
**THE CITY OF BLUE ISLAND
COOK COUNTY, ILLINOIS**

**RESOLUTION
NUMBER 2020-018**

**A RESOLUTION OF THE CITY OF BLUE ISLAND,
COOK COUNTY, ILLINOIS AUTHORIZING AND APPROVING
AN ACCESS AND INDEMNIFICATION AGREEMENT WITH
CARDNO INC. AND OPPORTUNITY ADVANCEMENT
INNOVATION (OAI)**

**DOMINGO F. VARGAS, Mayor
Randy Heuser, City Clerk**

**DEXTER JOHNSON
FRED BILOTTO
NANCY RITA
TOM HAWLEY
MICHAEL MECH
CANDACE CARR
JAMES KLINKER**

**ANNETTE ALEXANDER
WILLIAM CAZARES
KEVIN DONAHUE
BILL FAHRENWALD
JOHNNY RINGO HILL
RAEANN CANTELO-ZYLMAN**

Aldermen

RESOLUTION NUMBER 2020-018

**A RESOLUTION OF THE CITY OF BLUE ISLAND, COOK COUNTY, ILLINOIS
AUTHORIZING AND APPROVING AN ACCESS AND
INDEMNIFICATION AGREEMENT WITH CARDNO INC AND OPPORTUNITY
ADVANCEMENT INNOVATION.**

WHEREAS, the City of Blue Island, Cook County, Illinois (the “City”) is a duly organized and existing city created under the provisions of the laws of the State of Illinois and is now operating under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto, with full powers to enact ordinances and adopt resolutions for the benefits of the residents of the City; and

WHEREAS, the City, Village of Midlothian, City of Gary, Indiana and Cardno Inc and Opportunity Advancement Innovation (“OAI”). desire to execute an agreement, attached hereto as Exhibit A, for the maintenance of the City’s green infra structure (the “*Agreement*”). Specifically, the Agreement provides for maintenance of rain gardens in the City; and

WHEREAS, the services and work contemplated by the Agreement shall be free of charge to the Village; and

WHEREAS, the Mayor and City Council of the City (the “Corporate Authorities”) deem it advisable and in the best interest of the health, safety, and welfare of the City’s residents to enter into the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Blue Island, Cook County, Illinois as follows:

Section 1. That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

Section 2. That the Agreement by and between the City, Cardno Inc and OAI, a copy of which is attached hereto and made a part hereof as Exhibit A, is hereby approved in substantially the form presented to the City Council.

Section 3. That the Mayor is hereby authorized and directed to execute and deliver the Agreement and any and all documents necessary to implement the provisions, terms and conditions thereof.

Section 4. That the officials, officers, and employees of the City are hereby authorized to take such further actions as are necessary to carry out the intent and purpose of this Resolution and the Agreement.

Section 5. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any other provision of this Resolution.

Section 6. All ordinances, resolutions, motions or orders in conflict with this Resolution are hereby repealed to the extent of such conflict.

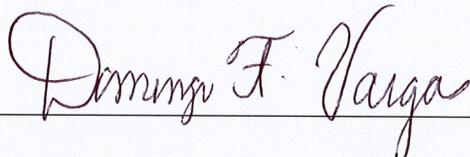
Section 7. This Resolution shall be in full force and effect upon its passage, approval and publication as provided by law.

[Left intentionally blank]

ADOPTED this 26th day of May, 2020, pursuant to roll call as follows:

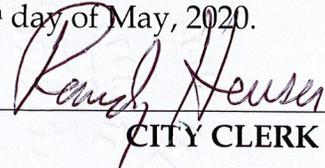
	YES	NO	ABSENT	PRESENT	ABSTAIN
Alderman JOHNSON	X				
Alderman ALEXANDER	X				
Alderman BILOTTO	X				
Alderman CAZARES	X				
Alderman RITA	X				
Alderman DONAHUE			X		
Alderman HAWLEY	X				
Alderman FAHRENWALD	X				
Alderman MECH	X				
Alderman HILL	X				
Alderman CANTELO-ZYLMAN	X				
Alderman CARR	X				
Alderman STEVO	X				
Alderman KLINKER	X				
Mayor DOMINGO F. VARGAS					
	13		1		

APPROVED: this 26th day of May, 2020.



**MAYOR OF THE CITY OF BLUE ISLAND,
COUNTY OF COOK AND STATE OF ILLINOIS**

ATTESTED and Filed in my office this
26th day of May, 2020.


CITY CLERK

ACCESS AND INDEMNIFICATION AGREEMENT

THIS ACCESS AND INDEMNIFICATION AGREEMENT (“the Agreement”) is made and entered into as of the 27th day of MAY, 2020 (“Effective Date”), by and between the Village of Midlothian, Illinois, the City of Blue Island, Illinois, and the City of Gary, Indiana (“Owners”), ecological services provider Cardno, Inc., (“Contractor”), and not-for-profit organization OAI (“Payer”) (collectively “the Parties”).

RECITALS

WHEREAS, Owner holds title to the property located at the locations listed on which there are green infrastructure features (“the Properties”):

- INSERT MUNICIPALITIES AND ADDRESSES ONCE FINALIZED

and

WHEREAS, maintenance of the green infrastructure is desirable to ensure stormwater functionality and aesthetic quality; and

WHEREAS Contractor will be performing green infrastructure and maintenance services (“the Services”) on the Property as described in **Exhibit A**; and

WHEREAS Payer will pay Contractor for the Services implemented on the Properties:

NOW THEREFORE, in consideration of the covenants and agreements contained herein, the Parties agree as follows:

1. Recitals. The recitals set forth above are hereby incorporated herein and shall be a part of this Agreement.

2. Rights of Access. The Contractor shall have limited access to the identified Properties in each community, upon reasonable notice to and verbal approval by Owner, as set out in Exhibit A. At times approved by Owner the Contractor shall have the right to enter upon the Property for any purpose related to surveying or inspecting the green infrastructure feature on the Property and carrying out routine maintenance activities as set out in Exhibit A. Owner will inform the Contractor and Payer of any permits that may be required or any municipal approvals that may be necessary related to the green infrastructure and maintenance services. Owner will inform the Contractor of any easements or underground utilities that could affect performance of maintenance services. The Contractor shall have the further right to make such inquiries of governmental agencies and utility companies, and to make such feasibility studies and analyses as it considers appropriate. Owner shall cooperate with the Contractor with respect to the Services, including but not limited to the execution of any documents reasonably necessary for such Services, provided that Owner shall bear no expense in connection therewith. Contractor’s right of access to perform

the Services is conditioned on the Contractor's agreement, as set forth herein, to indemnify and hold Owner harmless from and against any damage, claim, liability or cause of action arising from or caused by the actions of the Contractor or its agents, representatives, sub-contractors, successors or assigns.

3. Compliance with Laws and Due Care. The Contractor agrees to comply with all local, state, and federal laws, rules and ordinances applicable to the Services. The Contractor further agrees to exercise due care in the entry and the performance of all Services implemented on the Property, and not to interfere with or interrupt Owner or any other party's activities or operations on the Property or surrounding areas.

4. Termination. This Agreement will continue in effect until terminated by any of the parties upon thirty (30) days written notice to the other parties. The Contractor's indemnification obligation shall survive termination.

5. Indemnification. The Contractor agrees to indemnify and fully protect, defend, and hold the Owner, its officers, directors, employees, representatives, agents, attorneys, tenants, brokers, successors or assigns harmless from and against any and all claims, costs, liens, loss, damages, attorney's fees and expenses that may be sustained by or made against the Owner, its officers, directors, employees, representatives, agents, attorneys, tenants, brokers, successors or assigns, resulting from or arising out of Contractor's access to the Property and/or Services performed by the Contractor, or its agents, representatives, sub-contractors, successors or assigns.

6. Insurance.

A. The Contractor shall procure and maintain adequate insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Work and any other use of the Property by Contractor or its agents, representatives, sub-contractors, successors or assigns.

B. The Contractor represents that it will maintain during the term of Services and for 6 months afterward, at its sole expense, Worker's Compensation, Commercial General Liability, Automobile Liability, Professional Liability and Pollution insurance, with a minimum of \$1 million in umbrella coverage per incident. Insurance shall be placed with insurers licensed to do business in the State of Illinois and the State of Indiana. The Contractor's coverage shall state that its insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability

C. The Contractor may satisfy the foregoing requirements through combination of any primary and excess liability umbrella coverage the Contractor may maintain.

D. Notwithstanding any other provision in this Agreement, the Owner and Payer agree to strictly limit the Contractor's liability under this Agreement or arising from the performance or non-performance of the Services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, to the maximum limit of insurance as set out in section 6(B), above. No claim may be brought by the Owner and Payer against the Contractor in contract or tort more than two (2) years after the cause of action arose. Any claim, suit, demand or action brought under this Agreement shall be directed and/or asserted only against the Contractor and not against any of the Contractor's employees, shareholders, officers or directors. The Contractor's liability with respect to any claims arising out of this Agreement shall

be limited as provided herein to direct damages arising out of the performance of the Services and the Contractor shall not be held responsible or liable whatsoever for any consequential damages incurred by the actions or inactions

7. ***Health and Safety.*** The Contractor will plan and carry out the Services in a manner to avoid the risk of bodily harm and risk of damage to any property. The Contractor's field team members on the job shall not enter any confined spaces (reference 29 CFR 1910.146). Contractor shall furnish any necessary safety and health equipment and enforce the use of such equipment by its employees and any sub-contractors.

8. ***Site Conditions / Environmental Hazards.***

A. Hazardous substances shall be defined as any chemically derived or naturally occurring substance or waste material reasonably considered subject to any federal or state law regulating such substances or wastes as hazardous.

B. The Owner will disclose to the Contractor all known information regarding past uses, existing conditions, and proposed uses of the sites. Owner authorizes the Contractor to use information supplied, including incorporating the information by copying or direct reference into reports prepared by the Contractor.

C. Contractor will not perform services on the Property if there are known hazardous wastes or hazardous substances on the property or in the soil. Should hazardous wastes or hazardous substances be discovered in the performance of the Services, it is agreed that Contractor shall notify the Owner and Payer and stop work. The Owner and the Payer shall indemnify and hold harmless the Contractor from and against damages, liabilities, costs and expenses, including but not limited to reimbursement of reasonable attorney fees arising out of or resulting from the performance of the Services or claims against the Contractor arising from the work of others related to hazardous waste, except those damages, liabilities, costs and expenses caused by Contractor's willful misconduct or wanton negligence. This release and indemnification provision extends to claims against the Contractor which arise out of, are related to, or are based upon the disbursement, discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, or any other material, irritant, contaminant, or pollutant in or into the atmosphere, or on, onto, upon, in or into the surface or subsurface of (a) soil, (b) water or water courses, (c) objects, or (d) any tangible or intangible matter, whether sudden or not.

D. Contractor's discovery, excavation, handling, packaging, and storing of such wastes shall be as Owner and Payer's agent and the Contractor shall incur no liability whatsoever with respect to such wastes except where such liability arises out of its willful misconduct or wanton negligence. The Owner shall be solely responsible for selection of transporters and disposal or treatment sites. In the event Owner is unavailable or for any other reason fails to exercise its obligations under state and federal hazardous waste laws, the Contractor is hereby authorized to act as Owner's agent to the extent necessary to properly manage any hazardous wastes and hazardous substances encountered during performance of the Services in accordance with applicable laws and regulations or in compliance with the orders of any federal, state or local agency. All such work shall be billed to Owner on a time and expense basis.

E. The Owner agrees to comply with all requirements of federal, state, and local laws, regulations, and ordinances governing notifications of hazardous substance releases immediately upon notification by the Contractor that a release, threatened release, or other reportable event has

occurred and that notification is required. In the event that the Owner or the Owner's agent is unavailable to make such required report or otherwise fails to do so, the Owner hereby authorizes the Contractor to make reports on its behalf.

F. In the event of the discovery of hazardous substances of a nature or in a quantity not identified by the Owner to the Contractor or any other condition rendering performance of the Services unsafe, in violation of law, or reasonably believed to exceed the scope of work agreed to, the Contractor reserves the right to suspend work and notify the Owner and the Payer. The Owner and Payer agree to negotiate in good faith with the Contractor on revised terms for completion of original agreement or additional services. Notwithstanding the outcome of such negotiations and during such negotiations the Contractor shall perform services as it deems necessary to secure the site, place hazardous substances in a safe condition, and comply with applicable laws and regulations on behalf of the Owner and shall be compensated by the Payer as specified herein.

G. Payer shall be responsible for maintaining overall supervision of the Project beyond the immediate scope of Contractor's Services. Owner will make available to Contractor and Payer all known information regarding existing and proposed conditions of sites. Owner will immediately transmit to Contractor and Payer any new information which becomes available regarding the sites or any change in plans.

9. *Dispute Resolution.*

A. If requested in writing by any of the Parties, the Parties shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into a management/principal level meeting/s, in an effort to seek a mutually satisfactory resolution. Such a meeting shall occur within thirty (30) days from the first date of the written request for such meeting.

B. If a dispute cannot be settled informally between the Parties within a period of thirty (30) calendar days, the parties shall enter structured non-binding negotiations with the assistance of a mediator. The mediator shall be appointed by agreement of the Parties.

C. If the Parties are unable to reach an acceptable resolution of the dispute, controversy, or claim through the mediation process, the parties shall have any and all rights and remedies available to it under this Agreement and any and all rights and remedies at law or in equity.

10. *Attribution/Promotion.* The Contractor shall have the right to include photographic or artistic representations of the site after Services are performed to document conditions or for use in promotional or professional materials. However, the Contractor's promotional/professional materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Contractor in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit to the Contractor in any Owner's promotional materials showing the green infrastructure conditions on the Property following maintenance services.

11. *Authority to Execute.* The Payer and Contractor hereby warrant and represent to Owner that the persons executing this Agreement have been properly authorized to execute this Access and Indemnification Agreement.

12. *Notice.* All notices shall be sent to the identified contacts for the Parties as shown in Exhibit B.

In the event that a Party delivers a notice by fax or e-mail, such Party agrees to also mail a hard copy of the notice to the above addresses. The mailed hard copy of the notice shall not affect the delivery date of the notice by fax or e-mail, provided that the procedures set forth above are fully complied with. Any Party, by notice given as aforesaid, may change the address to which subsequent notices are to be sent to such Party.

13. Severability. If, for any reason, any term or provision of this Agreement shall be declared void and unenforceable by any court of law or equity, it shall only affect such particular term or provision of this Agreement and the remainder of the Agreement shall remain in full force and effect and shall be binding upon the Parties hereto.

14. No Third Party Beneficiaries. The covenants and agreements contained herein shall be binding upon and inure to the sole benefit of the Parties hereto and their successors and assigns. Nothing herein express or implied is intended to or shall confer upon any other person, entity, company or organization any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

15. Payment. The Payer is responsible for all payments to Contractor, which will be made according to Professional Services Agreement between the Payer and Contractor. In the event that the Owner wishes to modify the scope, the Payer and Contractor must agree in writing.

16. Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument and any signatures to counterparts may be delivered by fax or email and shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date above.

OWNER – City of Blue Island, IL

By: Randy Heuser

Printed Name: RANDY HEUSER

Title: CITY CLERK

OWNER – Village of Midlothian, IL

By: _____

Printed Name: _____

Title: _____

OWNER – CITY OF GARY, IN

By: _____

Printed Name: _____

Title: _____

PAYER

By: _____

Printed Name: _____

Title: _____

CONTRACTOR

By: _____

Printed Name: _____

Title: _____

EXHIBIT A

GREEN INFRASTRUCTURE MAINTENANCE SERVICES

Contractor will provide appropriate maintenance services for the green infrastructure located on the Property. Services will be determined and implemented based on an assessment of the green infrastructure at the time of the site visit, and may include:

- Removing trash
- String trimming
- Removing invasive plants
- Replacing plants
- Restoring mulch, replenishing soils
- Watering

Contractor will:

- Furnish all labor and field work for properly performing maintenance work.
- Furnish mulch and plants needed for the green infrastructure feature.
- Furnish necessary tools and proper equipment needed for effective maintenance of the green infrastructure.
- Record information on maintenance activities and the condition and performance of sites where services are provided.

Waste materials generated by the Contractor during performance of the work will be removed from the property by the Contractor and disposed of in accordance with applicable State and local requirements.

Contractor will conduct maintenance visits to the site 2-6 times over the 2020 field season.

Contractor will notify the Owner at least 1 day in advance of planned maintenance visits. Contractor will re-schedule the maintenance visit if the Village replies the planned date for the visit is not suitable.

EXHIBIT B

CONTACTS FOR NOTICES TO PARTIES

If to Owner:

Village of Midlothian

Karen Kreis
Trustee
Village of Midlothian
14801 S. Pulaski Rd.
Midlothian, IL 60445
kkreis@villageofmidlothian.org

City of Blue Island, IL

Mark Miller

City of Gary, IN

Brenda Scott Henry

If to Payer:

Mollie Dowling
Executive Director
OAI
180 N. Wabash, Suite 750
Chicago, IL 60601
mdowling@oaiinc.org

If to Contractor:

Mike Glester
Project Manager
Cardno
6605 W Steger Rd.
Monee, IL 60449
mike.glester@cardno.com