



McCormick Place | SMG  
Request for Proposal (“RFP”)  
Network Traffic Shaping Solution  
#S2018-10

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**McCORMICK PLACE | SMG  
PURCHASING DEPARTMENT**

**REQUEST FOR PROPOSAL (RFP)  
FOR  
NETWORK TRAFFIC SHAPING SOLUTION  
#S2018-10**

All documents relating to this procurement are available for download by clicking on "Doing Business" at McCormick Place's website at [www.mccormickplace.com](http://www.mccormickplace.com) under "Current Opportunities"

**KEY DATES:**

<b>RFP Posted:</b>	Thursday, August 8, 2018
<b>Requests for Interpretation:</b>	Friday, August 17, 2018 no later than 10:00 AM
<b>Proposal Due Date:</b>	Wednesday, August 29, 2018 no later than 12:00 PM

**Purchasing Contact:**

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## SECTION I. BACKGROUND INFORMATION, DEFINITIONS AND INTERPRETATIONS

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### 1.1 OBJECTIVE

McCormick Place | SMG is seeking proposals from qualified firms to provide a **Network Traffic Shaping Solution** for the McCormick Place Complex as outlined in Section II – General Requirements and Detailed Specifications.

### 1.2 BACKGROUND

The Metropolitan Pier and Exposition Authority (the “Authority”) has transferred the operations of the McCormick Place Convention Center to SMG, a private management company, doing business under the name of McCormick Place | SMG.

Chicago’s McCormick Place is North America’s premier convention facility. The McCormick Place Complex consists of nine million square feet in six buildings: North, South, Lakeside Center, West, the Energy Center, and the Corporate Center.

The McCormick Place convention facility includes four state-of-the-art exhibit halls, the South, West, North buildings and the Lakeside Center. The exhibit halls have a combined total of more than 2.6 million square feet of exhibit space, and over 600,000 square feet of meeting rooms, making McCormick Place the nation’s largest convention center. The Authority also has three parking lots that accommodate approximately 5,000 cars. McCormick Place hosts approximately 125 to 150 events and attracts more than four million trade and public show visitors annually.

The newest addition to the McCormick Place Complex is the Wintrust Arena. This 10,000 seat, multi-purpose facility serves as a general session hall for large business meetings and conventions as well as a venue for concerts, sporting events and other major special events. The new Arena will feature a first-class NCAA basketball court that will be the new home court for the DePaul University basketball teams.

In addition, an expansive series of pedestrian promenades and sky bridges link the entire campus. The Grand Concourse connecting South and North and the Central Concourse in West are also locations for retail shops, cafes, restaurants and other visitor amenities

The Authority owns the Hyatt Regency McCormick Place, a 1260-room hotel and adjacent parking garage which opened in 1998 and Conference Center which opened in August, 2001. The Conference Center offers 31,000 square feet of prime meeting space. The hotel and conference center are managed by Hyatt Corporation and are not part of the facilities covered by this RFP.

The Energy Center consists of three central utility plants that provide the primary or base-load heating and cooling capacity for most of the McCormick Place facilities; including the East Building, North Building, South Building, Hyatt Regency Hotel, Conference Center, Corporate Center, which houses the Authority’s administrative offices, as well as several external customers. The Energy Center also provides most of the heating and cooling for the West Building.

### 1.3 DEFINITIONS

The following terms in this Solicitation shall be defined as follows:

“**Agreement**” or “**Contract**” means the **Service Agreement** that is to be entered into between McCormick Place | SMG and the Selected Proposer(s) pursuant to this RFP.

“**Arena or Wintrust Arena**” means the new 10,000 seat, multi-purpose facility.

**“Authority”** or **“MPEA”** means the Metropolitan Pier and Exposition Authority.

**“Contractor”** means the individual or entity that enters into a Contract with McCormick Place | SMG to provide the Services.

**“Include”** in any of its forms means “include, without limitation.”

**“Laws”** shall mean City, State and Federal statutes, ordinances, codes, rules and regulations.

**“MBE”** means Minority Business Enterprise.

**“McCormick Place”** means the McCormick Place Complex®, the world class multi-purpose convention and meeting facility consisting of the Energy Center, Lakeside Center, North, South and West Buildings, the Arie Crown Theater®, and the Corporate Center. The term “McCormick Place” does *not* include the Hyatt Regency McCormick Place Hotel and/or the Marriott Hotel.

**“Proposal”** means all materials submitted in response to this RFP, including, without limitation, all exhibits, attachments, addenda, renderings and drawings.

**“Proposer(s)”** means the firm(s), individual(s), corporation(s), partnership(s) and joint venture(s) that submit Proposals pursuant to this RFP.

**“Responsive”** Responsiveness is determined by McCormick Place | SMG and relates to compliance with the provisions of the solicitation, including specifications, and contractual terms and conditions.

**“Responsible”** Responsibility is determined by McCormick Place | SMG and relates primarily to the ability of a Proposer to successfully carry out a proposed contract, and whether it has the character, reputation, and integrity to receive an award. Considerations bearing on a determination of responsibility can include experience, past performance, business and financial capabilities, skills, technical organization and reliability. Some of the mechanisms available to measure a Proposer’s responsibility are the utilization of reference checks, vendor performance on previous contracts and availability of financial credit information.

**“RFP”** means this Request for Proposals, including all exhibits and addenda.

**“Selected Proposer”** means the individual, partnership, corporation or joint venture that McCormick Place | SMG selects for award of the Agreement.

**“Services”** means all Work for which McCormick Place | SMG engages the Selected Proposer.

**“Trade Reference”** means a reference concerning the creditworthiness of the Proposer given by another business that extends credit to the Proposer, such as a supplier.

**“WBE”** means Women Business Enterprise.

## 1.4 INTERPRETATIONS

- A. Any headings in this RFP are for convenience of reference only and do not define, limit, control or affect the meaning of the RFP's provisions. In this RFP, unless the context otherwise requires, the terms "hereby," "herein," "hereof," "hereto," "hereunder" and any similar terms used in this RFP refer to this RFP. All section references, unless otherwise expressly indicated, are to sections of this RFP. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words indicating the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions of this RFP and such documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this RFP.
- B. Unless a contrary meaning is specifically noted elsewhere, the words "as required," "as directed," "as permitted" and similar words used in the RFP mean that requirements, directions of and permission of McCormick Place | SMG are intended; similarly, the words "approved," "acceptable," "satisfactory" or words of like import mean "approved by," "acceptable to" or "satisfactory to" McCormick Place | SMG. Words "necessary," "proper" or words of like import as used with respect to extent, conduct or character of Services specified shall mean that the Services must be conducted in a manner or be of character which is "necessary" or "proper" in the option of McCormick Place | SMG.
- C. Unless a contrary meaning is specifically noted elsewhere, the words "approved," "reasonable," "suitable," "acceptable," "properly," "satisfactory" or words of like effect and import used in the RFP mean reasonable, suitable, acceptable, proper or satisfactory in the judgment of McCormick Place | SMG.

## SECTION II. GENERAL REQUIREMENTS AND DETAILED SPECIFICATIONS

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### 2.1 SCOPE OF SERVICES

McCormick Place | SMG is seeking proposals from qualified firms to provide a Network Traffic Shaping Solution, on an as needed basis. We require a solution to shape network traffic for delivery to its various event- based customers. The solution will be placed in the event-facing infrastructure between the core switch and edge routers. This RFP includes both the hardware purchase and ongoing maintenance for the equipment which will be at the following locations:

- 1) 200 E Cermak Rd.  
Chicago, IL 60616
- 2) 2301 S. Martin Luther King Dr.  
Chicago, IL 60616

The specifications provided herein are intended to facilitate an understanding of SMG's needs and are to be considered minimum requirements. It is the Proposer's responsibility to propose a technically sound and operationally functional system and service. Requirements identified as mandatory must be met.

The proposed solution must be designed and installed to provide a highly reliable grade of service. All parts, materials, and service proposed must be currently available on the market and in continuing production (no discontinued manufacturers or parts, or future hardware/software components). Any components included in the response must be new unless specifically exempted in the RFP. In addition, the vendor must clearly demonstrate that they have installed all components of the system or the service as proposed and that those components or services are fully operational at all customer sites. Proposers must document conformance with the performance requirements of the RFP.

### 2.2 SPECIFICATIONS

A network traffic/packet shaping solution is required to accommodate an increase in bandwidth needs for McCormick Place event support. Currently, a pair of BlueCoat Packeteer 12,000 is in place supporting 2 Gbps total throughput. McCormick Place | SMG is seeking equipment that can handle 30 Gbps of throughput and additional features.

Additional information:

- All bandwidth will be shared via BGP
- We are looking to shape 30 Gbps of traffic.
- 100k concurrent connections will need to be supported
- Routing is already in place
- Firewall is already in place
- 3 ea. 10 Gbps circuits are in place from 3 different providers
- Circuits are configured as active/active/active
- A redundant solution is preferred with hardware at two separate locations, adjacent to each half of our Nexus 7K core. They should be able to fail over and be able to operate independently for short periods of time should connectivity between locations be unavailable.
- Proposed solution must be supportable for at least five (5) years
- If not included in the Proposal, Contractor must provide specifications and pricing for equipment that is required.

## 2.3 DETAILED SPECIFICATIONS

Mandatory features of any solution proposal:

- Bandwidth shaping capability
- High Availability & Clustering – Support for failover and redundancy at two separate sites within the same LAN.
- Must possess basic reporting features to include:
  - Traffic across time presented in a line chart
  - Customizable to include one or many configured circuits
- SNMP protocol hook
- The ability to shape different networks/subnets

**Preferred but optional features:**

- IP conflict awareness
- Ability to distinguish between multiple ISP
- Advanced reporting features to include:
  - Bandwidth allocation utilization percentage by individual circuit
  - Active (e-mail, SMS, etc.) alerting around utilization
  - Customizable dashboard for NOC environment
  - Integration with Cisco Prime to report on Wi-Fi information
  - Application usage reports
- The ability of customizing native reports.
- Reporting capability must be included in core product or as an included component if 3<sup>rd</sup> party or an additional module.
- Reports should show end-user device's operating system.
- Reports should show end-user device's software version.

## 2.4 VENDOR QUALIFICATIONS

Proposers responding to the RFP must have the following qualifications:

- Proposer and any subcontractors used must have experience in installing and maintaining the proposed system or service.
- Proposer and subcontractors used must have service and support capabilities and be able to respond for maintenance activities in a timely fashion. Proposers must include their Service Level Agreement (SLA) which must include service response times.
- Agents, distributors, and partners responding to this RFP must be authorized by the underlying manufacturer to sell and support the systems and/or services being proposed. Failure to provide proof of such authorization on request would be grounds for disqualification at SMG's discretion.
- Proposers must be able to meet the mandatory requirements and indicate in the affirmative that they comply with the requirement. Proposers must clearly indicate if they are able to provide desirable features. If they do, they must indicate how the feature is activated or implemented. Cost for the desirable feature must be provided separately, as outlined in Required Form F – Proposed Pricing and Fee Structure.

## 2.5 Proposed Solution Against the Requirements of the RFP.

Proposed solutions not meeting the mandatory requirements, outlined herein, will be eliminated from further consideration.

### III. RFP PROCESS AND SUBMISSION REQUIREMENTS

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#### 3.1 The RFP Submittal Process

Requirements and procedures for providing submittals in response to this RFP are described herein.

Proposer's written response, which details the technical experience of the Proposer are due no later than **12:00 PM (CST) on Wednesday, August 29, 2018**. McCormick Place is committed to initiatives designed to conserve energy, protect vital resources and promote ecologically-efficient policies and procedures. In an effort to achieve this goal, McCormick Place | SMG will not request multiple hard copies of Proposals. Interested parties must submit **One (1) COMPLETE ORIGINAL hard copy and one electronic copy** of the RFP submittal that includes all information in the format outlined in this RFP (Section 3.2). The electronic copy must be saved as a searchable PDF document on a USB drive.

Original copy submittals and supporting documentation must be labeled "Proposal for McCormick Place | SMG Network Traffic Shaping Solution #S2018-10" and submitted to:

McCormick Place | SMG  
Attention: Hilary Barker, Purchasing Manager  
301 East Cermak Road  
Chicago, Illinois 60616

McCormick Place | SMG will accept pre-submittal questions, in writing via e-mail to Hilary Barker, Purchasing Manager: [hbarker@mccormickplace.com](mailto:hbarker@mccormickplace.com) until **10:00 AM (CST) on Friday, August 17, 2018**. A summary of questions received and answers will be issued as an addendum to all potential Proposers.

If it becomes necessary to revise or amend any part of this RFP, McCormick Place | SMG will publish a revision by written addendum and notify all prospective Proposers (via e-mail) who have registered as document holders to [hbarker@mccormickplace.com](mailto:hbarker@mccormickplace.com). It will be the responsibility of the Proposer to obtain all such addenda and to acknowledge receipt of any addenda that have been issued by visiting the McCormick Place website at [www.mccormickplace.com](http://www.mccormickplace.com) under the 'Doing Business' link. If none are issued, indicate "NONE" on Required Form A - Form of Transmittal Letter.

Proposers are to contact only the McCormick Place | SMG Purchasing Manager, Hilary Barker, via e-mail at [hbarker@mccormickplace.com](mailto:hbarker@mccormickplace.com), concerning this RFP and should not rely on verbal representations, statements, or explanations other than those made in this RFP or in any written addendum to this RFP.

The responsibility for submitting a response to this RFP on or before the stated time and date will be solely and strictly that of the Proposer. McCormick Place | SMG will in no way be responsible for delays caused by the U.S. Post Office or caused by any other entity or by any occurrence. *Proposals received after the proposal due date will be non-responsive and ineligible for consideration.*

### 3.2 RFP Submittal Requirements and Contents

Interested Proposers are to provide a thorough submittal using the guidelines presented herein. Proposers must provide detailed descriptions indicating that they comply with the mandatory minimum features, as detailed in Section 2 herein.

Submittals should be straightforward and concise in providing evidence of the Proposer's ability to meet the requirements of the RFP. Emphasis should be on conforming to the RFP instructions, responsiveness to the RFP requirements, and the completeness and clarity of content. The following provides an outline of the information to be included in the submittal.

#### Proposal Contents

In its Proposal the Proposer must provide information about the following:

- a) **Experience & Qualifications:** A brief description of at least three (3) relevant agreements for which your firm currently provides services similar in scope and complexity to McCormick Place | SMG's requirements as outlined herein. Provide the following information for each facility, for reference purposes: The Owner Name, Address, Phone, E-Mail and contact number; a detailed description of products provided and services performed.
- b) **Equipment:** Provide a detailed description including, but not limited to, the capabilities as outlined below, of all equipment that will be furnished:
  1. Description of licensing and user options
  2. Maximum concurrent connections supported
  3. Architecture (i.e. clustered / HA / etc.)
  4. Type of Service (i.e. Cloud / VM / Appliance / etc.)
  5. High Availability or Clustering Method
  6. Maximum shaping capability (20 Gbps minimum)
  7. Multiple WAN / ISP per box supported
  8. Total bandwidth capability per appliance / server
  9. SNMP Protocol supported (yes or no; describe)
  10. NetFlow Protocol supported (yes or no; describe)
  11. DHCP & NAT capability (yes or no; describe)
  12. Can direct traffic to specific ISP (yes or no; describe)
  13. Can aggregate traffic (yes or no; describe)
  14. IP Conflict awareness (yes or no; describe)
  15. Interface type (yes or no; describe)
  16. Capable of basic reporting requirement (yes or no; describe)
  17. Types of reports offered/supported
  18. What is the Service Level Agreement (SLA), as listed in 2.4
  19. Does solution do reports on its own (yes or no; describe)
  20. Describe reporting options that involve additional purchase, if applicable
    - i. Additional reporting NRC
    - ii. Additional reporting MRC
  21. Describe additional hardware purchase requirements, if applicable
    - i. Describe additional hardware specifications required
    - ii. If sourced from the same vendor, additional hardware NRC
    - iii. If sourced from the same vendor, additional hardware MRC

- c) **Proposed Work Plan:** Provide a detailed Work Plan for implementation, including a project timeline.
- d) **Description of Subcontractors:** Identify any portion of the Scope of Services that will be subcontracted. Include firm qualifications and key personnel, telephone number, e-mail and contact person for all subcontractors. Provide a list of three (3) relevant projects for which each subcontractor has performed services relevant to this contract including: a) project name and location, b) a brief description of the work performed by the sub-contracting firm, and c) contact information for the project client including name, phone number and e-mail address.
- e) **Financial Information:** Financial statements, such as balance sheets and/or profit and loss statements, for the last three (3) years demonstrating that the Proposer has the financial viability and ability to perform the services. The Proposer must also provide written disclosure advising of any pending litigation against the Proposer that may have a material effect upon the Proposer's ability to provide the services.
- f) **Required Forms:** In addition to the information required above, Proposals must contain the following completed items, included as attachments to this RFP:
  - 1. **Required Form A – Form of Transmittal Letter**
  - 2. **Required Form B – Statement of Business Organization**
  - 3. **Required Form C – Statement of Qualifications**
  - 4. **Required Form D – Insurance Requirements**
  - 5. **Required Form E – Notification of Exceptions**
  - 6. **Required Form F – Proposed Pricing**

## IV. RFP EVALUATION CRITERIA

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### 4.1 Evaluation Process

McCormick Place | SMG intends to conduct a comprehensive and impartial evaluation of proposals received in response to this RFP. McCormick Place | SMG will use an Evaluation Committee to review and evaluate the proposals. At the conclusion of the evaluation process, the Evaluation Committee shall recommend the award be made to the Proposer whose proposal is determined to be the most advantageous to McCormick Place | SMG based on the proposal and the outcome of the negotiation process.

### 4.2 Evaluation Criteria

In evaluating the Proposals, McCormick Place | SMG will consider the administrative compliance, Proposer Responsibility and Responsiveness, as well as the following criteria:

- b.) **Experience and Qualifications:** Experience, qualifications, performance on past service agreements of the same quality, complexity and size. Whether the Proposer has demonstrated previous experience of similar scope as described in the RFP.
- c.) **Proposed Work Plan:** A Work Plan that describes the Proposers understanding of the Scope of Services, the Proposers approach and detailed action plan to accomplish the requirements defined in the Scope of Services as outlined in Section 2.
- d.) **Equipment:** The capabilities of the proposed equipment that will be furnished.
- e.) **Subcontractor Experience and Qualifications (if applicable):** Proposed Subcontractors experience, qualifications and performance on past service agreements of the same quality, complexity and size.
- f.) **Financial Capability:** Whether the Proposer has provided sufficient evidence of their company's financial abilities to perform the work.
- g.) **Proposed Pricing and Fee Structure:** The reasonableness of the proposed pricing to perform the Services.

## V. CONDITIONS, DISCLAIMERS AND DISCLOSURES

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This RFP does not represent a commitment or offer by McCormick Place | SMG to enter into an agreement with a Proposer or to pay any costs incurred in the preparation of a response to this RFP. McCormick Place | SMG also reserves the right to seek new submittals when such a request is in the best interest of McCormick Place | SMG and to reasonably request additional information or clarification of information provided in the response without changing the terms of the RFP. The Proposer assumes the responsibility for all costs incurred in responding to this RFP. It is understood and agreed that McCormick Place | SMG assumes no liability for the Proposer's costs incurred in responding to this RFP. The RFP and the Selected Proposer's response to the RFP will, by reference, become a part of the final Agreement between the selected Proposer and McCormick Place | SMG resulting from this solicitation process.

By submitting a Proposal, Proposer agrees to accept and abide by the terms of this RFP. McCormick Place | SMG reserves the right to reject any or all submittals, to waive any informality or irregularity, and to accept any submittals which it may deem to be in the best interest of McCormick Place | SMG. Only submittals from those complying with the provisions of this RFP will be considered. The submittals can be withdrawn at any time, if requested in writing, until the deadline date at which time it will be considered final.

### 5.1 General Agreements

The Successful Proposer agrees that he has had an opportunity to examine the site and that he has carefully prepared his Proposal upon the basis thereof, and that he has carefully examined and checked this Proposal and the materials, equipment, and labor required there under, and cost thereof, and his figures therefore, and hereby states that the amount or amounts set forth in this Proposal is, or are, correct and that no mistake or error has occurred in this proposal or in the Proposer's computations upon which this Proposal is based. Submission of this Proposal indicates the awareness and full acceptance of existing conditions by the Proposer.

### 5.2 Signing Forms

Proposal forms must be properly completed and the Form of Transmittal Letter (See REQUIRED FORM A) must be in the required form and signed by persons with the authority to bind the Proposer(s). Special requirements apply depending on the nature of the Proposer's organization. The Proposal and Form of Transmittal Letter shall be signed as follows:

- If the Proposer is a corporation or limited liability company, the Proposal and Form of Transmittal Letter shall be signed in the name and under the seal of the corporation by a duly authorized officer of the corporation or manager of the company, with the designation of his/her official capacity, and attested properly. The Response and Form of Transmittal Letter shall show the state in which the corporation is chartered. If it is a foreign corporation, the Response shall show whether or not the Proposer is licensed to transact business in the State of Illinois.
- If the Proposer is a firm or partnership, the Proposal and Form of Transmittal Letter shall be signed in the name or style under which the organization is doing business and by the partner, proper officer, or officers whose official capacity shall be designated. The name and address of each member of the organization shall be shown on the Proposal and Form of Transmittal Letter.
- If the Proposer is an individual, he/she shall sign the Proposal and Form of Transmittal Letter in person or by representative, stating the name or style, if any, under which he/she is doing business. If the signing is by representative, the representative's Power of Attorney or other authorization shall be stated and shall be proven if requested.

- If the Proposer is a joint venture, the Proposal and Form of Transmittal Letter shall be signed by each of the persons or firms that are a party to the joint venture agreement. A certified copy of the joint venture agreement shall be attached to the Proposal and Form of Transmittal Letter. A joint venture will not be accepted unless the joint venture agreement or some other signed and legally binding instrument is certified and attached to the Proposal Form sheet and Form of Transmittal Letter and contains provisions for one of the parties to the joint venture to be in full direction of the services and to exercise this direction through a single individual to be appointed manager of operations with the consent of all parties to the joint venture agreement.
- In every case, the Proposal and Form of Transmittal Letter shall show the present business address of the Proposer at which address communications shall be received and service of notices accepted.
- Where the Proposal and Form of Transmittal Letter are signed by an agent of the Proposer, evidence of the agent's authority to sign must accompany the Proposal. If the Proposer is a corporation, such evidence shall be a certified copy of that section of corporate bylaws or other authorization such as a Resolution by the Board of Directors, which permits the person to sign the offer on behalf of the corporation. The name of each person signing the Proposal shall be typed or printed below his/her signature.

### **5.3 Ownership of Proposals**

The timely submittals and any information made a part of the Proposals will not be returned to the sender. McCormick Place | SMG reserves the right to retain all submittals and to retain any ideas in a submittal regardless of whether a Proposer is selected. Submittal of a response to this RFP indicates acceptance by the Proposer of the conditions contained within the RFP document.

### **5.4 Improper Practices**

The Proposer shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the McCormick Place | SMG, McCormick Place | SMG's appointed evaluation committee, the City of Chicago, CCTB, State of Illinois, or any other organization that may have a clear interest in the outcome of the selection process, for the purposes of influencing the outcome of the RFP response selection process.

The Proposer shall not collude in any manner or engage in any practices with any other Proposer(s), which may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause the Proposer(s) submittal(s) to be rejected by McCormick Place | SMG. The prohibition is not intended to preclude joint ventures or subcontracts.

### **5.5 Interpretation**

Should any question arise as to the proper interpretation of the terms and conditions contained in this RFP, McCormick Place | SMG's decision shall be final.

### **5.6 Multiple Awards**

It is the intent of McCormick Place | SMG to award to one Proposer. However, McCormick Place | SMG reserves the right to award the Contract to one or more Proposers as it deems to be in its best interest.

### **5.7 Contract Terms**

This Contract will be for a period of one year with four (4) one (1) year renewal options. McCormick Place | SMG has the right to terminate any Contract upon 30 day's written notice to the Provider.

**5.8 No Criminal/ Civil Liability and Not In Arrears Certification**

Submission of a proposal shall include a representation that neither the Proposer, nor any of its joint venture participants, partners, members, affiliates, subsidiaries, officers, directors, managerial employees, or any individual who, directly or indirectly, holds an ownership interest in the Proposer's organization has been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with a governmental entity in the State of Illinois, or has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the entity's or individual's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes or similar laws.

**5.9 Vendor Ethics**

McCormick Place | SMG is prohibited by law from contracting with certain persons and entities. Accordingly, ownership interests must be disclosed. Proposers must also comply with the prohibitions on political contributions that are set forth in the MPEA Act, as amended. Proposers must complete the Required Forms provided.

**5.10 Insurance Requirements**

At all times during the term of the Agreement and during the time period following final completion if the Proposer is required to return and perform any additional work, Proposer is required to maintain the minimum insurance coverage and requirements specified in Required Form D, insuring all operations related to the Agreement. McCormick Place | SMG reserves the right to modify insurance requirements based on the nature of the services rendered or the projects required under the Agreement.

**5.11 Taxes**

The Successful Proposer is responsible for all existing and future applicable federal, state, and local taxes, whether direct or indirect, incurred in connection with the Management Contract. SMG, as acting agent for the Authority, is exempt by law from Illinois Retailers Occupation Tax, Use Tax, Service Occupation Tax, Service Use Tax, and Municipal and Regional Transportation Authority Retailers Occupation Tax on materials or services purchased in connection with the Services.

**5.12 Rejection of Proposals**

Proposals that do not comply with the submittal requirements of the RFP, or that contain omissions, erasures, alterations or additions not called for, or that are irregular in any way, may be rejected as informal and insufficient. McCormick Place | SMG, however, reserves the right to waive any or all informalities when it considers a waiver to be in its and the public's best interest.

In addition to all other basis for rejection, any Proposer found to have falsified any information to McCormick Place | SMG in relation to this or any other procurement, or which has been barred from doing business with the Authority, the City of Chicago or State of Illinois, or which has been convicted of a felony related to procurement contracting with any unit of government, may be rejected.

**5.13 Protests**

Any and all protests or challenges with respect to the selection of the successful Proposer and this RFP, any of the procedures or requirements stated herein, or any other terms and conditions related to the transactions stated or contemplated herein must be asserted in writing to:

McCormick Place | SMG  
Attn: Hilary Barker, Purchasing Manager  
301 E. Cermak Rd.  
Chicago, IL 60616  
[hbarker@mccormickplace.com](mailto:hbarker@mccormickplace.com)

All protests or challenges concerning the process, ambiguities or defects of the RFP must be submitted within five (5) calendar days after publication of the RFP. All protests or challenges concerning the selection of the Successful Proposer must be asserted within five (5) calendar days after the notification of award of the Successful Proposer. Failure to file any action, protest or challenges within the time frames set forth above shall constitute a full and absolute waiver to take action against, protest or challenge the RFP process or selection of the Successful Proposer.

**5.14 Freedom of Information Act**

This RFP and any subsequent agreement are subject to disclosure pursuant to the Illinois Freedom of Information Act, 5 ILCS 140 (FOIA) and other applicable laws and rules. The Proposal may be made available for public inspection and copying and if the Proposer believes certain information is exempt from public disclosure under FOIA, the Proposer must clearly mark those portions of its Proposal as being “Confidential” and request confidential treatment. The Proposer must show the specific grounds under FOIA or other law or rule that support exempt treatment. McCormick Place | SMG is not obligated to honor requests for confidential treatment, even if the information is exempt from public disclosure. The Proposer will be responsible for any costs or damages associated with McCormick Place | SMG’s defending the Proposer’s request for exempt treatment.

**5.15 Confidentiality**

Except with the McCormick Place | SMG's approval, the Proposer shall not directly or indirectly disclose, divulge or communicate to any person, firm or corporation, other than McCormick Place | SMG or its designated representatives, or as required by law, any non-public information which it may have obtained during the RFP process concerning any matter relating to the work or regular business of McCormick Place | SMG.

**5.16 Prevailing Wage Act**

Wages of laborers, mechanics and other workers employed under this Agreement shall be subject to the provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/1 et. seq.

**5.17 Invoicing**

Successful Proposer must address all invoices to the following:

McCormick Place | SMG  
Accounts Payable Department  
301 East Cermak Road  
Chicago, Illinois 60616

All electronic invoices must be submitted via e-mail to: [financedept@mccormickplace.com](mailto:financedept@mccormickplace.com).

REQUIRED FORM A – FORM OF TRANSMITTAL LETTER

[Insert Date]

McCormick Place | SMG
301 East Cermak Road
Chicago, Illinois 60616
Re: Network Traffic Shaping Solution #S2018-10

Mrs. Hilary Barker, Purchasing Manager:

On behalf of \_\_\_\_\_ (Full legal name of Proposer), I submit with this letter its response to McCormick Place | SMG’s Request for Proposals (“RFP”) for NETWORK TRAFFIC SHAPING SOLUTION. In this connection, I state the following:

- 1. I have full authority to bind Proposer with respect to this response to the Request for Proposals and any oral or written presentations and representations made to McCormick Place | SMG.
2. I have read and understand the Request for Proposals (RFP) and am fully capable and qualified to provide the goods and/or services as described within this Request for Proposals (RFP).
3. I have read and understand the Request for Proposals, including any addenda \_\_\_\_\_. (insert # of addenda issued)
4. I understand that McCormick Place | SMG will rely on my firms’ response to the Request for Proposals and I agree to be bound by its representations and statements made in its response and in any oral or written presentation(s) made during the evaluation and selection process.
5. I agree to hold my Proposal open for a period of 90 days from the date and time established for notification of award, and, if requested by McCormick Place | SMG, for an additional 30 days thereafter.
6. If requested by McCormick Place | SMG, Proposer agrees to furnish additional information or documentation or to make one or more oral presentations or demonstrations to assist McCormick Place | SMG in evaluating its Proposal.
7. Neither I nor Proposer has any beneficial interest in or relationship with any other party working or performing services for or otherwise affiliated with McCormick Place | SMG and no conflict of interest which could interfere with the provision of services to McCormick Place | SMG.
8. Proposer understands that McCormick Place | SMG will rely upon the material representations set forth in the Request for Proposals and that Proposer has a continuing obligation to update any information which changes or which Proposer learns to be incorrect.
9. It is understood that an original and multiple copies of the Request for Proposals have been submitted for consideration. Proposer warrants that all electronic copies are identical to the original in all respects.
10. If selected by McCormick Place | SMG, Proposer agrees to negotiate and enter into an Agreement for NETWORK TRAFFIC SHAPING SOLUTION with McCormick Place | SMG.
11. I declare that all Required Forms A through F have been examined by me and to the best of my knowledge and belief are true, correct, and complete.

Signed: \_\_\_\_\_

(Typed name of signatory)

as: \_\_\_\_\_

(Relationship to Proposer/Title/etc.)

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

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

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Notary Public Signature

(Notary Seal)

REQUIRED FORM B – STATEMENT OF BUSINESS ORGANIZATION

**PROJECT DESCRIPTION:** Network Traffic Shaping Solution

**PROJECT NUMBER:** #S2018-10

**CONTRACTOR:**

**Note:** Each Proposer is obligated to notify McCormick Place | SMG of any changes in its ownership or in its officers and directors at the time such changes occur if the change occurs during bid evaluation or during the Contract term.

**INDIVIDUAL**

If the Proposal is submitted by an <b>individual</b> , complete the information listed below:			
Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN:	
Is the <b>individual</b> authorized to do business in Illinois? [ ] YES [ ] NO			

**PARTNERSHIP**

If the Proposal is submitted by a <b>partnership</b> , complete the information listed below:			
Firm Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN:	
Is the <b>partnership</b> authorized to do business in Illinois?			

List each individual or business entity having a beneficial interest directly or indirectly, of more than seven and one half (7½%) in the business organization.

Holding Firms: Where owners are themselves a corporation, LLC, partnership or other business entity, list the business entity’s name and each individual or business entity having a beneficial interest directly or indirectly, of more than seven and one half percent (7½%) in such “holding firm”. (Use a separate page if necessary).

Affiliated Entities: List each individual or business entity having a beneficial interest directly or indirectly of more than seven and one half percent (7½%) in any affiliated entities. (Use a separate page if necessary).

Name	Percentage Ownership

List the names of all managing partners:
--

**CORPORATION OR LIMITED LIABILITY COMPANY**

If the Proposal is submitted by a <b>corporation</b> or <b>limited liability company (LLC)</b> , complete the information listed below:			
Corporate or Company Name:			
Date of Incorporation:		State of Incorporation:	
Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN	
If incorporated in another State, are you authorized to do business in the State of Illinois?			

List each individual or business entity having a beneficial interest directly or indirectly, of more than seven and one half (7½%) in the business organization. (Holding Firms and Affiliated Entities to complete as instructed above).

Name	Percentage Ownership

List the names of all officers and directors/managers:
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REQUIRED FORM B – STATEMENT OF BUSINESS ORGANIZATION

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**PROJECT DESCRIPTION:** Network Traffic Shaping Solution

**PROJECT NUMBER:** #S2018-10

**CONTRACTOR:** \_\_\_\_\_

**MINORITY AND WOMEN BUSINESS ENTERPRISE PROFILE**

**Is Proposer a certified minority or woman owned business enterprise?**

YES

NO

NOTE: If Respondent is certified as a MBE or WBE, please attach copy(s) of all current certifications.

**Identify Proposer's M/WBE status:**

Minority-Owned Business Enterprise (MBE)

Women-Owned Business Enterprise (WBE)

**Certified by:**

Women's Business Development Center (WBDC)

Chicago Minority Supplier Development Council (CMSDC)

City of Chicago

Cook County

State of Illinois

Other: \_\_\_\_\_

**If Proposer's certification is pending, check this box .**

Identify Agency certification is pending with: \_\_\_\_\_

Please attach a copy of the letter from the Agency verifying that certification is pending.

REQUIRED FORM C – STATEMENT OF QUALIFICATIONS

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**PROJECT DESCRIPTION:** Network Traffic Shaping Solution  
**PROJECT NUMBER:** #S2018-10  
**CONTRACTOR:** \_\_\_\_\_

Proposer **must** furnish all of the following information relative to its ability, experience, and financial resources available for the fulfillment of the Contract.

1. The number of consecutive years that Proposer has been engaged in the business under the present firm name.

Number of consecutive years at this location: \_\_\_\_\_.

Date when business was organized \_\_\_\_\_.

2. List all pertinent organizations and associations of which Proposer is currently a member:

\_\_\_\_\_  
\_\_\_\_\_

3. Provide the overall ratio of managers to personnel. \_\_\_\_\_

4. List below two (2) references:

A. Company Name \_\_\_\_\_

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

Length of Relationship \_\_\_\_\_

B. Company Name \_\_\_\_\_

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

Length of Relationship \_\_\_\_\_

5. List below one (1) bank reference:

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

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

Length of Relationship \_\_\_\_\_

6. Identify all union contracts to which you are a signatory.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Has Proposer ever refused to sign a contract? Y \_\_\_ N \_\_\_ At the original price? Y \_\_\_ N \_\_\_

If yes to either question, provide details. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8. Has Proposer ever been terminated for cause? \_\_\_\_\_ If yes, provide details. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

9. Has Proposer ever defaulted on a contract? \_\_\_\_\_ If yes, provide details. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

10. Has Proposer or any related or affiliated entity ever been adjudged bankrupt, been subject to a receivership or an order of reorganization, or other similar action involving the rights of creditors against vendors? If yes, provide details.

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11. Is Proposer or any related or affiliated entity at this time subject to any court order relating to bankruptcy, receivership, liquidation, reorganization, or similar relief? If yes, provide details.

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12. Detail any criminal or civil investigation or pertinent litigation pending or that has concluded within the last three (3) years against Proposer's organization or individuals within the organization.

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13. Has Proposer ever forfeited a performance bond? \_\_\_\_\_ If yes, provide details. \_\_\_\_\_

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14. Identify below the Proposer's contact person for purposes of responding to any questions McCormick Place | SMG may have:

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

Title \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

## REQUIRED FORM D – INSURANCE REQUIREMENTS

***Proposer must provide evidence of the ability to provide insurance coverage as specified in this RFP.***

1. The Selected Contractor must procure and maintain, at its own expense, until final completion of the Services covered by this Contract and during the time period following final completion if required to return and perform additional Services, for any reason whatsoever, the types of insurance specified below, in amounts specified by McCormick Place | SMG 's Risk Manager. The Selected Contractor must provide McCormick Place | SMG with certificates of insurance evidencing such coverage prior to receiving the contract:

**a. Commercial General Liability**

Coverage	Limit
General Aggregate	\$ 2,000,000.00
Products Liability/Completed	
Oper. Aggregate	\$ 2,000,000.00
Per Occurrence	\$ 1,000,000.00
Personal & Advertising Injury	\$ 1,000,000.00
Contractual Liability	\$1,000,000.00
Premises-Operations	\$1,000,000.00

If Commercial General Liability or other form with a general aggregate limit is used, the general aggregate limit shall be twice the required occurrence limit.

**b. Workers' Compensation and Employer's Liability**

Coverage	Limit
Workers' Compensation	Statutory
Employer's Liability	
Each Accident	\$ 1,000,000.00
Per Employee - Disease	\$ 1,000,000.00
Annual Aggregate – Disease	\$ 1,000,000.00

**c. Automobile Liability**

Coverage	Limit
Bodily Injury and Property Damage	
Combined Single Limit – Each Accident	\$ 1,000,000.00
Uninsured/Underinsured Motorist - Occurrence	\$ 1,000,000.00

This Policy must provide coverage for all owned, non-owned, and hired autos used in connection with the work to be performed.

**d. Umbrella Coverage** \$ 5,000,000.00

Coverage must be in excess of Commercial General Liability, Auto Liability and Employers Liability. It must be no more restrictive than the primary coverage listed.

**e. Professional Liability** \$ 5,000,000.00  
Errors & Omissions per claim and aggregate

2. All insurance companies must be rated A-VIII or better by the A. M. Best Company.
3. Contractor's assumption of liability is independent from, and not limited in any manner by, the Contractor's insurance coverage obtained pursuant to this Contract, or otherwise. All amounts owed by Contractor to McCormick Place | SMG as a result of the liability provisions of the Contract shall be paid on demand.
4. Contractor insurance shall be primary and non-contributory with any insurance or program of self-insurance that may be maintained by McCormick Place/SMG.
5. Policies should be written on an occurrence basis with the exception of professional liability coverage.
6. All coverages must contain a Waiver of Subrogation in favor of McCormick Place | SMG.
7. The Metropolitan Pier and Exposition Authority, its trustee, facilities, agents, officers, board members and employees, and SMG are named as an additional insured. Additional insured endorsement form ISO form CG 20 11 or CG 20 26 or its substantial equivalent must accompany the Certificate of Insurance.
8. Contractor shall require any Subcontractors performing services for the selected contractor to maintain coverage terms and limits sufficient to insure its operations and services provided to the contractor and McCormick place under this Agreement.
9. If policies are canceled or non-renewed for any reason the Contractor or Subcontractor must provide McCormick Place with at least thirty (30) days prior written notice of such cancellation or non-renewal. Notice shall be sent to the Risk Management Department via certified mail to:

McCormick Place | SMG  
301 East Cermak Road  
Chicago, Illinois 60616

REQUIRED FORM E – NOTIFICATION OF EXCEPTIONS

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**PROJECT DESCRIPTION:** Network Traffic Shaping Solution  
**PROJECT NUMBER:** #S2018-10  
**CONTRACTOR:** \_\_\_\_\_

The Undersigned understands and agrees that:

**PLEASE CHECK ONLY ONE**

Proposer acknowledges that there are **NO EXCEPTIONS** to the Form of Agreement, Exhibit I, or any other requirements stated in this procurement S2018-10.

Signed: \_\_\_\_\_

\_\_\_\_\_  
(Typed name of signatory)

As: \_\_\_\_\_  
(Relationship to Bidder/Title/etc.)

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

Proposer acknowledges that **THERE ARE EXCEPTIONS** to the Form of Agreement, Exhibit I, including conflicts of interest, or any other requirements stated in this procurement S2018-10 and has attached them to this Required Form E Notification of Exceptions.

Signed: \_\_\_\_\_

\_\_\_\_\_  
(Typed name of signatory)

As: \_\_\_\_\_  
(Relationship to Bidder/Title/etc.)

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

REQUIRED FORM F – PROPOSED PRICING

**PROJECT DESCRIPTION:** Network Traffic Shaping Solution  
**PROJECT NUMBER:** #S2018-10  
**CONTRACTOR:** \_\_\_\_\_

Proposers must provide pricing for Services as described in Section 2 – Scope of Services and Detailed Specifications. The pricing *must* be inclusive of all labor, materials, equipment, supervision and any other costs and services necessary to perform all services as detailed in the Specifications. All operating expenses associated with the services, including without limitation, wages, prevailing wages, payroll taxes, benefits, materials, equipment, tools, parts, supplies, must be included in the offer. McCormick Place | SMG will not reimburse out of pocket expenses such as travel and parking fees incurred while performing services.

Item	Description	Initial cost (NRC)	Recurring Charges (MRC)	Annual Subscription / Maintenance Fee
Appliance	Complete only if offering is hardware and software as a single-purchase appliance			
Software	Complete only if offering is software installed on hardware that can be obtained through other channels as well			
Hardware				
Report Add-On	Complete only if reporting requirements are only met with a 3rd party offering			
Services	Complete only if necessary configuration services are not included in any of the above items			
Support and Maintenance				
Other features/functions	Proposers must provide an attached itemized list and pricing for any additional proposed features and functions that are not included in the pricing elements above.			

Proposers must complete each blank field on this Required Form F – Proposed Pricing and Fee Structure. If pricing for the line item description is not applicable, Proposer must indicate so within the pricing field with “N/A”.

[INSERT CONTRACTOR NAME]  
[INSERT CONTRACT DESCRIPTION]  
[INSERT CONTRACT NUMBER]

**THIS AGREEMENT** (together with the Exhibits attached hereto, the “Agreement”) is dated as of the [*insert day*] day of [*insert month*], [*insert year*] (“Effective Date”) by and between SMG, a Pennsylvania general partnership, with an address at 301 East Cermak Road, Chicago, Illinois 60616 (“SMG”), and [*insert Contractor*], a(n) [State and Type of Entity] whose current address is [*insert address of Contractor*] (the “Contractor”).

### **BACKGROUND**

The Metropolitan Pier and Exposition Authority, a unit of local government, political subdivision, body politic and municipal corporation organized and existing under Illinois law (“Owner”) owns the McCormick Place® Complex (the “Facility”) located at 2301 South Lake Shore Drive, Chicago, IL 60616. Owner has retained SMG to act as Owner’s agent for the operation of the Facility. Contractor is prepared to provide the Services for SMG as more particularly described herein, in accordance with the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises, covenants, and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

- 1. Contract Documents.** The Contract shall be deemed to include this document and the following exhibits and attachments, all of which are incorporated into and made a part of this Contract as the Contract Document. In the event of a conflict between this document and any Exhibit, the provisions of this document shall control. The Exhibits are as follows:

Exhibit 1 – Scope of Services

Exhibit 2 – Pricing

Exhibit 3 – Insurance Requirements

Exhibit 4 – Request for Proposals (RFP) document

Exhibit 5 – Special Conditions Regarding Minority and Women Business Enterprises (NOT APPLICABLE)

- 2. Term.** This Contract begins on the Effective Date and shall remain in effect, unless earlier terminated pursuant to Section 18 hereof, until [*insert contract expiration date*]. SMG shall have the option to extend any expiration date for a period of [*insert renewal term*] by giving no less than thirty (30) days prior written notice to Contractor. In each such event, the terms of this Agreement during the then current term shall be the terms for the renewal term, unless SMG and Contractor otherwise mutually agree in writing.

- 3. Scope of Contract.**

- (a) Description of Services.** Contractor shall perform the Services as described in Exhibit 1 attached hereto (collectively, the “Services”). All orders for Services will be initiated by SMG and submitted to Contractor via a purchase order (the “Purchase Order”) setting forth the description of services and delivery terms of such Services. All terms and conditions contained in this Agreement shall be deemed incorporated into and made a part of each Purchase Order.

- (b) **Materials.** The Contractor shall at all times during this Contract, have all necessary materials in sufficient amounts and capabilities and properly maintained, as needed to comply with the terms of this Agreement. The Contractor shall use and supply only materials of the highest quality and consistency and, where applicable, within budget allowance. Contractor shall identify the source for any materials, to be used at SMG's facility as part of the Services. Contractor shall only use Providers approved from time to time by SMG related to integrity, quality and market rates. SMG shall have the absolute right to review and approve such material providers, and may reject any such providers at any time in its sole and unlimited discretion.
  - (c) **Equipment.** The Contractor shall at all times during this Agreement, have and maintain all necessary equipment in sufficient amounts and capabilities, and properly maintained, as needed to perform all Services. On signing this Agreement, and subsequent thereto as changes in equipment are made, Contractor shall identify the equipment to be used under this Agreement. SMG shall have the right to review and approve such equipment, and may require additional or different equipment in the event SMG determines, in its sole discretion, that the equipment provided is inadequate in amount, quality or capability.
  - (d) **Standard of Care.** Contractor shall perform the Services with due care in a manner consistent with industry standards for the type of Services provided hereunder.
  - (e) **Contractual Relationship.** In performing its Services under this Agreement, Contractor is an Independent Contractor and does not and must not act as or represent itself as an agent or employee of SMG.
  - (f) **Time is of the Essence.** Contractor shall proceed to perform the Services under the terms of this Contract promptly and diligently, in accordance with the Contract Documents.
  - (g) **Additional Services.** No change increasing or decreasing the quantity or price of any Services, or change from the terms set forth in the Contract Documents for any such shall be made unless previously authorized by SMG as required by law, and no claim for extra compensation will be considered unless such prior authorization has been obtained. The Contractor shall not deliver any Additional Services until it has received prior written approval from SMG authorizing the Contractor to proceed with such Additional Services. The Contractor acknowledges that Additional Services involving costs may require the prior approval of Management. Upon approval of Additional Services by SMG, SMG and the Contractor shall execute an amendment to Exhibit 1, or such other portions of this Contract as may be necessary the Contract evidencing the Contract of the parties regarding such Additional Services.
- 4. Standard of Performance.** Contractor shall perform all activities as set forth in the Contract Documents with that degree of skill, care and diligence customarily required of a professional performing services of comparable scope, purpose and magnitude in the Chicago area, and in conformance with the applicable professional standards. Contractor shall at all times use its best efforts on behalf of SMG to assure timely and satisfactory rendering and delivery of the required Services. Contractor and all of Contractor's employees or subcontractors providing Services under this Contract shall be qualified and competent in the applicable discipline or industry, shall be appropriately licensed as required by law, shall comply with all City of Chicago, State of Illinois, and federal laws as applicable and shall conform to the terms of the Contract Documents and this Contract. Contractor remains responsible for the professional and technical accuracy of all Services and other deliverables furnished, whether by the Contractor or others on its behalf. No review, approval, acceptance, nor payment for any and all of the Services by SMG shall relieve the Contractor from its responsibilities.

- 5. Approvals.** The Services purchased by SMG are subject to approval by SMG to determine compliance with the provisions of this Contract. Provided, under no circumstances shall such approval relieve Contractor from any obligation set forth in this Contract, including, without limitations, all obligations mandated by law or industry safety requirements, or latent defects. Further, such approval is for the purpose of determining the quality and completeness of the Services, including materials used, and is not for the purpose of determining compliance with applicable laws or industry safety requirements.
- (a) Services determined by SMG to be non-compliant with this Contract shall be corrected or replaced within five (5) days after notification to Contractor. Payment for any Services ordered hereunder prior to inspection and approval shall not constitute acceptance thereof and is without prejudice to any and all claims that SMG may have against Contractor.
  - (b) Services determined by SMG to be compliant with this Contract shall be accepted upon proper completion.
- 6. Shipping.** Unless otherwise set forth on Exhibit 1 or any Purchase Order delivered by SMG hereunder, all costs, fees, and expenses arising in connection with the delivery and shipment to SMG of Goods furnished in connection with the Services shall be borne by Contractor. Contractor guarantees that all merchandise now being sold or delivered to SMG will be, at the time of its delivery as required by this Agreement, packaged, marked, labeled, and shipped in accordance with all applicable federal, state, and local statutes, regulations, ordinances, and orders. All shipments must be packed in a manner that will provide for efficient handling and prevent damage in transit. Goods must conform to the description, quantity, and other specifications set forth in this Agreement.
- 7. Risk of Loss.** The risk for loss shall remain with the Contractor until any Goods that may be required to be delivered pursuant to this Contract or the Contract Documents are delivered to SMG in accordance with the terms hereof. Contractor shall carry on the work of furnishing and delivering the Goods at Contractor's own risk and expense until the same is fully completed and accepted by SMG and shall be solely liable and responsible for the safety and security thereof.
- 8. Contractor Representations and Warranties.** Contractor hereby represents and warrants to SMG, and agrees as follows:
- (a) Contractor warrants that it is fully staffed, equipped, trained and otherwise capable to perform this Contract. Contractor further represents that, by its own independent investigation it has ascertained the nature of the Services required, the conditions involved in delivering the Services, and Contractor's obligations under this Contract. Contractor is responsible to verify all information furnished by SMG as to the correctness and accuracy of that information. Any failure by Contractor to investigate independently and become fully informed will not relieve Contractor from its responsibilities under this Contract;
  - (b) Contractor warrants that all Services provided (a) shall be compliant with the standards set forth in Section 4 hereof, (b) shall comply with all City of Chicago, State of Illinois, and Federal laws applicable to the Services, and (c) shall conform to the terms of this Contract.;
  - (c) The Contractor further warrants that it is either the original manufacturer of any Goods furnished in connection with the Services and is capable of providing genuine parts, assemblies and/or accessories, or is capable of transferring and/or assigning original warranties to SMG. SMG may return any nonconforming or defective Goods to Contractor or require replacement of the materials at the time the defect is discovered, all at the Contractor's expense. Contractor must replace any nonconforming or defective Goods within ten

(10) days of notification from SMG's designated representative. Acceptance of Goods and Services by SMG by payment shall not relieve Contractor of the responsibilities herein;

- (d) Contractor warranty shall survive the termination or expiration of this Contract;
- (e) Contractor has the full power and authority to enter into this Agreement and perform each of its obligations hereunder;
- (f) No litigation or pending or threatened claims or litigation exist which do or might adversely affect Contractor's ability to fully perform its obligations hereunder or the rights granted by Contractor to SMG under this Agreement.

**9. Compensation.** Contractor shall deliver to SMG an invoice for all requested services covered in this Agreement. Contractor shall receive compensation in the amount and schedule as set forth on Exhibit 2. All invoicing and requests for payment shall be in such form and with such documentation as required by SMG. Under no circumstances shall the Compensation exceed the agreed upon pricing set forth in Exhibit 2 without a prior written amendment to this Contract.

- (a) It is understood that the prices set forth in Exhibit 2 are firm prices for the term of this Agreement.
- (b) Most Favored Nations: The Contractor shall provide prices for Services at a rate not greater than the rate offered to the State of Illinois or any other unit of local government. In the event that the Contractor agrees to provide Services to the State of Illinois or any other unit of local government at a rate lower than that then in effect under this Agreement, Contractor shall offer to adjust the price to SMG accordingly.
- (c) The Contractor shall submit invoices for payment to SMG upon delivery of the Services, indicating the Services provided and all authorized reimbursable expenses incurred during the preceding month and the charges therefore as any approved Additional Services conducted during the preceding billing period.
  - (i) Payment will be made on the basis of approved invoices and such supporting documentation as SMG may require, including, but not limited to: receipted invoices for materials used, certified payroll records and any applicable lien waivers releasing SMG from any and all present or future liability which accrued or may accrue against SMG on account of the Work covered thereby.
  - (ii) If SMG objects to all or any portion of any invoice, it shall promptly notify Contractor of its objection and both parties shall immediately make every effort to promptly settle the disputed portion of the invoice. In the event the settlement of a disputed portion of an invoice is not reached by the date that payment authorization is due, then SMG shall pay only that portion of the invoice that is not in dispute.
  - (iii) Neither the initial payment nor any later progress payment constitutes acceptance of the Services or any deliverables provided under this Contract.
  - (iv) No additional or altered terms and conditions shall be included with the invoice except as are permitted and consistent with the terms of the Contract Documents.
- (d) Contractor shall be solely responsible to ensure that any of its sub-contractors and consultants are timely paid all amounts due them in connection with the performance of this Contract. After the first partial

payment under the Contract, SMG may withhold later partial payments until Contractor submits evidence satisfactory to SMG that all amounts Contractor owes in connection with performance of this Contract have been paid. Further, SMG is entitled, after giving notice to Contractor, to pay all persons who have not been paid the monies due to them in connection with the Contract, whether or not a claim or lien has been filed, unless Contractor, within ten (10) calendar days after notice is given either (i) demonstrates to SMG's reasonable satisfaction that these sums are not due or (ii) provides SMG adequate security.

- (e) Each Party shall have the right to set-off and net against any amounts owed to it by the other Party under this Contract, including without limitation any termination payment.
- (f) Payment for Changes. If SMG and Contractor agree to change the Services in accordance with the provisions set forth under this Agreement, and the change(s) cause an increase or decrease in Contractor's costs of, or time required for, performance of some portion of the Services, than an equitable adjustment will be made and the Agreement will be amended. Any claim by Contractor for adjustments under this clause must be submitted in writing to SMG within thirty (30) days of receipt by Contractor of the notification of change unless SMG grants a further period of time, which will be subject to SMG's approval. No change increasing or decreasing the quantity or price of the Services shall be made unless previous authorized by SMG, and no claim for extra compensation will be considered unless such prior authorization has been obtained.

**10. Taxes.** The Contract prices include all applicable federal and state taxes in effect as of the Effective Date. The acquisition of supplies and materials under this Contract is to be completed in a manner that, to the extent permitted by law, such purchase is exempt from taxes, including manufacturers' and retailers' state sales and occupation taxes. Upon the request of the Contractor SMG shall provide a copy of the appropriate tax exemption certificate with respect to such excluded taxes.

- (a) If, after the Effective Date, there shall be imposed or charged any tax other than a tax upon the income of the Contractor and said imposition or charge shall be made applicable directly on the use, production, manufacture, sale, or transportation of the items covered hereby, which is applicable to the Contractor because of a specific contractual obligation or by the operation of law, and SMG is not otherwise exempt from such tax, then:
  - (i) The Contract Prices herein stated shall be accordingly adjusted and any amount due to the Contractor as a result of the adjustment in such prices shall be charged to SMG and entered upon such invoices as a separate item; or,
  - (ii) At its option, when exempt from the payment of such tax, SMG, in lieu of payment of such increase shall furnish to the Contractor appropriate tax exemption certificates or furnish other proof of exemption with respect to such tax or charge.
- (b) If the Contractor is relieved from the payment of any tax imposed, or portion thereof, included in the Contract Prices herein stated, by reason of the decrease or elimination of such tax, the Contractor shall promptly submit to SMG a statement showing the amount of such decrease or elimination and the Contract Prices herein stated shall be adjusted to reflect such decreases or elimination.

**11. Coordination.** Contractor shall coordinate its activities with SMG's designated personnel, Contractors, Contractors, tenants and customers, if any, so no delays or interference will occur in completion of any part or all of SMG's projects or operations.

**12. Clean Condition.** The Contractor shall, at all times, keep MPEA premises free from accumulations of waste materials or rubbish caused by its employees or work and shall remove all its rubbish at the completion of its work to the total satisfaction of SMG. Use of SMG's open boxes is not permissible. Contractor must provide open boxes and/or trucks for hauling of debris as part of their services. All debris must be hauled off site at the Contractor's expense.

**13. Report Review and Audit Privileges.** SMG shall have the right, but not the obligation, to inspect all records of the Contractor in relation to the Services under this Contract. Contractor shall make such records reasonably available to SMG, including its authorized representatives. Contractor shall keep and preserve, for at least three (3) years following the sale of each and every Service hereunder, full and accurate accounting records relating to such Service. Contractor shall give SMG and its designated representatives (which representatives may include, without limitation, independent auditors) access to such records during such period of time to review and/or audit the records, from time to time, upon request. Contractor shall also provide, at Contractor's own expense, copies of all or a portion of the records when so requested by SMG. In the event any audit conducted by an independent auditor demonstrates a variance of more than five percent (5%) on an annual basis in the amount determined by such auditor to represent the fair purchase cost of any Service purchased hereunder and the amount actually paid to Contractor for such Service, Contractor shall pay to SMG the reasonable cost of such audit. In any event, Contractor shall promptly pay to SMG the amount of any such variance which results in an overpayment by SMG to Contractor.

**14. Insurance.** Contractor shall procure and maintain at all times during the term of this Contract and at Contractor's expense, the insurance coverage set forth in Exhibit 3 – Insurance Requirements, and shall provide SMG with original certificates evidencing the required coverage. Contractor's insurance policies shall name the following as additional insured on all certificates of insurance: "Metropolitan Pier and Exposition Authority, its trustee, facilities, agents, officers, board members, employees, SMG and Contractors". Contractor's duty to indemnify SMG is independent from, and not limited in any manner by, Contractor's insurance coverage obtained pursuant to this Section or otherwise.

**15. Wages and Personnel.**

(a) **Prevailing Wage Act.** Wages of laborers, mechanics and other workers employed under this Agreement shall be subject to the provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/1 *et. seq.*

(b) **Personnel.** Contractor shall assign and maintain, and update as needed, a staff of competent personnel which is fully equipped and qualified to perform the Services required by this Agreement, including designation of the person on Contractor's behalf to serve as the day-to-day liaison for contractual matters. Provided, SMG shall have the right to review and approve such personnel selections, and may reject any such personnel at any time whenever SMG, in its sole and unlimited discretion, determines that such personnel is not qualified or otherwise unfit for such work. In accordance with the foregoing, Contractor shall, within three (3) days of the effective date of this Agreement, subject to SMG's approval which shall not be unreasonably withheld, appoint a management representative who shall be authorized by Contractor to promptly render decisions pertaining to all matters relating to the Services, in order to avoid delay in the orderly progress of the Services.

**16. Indemnification.**

- (a) Contractor shall, at its sole cost and expense, indemnify, defend, and hold harmless SMG, Owner, and their agents, officials, employees, and consultants (individually referred to as "Indemnified Party" and collectively as, the "Indemnified Parties") against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, of any kind and nature, including but not limited to reasonable attorney fees and expert witness fees, which may in any way accrue against any such Indemnified Party (collectively, for purposes of Indemnification, referred to as the "Loss") in consequence of this agreement or the performance thereof, or which may in any way result therefrom, whether or not it shall be alleged or determined that the Loss arose from (i) Contractor's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, and constitutional provisions applicable to Contractor's performance of this Agreement; (ii) any unlawful acts on the part of Contractor or its officers, directors, agents, employees, or subcontractors; (iii) personal or bodily injury to or death of persons or damage to the property of SMG or Owner to the extent caused by the negligent acts, errors, and/or omissions or the willful misconduct of Contractor or its officers, directors, agents, employees, or subcontractors; (iv) personal or bodily injury to or death of persons or damage to the property of SMG, Owner or the other SMG Parties as a result of any use or sale of the Goods and/or Additional Goods, whether or not the Contractor is the manufacturer of such Goods and/or Additional Goods or, (v) the material breach or default by Contractor or its officers, directors, agents, employees, or subcontractors of any provisions of this Agreement.
- (b) Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, regardless of the merit of such claim. If any judgment shall be rendered against such Indemnified Party in any such action, Contractor shall, at its sole cost and expense, satisfy and discharge the same. Contractor expressly understands and agrees that the insurance required by this Agreement or the other related documents of any Indemnified Party or Contractor, or otherwise provided by Contractor or such Indemnified Party shall in no way limit the responsibility to indemnify, defend and hold harmless the Indemnified Parties as herein provided.
- (c) Contractor's defense, indemnification and hold harmless obligations to any Indemnified Party will remain an affirmative obligation of Contractor unless and until a court of competent jurisdiction finally determines otherwise and all opportunities for appeal have been exhausted or have lapsed.
- (d) Contractor's indemnification obligation set forth herein shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Contractor under workers' compensation acts, workers' occupational disease acts, disability benefit acts, or other employee benefit acts or insurance policy coverage. To the extent permissible by law, Contractor waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due pursuant to Contractor's obligations under this Article, including any claim by any employee of Contractor that may be subject to the Workers' Compensation Act, 820 ILCS 305/1 *et. seq.*, or any other law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The Indemnified Parties, however, do not waive any limitations they have on liability under the Illinois Workers' Compensation Act, the Illinois Local Government and Governmental Employees Tort Immunity Act, or any other statute.
- (e) The provisions set forth in this Section shall survive the termination of his Agreement.

**17. Equal Employment Opportunity/Non-Discrimination and Minority and Women Owned Business Enterprise Goals.**

(a) **Equal Employment Opportunity/Non-Discrimination.** Throughout the term of this Contract, Contractor agrees as follows:

- (i) Contractor will comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and the rules and regulations of the Illinois Department of Human Rights (“IDHR”) and all other applicable federal, state and local laws, rules and regulations which prohibit unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination.
- (ii) Contractor, in performing its obligations under this Contract shall comply with the procedures and requirements of the Illinois Department of Human Rights’ (IDHR) regulations concerning equal employment opportunities and affirmative action.
- (iii) Provide such information, with respect to its employees and applicants for employment, and assistance as SMG and the IDHR may reasonably request.
- (iv) Contractor shall have written sexual harassment policies that shall include those requirements as set forth by the IDHR:
- (v) Contractor will send to each labor organization or representative or workers with which it has or is bound by a collective bargaining or other Contract or understanding, a notice advising such labor organization or representative of Contractor’s obligations under the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and the IDHR’s rules and regulations. If any such labor organization or representative fails or refuses to cooperate with Contractor in its efforts to comply with such Act and rules and regulations, Contractor will promptly so notify the IDHR and SMG, and will recruit employees from other resources when necessary.
- (vi) Contractor further agrees that it shall not commit an unfair labor practice.
- (vii) Contractor shall include, verbatim or by reference, the provisions of this Section in every contract it awards under which any portion of its obligations under this Contract are undertaken or assumed, so that such provisions shall be binding upon each such sub-Contractor. Contractor shall be responsible and liable for compliance with the pertinent provisions of this Section by such sub-Contractors, and, further Contractor shall promptly notify SMG and IDHR if any sub-Contractor fails or refuses to comply therewith. In addition, Contractor will not utilize any sub-Contractor declared ineligible by IDHR or the Illinois Human Rights Commission for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
- (viii) In the event of Contractor’s non-compliance with any provision of this Section, the Illinois Human Rights Act, or the rules and regulations of IDHR, 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 this Contract may be canceled or voided, in whole or in part, or such other sanctions or penalties that may be imposed or remedies invoked as provided by law.

(b) **Minority and Women Business Enterprise Goals.** SMG has adopted and maintains an affirmative action program with respect to its contracts. The purpose of SMG’s affirmative action program is to promote the ability of Minority Business Enterprises (“MBE”) and Women-Owned Business Enterprises (“WBE”) to have the maximum possible opportunity to participate in SMG contracts. As a minimum, SMG strives to ensure

that, for Services necessary for the performance of this Contract, 25% of total contract amount is payable to MBE firms and 5% of the total contract amount is payable to WBE firms. Unless and only to the extent SMG grants an expressed waiver, Contractor shall comply with the Special Conditions Regarding Minority and Women-Owned Business Enterprises, as outlined in Exhibit 5, throughout the term of this Contract.

- (i) **Compliance.** As part of its review and approval of Contractor's monthly payment requests, SMG will monitor Contractor's performance to reasonably satisfy itself that Contractor will meet its commitment and use its good faith efforts to achieve the maximum MBE/WBE allocation. In order for SMG to ensure that Contractor complies with its MBE/WBE commitment, Contractor shall submit certified monthly statements with its invoices that include information on the level and scope of MBE and WBE participation in monetary terms as well as a description of the Services provided by each MBE and WBE.
- (ii) **Remedies for Noncompliance.** In the event Contractor fails to fulfill its obligations under this Section 17, SMG shall have available to it appropriate remedies at law or in equity, including the right to withhold amounts due to Contractor for any Work until Contractor submits a corrective action plan which has been approved by SMG or demonstrates to SMG's satisfaction that all good faith efforts to comply with the goals set forth herein have been exhausted, together with the ability to disqualify Contractor from future work that may, from time to time, be undertaken by SMG as well as all unfinished Work on the Project.

## 18. Default and Termination.

- (a) **Termination for Convenience.** SMG has the right to terminate this Contract, in whole or in part, for any reason, including the convenience of SMG, by providing Supplier with written notice specifying the date of termination. On the date specified in the notice, this Contract will terminate. SMG will pay Supplier the amount earned or reimbursable to it (if any) up to the termination date. After termination, Supplier has no further claim against SMG based upon this Contract.
- (b) **Termination for Cause.** This Contract may be terminated if an event of default occurs. The following constitute events of default by Supplier:
  - (i) Refusal of failure to provide sufficient properly skilled workers, adequate supervision, or adequate materials and equipment of proper quality;
  - (ii) Failing in any material respect to deliver the Goods according to SMG's schedule;
  - (iii) Causing, by an action or omission, the stoppage or delay of or interference with the services or work of any employee or other Supplier or subcontractor;
  - (iv) Failure to comply with any provision of this Contract or the Specifications described in the RFP, including, but not limited to matters pertaining to insurance, indemnification and MBE/WBE use;
  - (v) Becoming insolvent, making a general assignment for the benefit of its creditors, or having a receiver appointed;

- (vi) Inability to deliver the Goods under the Contract as a result of insolvency, bankruptcy, or having a receiver appointed;
  - (vii) Conviction in a criminal court or finding of liability in civil court relating to the Goods or involving fraud or misconduct adversely affecting any governmental entity;
  - (viii) Any other acts or omissions specifically identified in this Contract as an event of default.
  - (ix) If SMG becomes entitled to receive more than two (2) "Out of Service Credits" in any twelve month period
  - (x) Failure to remedy deficiencies identifies in an Audit within thirty (30) days of written notification. Contractor must pay for the services required to remedy such deficiencies should they be found not meeting the requirements of this Contract.
- (c) **Curable and Incurable Defaults.** Time-sensitive defaults (e.g. failure to meet deadlines) are not curable unless SMG, in its sole and absolute discretion extends the deadline; an extension, however, does not relieve Supplier of liability for any damages SMG suffers on account of Supplier's failure to meet required deadlines. Supplier must cure any default that is not time sensitive within ten (10) calendar days after Supplier is given notice of the default in accordance with the terms of this Agreement. In the event a default cannot be reasonably cured within ten (10) calendar days after notice, in the sole opinion of SMG, Supplier must begin to cure the default promptly within the ten-day period and continue diligent efforts to complete the cure until accomplished.
- (i) SMG, in its sole discretion, shall determine whether a default is material and whether it can be cured. In the event SMG determines that an event of default can be cured, it shall provide Supplier with notice setting for the event of default and cure requirements, including the time period permitted for cure. Supplier shall cure any event of default as provided in the notice.
  - (ii) If Supplier fails to cure a default as provided in the notice, SMG may, at its sole option, declare Supplier in default. SMG will give Supplier written notice of the default and SMG's termination of this Contract. SMG's decision is final and takes effect when notice is given or such time as set forth in the termination notice. Supplier shall discontinue all activities under this Agreement, unless otherwise directed in the notice, and deliver all materials accumulated in performing under this Contract, whether completed or in the process, to SMG.
- (d) **Remedies.** In the event of default, SMG may invoke any or all of the following remedies. These remedies are not intended to be exclusive of any other remedies available. Rather, every remedy is cumulative and in addition to any other remedies, existing now or later at law, in equity or under the Contract.
- (i) The right to acquire Goods from an alternate source. Supplier shall pay all additional costs incurred by SMG.
  - (ii) The right to terminate this Contract as to any or all of the Goods yet to be performed effective at a time specified by SMG.
  - (iii) The right to monetary damages.

- (iv) The right to deem Supplier non-responsive in future contracts to be awarded by SMG.
  - (v) The right to take assignment of any or all of Supplier's subcontracts and acquire the Goods, by itself or through others, by whatever method SMG considers expedient.
  - (vi) The right to set-off against any sums owing Supplier.
  - (vii) Such other remedies as permitted by law.
- (e) No delay or omission to exercise any right or power occurring upon any event of default impairs the right or power nor is it a waiver of or acquiescence in any event of default. Every right and power may be exercised from time to time and as often as SMG considers expedient.
- (f) In a court of competent jurisdiction determines that SMG wrongfully terminated Supplier, then the termination shall be treated as a termination for convenience.

**19. No Damages for Delay.** Contractor is not entitled to and must not include charges or claims for damages for any delays or hindrances from any cause whatsoever during the progress of any portion of the Services specified in this Agreement and agrees to waive any right to bring any claim for excess costs or damages that may be caused by delays or hindrances in the performance of the Services, regardless of the nature of the delay or hindrance, absent bad faith, fraud or direct tortious interference by SMG. If Contractor's performance of the Services is delayed by causes beyond Contractor's reasonable control, SMG may extend the time to complete the Services to reflect the extent of the delay (if extension is feasible given the project deadlines and the expectations of public performances), provided that Contractor has given SMG written notice within ten (10) days of the beginning of the delay. The notice by Contractor must include a description of the reasons for the delay and the steps Contractor has taken or will take to mitigate the effects of the delay. SMG does not waive any of its rights by permitting Contractor to proceed to complete the Services or any part thereof after the revised completion date.

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

**21. Authority's Proprietary Rights.**

- (a) **Names and Logos.** Owner owns all rights to the name "Navy Pier," "Navy Pier Chicago," certain Navy Pier and McCormick Place likenesses, and to certain logos and service mark(s). Contractor shall not use the Navy Pier or McCormick Place name as part of Contractor's business or trade name, and Contractor shall not use Owner's logos or service marks or sell merchandise with the Navy Pier or McCormick Place name or likeness or with Owner's logos or service marks without the Owner's express written consent. Also, Contractor shall not permit anyone else to do so.
- (b) **Sponsorship Program.** In addition, Owner has entered into Contracts to grant exclusive sales or advertising rights ("Sponsorship Contracts") to certain products, brands or services ("Official Brands") on Owner's property. Accordingly, to the extent permitted by law Contractor shall not advertise, promote, or display at any competing products, brands, or services at the facilities, including through displays or signs in or on any

equipment, visible through or on any windows facing onto any part of the facilities or in advertisements, promotional material, or displays referring to facilities or utilizing (if Owner has not given its express written consent to it) Owner's logos or service marks. Contractor shall not interfere with Owner's sponsors' events.

## 22. Confidentiality.

- (a) All reports, data or information in any form prepared, assembled or encountered by or provided to Contractor under this Contract are confidential, and Contractor shall not disclose these (or make them available) to any other individual or organization without the prior written approval of SMG, except as specifically authorized in this Contract or as may be required by law. Contractor shall implement whatever measures are necessary to ensure that its staff and its sub-Contractors are bound by these confidentiality provisions.
- (b) Contractor shall not issue publicity news releases or grant press interviews, or, except as may be required by law during or after the performance of this Contract, disseminate any information regarding its Goods or the project to which the Goods pertain without the prior written consent of SMG.
- (c) If Contractor is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any records, data or documents that are in Contractor's possession by reason of this Contract, Contractor shall immediately give notice to SMG with the understanding that SMG will have the opportunity to contest the process by any means available to it before the records or documents are submitted to a court or other third party. Contractor, however, is not obligated to withhold delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended

**23. Changes.** No changes to this Contract are effective unless in a written amendment signed by the authorized representatives of the parties.

## 24. Assignment and Subcontracting.

- (a) SMG may assign this Agreement upon 30 days written notice to the Contractor. Provided, any assignee shall be obligated to provide written acceptance and commitment to be bound by all terms and conditions as set forth herein. Upon such assignment, SMG shall be relieved from any further liability or obligation under this Agreement, it being understood that the assignee shall have all of SMG's rights, duties and obligations. In the event of such assignment, the term "SMG" as used herein shall mean the assignee.
- (b) Contractor shall not assign or subcontract this Agreement, or any part thereof, without the prior written consent of SMG which consent may be granted, denied or conditioned in the sole, unfettered discretion of SMG.

**25. Covenants.** Contractor hereby covenants as follows:

- (a) Contractor shall not occupy or use the Facility, nor shall interfere with the activities of the Facility, except as is reasonably necessary to perform its obligations hereunder.
- (b) Contractor shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and from the Facility. "**Hazardous Material**" shall mean, without limitation, those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in any applicable state or federal environmental law.

- (c) Contractor shall not make any alterations or improvements to the Facility without the prior written consent of SMG.
- (d) Contractor shall not operate any equipment or materials belonging to SMG or Owner without the prior written approval of SMG.
- (e) No portion of any passageway or exit at the Facility shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked, or bolted while the Facility is in use. Moreover, all designated exitways shall be maintained in such manner as to be visible at all times.

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

**27. Notices.** Any notice, consent, or other communication given pursuant to this Agreement shall be in writing and shall be given by e-mail, by personal delivery, by United States registered or certified mail, or by a courier service with all delivery and postage charges paid. A notice shall be considered effective either (i) when delivered personally or via e-mail to the party for whom intended, (ii) upon delivery by an overnight courier service that is generally recognized as reliable, and the written records maintained by the courier shall be prima facie evidence of delivery, or (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt; in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith. Any such communication intended for SMG shall be addressed:

**McCormick Place | SMG**  
301 East Cermak Road  
Chicago, Illinois 60616  
Attention: Debbi Lyall, Buyer/Procurement Specialist  
E-Mail: [dlyall@mccormickplace.com](mailto:dlyall@mccormickplace.com)

With a copy to: **SMG**  
300 Four Falls Corporate Center Conshohocken State Road  
West Conshohocken, Pennsylvania 19428  
Attention: Executive Director of Operations

Any such communication intended for Contractor shall be addressed to:

**[Insert Successful Proposer]**  
Address  
City, State, Zip  
Attention:  
E-Mail:

**28. Construction of this Agreement.**

(a) **Compliance with Laws.**

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

(ii) Contractor shall comply with applicable licenser or permit requirements and hold SMG harmless against any liability in connection with licenser, permitting, or taxes. Contractor shall obtain and pay for all permits, licenses, and fees which may be necessary for the prosecution and completion of its duties and obligations under the Contract, including royalties for playing, using, or delivering the Services. To the extent required, Contractor shall be duly licensed to operate in Chicago, Illinois. Contractor is liable to SMG for all losses, expenses, including attorneys fees, attributable to any acts of commission or omission by Contractor, its employees and agents, and sub-Contractors resulting from failure to comply with any federal, state or local laws, codes, ordinances or regulations including, but not limited to, any fines, penalties, or corrective measures.

(b) **Applicable Law/Venue.** This Contract shall be governed by the laws of the State of Illinois. Any suit regarding this Contract or any alleged breach thereof shall be brought only in courts located in Chicago, Illinois, and the parties consent to the jurisdiction and venue of the courts located in the County of Cook, State of Illinois.

(c) **Independent Contractor; No Partnership.** SMG and Contractor shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, SMG or Contractor a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein.

(d) **Singular and Plural.** Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.

(e) **Entire Agreement.** This Agreement constitutes the complete and entire agreement between SMG and Contractor, and supersedes any and all other communications or agreements, whether written or oral, between the parties hereto relating to the subject matter hereof.

(f) **Force Majeure.** If any casualty or unforeseeable cause beyond the control of SMG, including, without limitation, acts of God, fires, floods, epidemics, quarantine restrictions, strikes, failure of public utilities, or unusually severe weather, prevents the performance of this Agreement by SMG, SMG is hereby released by Contractor from any damage so caused thereby.

(g) **Severability and Waiver.**

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

(ii) The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Contract, or to exercise any right herein, shall not be construed

as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

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

**IN WITNESS WHEREOF**, this Agreement has been duly executed by the parties hereto as of the day and year first written above.

SMG, AS AGENT FOR MPEA, OWNER OF  
McCORMICK PLACE,  
301 EAST CERMAK ROAD,  
CHICAGO, ILLINOIS 60616

[INSERT SUCCESSFUL PROPOSER]

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

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

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

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

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