



**REQUEST FOR PROPOSAL #26-26**  
**PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

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**Issue Date:** February 10, 2026

**Last Date for Questions:** No later than February 24, 2026, at 11:00 am (CST)

**Due Date:** No later than March 3, 2026, at 11:00 am (CST)

**Prevailing Wages:** Prevailing Wage Act (820 ILCS 130/1-12)

**DOES APPLY**

**DOES NOT APPLY**

**To be considered responsive, the following documents shall be included with your submittal:**

- Fee Proposal Form (Exhibit D)
- Notice of Deviations Form (Exhibit E)
- Listing of Subcontractors, Consultants and Agents Form (Exhibit F)
- Vendor Certification Form (Exhibit G)
- Vendor Information Reporting Form (Exhibit H)
- W-9 Form

**The successful Vendor will be required to submit the following additional documents:**

- Certificate of Insurance with signed endorsements
- Signed Agreement
- Vendor Information Form

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## **INTRODUCTION**

The City of Wheaton is seeking proposals from qualified professional engineering firms to provide bridge inspection services for all City-owned bridges registered in the National Bridge Inventory System (NBIS). Firms submitting proposals shall include statements of qualifications for all key personnel assigned to this project. The City anticipates awarding the contract by April 2026, with bridge inspections commencing in May 2026.

## **BACKGROUND**

The City has eight (8) bridge structures registered in the National Bridge Inventory System (NBIS), each requiring inspection at varying intervals. One of these structures is supported by timber piles and is load-rated due to the condition of the piles. This structure is inspected on an annual basis, with inspection reports submitted to the Illinois Department of Transportation (IDOT). The remaining structures were replaced within the past twenty years and require routine inspections at the prescribed intervals.

## **SCOPE OF SERVICES**

The scope of services includes performing structural bridge inspections, documenting inspection results, and submitting reports to IDOT through the NBIS system. Structures included in this contract consist of fracture-critical bridges over the Union Pacific Railroad, box culverts, timber pile-supported structures, and culvert pipe/cast-in-place structures. Most structures are single-span crossings over a creek.

## **INSPECTION SERVICES**

All inspections shall be conducted in accordance with criteria established by the IDOT Bureau of Bridge Construction and reported in the Structure Information Management System (SIMS) as part of the NBIS requirements. Inspectors performing this work must be properly qualified and possess a minimum of five (5) years of bridge inspection experience, including experience using IDOT reporting software. The firm awarded this contract will also serve as the City's program manager, as required by IDOT.

## **PROPOSAL CONTENT**

Proposals shall include general information about the firm, including management practices, methodologies, and processes to perform the required services. Key staff assigned to the project shall submit resumes detailing relevant experience, professional licensing, and other information pertinent to the successful completion of this work.

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**PROJECT TIMELINE**

Award of proposal	April 6, 2026
Commencement of work	May 1, 2026
Completion of all work	August 1, 2027

**ADMINISTRATION**

The consultant shall perform all administrative duties necessary to support the successful completion of the project. Tasks shall include internal coordination, conduct an initial kickoff meeting, and prepare and maintaining project correspondence. This includes, but is not limited to, reports submitted to IDOT, letters, phone memoranda, and meeting minutes.

**CONTRACT TERM**

This Agreement shall become effective upon the latter of the date accepted and signed by the City and the date accepted and signed by the Consultant and shall continue in full force and effect until August 1, 2027. The City, at its option, may extend this Agreement (the "Option") for two (2) additional one-year terms if the Consultant agrees to honor the prices, and all terms, conditions, and specifications of this Agreement.

**LOCATION OF STRUCTURES**

**Structure 1:**

Location: Stonebridge Trail between Spring Green Drive and Creekside Drive

Type: Timber Pile Single Span PCC surface

IDOT Structure # 022-7201

Special Annual Inspection: CURRENTLY LOAD RATED

Inspection Due Date: May 28, 2026

**Structure 2:**

Location: Creekside Drive between Spring Green Drive and Gone Away Lane

Type: Timber Pile Single Span PCC surface

IDOT Structure # 022-7205

**Structure 3:**

Location: North Main Street between Cole Avenue and Parkway Drive

Type: PCC Box Culvert

IDOT Structure # 022-7199

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**Structure 4:**

Location: Manchester Road Bridge between Bridge Street and Western Avenue

Type: Fracture Critical- Steel Beam Single Span

IDOT Structure # 022-7204

Includes insurance, railroad permits and traffic control detour

**Structure 5:**

Location: Gary Avenue between Harrison Avenue and Jewel Road

Type: PCC Box Culvert

IDOT Structure # 022-0169

**ADDITIONAL STRUCTURE INSPECTIONS**

Additional structure inspections may be required as requested. These structures were recently added to the City's inventory and are identified in the NBIS System:

**Structure 6:**

Location: Dorchester Drive at Winfield Creek

Type: Double Barrel Pipe spanning Dorchester Drive

IDOT Structure # 022-7198

**Structure 7:**

Location: Woodlawn Street at Winfield Creek

Type: Double Barrel Pipe spanning Woodlawn Street

IDOT Structure # 022-7196

**Structure 8:**

Location: Childs Street at Winfield Creek

Type: Double Barrel Pipe spanning Childs Street

IDOT Structure # 022-7200

Other Structures which will be considered optional and are not part of the NBIS system:

**COMPENSATION**

Fees for professional engineering services shall be based on a cost plus not to exceed basis using an hourly rate times direct staff cost. Direct costs shall be charged at the actual rate incurred with no markup. **A summary of anticipated hours and fees shall be included in the proposal.**

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**SUBMITTAL REQUIREMENTS**

The City of Wheaton asks that your response include the following information, in tabbed sections, for evaluation. **PLEASE DO NOT SUBMIT PERFORATED PAGES, NOR BIND YOUR PROPOSAL IN ANYTHING OTHER THAN PAPER CLIPS OR BINDER CLIPS.**

- 1. Brief introduction of your firm.**
- 2. Project Understanding:** Describe your understanding of the project, including its scale, type, and unique elements. This includes an understanding of the issues associated with this type of project. Include a project timeline for deliverables.
- 3. Project Team and Experience:** Inspectors performing this work must be qualified and have a minimum of five (5) years of bridge inspection experience as well as experience in utilizing the software to report results to IDOT. Provide resumes of key staff who shall be directly involved and provide a description of the role and or responsibility of each team member. Provide names and experience of sub-consultants to be used by the firm.
- 4. Firm Experience and References:** Describe your firm's current workload and capacity to devote sufficient resources and staff to this project. Please submit a list of recent projects (no more than three years past) for which your firm has provided similar services and include client contact information for each. Describe quality assurance/quality control procedures.
- 5. Compensation:** Fees for professional engineering services shall be based on a cost plus not to exceed basis using an hourly rate times direct staff cost. Direct costs shall be charged at the actual rate incurred with no markup. A summary of anticipated hours and fees shall be included in the proposal. Please complete and return the attached Fee Proposal form (Exhibit D).

**EVALUATION**

City staff shall evaluate the proposals based on, but not limited to, the criteria listed below.

- Project Understanding
- Project Team and Experience
- Firm Experience and References
- Fee Proposal

Throughout the evaluation process, the City, at its sole discretion, may request additional written clarifications and/or supplemental information from firms as part of the initial evaluation process.

**DUE DATE FOR WRITTEN QUESTIONS**

All questions concerning this solicitation shall be directed, in writing, to Tony Sperkowski at [asperkowski@wheaton.il.us](mailto:asperkowski@wheaton.il.us). To be considered, written inquiries shall be received by **February 24, 2026, at 11:00 am (CST).**

**ADDENDA**

Questions shall be responded to in the form of a written addenda and published on the City's website and on DemandStar.com. Each Vendor shall acknowledge receipt of any addenda on the Fee Proposal form. Each

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Vendor, by acknowledging receipt of any addenda, is responsible for the content of the addenda and any changes to the project. Failure to acknowledge issued addenda may cause a submittal to be rejected.

**RFP SUBMITTAL**

**PLEASE DO NOT SUBMIT PERFORATED PAGES, NOR BIND YOUR PROPOSAL IN ANYTHING OTHER THAN PAPER CLIPS OR BINDER CLIPS.**

Submittals must be received by **March 3, 2026, at 11:00 am (CST)**. Late submissions will not be accepted.

Submit one (1) original hard copy to:

City of Wheaton  
303 W. Wesley Street - 1<sup>st</sup> Floor Finance Counter  
Wheaton, IL 60187-0727  
**Attn: Tony Sperkowski, Procurement Officer**

All hard copy submittals shall be in a sealed envelope marked with the following information:

- RFP Name & Number
- RFP Closing Date
- RFP Closing Time
- Vendor Name and address

It is the sole responsibility of the Vendor to ensure that their submittal is delivered by the stated date/time. The City is not responsible for misdirected packages.

**CONFIDENTIAL INFORMATION**

Vendors claiming any portion of their proposal as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential. Failure to do so may result in information becoming public record.

**CITY'S PROFESSIONAL SERVICES AGREEMENT (EXHIBIT B)**

The attached 'Draft' agreement is the City's standard Professional Services Agreement which specifically outlines the contractual liabilities and shall be used for this project. In submitting a proposal, the Vendor agrees to enter into an agreement with the City of Wheaton utilizing the City's standard Professional Services Agreement.

**COSTS INCURRED IN RESPONDING**

All costs incurred by the Vendor for proposal preparation and participation in this procurement shall be the sole responsibility of the Vendor. The City shall not reimburse any Vendors for such costs.

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**BONDS**

None required.

**INSURANCE (EXHIBIT C)**

The Vendor must carry and maintain adequate insurance consistent with the requirements listed in Exhibit C-Insurance Requirements. Provide a current Certificate of Insurance with bid as proof of insurance.

**NO RESPONSE TO RFP**

If unable to submit a response, please return the 'No Participation' form included in the RFP.

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#### GENERAL INSTRUCTIONS REGARDING SOLICITATIONS FOR PROFESSIONAL SERVICES

Solicitations are open to all qualified firms actively engaged in providing the services specified and inferred. Active engagement will be verified via references.

##### **1) SOLICITATION PROCESS:**

- a) Request for Proposal: The City of Wheaton solicits qualified firms for Professional Services. Firms are qualified based on:
  - i) A public formal Request for Qualifications (RFQ) or Request for Proposal (RFP).
  - ii) Prior experience with the City's facilities, equipment, infrastructure, or issue at hand.
- b) A formal RFQ or RFP is submitted to qualified firms.
- c) It is the responsibility of the Proposer to seek clarification of any requirement that may not be clear. Questions concerning this request shall be submitted via e-mail to the attention of the Procurement Officer by the last date for questions as reflected on the Notice to Bidders. A written response in the form of an addendum will be posted on the City's website for all Proposers to download. It is the responsibility of the Proposer to review all addendums.
- d) Proposers shall acknowledge the receipt of any addendum on their proposal.

##### **2) THE CONE OF SILENCE:**

- a) The Cone of Silence is designed to protect the integrity of the procurement process by shielding it from undue influences.
- b) During the period beginning with the issuance of the RFQ or RFP through the execution of the award document, Proposers are prohibited from all communications regarding this request with City staff, City consultants, City legal counsel, City agents, or elected officials.
- c) Any attempt by a Proposer to influence a member or members of the aforementioned may be grounds to disqualify the Proposer from participation in this solicitation.
- d) Exceptions to the Cone of Silence:
  - Written communications directed to the Procurement Officer.
  - All communications occurring at pre-bid meetings.
  - Oral presentations during finalist interviews, negotiation proceedings, or site visits.
  - Oral presentations before publicly noticed committee meetings.
  - Firms already on contract with the City to perform services for the City are allowed discussions necessary for the completion of an existing contract.
  - Procurement of goods or services for emergency situations.

##### **3) INVESTIGATION:**

- a) It shall be the responsibility of the Proposer to make any and all investigations necessary to become thoroughly informed of what is required and specified.
- b) If the site of the work is an area restricted from the general public, an opportunity will be provided for Proposers to perform this inspection.
- c) If the site of the work is an area open to the general public, the Proposer may perform their inspection at a time of their choosing.

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##### **4) PROPOSALS:**

- a) Proposals must reference the project name and date of the RFQ or RFP. Documents should not utilize binders, folders, or papers larger than 8.5 x 11.
- b) Delivery of a proposal is acceptance of the City's Agreement. Proposals containing terms and conditions contrary to those specified may be considered non-responsive.

##### **5) SIGNATURES AS OFFER:**

- a) Under the conditions of the Uniform Commercial Code, the signing of the proposal by the Proposer constitutes an offer. If accepted by the City, the offer becomes part of the Agreement.
- b) Offers by:
  - Individuals or sole proprietorships shall be signed by a person with the authority to enter into legal binding contracts. Said individual shall use his/her usual signature.
  - Partnerships shall be signed with partnership name by one of the members of the partnership, or an authorized representative, followed by the signature and title of the person signing.
  - Corporations shall be signed with the name of the corporation, followed by the signature and title of person authorized to bind it in the matter.

##### **6) WITHDRAWAL OF OFFERS:**

- a) Offers may be withdrawn at any time prior to the due date. Requests to withdraw an offer shall be in writing, properly signed, and received by the Procurement Officer prior to the due date.
- b) Offers may not be withdrawn after the due date without the approval of the Procurement Officer.
- c) Negligence in preparing an offer confers no right of withdrawal after opening / due date.

##### **7) TIMEFRAME AND CONSEQUENCES:**

- a) Offers must be received before the designated time.
- b) Offers received after the designated time will be returned to the sender without review. Offers received late that may be attributed to delays by overnight delivery services, or by delivery services trying to deliver when offices are closed, will be considered late, and returned to the sender.
- c) Unless otherwise specified in the solicitation, offers shall be binding for ninety (90) calendar days following due date.

##### **8) RECEIPT OF FORMAL OFFERS:**

- a) Formal offers by sealed envelope will be opened at the time and location stated.

##### **9) TAXES:**

- a) The City is exempt by law from paying sales tax on goods, equipment, and products permanently incorporated to the project, from State and City Retailer's Occupation Tax, State Service Occupation Tax, State Use Tax and Federal Excise Tax.
- b) The City's Sales Tax Exemption Number is E99974312.

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##### **10) EVALUATION OF OFFERS:**

- a) Rejection of Offers: The City reserves the right to reject any and all offers in whole or in part according to the best interests of the City.
- b) Receipt of One (or too few) offers: If the City receives one or too few proposals, as defined by the City, the City may reschedule the due date. The offers received will either be:
  - returned unopened to the Proposer for re-submittal at the new due date and time, or
  - if there are no changes in requirements, and pending Agreement with the Proposer, held until the new due date and time.
- c) If the request was publicly broadcast, and the City did not receive any proposals, the City may negotiate with any interested parties.

##### **11) DETERMINING RESPONSIVENESS OF THE PROPOSAL:**

- a) Responsive proposals are inclusive of, but not restricted to: received prior to the due date and time, completed as stated in the solicitation request, inclusive of all requirements, able to meet delivery requirements, accepting of all Agreement terms and conditions.
- b) The degree to which a proposal meets the requirements is determined solely on the judgment of the proposal evaluation team.

##### **12) CLARIFICATION OF OFFERS:**

- a) The City may conduct discussions with Proposers to further clarify the offer as may be necessary. Clarifications shall be documented by the Proposer and submitted (email or fax) within three (3) business days.

##### **13) CONFIDENTIAL INFORMATION:**

- a) Proposals are subject to Illinois State FOIA requirements including the following exemptions:
  - (5 ILCS 140/7) (From Ch. 116, par. 207) Sec. 7.
  - Exemptions. (1) The following shall be exempt from inspection and copying: (g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business and only insofar as the claim directly applies to the records requested.
- b) Proposers considering requests to be proprietary and confidential should submit an additional redacted offer. Failure to do so may result in information becoming available to the public.

##### **14) SELECTION PROCESS:**

- a) An evaluation team will review all proposals based on weighted requirements. The evaluation team shall be composed of City staff and other Subject Matter Experts as required.
- b) Interviews may be conducted with Proposers on the short list. Said Proposers may be required to submit additional data during the interview process. Revisions to proposals may be permitted after initial submission and interview, but before award, for the purpose of obtaining best and final offers.

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- c) Proposers may be required to provide references. The City reserves the right to contact said references or other references that may be familiar with the Proposer. The City reserves the right to eliminate a Proposer who has not demonstrated the required years of service within the required specialty.
- d) The City reserves the right to negotiate the price and any other term with the Proposer offering the best and final offer. Any oral negotiations must be confirmed in writing prior to award.
- e) If a negotiated Agreement cannot be reached with the front runner, the City may proceed to negotiate with the second best and final offer.
- f) The City's determination of award for best overall value will consider the following non-exclusive list: available project management resources, soft costs of Agreement management; and training costs.

#### 15) AWARD:

- a) Award is based on the best overall value to the City; and deemed most advantageous to the City, based on the totality of lawful considerations, price and other factors considered.
- b) While numeric evaluations may be used in some aspects of the process to identify strengths and weaknesses of proposals, and to establish a ranking, the final decision will be a business decision by the City and will not be based on a numerical score. A recommendation to award will document the basis for the award decision.
- c) The City shall make every effort to award within ninety (90) days from the opening date.
- d) The City reserves the right to award by phase, part or portion of a phase, any line item or option regardless of order listed.

#### 16) REQUIREMENTS IF AWARDED THE WORK:

##### a) Insurance:

- The successful Proposer, if awarded by Agreement, will be required to carry insurance acceptable to the City.
- Certificates of Insurance, Endorsements, and a Waiver of Subrogation must be submitted with the execution of the order.
- The Proposers obligation to purchase stated insurance cannot be waived by the City's action or inaction.

#### 17) SECURITY CLEARANCE:

- a) Background checks inclusive of finger printing may be required for service providers working in secured areas. Service providers will submit a list of employees' names to the Project Manager who will coordinate the background checks with the police department.
- b) Anyone with a background history showing a conviction for a felony; theft history of any kind, sex offense history, or any crime involving moral turpitude, illegal drug or narcotics use, sale or possession, or anyone showing a felony charge pending, or who has any outstanding warrants of any type, including misdemeanor traffic or felony warrants, may be subject to arrest, and will not be allowed to work under this Agreement.

#### 18) AUDIT:

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a) The successful Proposer may be audited by the City or an agent of the City. Audits may be at the request of federal or state regulatory agencies, other governmental agencies, courts of law, consultants hired by the City or other parties which in the City's opinion requires information. Data, information, and documentation will include, but not be limited to, original estimate files, change order estimate files, detailed worksheets, subcontractor proposals, supplier quotes and rebates, and all project related correspondence, and subcontractor and supplier change order files.

#### 19) PROTESTS:

a) Right to Protest. Any actual or prospective, bidder, proposer, offeror, or vendor ("protesting party") who believes they have been adversely affected in connection with a City-issued solicitation, evaluation of a bid or proposal, or award of a contract may initiate a pre-bid, pre-award, or post-award protest. A protesting party has no right to protest the cancellation of ITBs or RFPs and protests relating to the rejection of all bids or proposals.

- A pre-bid protest shall be submitted in writing to the Procurement Officer no later than five (5) business days before the due date for bids or proposals.
- A pre-award protest shall be submitted in writing to the Procurement Officer no later than five (5) business days after the due date for bids or proposals or notification that the protesting party's status as a bidder or proposer has changed.
- A post-award protest shall be submitted in writing no later than three (3) business days after the date the bid award is posted on the City's website or online forum.

b) Contents of Protest. Protests must include: the name, address, phone number, e-mail address of the protesting party; appropriate identification of the solicitation; if an award has been initiated, the award document number (if available); justification or grounds for the protest, with specificity of the local, state, and federal law, regulation or procedure that is alleged to be violated; precise statement(s) of the relevant facts; identification of the issue to be resolved; the protesting party's argument and supporting documentation; information establishing the timeliness of the protest; and the signature of the protesting party. Issues not raised by the protesting party in the protest are deemed waived and may not be raised after a final determination has been made. Protests that do not meet the time or content requirements may be rejected by the Procurement Officer. The Procurement Officer is not obligated to postpone contract awards to allow a protesting party time to correct a deficient protest unless otherwise required by federal law or regulation.

c) Protest Bond. The protesting party shall, at the time of submitting any protest to the City, furnish at its sole expense a protest bond in the form of a cashier's check payable to the City of Wheaton, in an amount equal to five percent (5%) of the City's estimate of the total contract award amount, or, if the amount of the contract award cannot be reasonably determined at that time, then in the amount of one thousand two hundred and fifty dollars (\$1,250.00). In those circumstances when the contract award cannot be reasonably determined, the City, by the determination of its City Attorney, may require a protest bond in an amount not to exceed ten thousand dollars (\$10,000.00) if one thousand two hundred and fifty dollars (\$1,250.00) is inadequate under the facts presented. If the City increases the required protest bond amount, the protesting party shall have five (5) business days in which to

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pay the City, in the form of a cashier's check, the difference between the one thousand two hundred and fifty dollars (\$1,250.00) and the new amount of protest bond. The protest bond shall serve as a guarantee of the validity and accuracy of the protest.

- i) If the protest is upheld, the bond shall be returned to the protesting party.
- ii) If the protest is denied, the bond shall be used by the City to recover any administrative costs and damages incurred as a result of the protest and/or resulting delay in the contracting for goods and services which were the subject of the solicitation.
- iii) Failure to submit a compliant protest bond with the written protest shall be deemed a waiver of the protest and jurisdictional deficiency in the protest that forfeits the right to protest.
- iv) Failure to pay any additional amount of protest bond required shall be deemed a waiver of the right to maintain a protest.

d) Respondent party response.

- A respondent party is a person who has the right to respond to a protesting party's protest and shall be an actual bidder, proposer, prospective bidder or prospective proposer in the procurement involved whose direct economic interest would be affected by the award of the contract or by the failure to award the contract; and who demonstrates compliance with the bid protest procedures, the terms on the invitation for bids, and the contract documents (if bid) or request for proposals (RFP), as applicable (hereinafter "respondent party").
- After receiving notice of the protest from the City, the respondent party shall have five business (5) days to respond in writing to a protest to provide the Procurement Officer with supplemental information. A respondent party may request, and the Procurement Officer may allow an additional period of time to respond if the protest is complicated and/or the documentation is voluminous. In no event will the additional time exceed 5 business days.
- The failure of a respondent party to respond to a protest, or to any portion of it, shall not be deemed to be an admission of any allegation in the protest, but shall be deemed to constitute a waiver of the opportunity to respond to such allegation(s), if any, at this stage in the process.

e) Stay of Procurement.

- i) Upon timely receipt of a protest and after examination of the issues surrounding the protest, the Procurement Officer, in consultation with the City Attorney, will determine whether the protest has merit and if the solicitation, evaluation, or award shall be stayed, or if other further action is necessary to protect the interests of the City.
- ii) If the contract performance has already begun, the Procurement Officer, in consultation with the City Attorney, will determine whether the performance of the contract should be suspended. A contract may not be suspended if the work or supplies are necessary to protect the interests of the City.

f) Final Determination. The Procurement Officer, in consultation with the City Attorney, will provide a written decision to the protesting party as expeditiously as possible, but no later than thirty (30) business days after receiving all relevant information. The Procurement Officer's decision shall become final on

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the third business day after the date of the Procurement Officer's written decision, unless a timely request for reconsideration is filed with the Procurement Officer as noted below.

g) Reconsideration of Protest Decision. A protesting party or respondent party may request the Procurement Officer's reconsideration if:

- Information becomes available that was not previously known, or could have reasonably become known; or
- The Procurement Officer's decision contains an error of law or regulation.

The request shall be submitted in writing to the Procurement Officer within three (3) business days of the date of issuance of the initial decision. The request shall include a detailed explanation of the basis for reconsideration and state the course of action the protesting party or respondent party desires that the Procurement Officer take. For purposes of this section, deposit in the mail, postage prepaid does not constitute filing or receipt. A request is considered filed when physically received by the Procurement Officer or duly appointed designee.

The Procurement Officer shall refer the request for reconsideration of the protest decision to the City Manager. The City Manager, or his or her designee, may conduct an evidentiary hearing at his or her sole option. The City Manager or designee will conduct a review of the request for reconsideration of the protest decision and will attempt to issue a decision within ten (10) business days after the City's receipt of the request for reconsideration or the date of the hearing, whichever is later. The City Manager or designee's decision shall be final.

After a written decision is issued by the City Manager or his designee, the appropriate actions will take place. If the protest is upheld, the Procurement Officer's actions may include, but are not limited to, any appropriate steps to correct the procurement process, such as: re-solicitation of bids or proposals, revising evaluation of bids or proposals, or termination of the contract. If the protest is denied, the Procurement Officer will lift any imposed suspension and proceed with the procurement process or the contract.

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**GENERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICE PROVIDERS**

**1) AGREEMENT ADMINISTRATION:**

- a) A “Notice to Proceed” order will be issued by Procurement upon confirmation of a properly executed Agreement.
- b) Once the “Notice to Proceed” order is issued, the Firm's primary contact with the City will become the Project Manager.
- c) The Project Manager's primary responsibility is to assure the City receives the professional services in accordance with the terms and conditions and requirements of the Agreement. The Project Manager will but is not limited to oversee the entire project from kick-off activities through close out and payment of final invoice; monitor project progress; address any quality issues and change orders; review and approve deliverables.

**2) COMMUNICATIONS PLAN:**

- a) The service provider is required to provide the City's Project Manager with updates of the project: work completed, assumptions, problems encountered.
- b) The updates can be in person or over the phone, at the discretion of the City.

**3) CHANGE ORDER PROCEDURE:**

- a) The City reserves the right to make changes to the Scope of Work by altering, adding to, or deducting from the work, without invalidating the Agreement. All such changes shall be executed under the conditions of the original Agreement.

**4) BULLETINS:**

- a) Should the Firm consider that a change in the Scope of Work, the Agreement sum, or delivery date is required; he/she shall initiate a change order and submit to the Project Manager for documented approval before proceeding with the work.

**5) CHANGE ORDERS:**

- a) Issuance of a statement, or verbal approval, is not to be considered a Change Order and is not authorization to proceed.
- b) Change orders will be numbered in sequence and dated.
- c) Approved Change Orders are required with any/all changes in, the Scope of Work, the Agreement sum, the time for completion, or any combination thereof.
- d) Change orders will describe the change or changes, will refer to the proposal(s) involved, and will be signed by the City and the Firm prior to implementing the change.
- e) All Change Orders shall clearly identify the impact of cost and the effect on time required to perform the work associated with the proposal.
  - i) If the proposal is found to be satisfactory and in proper order, and both parties agree upon cost or credit for the change, the City will authorize the documented Change Order which will be confirmed as an Agreement amendment.

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**RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**  
**GENERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICE PROVIDERS**

**6) PAYMENT:**

- a) Authorization of payment requires receipt of service providers invoice, acceptance of services and receipt of other required paperwork.
- b) Payment will be:
  - i) Made to the company awarded this order. Under no circumstances will a third party be reimbursed.
  - ii) Via the City's Purchasing Card Program, MasterCard, in which payment will occur at time-of-service delivery (preferred); or
  - iii) Via supplier generated invoice.
- c) The City complies with the Illinois Local Government Prompt Payment Act which states that any bill approved for payment shall be paid within 30 days after date of approval.
  - i) Invoices must be submitted to the City within six months of order completion. Any invoices submitted in excess of six months from order completion will not be paid.

**7) SERVICE ISSUES:**

- a) The service provider shall not be reimbursed until services are compliant.
- b) If services continue to remain non-compliant, Procurement will prepare a formal Letter of Warning addressing the Firm's Failure to Comply. Agreement language states "The City may terminate this Agreement upon seven (7) days written notice to the Firm."
- c) If Firm fails to achieve required results within stated timeframe, Procurement will terminate the Agreement.
- d) The City shall have the right to terminate this Agreement, without cause, upon fifteen (15) days written notice to the Firm. The Firm shall be paid for all work performed in conformance with the Agreement through the effective date of the not for cause termination.

**EXHIBIT B**  
**RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

Agreement No.\_\_\_\_\_

**CITY OF WHEATON, ILLINOIS**  
**PROFESSIONAL ENGINEERING SERVICES AGREEMENT FOR**  
**BRIDGE INSPECTIONS**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_ 2025, by and between the **CITY OF WHEATON**, an Illinois municipal corporation ("City"), located at 303 W. Wesley Street, Wheaton, Illinois, 60187 and \_\_\_\_\_, ("Engineer"), located at 123 Main Street, Anytown, IL USA 12345 City and Engineer are at times collectively referred to hereinafter as the "Parties."

WHEREAS, the City has determined that it is reasonable and necessary to engage a professional engineering firm to provide professional engineering services for **Bridge Inspections** ("Project") consistent with the City's Professional Engineering Services – Bridge Inspections Request for Proposal which is attached hereto and incorporated herein as if fully set forth as **Group Exhibit A**; and

WHEREAS, the Engineer has submitted a cost proposal to provide Professional Engineering Services – Bridge Inspections ("Proposal"), which is attached hereto and incorporated herein as if fully set forth as **Group Exhibit B** and represents that it has the necessary expertise and experience to furnish such professional engineering services upon the terms and conditions set forth herein below; and

WHEREAS, the City finds that the Engineer's Proposal meets the City's requirements for professional engineering services.

NOW, THEREFORE, in consideration of the recitals and the mutual covenants, agreements, and conditions set forth in the Agreement, the parties agree as follows:

**SECTION 1. CONTRACT DOCUMENTS.**

**1.1 Incorporated Documents.** The recitals set forth above are incorporated herein as substantive terms and conditions of this Agreement and represent the intent of the Parties. The Contract Documents consist of this Agreement and the following attached exhibits which are incorporated into this Agreement:

- a. The City's RFP and all related documents is attached as **Group Exhibit A**;
- b. The Engineer's Proposal and all related documents is attached as **Group Exhibit B**;
- c. Insurance Coverage for Professional Service Providers is attached as **Exhibit C**;
- d. Legal certifications and compliance with laws documentation is attached as **Group Exhibit D**; and
- e. Change Order Form, is attached as **Exhibit E**.

These attachments along with this Agreement represent the entire integrated Contract between

**EXHIBIT B**  
**RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

the Parties and supersede any and all prior negotiations, representations, or agreements, written or oral.

The Contract Documents also shall include any subsequent Change Orders or Written Amendments to any documents listed above or included within the incorporated exhibits, and other documents amending, modifying, or supplementing the Contract Documents, which may be delivered or issued after the effective date of the Agreement and are not attached hereto.

It shall be understood that words “Agreement” and “Contract” are synonymous in this document and its incorporated exhibits.

**1.2 Controlling Document.** In the event of a conflict between this Agreement and any attachment or exhibit, the provisions of this Agreement shall control.

**SECTION 2. SCOPE OF SERVICES.**

**2.1 Retention and Services.** The City retains the Engineer to perform professional engineering services for bridge inspections for the completion of this Project. For and in consideration of the Agreement Amount indicated in **Section 4.1** herein, the Engineer promises and agrees that it shall, at its own cost and expense, perform all the work and furnish all the labor, materials, and equipment necessary to provide the professional engineering services necessary for the Project (“Services”), in accordance with the Project Scope of Services set forth in the City’s RFQ (**Group Exhibit A**). All Services shall be subject to and performed in accordance with this Agreement and its attached and incorporated exhibits, unless specifically stated otherwise in writing.

**2.2 Access to Facilities and Property.** The City shall make its system facilities and properties available and accessible for inspection by Engineer and arrange for access to make all provisions for the Engineer to enter upon public property as required by the Engineer to perform his or her Services.

**2.3 Agreement Administration.** A “Notice to Proceed” order will be issued by the City upon confirmation of a properly executed Agreement. Once the “Notice to Proceed” order is issued, the Engineer’s primary contact with the City will become the Project Manager. The Project Manager’s primary responsibility is to assure that the City receives the professional services in accordance with the terms and conditions of this Agreement. The Project Manager or his or her designee shall oversee the entire Project from kick-off activities through close out and payment of final invoice, monitor Project progress; address any quality issues and change orders, and review and approve service deliverables.

**2.4 Reporting.** The Engineer shall regularly report to the City's Project Manager, or his designee, regarding the progress of the Services, assumptions, and problems encountered during the term of this Agreement. Such reports may be provided in person or over the telephone at the discretion of the City.

## EXHIBIT B

### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

**2.5 Project Manager.** The City's Project Manager for the Project is Sarang Lagvankar. The Project Manager's contact information is as follows: (630) 260-2067 or [slagvankar@wheaton.il.us](mailto:slagvankar@wheaton.il.us).

**2.6 Time of Performance.** The Engineer shall perform the Services within the Term of this Agreement as set forth in **Section 9.1** of this Agreement, in accordance with the schedule of services as indicated in the attached Proposal (**Group Exhibit B**), and in accordance with any other completion schedule or milestones which may be separately agreed upon in writing by the Parties. Engineer represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. Upon request of City, Engineer shall provide a more detailed schedule of anticipated performance to meet the schedule of services.

**2.7 Additional Services.** The Engineer shall provide only the Services specified in this Agreement, and the attached **Group Exhibit A**. The Engineer acknowledges and agrees that the City shall not be liable for any costs incurred by the Engineer in connection with any services provided by the Engineer that are outside the scope of this Agreement ("Additional Services"), regardless of whether such Additional Services are requested or directed by the City, except upon the prior written consent of the City through an approved Change Order. Upon recognizing the need to perform Additional Services, the Engineer shall notify the City with reasonable promptness and explain the facts and circumstances giving rise to the need and submit to the City a Change Order Form for amendment to this Agreement for the City's review and approval setting forth the details of the requested Additional Services. Additional Services that have been authorized in writing by the City shall be subject to the terms and conditions of this Agreement and shall be compensated at the hourly rates included in the Engineer's cost proposal included in **Group Exhibit B** and in the absence of such hourly rates, then payment for Additional Services shall be mutually agreed upon by both the City and Engineer before the commencement of any Additional Services.

**2.8 Changes and Alterations.** Any changes or alterations to this Project affecting, inclusive of, but not limited to, scope, cost, milestones, deadlines, or other significant factors shall be integrated in writing on a City of Wheaton Change Order Form [**Exhibit E**]; verbal approval is not considered a Change Order and is not authorization to proceed. All Change Orders shall clearly identify the impact of cost and the effect on time required to perform the Services. Any proposed change to the Project that increases the Agreement price or the costs to be expended by the Engineer in an amount of \$35,000 or more shall require the approval of the City of Wheaton City Council before such changes may be made. Any services that are performed beyond the approved Agreement scope or Agreement price shall not be paid without the City's prior written consent through an approved Change Order.

**2.9 Independent Contractor Status.** The Engineer shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed (i) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the City and Engineer; or (ii) to create any

**EXHIBIT B**

**RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

relationship between the City and any subcontractor of the Engineer. Engineer is not in any way authorized to make any contract, agreement, or promise on behalf of the City, or to create any implied obligation on behalf of the City and Engineer specifically agrees that it shall not do so. The City shall not have the authority to control the method or manner by which Engineer complies with the terms of this Agreement.

**SECTION 3. PERSONNEL; SUBCONTRACTORS.**

**3.1     Key Project Personnel.** The Key Project Personnel identified in the attached **Group Exhibit B** shall be primarily responsible for carrying out the Services on behalf of the Engineer. The Key Project Personnel shall not be changed without the City's prior written approval.

**3.2     Availability of Personnel.** The Engineer shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Engineer shall notify the City as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Engineer shall have no claim for damages and shall not bill the City for additional time and materials charges as the result of any portion of the Services which must be duplicated or redone due to such termination or for any delay or extension of the Time of Performance as a result of any such termination, reassignment, or resignation.

**3.3     Use of Subcontractors.** The Engineer shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved in advance by the City in writing. All subcontractors and subcontracts used by the Engineer shall be acceptable to, and approved in advance by, the City. The City's approval of any subcontractor or subcontract shall not relieve the Engineer of full responsibility and liability for the provision, performance, and completion of Services as required by this Agreement. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Engineer. For purposes of this Agreement, the term "Engineer" shall be deemed also to refer to all subcontractors of the Engineer, and every subcontract shall include a provision binding the subcontractor to all provisions of this Agreement. Upon the City's request Engineer shall furnish the City with a copy of its agreement with any subcontractor performing Services required under this Agreement.

**3.4     Removal of Personnel and Subcontractors.** If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the City and consistent with commonly accepted professional engineering practices, the Engineer shall immediately upon notice from the City remove and replace such personnel or subcontractor. The Engineer shall have no claim for damages, for compensation in excess of the amount contained in this Agreement, or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

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**3.5 No Additional Obligation.** The Parties acknowledge and agree that the City is under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Engineer or with any vendor solicited or recommended by the Engineer.

**3.6 Corporate Authorities of the City.** Notwithstanding any provision of this Agreement, any negotiations, or agreements with, or representations by the Engineer to, vendors shall be subject to the approval of the City Manager or Corporate Authorities of the City. For the purposes of this Section, “vendors” shall mean entities engaged in subcontracts for the provision of additional services directly to the City. The City shall not be liable to any vendor or third party for any agreements made by the Engineer without the knowledge and approval of the City Manager or of the City's Corporate Authorities.

**SECTION 4. COMPENSATION AND METHOD OF PAYMENT.**

**4.1 Agreement Amount.** The total amount billed by the Engineer for the Services performed under this Agreement shall not exceed \$\_\_\_\_\_ including reimbursable expenses, without the prior express written authorization of the City.

**4.2 Invoices and Payments.** The Engineer shall be paid in accordance with the amounts set forth in the Proposal (**Group Exhibit B**). The Engineer shall submit an itemized invoice(s) containing sufficient detail of the Services performed to enable the City to properly evaluate the payout request. The City shall pay Engineer in accordance with the Illinois Local Government Prompt Payment Act. The City shall make all payments on the basis of approved invoices and supporting documents. The City shall use its best efforts to make payments within thirty (30) days after review and approval of the invoice. Each payment requires the City Council's approval of the expenditure which occurs at publicly scheduled meetings. Invoices shall be submitted to the City within six (6) months of completion of the Services. Any invoices submitted in excess of six (6) months from the date that Services were completed, will not be paid. Under no circumstances will a third party be reimbursed for Services performed under this Agreement.

**4.3 Unappropriated Funds.** The obligation of the City for payment to the Engineer is limited to the availability of funds appropriated in a current fiscal period, and continuation of this Agreement into a subsequent fiscal period is subject to the appropriation of funds, unless otherwise authorized by law.

**4.4 Taxes, Benefits, and Royalties.** The Agreement Amount includes all applicable federal, state and City taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits and all costs, royalties, and fees arising from the use of, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claims

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or right to claim additional compensation by reason of the payment of any such tax, contribution, premium, costs, royalties, or fees is hereby waived and released by Engineer.

**4.5 Interest Waiver.** Engineer hereby waives any and all claims or rights to interest on money claimed to be due pursuant to this Agreement, and all such rights to interest to which it may otherwise be entitled pursuant to law, including, but not limited to, pursuant to the Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*) as amended or the Illinois Interest Act (815 ILCS 205/1, *et seq.*) as amended.

**4.6 Account Records.** The Engineer shall maintain records showing actual time devoted and costs incurred in connection with the Services performed under this Agreement and shall permit the authorized representative of the City to inspect, audit and make copies of all data and records of the Engineer for the Services done under this Agreement. All such records shall be clearly identifiable. The records shall be made available to the City during normal business hours during the Agreement period, and for three years after the termination of the Agreement.

## **SECTION 5. DELIVERABLES.**

**5.1 Deliverables.** In carrying out its Services, Engineer must prepare or provide to the City various Deliverables. For purposes of this Agreement, "Deliverables" include work product, which includes, but is not limited to, designs, drawings, plans and specifications, written reviews, recommendations, reports and analyses, schedules, design documentation (including all media and calculations), computer files, software, books and records, as-built drawings, manuals, and other documents and other work product prepared by or on behalf of Engineer for the City, whether in tangible or intangible or electronic form. Deliverables are the property of the City, and such Deliverables shall be owned by the City irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Deliverables. Engineer shall deliver such Deliverables to the City upon its request, upon termination of this Agreement, or in any event upon completion of the Work.

The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other material specified in this Agreement or are reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables (the "Deficient Deliverables") and such Deficient Deliverables shall be corrected by Engineer within thirty (30) days after receipt of notice from the City specifying the deficiency. Engineer's failure to correct any Deficient Deliverables within the required time specified in this **Section 5.1** or as otherwise agreed to by the Parties in writing shall be treated as a default of this Agreement.

**5.2 License to Use Deliverables.** All patents, copyrights, trademarks, trade names, service marks, trade secrets, software, firmware, industrial design rights, rights of priority, know-how, design flows, methodologies and any and all other intellectual property rights protected

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under any applicable law, (hereinafter, the "Intellectual Property Rights") incorporated into any of the Deliverables shall remain the sole property of the Engineer or its respective subcontractors and suppliers, subject to the license granted herein. With respect to such Deliverables and other Intellectual Property Rights used or delivered in the performance of the Services, Engineer, upon execution of this Agreement, grants to the City (for use by the City and its employees, contractors, and agents) an irrevocable, perpetual, nonexclusive, royalty-free license to use the Intellectual Property Rights included or contained in or incorporated into the Deliverables for purposes of constructing, operating, maintaining, repairing, modifying, completing the construction project work in the event of termination, installing, erecting, adding, improving or altering the City's construction project for which the Deliverables were created (the "Construction Project") at any time. Hereinafter, the above stated purposes shall be collectively referred to as the "Permitted Purposes." The foregoing rights include the rights to retain, copy, execute, modify, create derivative works of, and otherwise use copies of the Deliverables and the Intellectual Property Rights and the information contained therein or related thereto for the Permitted Purposes with respect to the Construction Project and as otherwise provided in this Agreement. The Engineer shall obtain for the City substantially similar licenses from its consultants and subcontractors consistent with this Agreement. Engineer's obligation shall be to use commercially reasonable efforts to obtain such license rights, and, in the event, Engineer cannot obtain a substantially similar license from a consultant or subcontractor as required herein, Engineer shall promptly notify the City and the Parties shall work together in good faith and in an expedited manner to obtain a license adequate to support all of the Permitted Purposes. Notwithstanding the foregoing, the City acknowledges that the Deliverables are prepared and furnished by the Engineer pursuant to this Agreement and are not intended or represented to be suitable for use or reuse by the City or others on any project other than the Construction Project or on any future projects. Any use or reuse on any project other than the on-going or completed Construction Project or on any future project without prior written verification or adaption by Engineer for the specific purpose intended will be at the City's sole risk and without liability to the Engineer and Engineer's consultants.

**5.3     Warranty.** Engineer warrants that: (i) all Intellectual Property Rights that may exist in the Deliverables furnished under this Agreement in connection with the Services are now (or shall at their incorporation into the Work be) vested in the Engineer or (ii) Engineer will be able to grant the City the license rights referred to in **Section 5.2** so that the City may timely, and as it may reasonably require, exercise such rights in connection with the Construction Project.

**5.4     Infringement Claims.** If the City or any of the Construction Project work, or any component thereof becomes subject to a claim of infringement or if Engineer believes it may be subject to such a claim, Engineer shall remedy such claim at its expense and at its option by any reasonable means, including: (i) replacing or modifying the allegedly infringing elements, or (ii) securing for City the right to continue to use such element(s), in each case without loss of functionality and without adversely affecting the on-going or completed Construction Project or any license and rights granted hereunder. Engineer shall give prompt written notice to the City if Engineer believes that any information or technology furnished by City or that City directs the

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Engineer to incorporate into the Construction Project Deliverables infringes on any third-party Intellectual Property Rights.

**5.5 Injunction.** If the City, and/or any City Indemnitee is enjoined from completing, using, operating, or otherwise enjoying the completed Construction Project or any part thereof, or from any Permitted Purpose of any Deliverable or any Intellectual Property Rights as a result of any claim identified in **Section 5.4**, Engineer shall exercise its best efforts to have such injunction removed at no cost to City or any applicable City Indemnitee. Any failure to secure the removal of such injunction shall not constitute a Force Majeure event. If Engineer fails to secure the removal of such injunction, it shall continue to defend and remedy such claim in accordance with **Section 6.1**.

**5.6 No Release.** City's acceptance of Engineer's engineering designs, drawings, or specifications or any other Services provided pursuant to this Agreement shall not be construed to relieve Engineer of any obligation under this **Section 5**.

**5.7 Survival.** The terms and provisions of this **Section 5** shall survive the termination or expiration of this Agreement.

**SECTION 6. REPRESENTATIONS OF ENGINEER.**

**6.1 Standard of Care.** The Engineer shall perform and complete the Services in a manner consistent with the level of care, skill, and diligence exercised by other recognized professional Engineers performing Services of a scope, purpose, or magnitude comparable with the nature of the Services to be provided under this Agreement at the time the Services are performed. The design, preparation of drawings, models, and surveys, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of other services under this Agreement, shall be provided pursuant to the standard of performance for the engineering profession described herein, and shall be in addition to any other representations expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the City. Engineer shall be responsible for the professional and technical accuracy of all Services performed and/or Deliverables furnished to the City, whether by Engineer, its subcontractors, or others on its behalf. The City's review, approval, or acceptance shall not constitute, or be deemed, a release of the responsibility and liability of the Engineer, its employees, agents or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's review, approval, or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in any Deliverables prepared by the Engineer, its employees, associates, agents, or sub-Engineers. Engineer shall promptly correct any defective designs, drawings, models, surveys, specifications, or other Deliverables furnished by the Engineer at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Engineer's Services hereunder shall in no way alter the Engineer's obligations or the City's rights under this Agreement at law or in equity.

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**6.2        Professional License.** The Engineer represents that it is registered as a professional design firm with the Illinois Department of Financial and Professional Regulation and that all engineers performing Services under this Agreement are properly licensed by the State of Illinois Department of Financial and Professional Regulation.

**6.3        Solvency.** The Engineer represents that it is financially solvent and has the necessary financial resources to perform the Services with the standard of care required under this Agreement.

**SECTION 7.      INDEMNIFICATION; INSURANCE; LIABILITY.**

**7.1 INDEMNIFICATION**

**7.1.1 Professional Services.** With respect to the Engineer's provision of professional services under this Agreement, the Engineer, without regard to the availability or unavailability of any insurance, either of the City or of the Engineer, shall indemnify, and hold harmless (hereinafter collectively the "**Professional Services Indemnification Obligations**"), the City, its past, present, and future elected officials, directors, officers, employees, (hereinafter the "**City Indemnitees**"), from and against any and all lawsuits, claims, allegations, demands, losses, damages, injuries, liabilities, fines, settlements, judgments, penalties, costs and expenses, including but not limited to reasonable expert witness fees, attorneys' fees, and costs recoverable under applicable law (hereinafter collectively "**Professional Services Claims**" or "**Professional Services Claim**"), to the extent caused by any willful or negligent error, omission, or act of the Engineer, its agents, consultants, representatives, or of any person employed by Engineer, or of anyone for whose acts the Engineer is legally liable, in the performance or failure to perform professional services under this Agreement.

**7.1.2 Liability other than Professional Services, Including Copyright Infringement.**

With respect to liability other than that arising out of Engineer's provision of professional services under this Agreement, the Engineer without regard to the availability or unavailability of any insurance, either of the City or of the Engineer, shall indemnify, hold harmless and, not excluding the City's right to participate, defend (hereinafter collectively the "**Other Liability Indemnification Obligations**"), the City, its past, present, and future elected officials, directors, officers, representatives, employees, agents, volunteers, and attorneys (hereinafter the "**City Indemnitees**"), from and against any and all lawsuits, claims, allegations, demands, losses, damages, injuries, liabilities, fines, settlements, judgments, penalties, costs and expenses, including but not limited to reasonable expert witness fees, attorneys' fees, and costs (hereinafter collectively the "**Other Liability Claims**" or "**Other Liability Claim**"), which the City or any City Indemnitee may incur, sustain or be subject to on account of any actual or alleged personal injury, bodily injury, illness, death, or property damage which is proximately caused by or is alleged to be proximately caused by any of the following: (i) any willful or negligent error, omission, or act of the Engineer, its agents, consultants, representatives, or of any person employed by Engineer, or of anyone for whose acts the Engineer is legally liable, in the

## EXHIBIT B

### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

performance of this Agreement; (ii) the actual or alleged violation, misappropriation or infringement of any Intellectual Property Right (as defined in **Paragraph 5.2**) or unauthorized disclosure or use of trade secrets by Engineer or any person employed by Engineer or anyone for whose acts the Engineer is legally liable in connection with the materials, processes, products, goods, devices or Deliverables (as defined in **Section 5**) provided to the City or City Indemnitees by Engineer, or Engineer's employees, agents or subcontractors. With respect to Engineer's duty to defend the City and City Indemnitees, the Engineer shall engage legal counsel, subject to the approval of the City and Engineer's insurer (which approval may not be unreasonably withheld) and shall assume control of the defense of any Other Liability Claims and pay all expenses incurred in connection with such defense, and when such control of defense is assumed by Engineer's legal counsel. The City may, but does not have the obligation to, engage its own legal counsel, at its own expense, and monitor or associate in the defense of any such matter. Any settlement of any claim or suit against the City related to this Agreement by Engineer must be made only with the prior written consent of the City Attorney, if the settlement requires any action on the part of the City, such consent to not be unreasonably withheld.

**7.1.3 Additional Indemnification Obligation requirements.** Engineer is not obligated to indemnify the City or City Indemnitees for the City's or the City Indemnitees' own negligence, but the Professional Services Indemnification Obligations and Other Liability Indemnification Obligations shall apply despite any common liability on the part of the City or City Indemnitees and shall not be limited by the limits of any applicable insurance policies required by this Agreement. In the event that any Professional Service Claim and/or Other Liability Claims for indemnification hereunder arises from the negligence or willful misconduct of both the Engineer and the City or City Indemnitees, the Parties agree that any such claims shall be apportioned between the Parties on the basis of their comparative degrees of fault, except as otherwise provided herein.

In the event that any Professional Services Claim and/or Other Liability Claim is asserted, and money is due to the Engineer pursuant to this Agreement, the City may, to protect itself against said Claim, retain reasonable amounts relative to the size and merits of the claim, until such time that all such claims have been settled or have been fully judicially determined and satisfied, and evidence to that effect has been furnished to the satisfaction of the City.

In the event that Engineer is alleged to have infringed upon any Intellectual Property Rights (as defined in **Paragraph 5.2**), in addition to Engineer's Other Liability Indemnification Obligations, the Engineer shall, at the sole discretion of the City and at Engineer's sole expense: (i) procure for the City the right to continue using the infringing subject matter; or (ii) replace or modify the infringing subject matter so that it becomes non-infringing but still complies with the requirements of this Agreement; or (iii) reimburse the City for all payments made to Engineer relating to or impacted by the infringing material and all costs incurred by the City resulting from such infringement.

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To the extent permissible by law, Engineer waives any limits to the amount of its obligations to indemnify, defend, or contribute to any sums due under any Professional Services Claims and/or Other Liability Claims, including any claim by any employee of Engineer that may be subject to the Illinois Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision, including but not limited to *Kotecki v. Cyclops Welding Corporation*, 146 Ill.2d 155 (1991). The City, however, does not waive any limitations it may have under the Illinois Workers Compensation Act, the Illinois Pension Code, or any other statute.

Engineer shall be responsible for any losses and costs, with the exclusion of betterment, to repair or remedy work performed under this Agreement resulting from any negligent act or omission, in the performance of its Services or that of its employees' or anyone for whom Engineer is legally responsible. Acceptance of the Services by the City shall not relieve the Engineer of the responsibility for subsequent correction of any such negligent error or omissions resulting therefrom. All provisions of this Section shall survive completion, expiration, or termination of this Agreement.

The Professional Services Indemnification Obligations and Other Liability Indemnification Obligations set forth in each and every paragraph of Section 6 shall apply to the fullest extent permitted by law, and in the event any provision hereof is determined to be unenforceable, the Indemnification Obligations shall be severable and the fullest extent of indemnification that may lawfully apply shall remain in full force and effect. The Professional Services Indemnification Obligations and Other Liability Insurance Obligations shall survive the expiration and termination of this Agreement.

**7.2 Insurance.** Contemporaneous with the Engineer's execution of this Agreement, the Engineer shall provide certificates and policies of insurance, all with coverages and limits acceptable to the City, and evidencing at least the minimum insurance coverages and limits as set forth by the City in the Special Provisions for: Insurance Coverage for Professional Service Providers, which is attached hereto and incorporated as if fully set forth, as **Exhibit C** to this Agreement. The City shall be included under Engineer's general liability and auto liability insurance as an additional primary insured with respect to claims and/or liability arising out of Services performed for the City by Engineer. All subcontractors shall comply with each and every insurance provision in **Exhibit C**. Engineer shall therefore not allow any subcontractor to commence work/services on any subcontract to perform any part of the Services until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this Agreement. The insurance described herein as set forth in **Exhibit C** shall be maintained for the duration of the Agreement, including any warranty period.

**7.3 No Personal Liability.** No elected or appointed official, director, officer, agent or employee of the City or Engineer shall be personally liable, in law or in contract as the result of the execution, approval or attempted execution of this Agreement.

**7.4 Governmental Immunity.** Nothing in this Agreement shall be construed as a

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waiver of any and all privileges, immunities, or defenses provided to or enjoyed by the City under common law or pursuant to statute, including but not limited to the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/2-101 *et. seq.*

**7.5     Third Party Beneficiaries.** It is recognized that the Services performed by Engineer are for the benefit of the City and no other party.

**7.6     Limitation of Liability.** CITY AND ENGINEER SHALL NOT BE LIABLE TO EACH OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS (DIRECT OR INDIRECT) AND LOST REVENUES HOWSOEVER ARISING, WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT OR OTHER THEORY OF LIABILITY, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN ANY SUCH DAMAGES.

**7.7     No Control.** The Engineer will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs in connection with the construction of the subject project(s).

**SECTION 8.     CONFIDENTIAL INFORMATION.**

**8.1     Confidential Information.** The term "**Confidential Information**" shall mean information in the possession or under the control of the City relating to the technical, business, or corporate affairs of the City; City property; user information, including, without limitation, any information pertaining to usage of the City's computer system, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. City Confidential Information shall not include information that can be demonstrated: (i) to have been rightfully in the possession of the Engineer from a source other than the City prior to the time of disclosure of said information to the Engineer under this Agreement ("**Time of Disclosure**"); (ii) to have been in the public domain prior to the Time of Disclosure; (iii) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Engineer or the City; or (iv) to have been supplied to the Engineer after the Time of Disclosure without restriction by a third party who is under no obligation to the City to maintain such information in confidence.

**8.2     No Disclosure of Confidential Information by the Engineer.** The Engineer acknowledges that it shall, in performing the Services for the City under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Engineer shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without express prior written consent of the City. The Engineer shall use reasonable measures at least as strict as those the Engineer uses to protect its own confidential

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information. Such measures shall include, without limitation, requiring employees and sub-Engineers of the Engineer to execute a non-disclosure agreement before obtaining access to Confidential Information.

**8.3 Breach of Confidentiality.** In the event of breach of the confidentiality provisions of **Section 7** of this Agreement, it shall be conclusively presumed that irreparable injury would result to the City and there would be no adequate remedy at law. The City shall be entitled to obtain temporary and permanent injunctions, without bond and without proving damages, to enforce this Agreement. The City shall be entitled to damages for any breach of the injunction, including but not limited to, compensatory, incidental, consequential, exemplary, and punitive damages. The confidentiality provisions of this Agreement survive the termination or performance of this Agreement.

### **SECTION 9. TERM; TERMINATION; and DEFAULT.**

**9.1 Term.** This Agreement shall become effective upon the latter of the date accepted and signed by the City and the date accepted and signed by the Engineer, and shall continue in full force and effect until the earlier of the following occurs: (i) the termination of this Agreement; or (ii) final completion of the Services specified in the Agreement by **August 1, 2027** or to a new date mutually agreed upon by the parties in writing, or (iii) the completion by Engineer and City of their respective obligations under this Agreement, in the event such completion occurs before the date(s) in item (ii) above. A determination of completion shall not constitute a waiver of any rights or claims which the City may have or thereafter acquire with respect to any term or provision of this Agreement.

**9.2 Termination.** Notwithstanding any other provision hereof, the City may terminate this Agreement, with or without cause, at any time upon fifteen (15) days prior written notice to the Engineer. In the event that this Agreement is so terminated, the City shall pay Engineer for the Services performed and reimbursable expenses actually incurred as of the effective date of termination, less any sums attributable, directly, or indirectly, to Engineer's breach of this Agreement. The written notice required under this subsection shall be either (i) served personally during regular business hours; (ii) served by facsimile during regular business hours (iii) served by certified or registered mail, return receipt requested, addressed to the address listed at the end of this Agreement with postage prepaid and deposited in the United States mail or (iv) by e-mail sent to the Engineer's Key Project Personnel. Notice served personally, by facsimile transmission or e-mail shall be effective upon receipt, and notice served by mail shall be effective upon receipt as verified by the United States Postal Service. Engineer shall provide the City with its Key Project Personnel's e-mail address upon its execution of this Agreement. On receiving such notice, Engineer shall, unless the notice directs otherwise, immediately discontinue all Services under this Agreement. As soon as practicable after receiving the termination notice, Engineer shall submit an invoice to the City showing in detail the Services performed under this Agreement up to the termination date. Engineer's receipt of payment for Services rendered upon City's termination of this Agreement, is Engineer's sole

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and exclusive remedy for termination for convenience by the City. City's termination for convenience does not constitute a default or breach of this Agreement.

If this Agreement is terminated as provided herein, City may require Engineer to provide all finished or unfinished documents and data and other information of any kind prepared by Engineer in connection with the performance of the Services under this Agreement. Engineer shall be required to provide such documents, data, and other information within fifteen (15) days of the request.

**9.3    Default.** If it should appear at any time that the Engineer has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("Event of Default"), then the City shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

**9.3.1.    Cure by Engineer.** The City may require the Engineer, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all action necessary to bring the Engineer and the Services into compliance with this Agreement.

**9.3.2.    Termination of Agreement by City.** The City may terminate this Agreement as to any or all Services yet to be performed, effective at a time specified by the City, and shall pay Engineer for the Services performed or reimbursable expenses actually incurred as of the effective date of termination.

**9.3.3.    Withholding of Payment by City.** The City may withhold from any payment, whether or not previously approved, or may recover from the Engineer, any and all costs, including attorneys' fees and administrative expenses, incurred by the City as the result of any Event of Default by the Engineer or as a result of actions taken by the City in response to any Event of Default by the Engineer.

**SECTION 10.    COMPLIANCE WITH LAWS AND GRANTS.**

**10.1    Generally: Permits/Codes/Business Laws/Safety Standards/Grants.** Engineer shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and will comply with all applicable municipal, county, state and federal statutes, ordinances, rules, and regulations, including without limitation all applicable building and fire codes, now in force or which may hereafter be in force, any statutes regarding qualification to do business, and all local, state and federal safety standards. Engineer shall comply with all conditions of any federal, state, or

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local grant received by City or Engineer with respect to this Agreement or the Services. Engineer shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or regarding Engineer's, or its sub-Engineers', performance of, or failure to perform, the Services or any part thereof. Every provision of law required by law to be inserted into this Agreement shall be deemed to be inserted herein.

**10.2 Freedom of Information Act.** The Engineer shall, within four (4) business days of the City's request, provide any documents in the Engineer's possession related to this Agreement which the City is required to disclose to a requester under the Illinois Freedom of Information Act ("FOIA"). This provision is a material covenant of this Agreement. Engineer agrees to not apply any costs or charge any fees to the City regarding the procurement of records required pursuant to an FOIA request. Should Engineer request that the City utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, Engineer agrees to pay all costs connected therewith (such as reasonable attorneys' fees and witness fees, filing fees, and any other expenses) to defend the denial of the request. The defense shall include, but not be limited to, challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction. Engineer agrees to defend, indemnify, and hold harmless the City, and agrees to pay all costs in connection therewith (such as reasonable attorneys' and witness fees, filing fees, and any other expenses) to defend any denial of a FOIA request by Engineer's request to utilize a lawful exemption to the City.

**10.3 No Delinquent Taxes.** The Engineer represents and certifies that the Engineer is not barred from contracting with a unit of state or local government as a result of a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Engineer is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax, or has entered into an agreement with Department of Revenue for payment of all taxes due and is currently in compliance with that agreement, as set forth in 11-42.1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 et seq.

**10.4 No Collusion.** The Engineer represents and certifies that the Engineer is not barred from contracting with a unit of state or local government as a result of a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 2012, 720 ILCS 5/33E-1 et seq. The Engineer represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the City prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Engineer has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Engineer shall be liable to the City for all loss or damage that the City may suffer, and this Agreement shall, at the City's option, be null and void.

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

**10.6 Anti-Discrimination Laws.** Engineer is an equal opportunity employer and the requirements of 775 ILCS 5/2-105 and 44 Ill. ADM Code APPENDIX A are incorporated herein as though fully set forth. The Engineer shall comply with all federal and state laws prohibiting discrimination because of or requiring affirmative action based on race, color, religion, sex, sexual orientation, gender identity, marital status, order of protection status, national origin or ancestry, genetic information, citizenship status, age. Physical or mental disability unrelated to ability, military status, or an unfavorable discharge from military service, and shall execute the Equal Employment Opportunity Clause compliance certification attached to this Agreement in **Group Exhibit D.**

In the event of the Engineer's noncompliance with any provision of the Illinois Human Rights Act or any other applicable law, the Engineer may be declared non-responsible and therefore ineligible for future Agreements or subcontracts with the City, and the Agreement may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed, or remedies invoked as provided by statute or regulation. In all solicitations or advertisements for employees placed by it on its behalf, the Engineer shall state that all applicants be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, gender identity, marital status, order of protection status, national origin or ancestry, genetic information, citizenship status, age physical or mental disability unrelated to ability, military status, or an unfavorable discharge from military services.

**10.7 Americans with Disabilities Act.** Engineer shall utilize standards and/or methods that do not discriminate against the disabled in compliance with the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq.

**10.8 Drug Free Workplace Act.** Engineer shall comply with all conditions of the Illinois Drug Free Workplace Act, 30 ILCS 580/3 et seq.

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**10.9 Public Works Employment Discrimination Act.** Engineer shall comply with all conditions and requirements of the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq.

**10.10 Illinois Property Tax Code (35 ILCS 200/18-50.2).** The City of Wheaton is required under Section 200/18-50.2 of the Illinois Property Tax Code (35 ILCS 200/18-50.2) to collect and electronically publish information from vendors/contractors, and sub-vendors/subcontractors pertaining to their status as a minority-owned, women-owned, or veteran-owned business. Vendors/Contractors seeking contract award are required to complete the City's Vendor/Contractor/Subcontractor Information Reporting Form and return with their submittal to the City. This information will be electronically published on the City's website in compliance with the Property Tax Code's vendor information collection and reporting requirements. Current City Vendors/sub-vendors/contractors/subcontractors should return this form to the City within thirty (30) days of receipt of this form from the City. Additionally, vendors/contractors are required to provide this form to all sub-vendors/subcontractors providing goods, work, or services to the City and shall return completed forms to the City's Procurement Officer prior to the subcontractor's performance of work or services.

**10.11 Execution of Certifications.** Engineer shall execute the legal certifications and compliance with laws documentation which is attached hereto and incorporated herein as if fully set forth as **Group Exhibit D.**

**SECTION 11. GENERAL PROVISIONS.**

**11.1 Integration.** The provisions set forth in this Agreement represent the entire agreement between the parties and supersede all prior agreements, promises, and representations, as it is the intent of the parties to provide for a complete integration within the terms of this Agreement.

**11.2 Amendment.** No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.

**11.3 Assignment.** This Agreement, or any part, rights, or interests hereof, may not be assigned by the City or by the Engineer to any other person, firm, or corporation without the prior written consent of the other party.

**11.4 Binding Effect.** The terms of this Agreement shall bind and inure to the benefit of the parties hereto and their agents, successors, and assigns.

**11.5 News Releases.** The Engineer shall not issue any news releases or other public statements regarding the Services without prior approval from the City Manager.

**11.6 Waiver.** Any failure of either the City or the Engineer to strictly enforce any term, right or condition of this Agreement, whether implied or express, shall not be construed

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as a waiver of such term, right or condition, nor shall it be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

**11.7 Severability.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**11.8 Time.** Time is of the essence as to those provisions in which time is an element of performance.

**11.9 Governing Laws/Jurisdiction.** This Agreement shall be interpreted according to the laws of the State of Illinois. Exclusive jurisdiction for any litigation involving any aspect of this Agreement shall be in the Eighteenth Judicial Circuit Court, DuPage County, Illinois.

**11.10 Force Majeure.** No party hereto shall be deemed to be in default or to have breached any provision of this Agreement as the result of any delay, failure in performance or interruption of services resulting directly or indirectly from acts of God, acts of civil or military disturbance, or war, which are beyond the control of such non-performing party.

**11.11 Headings.** The headings of the several paragraphs of this Agreement are inserted only as a matter of convenience and for reference and are in no manner intended to define, limit, or describe the scope of intent of any provision of this Agreement, nor shall they be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**11.12 Rights Cumulative.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies and benefits allowed by law.

**11.13 Counterpart Execution.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**11.14 Notice.** Unless otherwise expressly provided in this Agreement, any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail ("e-mail"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three (3) business days thereafter at the appropriate address set forth below. E-mail notices shall be

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deemed valid and received by the addressee thereof when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three (3) business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; or (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidence by a return receipt. By notice complying with the requirements of this Subsection, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications shall be addressed to, and delivered to as follows:

If to the Engineer:

If to the City:

City of Wheaton  
Attn: City Clerk  
303 W. Wesley Street, Box 727  
Wheaton, IL 60187-727  
E-Mail: [cityclerk@wheaton.il.us](mailto:cityclerk@wheaton.il.us)

**11.15 Contract Numbering.** The faces of all invoices and documents shall contain the following contract number \_\_\_\_ for reference purposes.

**11.16 Electronic Signature.** The parties may execute this Agreement in writing or by facsimile transmission or by e-mail delivery of a ".pdf" format data file, and any such signature shall have the same legal effect as a handwritten signature for the purposes of validity, enforceability, and admissibility. In addition, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

**11.17 Authority to Enter Agreement.** Engineer has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party. If the Engineer is a corporation, the legal name of the corporation shall be set forth below, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if Engineer is a co-partnership the true name of the firm shall be set forth below, together with the signatures of all partners; and if the Engineer is an individual, the Engineer shall sign his or her name below. If signature is by an agent other than an officer of a corporation or a member of a partnership, a power-of-attorney must be attached hereto.

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IN WITNESS WHEREOF, the parties have entered into this Agreement this st day of \_\_\_\_\_, 2026.

**CITY OF WHEATON, an Illinois municipal corp.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Manager

ATTEST:

BY: \_\_\_\_\_  
City Clerk

**“Engineer”**

BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

Its: \_\_\_\_\_

ATTEST:

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

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

## EXHIBIT C

### **Special Provisions for: Insurance Coverage for Professional Services**

Before commencing Services, the Engineering firm and each of its agents, subcontractors, and Engineers hired to perform the Services, shall purchase, and maintain insurance coverage during the effective period stated in C.2. below which will satisfactorily insure the Engineer and where appropriate, the City of Wheaton (the "City") against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services required by the Agreement and the results of those Services by the Engineer his or her agents, representatives, employees, or subcontractors. Such insurance shall be issued by companies that are authorized to do business in the State of Illinois and that are acceptable to the City.

**A. Minimum Scope and Limit of Insurance Coverages.** The Engineer shall purchase and maintain the following insurance coverages with the specified minimum limits of liability until all Services required under the Agreement have been completed and accepted by the City, except as otherwise provided, such as in the case of completed operations coverage:

**A.1. Commercial General Liability ("CGL") Insurance** protecting the Engineer against any and all liability claims for damages for personal injury, bodily injury, and damages to property which may arise directly or indirectly from or in connection with the performance of the Services under this Agreement. Coverage shall be at least as broad as that of the current Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with a limit of not less than **ONE MILLION DOLLARS (\$1,000,000)** for each occurrence and a general aggregate limit of not less than **TWO MILLION DOLLARS (\$2,000,000)**.

**A.1.a.** Contractual Liability Coverage shall be provided under the Commercial General Liability policy and if not covered under such policy, then a "Broad Form Contractual Liability Coverage" Endorsement shall be included, and the certificate of insurance filed with the City shall show such contractual liability coverage has been obtained. Engineer shall also provide a copy of the Contractual Liability coverage policy language or endorsement to the City prior to the commencement of Services. Contractual Liability coverage shall not be removed or limited by ISO Form CG 21 39 (Contractual Liability Limitation Endorsement) or ISO Form CG 24 26 (Amendment of Insured Contract Definition) or ISO Form CG 22 43 (Professional Services Exclusion).

**A.1.b.** Products and completed operations coverage shall be maintained for a minimum of four (4) years after the time the Services under this Agreement is completed. Engineer shall furnish the City evidence of continuation of such insurance at final payment and four (4) years thereafter.

**A.2. Commercial Automobile Liability Insurance** covering all vehicles used in connection with the Agreement, whether owned, non-owned, or hired vehicles and whether on or off of the City's premises with coverage limits of not less than **ONE MILLION DOLLARS (\$1,000,000)** per accident for bodily injury and property damage, combined single limit.

**A.3. Umbrella or Excess Liability Insurance** coverage of not less than **ONE MILLION (\$1,000,000)** per occurrence. Excess insurance shall contain a provision that such coverage shall also apply on a

primary and non-contributory basis for the benefit of the City before the City's own primary insurance policy or self-insurance shall be called upon to protect its named insured.

- A.4.** **Worker's Compensation Insurance** covering all employees who are to provide Services under this Agreement shall be procured and maintained in strict accordance with the limits required by the applicable State of Illinois Worker's Compensation Insurance Laws. The **Employer's Liability** coverage under the worker's compensation policy shall have limits not less than **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** for each accident/injury and **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** for each employee/disease and **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** policy limit. The workers' compensation policy shall provide a waiver of subrogation (a/k/a Waiver of our Right to Recover from Others Endorsement), to the City.
- A.5.** **Professional Liability Insurance** appropriate to the Engineer 's profession covering errors, omissions, and negligent acts related to the rendering of such professional Services with limits of not less than **ONE MILLION DOLLARS (\$1,000,000)** per claim and **TWO MILLION DOLLARS (\$2,000,000)** in the aggregate.
  - A.5.a.** When Professional Liability insurance policies are renewed or replaced, any retroactive date shall coincide with or precede commencement of Services by Engineer or subcontractor under this Agreement, and Engineer shall purchase "extended reporting" coverage for a minimum of four (4) years after completion of Services under this Agreement.
  - A.5.b.** If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Agreement effective date, the Engineer shall purchase "extended reporting" coverage for a minimum of four (4) years after completion of Agreement Services.
  - A.5.c.** A copy of the claims reporting requirements shall be submitted to the City for review.

If the Engineer maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Engineer . All insurance coverage and limits available to the named insured on all policies required in Section A shall also be available and applicable to the additional insureds.

- B.** **Insurance Policy Provisions.** The insurance policies shall also contain, or be endorsed to contain, the following provisions:

- B.1 Additional Insured Status.** The City, its officers, elected officials, employees, agents, and volunteers shall be covered as additional insureds on Engineer 's Commercial General Liability, Automobile Liability, and umbrella/excess liability policies with respect to liability arising out of or in connection with the Services or operations performed by or on behalf of the Engineer , and the results of those Services.

Additional Insured CGL coverage can be provided in the form of an endorsement to the Engineer 's insurance which shall be at least as broad as ISO Form CG 20 10 11 85 (which provides both ongoing operations and completed operations coverage) if available or if not available, through the addition of CG 20 10 (covers ongoing operations) **with** CG 2037 (covers completed operations) or equivalent, or CG 20 38 **with** CG 20 37 or equivalent.

- B.2. Primary and Non-contributory.** Each policy of insurance provided by Engineer shall be primary and not contributory to any insurance policy purchased by the City or any self-insurance of the City.
- B.3. Notice of Cancellation.** Each insurance policy required by the insurance provisions of this Agreement shall not be suspended, voided, or canceled except after providing thirty (30) calendar days prior unqualified written notice to the City. Such notice shall be sent directly to the City (City of Wheaton Procurement Officer, 303 W. Wesley St., Wheaton, IL 60187). Should Engineer fail to provide the City with timely notice, Engineer shall be considered in breach and subject to cure provisions set forth within this Agreement. A copy of the notice of cancellation endorsement shall be provided to the City.
- B.4. Waiver of Subrogation.** Engineer hereby grants to the City a waiver of any right to subrogation which any insurer of said Engineer may acquire against the City by virtue of the payment of any loss or damage(s) under such insurance. Engineers agree to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- B.5. Deductibles/Self-Insured Retention.** Any deductibles or self-insured retention shall be stated on the Certificate of Insurance provided to the City.
- B.6. Subcontractors.** Engineer shall require each subcontractor employed by the Engineer to purchase and maintain insurance of the type specified in Section A above in accordance with the provisions in Section B and requirements of Section C herein. Engineer shall require all subcontractors employed by Engineer to add the Engineer, the City, and any other "upstream party" as additional insureds using ISO form number CG 20 38 04 13 or coverage at least as broad. It shall be the Engineer's responsibility to verify the subcontractor's policy endorsement. When requested by the City, Engineer shall furnish copies of each subcontractor's additional insured endorsements to the City. Failure of any subcontractor to maintain insurance in accordance with Sections A, B, and C herein shall be considered a material breach of this Agreement by Engineer.

## **C. Additional Requirements and Considerations.**

- C.1. Acceptability of Insurers.** All insurance carriers providing coverage under this Agreement shall be authorized to do business in the State of Illinois and shall have a current A.M. Best and Companies Insurance Guide rating of no less than A and Class VI or better.
- C.2. Effective Period.** All insurance required for this Agreement as stated herein shall be in effect prior to the commencement of Services and such required insurance policies or successor insurance policies that are compliant with the insurance requirements stated herein shall remain in effect until all Services required under the Agreement have been completed and accepted by the City, except as otherwise provided herein, such as in the case of products and completed operations coverage which shall remain in effect after the time the Services are completed under this Agreement as specified in **Paragraph A.1.c** herein. Engineer's failure to obtain the required insurance policies and/or endorsements prior to commencement of Services shall not waive the Engineer's obligation to obtain such insurance policies and/or endorsements. The maintenance of the required insurance stated herein is a material element of the Agreement and the failure to maintain or renew insurance coverage or to provide evidence of renewal upon the City's

request shall be considered a material breach of this Agreement and subject to the cure provisions set forth within this Agreement.

**C.3 Verification of Coverage.** Engineer shall file with the City the original certificates of insurance, amendatory endorsements, and a copy of the policy declarations and endorsement page or copies of the applicable insurance policy language effecting the required coverage specified in this Special Provisions for: Insurance Coverage for Professional Services, including those of subcontractors. All certificates, endorsements, policy declarations and endorsement pages are to be received and approved by the City before Services commence. However, the failure to obtain the required certificates and endorsements prior to the Contract Award or commencement of Service shall not waive the Engineer's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies, including endorsements required herein, at any time.

The Certificates of Insurance filed with the City shall, at a minimum, clearly state all of the following:

- i. policy number; and
- ii. name of insurance company; and
- iii. name, address, and telephone number of the insured; and
- iv. project name and address; and
- v. policy expiration date; and
- vi. specific coverages required herein with amounts of coverage; and
- vii. all required additional insureds; and
- viii. policies apply on a primary and non-contributory basis (when applicable); and
- ix. amount of deductibles or self-insured retention.

**C.4. Right to Reject.** The City shall have the right to reject the insurer/insurance policy of the Engineer or any subcontractor.

**C.5. Acceptance of Insurance Does Not Release Liability.** The City's acceptance or approval of any insurance of the Engineer shall not be construed as relieving or excusing the Engineer, or the surety, or its bond, from any liability or obligation imposed upon either or both of them by the provisions of this Agreement.

**C.6. Deductible Amounts.** The City will consider deductible amounts as part of its review of Engineer's financial stability prior to Contract award.

**C.7. Joint-Ventures.** If the Engineer is a joint-venture, the joint-venture shall provide evidence of liability insurance in the name of the joint-venture. If insurance is not purchased in the name of the joint-venture, the member with the majority ownership interest in the joint-venture shall endorse its general liability policy to name the joint-venture as an "Additional Named" insured.

**C.8. Evidence of Current Insurance.** Upon written request by the City, Engineer shall, within seven (7) calendar days, provide to the City acceptable evidence of current insurance. Should the Engineer fail to provide acceptable evidence of current insurance following written request, the City shall have the absolute right to terminate the Agreement without any further obligation to the Engineer.

- C.9. Policy Expiration.** Engineer shall renew any policy which expires during the performance of the Agreement and shall notify the City by appropriate Certificate of Insurance of such renewal prior to the expiration date.
- C.10. Insurance Not Limited by Indemnification.** The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement as given as a matter of law.
- C.11. City's Right to Modify.** Notwithstanding any provisions in the Agreement to the contrary, the City maintains the right to modify, delete, alter, or change these requirements.

Nothing herein set forth shall be construed to create any obligation on the part of the City to indemnify Engineer for any claims of negligence against Engineer or its agents, employees, subcontractors, or Engineer's.

**RFP #26-26**  
**PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

**PLEASE RETURN THE REQUIRED FORMS WITH YOUR SUBMITTAL**

- Fee Proposal Form (Exhibit D)
- Notice of Deviations Form (Exhibit E)
- Listing of Subcontractors, Consultants, and Agents Form (Exhibit F)
- References Form (Exhibit G)
- Vendor Certification Form (Exhibit H)
- Vendor Information Reporting Form (Exhibit I)
- W-9 Form

Proposals will be considered non-responsive if the specified documents above are not completed and included with your submittal.

## RETURN WITH SUBMITTAL

### EXHIBIT D FEE PROPOSAL FORM RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

Fees for design engineering services will be based on a cost plus not to exceed basis using an hourly rate times direct staff cost. Direct costs will be charged at the actual rate incurred with no markup. A summary of anticipated hours and fees will be included in the proposal.

Total Cost Proposal (not to exceed): \$ \_\_\_\_\_

Optional Inspections Per Each Structure \$ \_\_\_\_\_

**Addenda Acknowledgement:** The Bidder acknowledges the receipt of the following addenda issued by the City and incorporated into and made part of this Bid/RFP.

Addendum(s) \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_

No addenda were issued.

All bids must be signed by an authorized representative of the Bidder.

The undersigned hereby agrees to furnish and deliver the above specified item/service to the City of Wheaton in accordance with the Instructions, Provisions, and Specifications for the price(s) stated above.

---

Signature:

---

Date:

---

Printed Name:

---

Title:

---

Company Name:

---

Address:

---

---

---

Email:

**Failure to complete and return this form will be considered sufficient reason for rejection of the submittal.**

**RETURN WITH SUBMITTAL**

**EXHIBIT E**

**NOTICE OF DEVIATIONS FORM**

**RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

**NOTICE OF DEVIATIONS for the Specification Requirements:** We deviate from the desired specifications of the City of Wheaton in the following areas (Please reference the specific requirement number):

No Deviations

As best as can be ascertained, there are no deviations other than those listed.

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

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

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

***Failure to complete and return this form may be considered sufficient reason for rejection of the submittal.***

## RETURN WITH SUBMITTAL

### EXHIBIT F

#### LISTING OF SUBCONTRACTORS, CONSULTANTS, AND AGENTS FORM RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

##### CHECK ONE

I will not be using any Subcontractors, Consultants, and Agents for this work.  
 I will be using the following Subcontractors, Consultants, and Agents for the identified portions of this work:

Service: \_\_\_\_\_

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

Contact Name: \_\_\_\_\_

Dollar Value: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Service: \_\_\_\_\_

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

Contact Name: \_\_\_\_\_

Dollar Value: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Service: \_\_\_\_\_

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

Contact Name: \_\_\_\_\_

Dollar Value: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Service: \_\_\_\_\_

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

Contact Name: \_\_\_\_\_

Dollar Value: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Total Dollars Allocated for Services: \$ \_\_\_\_\_**

#### LISTING OF MATERIAL SUPPLIERS

##### CHECK ONE

I will not be using any Material Suppliers for this work.  
 I will be using the following Material Suppliers for the identified portions of this work:

Service: \_\_\_\_\_

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

Contact Name: \_\_\_\_\_

Dollar Value: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## RETURN WITH SUBMITTAL

### EXHIBIT F

#### LISTING OF SUBCONTRACTORS, CONSULTANTS, AND AGENTS FORM RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

Service: \_\_\_\_\_

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

Contact Name: \_\_\_\_\_

Dollar Value: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Service: \_\_\_\_\_

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

Contact Name: \_\_\_\_\_

Dollar Value: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Total Dollars Allocated for Material Suppliers: \$ \_\_\_\_\_**

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

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

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

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

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

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

**Failure to complete and return this form will be considered sufficient reason for rejection of the submittal.**

**RETURN WITH SUBMITTAL****EXHIBIT G****REFERENCES FORM****RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

Contractors must submit a list of five (5) references from organizations of comparable size and structure that have received these same services within the last five (5) years.

Organization Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_ Dates of Service \_\_\_\_\_

Type of Work \_\_\_\_\_

Project Total \_\_\_\_\_

Organization Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_ Dates of Service \_\_\_\_\_

Type of Work \_\_\_\_\_

Project Total \_\_\_\_\_

Organization Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_ Dates of Service \_\_\_\_\_

Type of Work \_\_\_\_\_

Project Total \_\_\_\_\_

Organization Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_ Dates of Service \_\_\_\_\_

Type of Work \_\_\_\_\_

Project Total \_\_\_\_\_

Organization Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_ Dates of Service \_\_\_\_\_

Type of Work \_\_\_\_\_

Project Total \_\_\_\_\_

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

**Failure to complete and return this form will be considered sufficient reason for rejection of the submittal.**

**RETURN WITH SUBMITTAL****EXHIBIT H****VENDOR CERTIFICATION FORM****RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

As a condition of entering a contract with the City of Wheaton, and under oath and penalty of perjury and possible termination of contract rights and debarment, the undersigned,

\_\_\_\_\_ being first duly sworn on oath, deposes and states that  
(Officer or Owner of Company)

He/She is \_\_\_\_\_ (sole owner, partner, joint ventured, President, Secretary, etc.) of \_\_\_\_\_ and has the authority to make all certifications required by this affidavit.

**This Business Firm is:** (check one)

Corporation       Partnership       Individual       LLC

Firm Name:

\_\_\_\_\_

Address:

\_\_\_\_\_

Signature:

\_\_\_\_\_

Print Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Phone #:

\_\_\_\_\_

Fax #:

Email:

Date:

**Operational Contact for this work**

Name:

Phone #:

Email:

**Sales Contact**

Name:

Phone #:

Email:

## RETURN WITH SUBMITTAL

### EXHIBIT H

### VENDOR CERTIFICATION FORM

### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

#### Billing Contact

Name:

Phone #:

Email:

#### CONFLICT OF INTEREST

Check One:

**There are no conflicts of interest**; and in the event that a conflict of interest is identified anytime during the duration of this award, or reasonable time thereafter, you, your firm, or your firm's ownership, management or staff will immediately notify the City of Wheaton in writing.

**There is an affiliation or business relationship** between you, your management or staff, your firm, or your firm's ownership, and an employee, officer, or elected official of the City of Wheaton who makes recommendations to the City of Wheaton with respect to expenditures of money, employment, and elected or appointed positions. Provide any and all affiliations or business relationships that might cause a conflict of interest or any potential conflict of interest. Include the name of each City of Wheaton affiliate with whom you, your firm, or your firm's ownership, management, or staff, has an affiliation or a business relationship.

#### CONFLICT OF INTEREST DISCLOSURE\*

**Name of each City of Wheaton affiliate with whom you, your firm, or your firm's ownership, management, or staff, has an affiliation or a business relationship.**

Name of City of Wheaton affiliate:

Relationship:

Other:

**\*Disclosing a potential conflict does not disqualify vendors. In the event vendors do not disclose potential conflicts of interest and they are detected by the City; vendor will be exempt from doing business with the City.**

#### PAYMENT OF TAXES

Vendor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, or if it is:

## RETURN WITH SUBMITTAL

### EXHIBIT H

### VENDOR CERTIFICATION FORM

#### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

- a. it is contesting its liability for the tax or the amount of tax in accordance with procedures established by the approved Revenue Act; or
- b. it has entered into an agreement with the Department of Revenue for payment of all taxes due and is currently in compliance with that agreement.

#### FEDERAL HIGHWAY ADMINISTRATION RULES ON CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Vendor is in full compliance with the Federal Highway Administration Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that

\_\_\_\_\_ is/are currently participating.

(Name of employee/driver or “all employee drivers”) in a drug and alcohol testing program pursuant to the aforementioned rules.

#### SUBSTANCE ABUSE

*(Check one)*

4A. has in place a written program which meets or exceeds the program requirements of the Substance Abuse Prevention on Public Works Projects Act (Public Act 95-0635), and has provided a written copy thereof to the City of Wheaton; or

4B. has in place a collective bargaining agreement which deals with the subject matter of the Substance Abuse Prevention on Public Works Projects Act (Public Act 95-0635).

4C. Not applicable to this contract.

#### BID RIGGING AND BID ROTATING

Vendor is not barred from contracting with any unit of state or local government as a result of a violation of either Section 33E-3 or 33E-4 of the Illinois Criminal Code, or of any similar offense of “bid-rigging” or “bid-rotating” of any state of the United States.

#### EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS ACT

Vendor agrees that, to the extent required by the Employment of Illinois Workers on Public Works Act (30 ILCS 570/1 et seq.), as now existing or hereafter amended, the undersigned shall comply with the Illinois labor employment requirements as set forth in the Act.

#### ILLINOIS PREVAILING WAGE ACT

Vendor is, to the extent required, in compliance with all requirements of the Illinois Prevailing Wage Act, 820 ILCS 130/0.01 et seq.

#### USA PATRIOT ACT

Vendor is not barred from bidding and/or contracting with a unit of state or local government as a result of a violation of the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001)(the “Patriot Act”) and the USA

## RETURN WITH SUBMITTAL

### EXHIBIT H

#### VENDOR CERTIFICATION FORM

#### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

Freedom Act, H.R. 2048, Pub. L. 114-23 which restored and modified the Patriot Act, or other statutes, orders, rules, and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001. Contractor also certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism;

and Contractor further certifies that it is not engaged in this transaction directly or indirectly on behalf of or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.

#### **AMERICANS WITH DISABILITIES ACT**

Vendor agrees, to the extent required by the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§12101 *et seq.*, the undersigned shall utilize standards and/or methods that do not discriminate against the disabled.

#### **ILLINOIS STEEL PRODUCTS PROCUREMENT ACT**

Vendor agrees, when applicable, that steel products used or supplied in the performance of the contract or any subcontract thereto shall be manufactured or produced in the United States, as required by the Illinois Steel Products Procurement Act, 30 ILCS 565/1 *et seq.*

#### **PUBLIC WORKS EMPLOYMENT DISCRIMINATION ACT**

Vendor shall comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*

#### **SAFETY**

Vendor shall comply with all local, state, and federal safety standards.

#### **DRUG FREE WORKPLACE**

In compliance with State of Illinois Compiled Statutes, Chapter 30-580 (30 ILCS 580/30), the Contractor certifies and agrees that it will provide a drug free workplace by:

1. Publishing a Statement:

- A. Notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, including cannabis, is prohibited in the Contractor's workplace.
- B. Specifying the actions that will be taken against employees for violations of such prohibition.
- C. Notifying the employee that, as a condition of employment on such Agreement, the employee will:
  - i. Abide by the terms of the statement; and
  - ii. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

2. Establishing a Drug Free Awareness Program to inform employees about:

- A. The dangers of drug abuse in the workplace;
- B. The Contractor's policy for maintaining a drug free workplace;
- C. Available counseling, rehabilitation, or assistance programs; and

## RETURN WITH SUBMITTAL

### EXHIBIT H

### VENDOR CERTIFICATION FORM

### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

- D. Penalties imposed for drug violations.
- 3. Providing a copy of the Statement required by Section 1 to each employee engaged in the performance of the Agreement and to post the Statement in a prominent place in the workplace.
- 4. Notifying the contracting agency within ten (10) days after receiving notice under part (C), subsection (ii) of paragraph 1 above, from an employee or otherwise receiving actual notice of such conviction.
- 5. Imposing a sanction on or requiring the satisfactory participation in a Drug Abuse Assistance or Rehabilitation Program, by any employee who is so convicted, as required by Section 5 of the Drug Free Workplace Act.
- 6. Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation are required and indicating that a trained referral team is in place.
- 7. Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

Failure to abide by this certification shall subject the Contractor to the penalties provided in the “Drug-Free Workplace Act.”

### **EQUAL EMPLOYMENT OPPORTUNITY CLAUSE**

Section I: This EQUAL EMPLOYMENT OPPORTUNITY CLAUSE is required by the Illinois Human Rights Act and the Rules and Regulations of the Illinois Department of Human Rights published at 44 Illinois Administrative Code Section 750 et seq; also known as Title 44: Government Contracts, Grantmaking, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to all Agencies.

Section II: 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:

That he or she 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, work authorization status 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.

That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from

## RETURN WITH SUBMITTAL

### EXHIBIT H

### VENDOR CERTIFICATION FORM

### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

which he or she may reasonably recruit, and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she 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.

That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor or representative of the Contractor's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and this Part, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and this Part.

That he or she will permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

That he or she 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. In the same manner as with other provisions of this contract, the Contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, 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.

Section III: For the purposes of subsection 7 of Section II, "subcontract" means any agreement, arrangement or understanding, written or otherwise, between the Contractor and any person under which any portion of the Contractor's obligations under one or more public contracts is performed, undertaken or assumed; the term "subcontract," however, shall not include any agreement, arrangement or understanding in which the parties stand in the relationship of an employer and an employee, or between a Contractor or other organization and its customers.

**RETURN WITH SUBMITTAL**

**EXHIBIT H**

**VENDOR CERTIFICATION FORM**

**RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

**ACKNOWLEDGED AND AGREED TO:**

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

By: \_\_\_\_\_  
(Signature)

Its: \_\_\_\_\_  
(Title)

State of: \_\_\_\_\_

County of: \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_  
(Date)

By \_\_\_\_\_  
(Name of person making statement)

\_\_\_\_\_  
(Signature of Notary Public)

(Seal)

**Failure to complete and return this form may be considered sufficient reason for rejection of the submittal. Document must be notarized.**

## RETURN WITH SUBMITTAL

### EXHIBIT I

#### VENDOR INFORMATION REPORTING FORM

#### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

Business Name/Name of Sole Proprietor/General Contractor: \_\_\_\_\_

Are you a Subcontractor for the above project:  Yes  No Subcontractor Name: \_\_\_\_\_

The City of Wheaton is required under Section 200/18-50.2 of the Illinois Property Tax Code (35 ILCS 200/18-50.2) to collect and electronically publish information from vendors/contractors, and sub-vendors/subcontractors pertaining to their status as a minority-owned, women-owned, or veteran-owned business. Answers to the following questions will be electronically published on the City's website in compliance with the Property Tax Code's vendor information collection and reporting requirements. Current City Vendors/sub-vendors/contractors/subcontractors should return this form to the City within thirty (30) days of receipt of this form from the City. Vendors/Contractors seeking contract award are required to return this completed form with their submittal to the City.

Additionally, vendors/contractors are required to provide this form to all sub-vendors/subcontractors providing goods, work, or services to the City and shall return completed forms to the City's Procurement Officer prior to the subcontractor's performance of work or services.

1. A “minority-owned business” means a business which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it. 30 ILCS 575/2(A)(3)

A “women-owned business” means a business which is at least 51% owned by one or more women, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more women; and the management and daily business operations of which are controlled by one or more of the women who own it. 30 ILCS 575/2(A)(4)

A “veteran-owned business” means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Illinois Department of Central Management Services. 30 ILCS 500/45-57(e).

Is your business a

Minority-owned business as defined by 30 ILCS 575/2(A)(3)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Women-owned business as defined by 30 ILCS 575/2(A)(4)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Veteran-owned business as defined by 30 ILCS 500/45-57(e)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

A business may indicate a “yes” answer for more than one category.

2. Has your business received certification from a certifying agency/organization? If not please check "not certified." If certified, please check all applicable certifications and indicate for which category(ies) identified in Question 1 your business is certified.

Not Certified

CMS - Illinois Department of Central Management Services Business Enterprise Program

Minority-owned  Women-owned  Veteran-owned

CMSDC-Chicago Minority Supplier Development Council

Minority-owned  Women-owned  Veteran-owned

City of Chicago

Minority-owned  Women-owned  Veteran-owned

## RETURN WITH SUBMITTAL

### EXHIBIT I

#### VENDOR INFORMATION REPORTING FORM

#### RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

Cook County

Minority-owned

Women-owned

Veteran-owned

CTA-Chicago Transit Authority

Minority-owned

Women-owned

Veteran-owned

METRA

Minority-owned

Women-owned

Veteran-owned

PACE

Minority-owned

Women-owned

Veteran-owned

IDOT-Illinois Department of Transportation

Minority-owned

Women-owned

Veteran-owned

WBDC-Women's Business Development Center

Minority-owned

Women-owned

Veteran-owned

Mid-States Minority Supplier Development Center

Minority-owned

Women-owned

Veteran-owned

Self-certifying

Minority-owned

Women-owned

Veteran-owned

Other (Please specify): \_\_\_\_\_

3. If you answered "self-certifying" to Question 2, does your business qualify as a small business under the Federal Government's Small Business Administration (SBA) Standards? Please consult the U.S. Small Business Administration website's most current Table of Small Business Size Standards Matched to North American Industry Classification System codes located at [sba.gov/document/support--table-size-standards](https://sba.gov/document/support--table-size-standards) to provide the following information.

Yes, self-certifying, SBA status indicated for business name listed on this form in SAM profile at SAM.gov.

Yes, self-certifying SBA qualified small business because the average annual receipts for my business's NAICS U.S. industry title [INSERT INDUSTRY TITLE] \_\_\_\_\_, with an NAICS code of [INSERT NAICS CODE] \_\_\_\_\_ are less than the size standards (in millions of dollars) as listed in the U.S. Small Business Administration's Table of Small Business Size Standards, dated August 19, 2019.

Yes, self-certifying SBA qualified small business because the average total employment for my business's NAICS U.S. industry title [INSERT INDUSTRY TITLE] \_\_\_\_\_, with an NAICS code of [INSERT NAICS CODE] \_\_\_\_\_ is less than the size standard (in number of employees) as listed in the U.S. Small Business Administration's Table of Small Business Size Standards, dated August 19, 2019.

No, self-certifying but not an SBA qualified small business.

**RETURN WITH SUBMITTAL**

**EXHIBIT I**

**VENDOR INFORMATION REPORTING FORM**

**RFP #26-26 PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS**

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

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

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

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

Business Name: \_\_\_\_\_

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

***Failure to complete and return this form will be considered sufficient reason for rejection of the submittal.***

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## Statement of Non-Participation

### RFP #26-26 – PROFESSIONAL ENGINEERING SERVICES – BRIDGE INSPECTIONS

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If you do not intend to submit a response for this project, please complete this form and return it to:

Tony Sperkowski at [asperkowski@wheaton.il.us](mailto:asperkowski@wheaton.il.us)

We do not wish to participate in this bid/proposal for the following reasons:

- Insufficient time to adequately prepare a respond.
- We do not provide this product or service. Remove us from the Vendors list.
- Our schedule will not permit us to perform in a timely manner.
- We are unable to meet bond requirements.
- We are unable to meet insurance requirements.
- Other (explain below):

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

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

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

Name of person submitting form: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

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

Request for Taxpayer  
Identification Number and CertificationGo to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.Give form to the  
requester. Do not  
send to the IRS.Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.Print or type.  
See Specific Instructions on page 3.

1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)						
2 Business name/disregarded entity name, if different from above.						
3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.						
<input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) . . . . . <b>Note:</b> Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) . . . . .						
3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions . . . . . <input type="checkbox"/>						
5 Address (number, street, and apt. or suite no.). See instructions.	Requester's name and address (optional)					
6 City, state, and ZIP code						
7 List account number(s) here (optional)						

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>
or								
Employer identification number								
<input type="text"/>	-	<input type="text"/>						

## Part II Certification

Under penalties of perjury, 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. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person	Date
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

must obtain your correct taxpayer identification number (TIN), which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid).
- Form 1099-DIV (dividends, including those from stocks or mutual funds).
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds).
- Form 1099-NEC (nonemployee compensation).
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers).
- Form 1099-S (proceeds from real estate transactions).
- Form 1099-K (merchant card and third-party network transactions).
- Form 1098 (home mortgage interest), 1098-E (student loan interest), and 1098-T (tuition).
- Form 1099-C (canceled debt).
- Form 1099-A (acquisition or abandonment of secured property).

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

**Caution:** If you don't return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

**By signing the filled-out form**, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued);
2. Certify that you are not subject to backup withholding; or
3. Claim exemption from backup withholding if you are a U.S. exempt payee; and
4. Certify to your non-foreign status for purposes of withholding under chapter 3 or 4 of the Code (if applicable); and
5. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting is correct. See *What Is FATCA Reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding.** Payments made to foreign persons, including certain distributions, allocations of income, or transfers of sales proceeds, may be subject to withholding under chapter 3 or chapter 4 of the Code (sections 1441–1474). Under those rules, if a Form W-9 or other certification of non-foreign status has not been received, a withholding agent, transferee, or partnership (payor) generally applies presumption rules that may require the payor to withhold applicable tax from the recipient, owner, transferor, or partner (payee). See Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

The following persons must provide Form W-9 to the payor for purposes of establishing its non-foreign status.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the disregarded entity.
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the grantor trust.
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust and not the beneficiaries of the trust.

See Pub. 515 for more information on providing a Form W-9 or a certification of non-foreign status to avoid withholding.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person (under Regulations section 1.1441-1(b)(2)(iv) or other applicable section for chapter 3 or 4 purposes), do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515). If you are a qualified foreign pension fund under Regulations section 1.897(l)-1(d), or a partnership that is wholly owned by qualified foreign pension funds, that is treated as a non-foreign person for purposes of section 1445 withholding, do not use Form W-9. Instead, use Form W-8EXP (or other certification of non-foreign status).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a saving clause. Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.–China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if their stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.–China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first Protocol) and is relying on this exception to claim an exemption from tax on their scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include, but are not limited to, interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third-party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester;
2. You do not certify your TIN when required (see the instructions for Part II for details);
3. The IRS tells the requester that you furnished an incorrect TIN;
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only); or
5. You do not certify to the requester that you are not subject to backup withholding, as described in item 4 under “*By signing the filled-out form*” above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier.

## What Is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all U.S. account holders that are specified U.S. persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you are no longer tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

• **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note for ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040 you filed with your application.

• **Sole proprietor.** Enter your individual name as shown on your Form 1040 on line 1. Enter your business, trade, or “doing business as” (DBA) name on line 2.

• **Partnership, C corporation, S corporation, or LLC, other than a disregarded entity.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

• **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. Enter any business, trade, or DBA name on line 2.

• **Disregarded entity.** In general, a business entity that has a single owner, including an LLC, and is not a corporation, is disregarded as an entity separate from its owner (a disregarded entity). See Regulations section 301.7701-2(c)(2). A disregarded entity should check the appropriate box for the tax classification of its owner. Enter the owner’s name on line 1. The name of the owner entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For

example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, enter it on line 2.

### Line 3a

Check the appropriate box on line 3a for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3a.

IF the entity/individual on line 1 is a(n) ...	THEN check the box for ...
• Corporation	Corporation.
• Individual or	Individual/sole proprietor.
• Sole proprietorship	
• LLC classified as a partnership for U.S. federal tax purposes or	Limited liability company and enter the appropriate tax classification: P = Partnership, C = C corporation, or S = S corporation.
• LLC that has filed Form 8832 or 2553 electing to be taxed as a corporation	
• Partnership	Partnership.
• Trust/estate	Trust/estate.

### Line 3b

Check this box if you are a partnership (including an LLC classified as a partnership for U.S. federal tax purposes), trust, or estate that has any foreign partners, owners, or beneficiaries, and you are providing this form to a partnership, trust, or estate, in which you have an ownership interest. You must check the box on line 3b if you receive a Form W-8 (or documentary evidence) from any partner, owner, or beneficiary establishing foreign status or if you receive a Form W-9 from any partner, owner, or beneficiary that has checked the box on line 3b.

**Note:** A partnership that provides a Form W-9 and checks box 3b may be required to complete Schedules K-2 and K-3 (Form 1065). For more information, see the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

If you are required to complete line 3b but fail to do so, you may not receive the information necessary to file a correct information return with the IRS or furnish a correct payee statement to your partners or beneficiaries. See, for example, sections 6698, 6722, and 6724 for penalties that may apply.

### Line 4 Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third-party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space on line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).

2—The United States or any of its agencies or instrumentalities.

3—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities.

5—A corporation.

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or territory.

7—A futures commission merchant registered with the Commodity Futures Trading Commission.

8—A real estate investment trust.

9—An entity registered at all times during the tax year under the Investment Company Act of 1940.

10—A common trust fund operated by a bank under section 584(a).

11—A financial institution as defined under section 581.

12—A middleman known in the investment community as a nominee or custodian.

13—A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
• Interest and dividend payments	All exempt payees except for 7.
• Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
• Barter exchange transactions and patronage dividends	Exempt payees 1 through 4.
• Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5. <sup>2</sup>
• Payments made in settlement of payment card or third-party network transactions	Exempt payees 1 through 4.

<sup>1</sup> See Form 1099-MISC, Miscellaneous Information, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) entered on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37).

B—The United States or any of its agencies or instrumentalities.

C—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i).

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i).

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state.

G—A real estate investment trust.

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940.

I—A common trust fund as defined in section 584(a).

J—A bank as defined in section 581.

K—A broker.

L—A trust exempt from tax under section 664 or described in section 4947(a)(1).

M—A tax-exempt trust under a section 403(b) plan or section 457(g) plan.

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, enter "NEW" at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have, and are not eligible to get, an SSN, your TIN is your IRS ITIN. Enter it in the entry space for the Social security number. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/EIN](http://www.irs.gov/EIN). Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or Form SS-4 mailed to you within 15 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and enter "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, you will generally have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon. See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier, for when you may instead be subject to withholding under chapter 3 or 4 of the Code.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third-party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))**	The grantor*

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing Form 1041 or under the Optional Filing Method 2, requiring Form 1099 (see Regulations section 1.671-4(b)(2)(i)(B))**	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name on line 1, and enter your business or DBA name, if any, on line 2. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

**\*Note:** The grantor must also provide a Form W-9 to the trustee of the trust.

**\*\*** For more information on optional filing methods for grantor trusts, see the Instructions for Form 1041.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information, such as your name, SSN, or other identifying information, without your permission to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax return preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity, or a questionable credit report, contact the IRS Identity Theft Hotline at 800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 877-777-4778 or TTY/TDD 800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Go to [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and territories for use in administering their laws. The information may also be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payors must generally withhold a percentage of taxable interest, dividends, and certain other payments to a payee who does not give a TIN to the payor. Certain penalties may also apply for providing false or fraudulent information.