is required to be provided to IDPH any year an audit is performed over the life of the grant.

- D. Discretionary Audit: The Department may, at any time, and its discretion, request a Grant-Specific Audit or other audit, Management Letter and SAS 114 letter to be delivered within thirty (30) days of the Grantee's receipt of such audit report, but in no event later than nine (9) months following the end of the period for which the audit was performed.
- E. Audit Performance: All Audits shall be performed by an independent certified public accountant or accounting firm licensed by the appropriate licensing body in accordance with applicable auditing standards.

7.2 Reporting Requirements

In addition to any other documents specified in this Agreement, the Grantee must submit the following reports and information in accordance with the provisions hereof.

A. At a minimum, the grantee shall file a quarterly report with the Department. The quarterly reports shall describe the progress of the program, project, or use and the expenditure of the grant funds provided to the grantee under this Agreement.

B. Expenditures and Project Activity Prior to Grant Execution. If the Agreement is executed more than ninety (90) days after the beginning date of the grant term provided in grant agreement, the Grantee must submit a Financial Status Report and a Project Status Report, in a format provided by the Department, accounting for expenditures and project activity incurred from the beginning of the grant term up to the end of the month preceding the date of the Department's execution. If these Reports are required, the Department will not disburse any Grant Funds until the report is submitted to and approved by the Department.

C. Final Financial Status Report The Final Financial Status Report is due within forty-five (45) days following the end date stated in the Notice of Grant Award. **The Grantee should refer to the Grant Instruction Package and the Reports Deliverable Schedule for the specific reporting requirements and due dates.** Grantee must submit the report in the format provided by the Department. This report must summarize expenditure of the Grant Funds and activities completed during the grant term. The Grantee's failure to comply with the this requirement will be considered a material breach of the performance required by this Agreement and may be the basis to initiate proceedings to recover all Grant Funds disbursed to the Grantee. Grantee's failure to comply with this Section shall be considered prima facie evidence of default, and may be admitted as such, without further proof, into evidence before the Department or in any other legal proceeding.

a. Additional Information: Upon request by the Department, the Grantee must, within the time directed by the Department, submit additional written reports regarding the Project, including, but not limited to materials sufficient to document information provided by the Grantee.

b. Submittal of Reports: Submittal of all reports and documentation required under this Agreement should be submitted to the individual as directed by the Department.

c. Failure to Submit Report: In the event Grantee fails to timely submit any reports required under this Agreement, the Department withhold or suspend the distribution of Grant Funds until said reports are filed and approved by the Department.

7.3 Grant Instructions

Upon execution of this Grant Agreement, the Grantee will receive a grant instruction package detailing reporting requirements and procedures relating to the Grant. The Grantee is obligated to comply with those requirements and any revisions thereto in accordance with Section 7.2(C) of this Grant Agreement.

7.4 **Fiscal Recording Requirements**

The Grantee's financial management system shall be structured to provide for accurate, current, and complete disclosure of the financial results of the Project funded under this grant program. The Grantee is accountable for all Grant Funds received under this Grant, including those expended for subgrantees. The Grantee shall maintain effective control and accountability over all Grant Funds, equipment, property, and other assets under the grant as required by the Department. The Grantee shall keep records sufficient to permit the tracing of Grant Funds to a level of expenditure adequate to insure that Grant Funds have not been inappropriately expended, and must have internal controls consistent with generally accepted accounting practices adopted by the American Institute of Certified Public Accountants.

7.5 **Due Diligence in Expenditure of Grant Funds**

Grantee shall ensure that Grant Funds are expended in accordance with the following principles: (i) grant expenditures should be made in accordance with generally accepted sound, business practices, arms-length bargaining, applicable federal and state laws and regulations; (ii) grant expenditures should conform to the terms and conditions of this Agreement; (iii) grant expenditures should not exceed the amount that would be incurred by a prudent person under the circumstances prevailing at the time the decision is made to incur the costs; and (iv) grant accounting should be consistent with generally accepted accounting principles.

7.6 **Monitoring**

The grant will be monitored for compliance in accordance with the terms and conditions of the Grant Agreement, together with appropriate programmatic rules, regulations, and/or guidelines that the Department promulgates or implements. The Grantee must permit any agent authorized by the Department, upon presentation of credentials, in accordance by all methods available by law, including full access to and the right to examine any document, papers and records either in hard copy or electronic, of the Grantee involving transactions relating to this grant.

8. **General Provisions:**

8.1 **Availability of Appropriation/Sufficiency of Funds**

This grant is contingent upon and subject to the availability of funds. The Department, at its sole option, may terminate or suspend this grant, in whole or in part, without penalty or further payment being required, if (1) the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason, (2) the Governor decreases the Department's funding by reserving some or all of the Department's appropriation(s) pursuant to power delegated to the Governor by the Illinois General Assembly; or (3) the Department determines, in its sole discretion or as directed by the Office of the Governor, that a reduction is necessary or advisable based upon actual or projected budgetary considerations. The Grantee will be notified in writing of the failure of appropriation or a reduction or decrease.

8.2 **Audit/Retention of Records (30 ILCS 500/20-65)**

Grantee and its subcontractors shall maintain books and records relating to the performance of the agreement or subcontract and necessary to support amounts charged to the State under the agreement or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Grantee for a period of three (3) years from the later of the date of final payment under the agreement or completion of the agreement, and by the subcontractor for a period of

three (3) years from the later of final payment under the term or completion of the subcontract. If federal funds are used to pay agreement costs, the Grantee and its subcontractors must retain its records for five (5) years. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the granting Agency, the Auditor General, the Attorney General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Grantee and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under the agreement for which adequate books and records are not available to support the purported disbursement. The Grantee or subcontractors shall not impose a charge for audit or examination of the Grantee's books and records.

If any of the services to be performed under this Agreement are subcontracted and/or if subgrants are issued/awarded for the expenditure of Grant Funds provided under this Agreement, the Grantee shall include in all such subcontractors and subgrants, a provision that the Department, the Attorney General, the Office of Inspector General, and the Auditor General of the State of Illinois, or any of their duly authorized representatives, will have full access to and the right to examine any pertinent books, documents, papers and records of any such subcontractor or subgrantee involving transactions related to this Agreement for a period of three (3) years following the Department's final approval of all required close-outs (financial and/or programmatic), and any such subcontractor shall be governed by the same requirements to which the Grantee is subject under this Agreement.

8.3 **Time is of the Essence**

Time is of the essence with respect to Grantee's performance of this agreement. Grantee shall continue to perform its obligations while any dispute concerning the agreement is being resolved unless otherwise directed by the State.

8.4 **No Waiver of Rights**

Except as specifically waived in writing, failure by a Party to exercise or enforce a right does not waive that Party's right to exercise or enforce that or other rights in the future.

8.5 **Force Majeure**

Failure by either Party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control and not due to its negligence including acts of nature, acts of terrorism, riots, labor disputes, fire, flood, explosion, and governmental prohibition. The non-declaring Party may cancel the agreement without penalty if performance does not resume within thirty (30) days of the declaration.

8.6 **Confidential Information**

Each Party, including its agents and subgrantors, to this agreement may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this agreement. Grantee shall presume all information received from the State or to which it gains access pursuant to this agreement is confidential. Grantee information, unless clearly marked as confidential and exempt from disclosure under the Illinois Freedom of Information Act, shall be considered public. No confidential data collected, maintained, or used in the course of performance of the agreement shall be disseminated except as authorized by law and with the written consent of the disclosing Party, either during the period of the agreement or thereafter. The receiving Party must return any and all data collected, maintained, created or used in the course of the performance of the agreement, in whatever form it is maintained, promptly at the end of the agreement, or earlier at the request of the disclosing Party, or notify the disclosing Party in writing of its destruction. The foregoing obligations shall

not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; received in good faith from a third-party not subject to any confidentiality obligation to the disclosing Party; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving Party; or is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.

8.7 **Use and Ownership**

All work performed or supplies created by Grantee under this agreement, whether written documents or data, goods or deliverables of any kind, shall be deemed work-for-hire under copyright law and all intellectual property and other laws, and the State of Illinois is granted sole and exclusive ownership to all such work, unless otherwise agreed in writing. Grantee hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that Grantee may have to such work including any so-called "moral rights" in connection with the work. Grantee acknowledges the State may use the work product for any purpose. Confidential data or information contained in such work shall be subject to confidentiality provisions of this agreement.

Equipment and material authorized to be purchased with Grant Funds becomes the property of the Grantee. Grantee will maintain an inventory or property control record for all equipment and material purchased with Grant Funds. During the Grant term, the Grantee must: (1) use equipment and materials acquired with Grant Funds only for the approved Project purposes set forth in Section 2.1; and (2) provide sufficient maintenance on the equipment and materials to permit achievement of the approved Project purposes and maintain, at its own expense, insurance coverage on all equipment and material purchased with Grant Funds, for its full insurable value, against loss, damage and other risks ordinarily insured against by owners or users of similar equipment and material in similar businesses. The Grantee is prohibited from, and may not sell, transfer, encumber (other than original financing) or otherwise dispose of said equipment or material during the grant term without prior written approval of the Department.

8.8 **Indemnification and Liability**

The Grantee shall indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of: (a) any breach or violation by Grantee of any of its certifications, representations, warranties, covenants or agreements; (b) any actual or alleged death or injury to any person, damage to any property or any other damage or loss claimed to result in whole or in part from Grantee's negligent performance; or (c) any act, activity or omission of Grantee or any of its employees, representatives, subcontractors or agents. Neither Party shall be liable for incidental, special, consequential or punitive damages.

8.9 **Independent Contractor**

Grantee shall act as an independent contractor and not an agent or employee of, or joint venturer with the State. All payments by the State shall be made on that basis.

8.10 **Solicitation and Employment**

Grantee shall not employ any person employed by the State during the term of this agreement to perform any work under this agreement. Grantee shall give notice immediately to the Agency's director if Grantee solicits or intends to solicit State employees to perform any work under this agreement.

8.11 **Compliance with the Law**

The Grantee, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders, federal circulars and all license and permit requirements

in the performance of this agreement. Grantee shall be in compliance with applicable tax requirements and shall be current in payment of such taxes. Grantee shall obtain at its own expense, all licenses and permissions necessary for the performance of this agreement.

8.12 **Background Check**

Whenever the State deems it reasonably necessary for security reasons, the State may conduct, at its expense, criminal and driver history background checks of Grantee's and subcontractors officers, employees or agents. Grantee or subagreementor shall reassign immediately any such individual who, in the opinion of the State, does not pass the background checks.

8.13 **Applicable Law**

This agreement shall be construed in accordance with and is subject to the laws and rules of the State of Illinois. The Department of Human Rights' Equal Opportunity requirements (44 Ill. Adm. Code 750) are incorporated by reference. Any claim against the State arising out of this agreement must be filed exclusively with the Illinois Court of Claims (705 ILCS 505/1). The State shall not enter into binding arbitration to resolve any agreement dispute. The State of Illinois does not waive sovereign immunity by entering into this agreement. The official text of cited statutes is incorporated by reference (An unofficial version can be viewed at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>). In compliance with the Illinois and federal Constitutions, the Illinois Human Rights Act, the U. S. Civil Rights Act, and Section 504 of the federal Rehabilitation Act and other applicable laws and rules the State does not unlawfully discriminate in employment, agreements, or any other activity.

8.14 **Anti-Trust Assignment**

If Grantee does not pursue any claim or cause of action it has arising under federal or state antitrust laws relating to the subject matter of the agreement, then upon request of the Illinois Attorney General, Grantee shall assign to the State rights, title and interest in and to the claim or cause of action.

8.15 **Contractual Authority**

The Agency that signs for the State of Illinois shall be the only State entity responsible for performance and payment under the agreement. When the Chief Procurement Officer or authorized designee signs in addition to an Agency, they do so as approving officer and shall have no liability to Grantee. When the Chief Procurement officer or authorized designee signs a master agreement on behalf of State agencies, only the Agency that places an order with the Grantee shall have any liability to Grantee for that order.

8.16 **Modifications and Survival**

Amendments, modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this agreement officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the State's and the Grantee's terms, conditions and attachments, the State's terms, conditions and attachments shall prevail.

8.17 **Performance Record/Suspension**

Upon request of the State, Grantee shall meet to discuss performance or provide agreement performance updates to help ensure proper performance of the agreement. The State may consider Grantee's performance under this agreement and compliance with law and rule to determine whether to continue the agreement, suspend Grantee from doing future business with the State for a specified period of time, or to determine whether Grantee can be considered responsible on specific future agreement opportunities.

8.18 **Freedom of Information Act**

This agreement and all related public records maintained by, provided to or required to be provided to the State are subject to the Illinois Freedom of Information Act notwithstanding any provision to the contrary that may be found in this agreement.

8.19 **Amendments**

This Agreement may not be amended without prior written approval of both the Grantee and the Department.

8.20 **Assignment**

The Grantee understands and agrees that this Agreement may not be sold, assigned, or transferred in any manner and that any actual or attempted sale, assignment, or transfer without the prior written approval of the Department shall render this Agreement null, void, and of no further effect.

8.21 **Termination for Cause**

The State may terminate this agreement, in whole or in part, immediately upon notice to the Grantee if: (a) the State determines that the actions or inactions of the Grantee, its agents, employees or subagreementors have caused, or reasonably could cause, jeopardy to health, safety, or property, or (b) the Grantee has notified the State that it is unable or unwilling to perform the agreement.

If Grantee fails to perform to the State's satisfaction any material requirement of this agreement, is in violation of a material provision of this agreement, or the State determines that the Grantee lacks the financial resources to perform the agreement, the State shall provide written notice to the Grantee to cure the problem identified within the period of time specified in the State's written notice. If not cured by that date the State may either: (a) immediately terminate the agreement without additional written notice or (b) enforce the terms and conditions of the agreement.

For termination due to any of the causes contained in this Section, the State retains its rights to seek any available legal or equitable remedies and damages.

8.22 **Termination for Convenience**

The State may, for its convenience and with thirty (30) days prior written notice to Grantee, terminate this agreement in whole or in part and without payment of any penalty or incurring any further obligation to the Grantee. The Grantee shall be entitled to compensation upon submission of invoices and proof of claim for supplies and services provided in compliance with this agreement up to and including the date of termination.

8.23 **Health Insurance Portability and Accountability Act Compliance**

Grantee shall comply with the applicable provisions of the Health Insurance Portability and Accountability Act (HIPAA), including, but not limited to statute, 42 USC 132d, and applicable regulations, 45 CFR 160, 162, and 164, as may be promulgated or amended over time.

8.24 **Entire Agreement**

The Department and the Grantee understand and agree that this Agreement constitutes the entire Agreement between them and that no promises, terms, or conditions not recited or incorporated within this Agreement, including prior Agreements or oral discussions not incorporated within this Agreement, shall

be binding upon either the Grantee or the Department.

9. Certifications:

Grantee acknowledges and agrees that compliance with this section and each subsection for the term of the Agreement and any renewals is a material requirement and condition of this agreement. By executing this Agreement Grantee certifies compliance with this section and each subsection and is under a continuing obligation to remain in compliance and report any non-compliance. If the Parties determine that any certification in this section is not applicable to this agreement it may be stricken without affecting the remaining subsections.

- 9.1 As part of each certification, Grantee acknowledges and agrees that should Grantee or its subcontractors/subgrantors provide false information, or fail to be or remain in compliance with the Standard Certification requirements, one or more of the following sanctions will apply:
- the Agreement may be void by operation of law,
 - the State may void the Agreement, and
 - the Grantee and its subcontractors may be subject to one or more of the following: suspension, debarment, denial of payment, civil fine, or criminal penalty.

Identifying a sanction or failing to identify a sanction in relation to any of the specific certifications does not waive imposition of other sanctions or preclude application of sanctions not specifically identified.

- 9.2 Grantee certifies it and its employees will comply with applicable provisions of the U.S. Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and applicable rules in performance under this agreement.

- 9.3 Grantee certifies it is not in default on an educational loan (5 ILCS 385/3). This applies to individuals, sole proprietorships, partnerships and individuals as members of LLCs.

- 9.4 Grantee (if an individual, sole proprietor, partner or an individual as member of a LLC) certifies it has not received an (i) an early retirement incentive prior to 1993 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, 40 ILCS 5/14-108.3 and 40 ILCS 5/16-133.3, or (ii) an early retirement incentive on or after 2002 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, 40 ILCS 5/14-108.3 and 40 ILCS 5/16-133, (30 ILCS 105/15a).

- 9.5 Grantee certifies it is a properly formed and existing legal entity (30 ILCS 500/1.15.80, 20-43); and as applicable has obtained an assumed name certificate from the appropriate authority, or has registered to conduct business in Illinois and is in good standing with the Illinois Secretary of State.

- 9.6 To the extent there was a incumbent Grantee providing the services covered by this agreement and the employees of that Grantee that provide those services are covered by a collective bargaining agreement, Grantee certifies (i) that it will offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the agreement subject to its bid or offer; and (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit performing substantially similar work that will be performed under this agreement (30 ILCS 500/25-80). This does not apply to heating, air conditioning, plumbing and electrical service agreements.

- 9.7 Grantee certifies it has not been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor has Grantee made an admission of guilt of such conduct that is a matter of record (30 ILCS 500/50-5).

- 9.8 If Grantee has been convicted of a felony, Grantee certifies at least five (5) years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor's office for

the facts upon which the conviction was based continues to have any involvement with the business (30 ILCS 500/50-10).

- 9.9 If Grantee, or any officer, director, partner, or other managerial agent of Grantee, has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, Grantee certifies at least five (5) years have passed since the date of the conviction. Grantee further certifies that it is not barred from being awarded a agreement and acknowledges that the State shall declare the agreement void if this certification is false (30 ILCS 500/50-10.5).
- 9.10 Grantee certifies it is not barred from having a agreement with the State based on violating the prohibition on providing assistance to the state in identifying a need for a agreement (except as part of a public request for information process) or by reviewing, drafting or preparing solicitation or similar documents for the State (30 ILCS 500/50-10.5e).
- 9.11 Grantee certifies that it and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent has entered into a deferred payment plan to pay the debt), and Grantee and its affiliates acknowledge the State may declare the agreement void if this certification is false (30 ILCS 500/50-11) or if Grantee or an affiliate later becomes delinquent and has not entered into a deferred payment plan to pay off the debt (30 ILCS 500/50-60).
- 9.12 Grantee certifies that it and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act (30 ILCS 500/50-12) and acknowledges that failure to comply can result in the agreement being declared void.
- 9.13 Grantee certifies that it has not been found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act within the last five (5) years, and is therefore not barred from being awarded a agreement (30 ILCS 500/50-14).
- 9.14 Grantee certifies it has not paid any money or valuable thing to induce any person to refrain from bidding on a State agreement, nor has Grantee accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State agreement (30 ILCS 500/50-25).
- 9.15 Grantee certifies it is not in violation of the "Revolving Door" section of the Illinois Procurement Code (30 ILCS 500/50-30).
- 9.16 Grantee certifies that it has not retained a person or entity to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement (30 ILCS 500/50-38).
- 9.17 Grantee certifies it will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, offerors, contractors, proposers or employees of the State (30 ILCS 500/50-40, 50-45, 50-50).
- 9.18 In accordance with the Steel Products Procurement Act, Grantee certifies steel products used or supplied in the performance of a agreement for public works shall be manufactured or produced in the United States, unless the executive head of the procuring agency grants an exception (30 ILCS 565).
- 9.19 a) If Grantee employs twenty-five (25) or more employees and this agreement is worth more than Five-Thousand Dollars (\$5,000.00), Grantee certifies it will provide a drug free workplace pursuant to the Drug Free Workplace Act.
- b) If Grantee is an individual and this agreement is worth more than Five-Thousand Dollars (\$5,000.00), Grantee shall not engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance during the performance of the agreement (30 ILCS 580).

- 9.20 Grantee certifies that neither Grantee nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This applies to agreements that exceed Ten-Thousand Dollars (\$10,000.00) (30 ILCS 582).
- 9.21 Grantee certifies it has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any state or of the United States (720 ILCS 5/33 E-3, E-4).
- 9.22 Grantee certifies it complies with the Illinois Department of Human Rights Act and rules applicable to public agreements, including equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies (775 ILCS 5/2-105).
- 9.23 Grantee certifies it does not pay dues to or reimburse or subsidize payments by its employees for any dues or fees to any "discriminatory club" (775 ILCS 25/2).
- 9.24 Grantee certifies it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the State under the agreement have been or will be produced in whole or in part by forced labor, or indentured labor under penal sanction (30 ILCS 583).
- 9.25 Grantee certifies that no foreign-made equipment, materials, or supplies furnished to the State under the agreement have been produced in whole or in part by the labor or any child under the age of twelve (12) (30 ILCS 584).
- 9.26 Grantee certifies that it is not in violation of Section 50-14.5 of the Illinois Procurement Code (30 ILCS 500/50-14.5) that states: "Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act (410 ILCS 45) are prohibited from doing business with the State until the violation is mitigated".
- 9.27 Grantee warrants and certifies that it and, to the best of its knowledge, its subcontractors have and will comply with Executive Order No. 1 (2007). The Order generally prohibits Grantees and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments if that procurement may result in an agreement valued at over Twenty-Five Thousand Dollars (\$25,000.00). This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period (1) preceding the procurement lobbying activity.
- 9.28 Grantee certifies that information technology, including electronic information, software, systems and equipment, developed or provided under this agreement will comply with the applicable requirements of the Illinois Information Technology Accessibility Act Standards as published at www.dhs.state.il.us/iitaa (30 ILCS 587).
- 9.29 For capital fund grant awards over \$250,000, Grantee certifies that it will comply with P.A. 096-1064 with regard the business enterprise program practices for minority-owned businesses, female-owned businesses, and businesses owned by persons with disabilities of the Business Enterprise for Minorities, Females and Persons with Disabilities Act (30 ILCS 575) and the equal employment opportunity practices of Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105).
- 9.30 Grantee certifies that it has read, understands, and is in compliance with the registration requirements of the Elections Code (10 ILCS 5/9-35) and the restrictions on making political contributions and related requirements of the Illinois Procurement Code (30 ILCS 500/20-160 and 50-37). Grantee will not make a political contribution that will violate these requirements. These requirements are effective for the duration of the term of office of the incumbent Governor or for a period of two (2) years after the end of the

agreement term, whichever is longer.

In accordance with section 20-160 of the Illinois Procurement Code, Grantee certifies as applicable:

Grantee is not required to register as a business entity with the State Board of Elections.

Or

Grantee has registered **and has attached a copy** of the official certificate of registration as issued by the State Board of Elections. As a registered business entity, Grantee acknowledges a continuing duty to update the registration as required by the Act.

10. Taxpayer Status:

I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).
 - If you are an individual, enter your name and SSN as it appears on your Social Security Card.
 - If you are a sole proprietor, enter the owner's name on the name line followed by the name of the business and the owner's SSN or EIN.
 - If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's name on the name line and the d/b/a on the business name line and enter the owner's SSN or EIN.
 - If the LLC is a corporation or partnership, enter the entity's business name and EIN and for corporations, attach IRS acceptance letter (CP261 or CP277).
 - For all other entities, enter the name of the entity as used to apply for the entity's EIN and the EIN.

Name: _____

Business Name: _____

Taxpayer Identification Number:

Social Security Number _____
or
Employer Identification Number _____

Legal Status (check one):

- | | |
|---|--|
| Individual | Governmental |
| Sole Proprietor | Nonresident alien |
| Partnership | Estate or trust |
| Legal Services Corporation | Pharmacy (Non-Corp.) |
| Tax-exempt | Pharmacy/Funeral Home/Cemetery (Corp.) |
| Corporation providing or billing
medical and/or health care services | Limited Liability Company (select applicable tax classification)
D = disregarded entity
C = corporation
P = partnership |
| Corporation NOT providing or billing
medical and/or health care services | |

