

**METROPOLITAN PIER AND EXPOSITION AUTHORITY
INSURANCE VALUATION SERVICES AGREEMENT**

2023-31-M

THIS INSURANCE VALUATION SERVICES AGREEMENT (the “Agreement”) is made, entered into, and effective as of the _____ day of _____, 2023, by and between **THE METROPOLITAN PIER AND EXPOSITION AUTHORITY**, located at 301 E. Cermak Road, Chicago, Illinois 60616 (the “Authority”) and **AMERICAN APPRAISAL ASSOCIATES, INC.**, located at 801 Warrenville Road, Suite 600, Lisle, IL 60532 (the “Contractor”).

BACKGROUND

The Authority issued a Request for Proposals (“RFP”) to retain a Consultant to conduct an Insurance Valuation Services in accordance with the requirements of the MPEA Act. RFP #2023-31-M was issued on November XX, 2023. Consultant submitted a response to the RFP (“Proposal”) on _____, and the MPEA Board approved award of this Agreement at its _____ meeting.

Consultant represents that it is ready and able to perform the Services specified in this Agreement. The parties therefore agree as follows:

TERMS

1. **Term**: This Agreement shall commence on the Effective Date and shall remain in effect until completion, unless sooner terminated in accordance with this Agreement (the “Term”).
2. **Agreement Documents**: The Agreement shall be deemed to include this document and the following exhibits and attachments, all of which are incorporated into and made a part of this Agreement (the “Agreement Documents”):

Exhibit 1 – Scope of Services

Exhibit 2 – Pricing

Exhibit 3 – Special Conditions Regarding Minority & Women Owned Business Enterprises

Exhibit 4 – RFP #2023-31-M for Property Appraisal Services, including Consultant’s response, to the extent it is consistent with the RFP documents, and all attachments which are incorporated herein by reference.

Exhibit 5 – Insurance Requirements

In the event of a conflict between this document and any exhibit, the provisions of this Agreement shall control.

3. **Scope of Services**: Consultant will provide insurance valuation services, which are more specifically set forth in the Scope of Services attached hereto as Exhibit A. The Scope of Services is intended to be general in nature and is neither a complete description of Consultant’s Services nor a limitation on the Services which Consultant is to provide under this Agreement. Consultant shall coordinate all Services with the Authority’s office of the Chief Financial Officer and shall consult with and keep the Authority fully informed as to the progress of all matters in which it is engaged pursuant to this Agreement. Consultant shall promptly furnish the Authority with copies of all documents prepared in connection with the Services, in addition to status or other reports, as may be required or requested.
4. **Assigned Personnel**: Consultant shall assign and maintain a staff of dedicated and competent personnel that is fully equipped and qualified to perform the Services required by this Agreement. The Authority shall have the right to review and approve such personnel selections, and may reject any such personnel at any time whenever the Authority, in its sole and unlimited discretion, determines that such personnel is not qualified or is otherwise unfit for such work. As of the Effective Date of this Agreement, Consultant has assigned the project manager and the personnel identified in the Staffing Plan, attached hereto as Exhibit B, to provide the Services to the Authority. The Consultant must notify the MPEA, in writing, prior to making any personnel changes.

5. **Standard of Performance:** Consultant shall perform all Services as set forth in this Agreement with that degree of skill, care and diligence customarily required of a professional performing services of comparable scope, purpose and magnitude comparable and similar to the nature of the Services to be provided under this Agreement, and in conformance with the applicable professional standards. Consultant shall at all times use its best efforts on behalf of the Authority to assure timely and satisfactory rendering and completion of its Services. Consultant shall ensure that Consultant and all of its employees performing Services under this Agreement shall be: (i) qualified and competent in the applicable discipline or industry; (ii) appropriately licensed as required by law; (iii) strictly comply with all City of Chicago, State of Illinois, and federal laws applicable to the Services; and (iv) strictly conform to the terms of the RFP and this Agreement. Consultant remains responsible for the professional and technical accuracy of all Services and deliverables furnished, whether such services are rendered by the Consultant or others on its behalf. No review, approval, acceptance, nor payment for any and all of the Services by the Authority shall relieve the Consultant from the responsibilities referenced herein.

6. **Time is of the Essence:** Consultant shall proceed to perform the Services under the terms of this Agreement promptly and diligently, in accordance with the Agreement. Unless otherwise provided herein or as otherwise specified at time of order, Services shall be performed in conformance with specifications set forth by the Authority.

7. **Consultant as Independent Contractor:** Consultant as well as Consultant's agents, employees and assigned personnel provided under this Agreement are independent contractors. Nothing in this Agreement is intended or should be construed as in any way creating or establishing the relationship of partners or joint venturers between the Authority and Consultant, or as constituting Consultant or any officer, owner, employee or agent of Consultant as an agent, representative or employee of the Authority for any purpose or in any manner whatsoever. Consultant shall be responsible for any and all personal injury or property damage that Consultant may suffer in the course of or in connection with the performance of the Services under this Agreement. Consultant agrees not to make any claims against the Authority or any of its board members, officers, employees, agents or assigns for any injury or loss that Consultant may suffer.

8. **Audit, Inspection and Retention of Records:** Consultant shall maintain and retain records showing the actual time expended in performance of the Services for which Consultant seeks compensation, and receipts evidencing the actual costs for all reimbursable expenses for which Consultant requests compensation. The Consultant shall permit an authorized representative of the Authority to inspect, copy and audit all data and records of the Consultant for the performance of the Services. Such records shall be made available at Consultant's office during the term of the Agreement, and shall be retained for a period of no less than five (5) years subsequent to the expiration of the Agreement.

9. **Compensation/Invoices/Reimbursement:** Consultant shall receive compensation in the amount and schedule as set forth in Exhibit B. All invoicing and requests for payment shall be in such form and with such documentation as required by the Authority. Under no circumstances shall the compensation exceed the agreed upon pricing set forth in Exhibit B without a prior written amendment to this Agreement as provided herein.

10. **Insurance Requirements:** Before beginning to perform any Services, Consultant shall procure and maintain at all times during the term of this Agreement and at Consultant's expense, the insurance coverage set forth in the Insurance Requirements in Exhibit C to this Agreement, which is incorporated herein by reference, and shall provide the Authority with original certificates evidencing the required coverage. Consultant's insurance policies shall name the following as additional insured on all certificates of insurance: **"The Metropolitan Pier and Exposition Authority, facilities, agents, officers, board members and employees."** Consultant's duty to indemnify the Authority is independent from, and not limited in any manner by, Consultant's insurance coverage obtained pursuant to this Section or otherwise.

11. **Indemnification:**

a. **Duty.** Consultant shall at its sole expense defend and hold the Authority, its board members, officers, and employees (collectively, the "Indemnified Parties") harmless against all injuries, death, losses, damages, claims (including intellectual property claims) suits, liabilities, judgments, and expenses (including attorney fees and court costs) (individually or collectively, "Loss"), which may in any way accrue against any Indemnified Party in consequence of this Agreement or its performance, or which may in any way result from them, whether or not it is alleged or determined that the Loss

was caused through the negligence or omission of Consultant, its employees or agents. Consultant shall appear, defend and pay all charges of attorneys and all costs and other expenses arising from or incurred in connection with a claim, regardless of the perceived merits. If any judgment is rendered against any Indemnified Party in an action, Consultant shall, at its sole expense, satisfy and discharge it. To the extent permissible by law, Consultant waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due pursuant to Consultant's obligations under this Section 11, including any claim by any employee of Consultant that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other law or judicial decision such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991).

b. Limitation. Consultant's duty to indemnify does not apply to a Loss that arises solely out of the intentional misconduct on the part of the Indemnified Party seeking indemnification.

c. No Limitation on Account of Insurance. The insurance that Consultant is required by this Agreement to carry, or does carry, or the insurance carried by any Indemnified Party, in no way limits or relieves Consultant of its duty to defend and indemnify the Indemnified Parties under this Agreement.

12. Equal Employment Opportunity/Non Discrimination. Throughout the term of this Agreement, Consultant, in performing the Services under this Agreement, shall not discriminate against any worker, employee or applicant, nor any member of the public on the basis of race, color, religion, age, sex or national origin, ancestry, marital status, physical or mental handicap unrelated to the person's ability to perform the duties of a particular job or position, or unfavorable discharge from military service, nor otherwise commit an unfair labor practice, with respect to, but not limited to, the following actions: recruitment, hiring, training, employment, transfer, upgrading, promotion, compensation, working conditions, layoffs and termination. Consultant shall post in conspicuous places, available to employees and applicants for employment or apprenticeship programs, notices setting forth the provisions of this non-discrimination clause. Consultant shall take affirmative action to assure equality of employment opportunity and to eliminate the effects of past discrimination, shall comply with the procedures and requirements of and cooperate with the Illinois Department of Human Rights. Attention is particularly drawn to the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*; to the Illinois Veterans Preference Act, 330 ILCS 55/0.01 *et seq.*; to the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000 *et seq.*; (1988) and the Civil Rights Act of 1991; The Age Discrimination in Employment Act, 42 U.S.C. Sec. 6101 *et seq.* (1988); the Rehabilitation Act of 1973, 29 U.S.C. Secs. 793-94 (1988); the Americans with Disabilities Act, all as amended from time to time, and to applicable federal, state and local rules and regulations.

13. Authority's Proprietary Rights-Names and Logos. The Authority owns all right, title and interest in: (a) the trademarks/service marks MCCORMICK PLACE®, MCCORMICK PLACE, and MCCORMICK SQUARE and Design, (b) certain likenesses of McCormick Place®; and (c) certain other logos, trademarks, trade names and service marks (collectively the "MPEA Marks"). Consultant may not use the MPEA Marks for any purpose without the Authority's express written consent, nor may Consultant permit anyone else to do so.

14. Consultant Representations: Consultant warrants that it is fully qualified to perform this Agreement in its area of expertise, and represents that (a) by its own independent investigation, it has ascertained (i) the nature of the Services required, (ii) the conditions involved in performing the Services, and (iii) its obligations under this Agreement, and (b) it will verify all information furnished by the Authority, satisfying itself as to the correctness and accuracy of that information, and if incorrect or inaccurate, has taken appropriate exception and has determined correct and accurate information. Any failure by Consultant to investigate independently and become fully informed will not relieve Consultant from its responsibilities under this Agreement.

15. Termination:

a. Termination for Convenience: The Authority has the right to terminate this Agreement, in whole or in part, for any reason, including the convenience of the Authority, by providing Consultant with written notice specifying the date of termination. On the date specified in the notice, this Agreement will terminate. The Authority will pay Consultant the amount earned or reimbursable to it (if any) up to the termination date. After termination, Consultant has no further contractual claim against the Authority based upon this Agreement.

b. Termination for Cause:

1) This Agreement may be terminated if an event of default occurs. The following constitute events of default by Consultant:

(A) Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Consultant to the Authority;

(B) Consultant's material failure to perform any of its obligations under this Agreement including, but not limited to, the following:

(i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the performance of the Services or due to a reason or circumstances within Consultant's reasonable control;

(ii) Failure to perform the Services in a manner satisfactory to the Authority, or inability to perform the Services as a result of bankruptcy, insolvency, making a general assignment for the benefit of its creditors, or having a receiver appointed;

(iii) Discontinuance of the Services for reasons or circumstances within Consultant's reasonable control;

(iv) Failure to comply with a material term of this Agreement, including, but not limited to, insurance and nondiscrimination requirements;

(v) Failure to have and maintain the required licenses or certifications; and

(vi) Failure to timely provide Services in accordance with RFP or Agreement terms with respect to the nature, quantity, quality, or timeliness of delivery.

(C) Conviction or entering into a guilty plea in a criminal court or a finding of liability in civil court relating to the Services that Consultant provides to the Authority or involving fraud or misconduct adversely affecting any governmental entity; or

(D) Any other acts or omissions specifically identified in this Agreement as an event of default.

2) The Authority, in its sole discretion, shall determine whether a default is material and whether it can be cured. In the event the Authority determines that an event of default can be cured, it shall provide Consultant with notice setting forth the event of default and cure requirements, including the time period permitted for cure. Consultant shall cure any event of default as provided in the notice.

3) If Consultant fails to cure a default as provided in the notice, the Authority may, at its sole option, declare Consultant in default. The Authority will give Consultant written notice of the default and the Authority's termination of this Agreement. The Authority's decision is final and takes effect when notice is given or such time as set forth in the termination notice. Consultant shall discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in performing under this Agreement, whether completed or in the process, to the Authority.

4) In the event of default, the Authority may invoke any or all of the following remedies. These remedies are not intended to be exclusive of any other remedies available. Rather, every remedy is cumulative and in addition to any other remedies, existing now or later at law, in equity or under the Agreement.

(A) The right to take over and complete the Services or any part of them as agent for and at the cost of Consultant, either directly or through others. Consultant has, in that event, the right to offset from the cost the amount the Authority would have paid Consultant under the terms and conditions of this Agreement had Consultant completed the Services.

(B) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the Authority.

(C) The right to money damages.

(D) The right to deem Consultant not responsible and ineligible for future Agreements to be awarded by the Authority.

(E) The right of set-off against any sums owing Consultant.

(F) Such other remedies as permitted by law.

5) No delay or omission to exercise any right or power occurring upon any event of default impairs the right or power, nor is it a waiver of or acquiescence in any event of default. Every right and power may be exercised from time to time and as often as the Authority considers expedient.

6) If a court of competent jurisdiction determines that the Authority wrongfully terminated Consultant, then the termination shall be treated as a termination for convenience.

16. Cooperation: The parties shall cooperate in good faith to implement the terms of this Agreement. At such time as this Agreement is terminated or expires, the parties shall undertake in good faith efforts to assure an orderly transition to another provider of the Services, if any. Consultant shall make an orderly demobilization of its own operations, provide the Services uninterrupted until the effective date of termination or expiration, and otherwise comply with the reasonable requests and requirements of the Authority in connection with the termination or expiration.

17. Ownership of Documents: Any and all documents, data, studies, and reports prepared or compiled in connection with the performance of the Services (collectively, the "Deliverables") are to be property of the Authority. During the performance of the Services, the Consultant will be responsible for any loss or damage to the Deliverables while they are in its possession and any such loss or damage to the Deliverables will be restored at the expense of the Consultant. Full access to the work during the preparation of all Deliverables will be available to the Authority during normal business hours upon reasonable notice.

18. Confidentiality of Information and Documents:

a. All reports, data or information in any form prepared, assembled or encountered by or provided to Consultant under this Agreement are confidential, and Consultant shall not disclose these (or make them available) to any other individual or organization without the prior written approval of the Authority, except as specifically authorized in this Agreement or as may be required by law. Consultant shall implement whatever measures are necessary to ensure that its staff and its subcontractors are bound by these confidentiality provisions.

b. Consultant shall not issue publicity news releases or grant press interviews, or, except as may be required by law during or after the performance of this Agreement, disseminate any information regarding its Services or the project to which the Services pertain without the prior written consent of the Authority.

c. If Consultant is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any records, data or documents that are in Consultant's possession by reason of this Agreement, Consultant shall immediately give notice to the Authority with the understanding that the Authority will have the opportunity to contest the process by any

means available to it before the records or documents are submitted to a court or other third party. Consultant, however, is not obligated to withhold delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

19. Meetings: In performing the Services, Consultant agrees to attend and actively participate in all required meetings with representatives of the Authority as well as the Authority's agents and contractors.

20. Conflict of Interest: Consultant warrants that no member of the Authority's board members nor any officer, employee or agent of the Authority has or will acquire any interest, direct or indirect, in this Agreement or in the Services to which this Agreement pertains. Consultant promises that no person having any such interest will be employed in performing this Agreement. Consultant further warrants that Consultant has no Agreements with third parties that would conflict in any manner or degree with Consultant's performance of the Services.

21. Changes: No changes to this Agreement are effective unless in a written amendment signed by the authorized representatives of the parties.

22. Assignment and Subcontracting: Consultant shall not assign or subcontract the Agreement, or any portion thereof, or any payment due under the Agreement, without the written consent of the Authority. In no case shall such consent relieve the Consultant from the obligations herein entered into or change the terms of this Agreement and each and every one of the covenants, promises, and agreements of the Consultant shall extend to and be binding upon the successors and assigns of the Consultant.

23. Compliance with Laws:

a. Consultant shall at its own expense comply with all federal, state and local laws, codes, ordinances and regulations applicable to this Agreement and the performance of the Services hereunder whether by reason of general law or the specific Services required. Consultant shall pay all contributions, premiums, or taxes of whatever nature (including any interest or penalties) that are required of it under any federal, state or local laws arising out of the performance of this Agreement.

b. Consultant shall comply with applicable license or permit requirements and hold the Authority harmless against any liability in connection with licenser, permitting, or taxes. Consultant shall obtain and pay for all permits, licenses, and fees which may be necessary for the prosecution and completion of its duties and obligations under the Agreement, including royalties for playing, using, or performing right-protected Services. Consultant and all subcontractors shall be duly licensed to operate in the State of Illinois and the City of Chicago. Consultant is liable to the Authority for all losses, expenses, including attorneys' fees, attributable to any acts of commission or omission by Consultant, its employees and agents, and subcontractors resulting from failure to comply with any federal, state or local laws, codes, ordinances or regulations including, but not limited to, any fines, penalties, or corrective measures.

24. Applicable Law/Venue: This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Any suit regarding this Agreement or any alleged breach thereof shall be brought only in courts located in Chicago, Illinois, and the parties consent to the jurisdiction and venue of the courts located in the County of Cook, State of Illinois.

25. Accuracy and Update of Information: In connection with the RFP and this Agreement, Consultant has furnished and will continue to furnish various certifications, affidavits, and other information and reports. Consultant represents that any such material and information furnished in connection with the RFP or this Agreement is truthful and complete. Consultant shall promptly update such material and information to be complete and accurate as needed due to events or changes occurring after the date of this Agreement.

26. Notices: Any notice required to be given under this Agreement shall be in writing and shall be given by facsimile, by personal delivery, by United States registered or certified mail, return receipt requested, or by a courier service, with all delivery and postage charges prepaid. A notice is considered to have been given on the day actually received (facsimile, personal delivery, or courier) or refused (personal delivery, courier, or mail), or if unclaimed, on the third day following the day on that it was sent by courier or deposited with the United States Post Office.

**METROPOLITAN PIER AND
EXPOSITION AUTHORITY**
301 E. Cermak Road
Chicago, Illinois 60616
Attention: Director of Procurement
Email:
mpeaprocurement@mpea.com

Consultant Contact Information

With copies to:

**METROPOLITAN PIER AND
EXPOSITION AUTHORITY**
301 E. Cermak
Chicago, Illinois 60616
Attention: General Counsel
Email: legal@mpea.com

Either party may, at any time, change its address for notices by sending a notice to the other party stating the change and setting forth the new address.

27. Severability and Waiver:

a. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. If any provision is invalid, in whole or in part, the provision shall be considered reformed to reflect the intent thereof to the greatest extent possible consistent with law.

b. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

28. Interpretation: Headings of this Agreement are for convenience of reference only and do not modify, define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments thereto entered into in accordance with the terms of this Agreement. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such person or entity in accordance with the terms of this Agreement.

29. Entire Agreement: This Agreement as defined in Section 2 represents the entire agreement between the parties with respect to the matters covered in it. No other Agreements, representations, warranties or statements, whether oral or written, are binding on either party, except to the extent that the Authority has relied on the representations and disclosures in the Proposal submitted by Consultant. This Agreement may be amended or modified only by a written instrument executed by the parties.

30. Consents and Approvals: The parties represent and warrant to each other that each have obtained all requisite consents and approvals, whether required by internal operating procedures or otherwise, for entering into this Agreement and the undertakings contemplated hereby.

31. Exhibits: All of the Exhibits referenced in Section 2 are attached hereto and incorporated as part of this Agreement and shall have the same meaning as if they were incorporated fully within the text of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first above written.

**METROPOLITAN PIER AND
EXPOSITION AUTHORITY**

Consultant

By: _____
Larita D. Clark, Chief Executive Officer

By: _____
Name, Title

Date: _____

Date: _____

By: _____
MPEA Counsel

Date: _____