



McCormick Place | SMG
Invitation for Bids (“IFB”)
Networking Equipment
#S2019-02

**McCORMICK PLACE | SMG
PURCHASING DEPARTMENT**

**INVITATION FOR BID (IFB)
FOR
NETWORKING EQUIPMENT
#S2019-02**

McCormick Place | SMG is seeking Bids from qualified companies to supply and deliver **Networking Equipment** to McCormick Place | SMG, as outlined herein.

All documents relating to this procurement are available for download by clicking on “Doing Business” at McCormick Place’s website at www.mccormickplace.com under “Current Opportunities”

KEY DATES:

IFB Posted:	Wednesday, February 27, 2019
Requests for Interpretation:	Tuesday, March 5, 2019 no later than 3:00 PM
Bids Due Date:	Wednesday, March 13, 2019 no later than 12:00 PM

Purchasing Contact:

Hilary Barker, Purchasing Manager
McCormick Place | SMG
Corporate Center
301 East Cermak Road
Chicago, Illinois 60616
E-Mail: purchasing@mccormickplace.com

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SECTION I. GENERAL INFORMATION, DEFINITIONS AND INTERPRETATIONS

1.1 GENERAL INFORMATION

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 features twenty-two (22) suites and 479 club seats. The Wintrust Arena can serve 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 IFB.

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.

1.2 DEFINITIONS

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

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

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

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

“**Bid**” means the submitted responses to the Bid Document, including any requested samples.

“**Bidder**” means the firm(s), sole proprietor, corporation(s), partnership(s), and joint venture(s) that submit Bids.

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

“**IFB**” means this Invitation for Bid, including all exhibits and addenda.

“**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 or the Marriott Marquis.

“**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. Absolute or precise conformity is not required. The rule is that conformity in material respects, that is, substantial compliance suffices. Those bids deemed materially non-responsive must be rejected.

“**Responsible**” Responsibility is determined by McCormick Place | SMG and relates primarily to the ability of a Bidder 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 Bidder’s responsibility are the utilization of reference checks, vendor performance on previous contracts and availability of financial credit information.

“**Successful Bidder**” 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 Successful Bidder.

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

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

1.3 INTERPRETATIONS

- A. Any headings in this IFB are for convenience of reference only and do not define, limit, control or affect the meaning of the IFB’s provisions. In this IFB, unless the context otherwise requires, the terms "hereby," "herein," "hereof," "hereto," "hereunder" and any similar terms used in this IFB refer to this IFB. All section

references, unless otherwise expressly indicated, are to sections of this IFB. 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 IFB 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 IFB.

- B. Unless a contrary meaning is specifically noted elsewhere, the words “as required,” “as directed,” “as permitted” and similar words used in the IFB 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 IFB mean reasonable, suitable, acceptable, proper or satisfactory in the judgment of McCormick Place | SMG.

SECTION II. SPECIFICATIONS

2.1 SCOPE OF CONTRACT

McCormick Place | SMG requires the supply and delivery of various Networking Equipment for a Storage Upgrade Project. SMG is seeking Bidders that can supply the equipment as outlined and identified in the attached Required Form A.

Under the Contract, of which these Specifications are a part, the Successful Bidder shall furnish and deliver networking equipment of the grade, type, quality named in the accepted Bid to the locations listed herein. The material furnished shall be free from defects in materials or workmanship. Defective materials will be replaced at no extra cost to McCormick Place | SMG.

The quantities provided herein are neither maximum or minimum, McCormick Place | SMG may not purchase these quantities at one time.

McCormick Place | SMG will **not** accept substitutions for the brand(s) specified on Required Form A-Bid Form.

2.2 PRICING

Prices quoted in Required Form A– Bid Form are delivered prices (FOB Destination). No shipping, handling or delivery charges of any kind shall be honored by McCormick Place | SMG. Bidders must provide the unit price for each item listed and the extended price based on the estimated quantities provided. Any costs invoiced that were not included in the Bid Form will not be paid; therefore, Bidders must ensure that all costs are included even though the Bid Request Form may not specifically list them.

Bidders must respond to **each item in a category** to be considered for award for said category.

2.3 DELIVERY LOCATIONS

North Building

450 East 23rd Street
Chicago, Illinois 60616

South Building

2301 South Mines Drive
Chicago, Illinois 60616

***Lakeside Center**

2301 South Lake Shore Drive
Chicago, Illinois 60616

West Building

2302 South Prairie
Chicago, Illinois 60616

*The Receiving dock at the Lakeside Center has an entrance clearance of eleven feet two inches (11'2"). Deliveries that cannot clear this height shall be refused.

McCormick Place | SMG reserves the right to add receiving locations as it deems necessary.

2.4 SHIPMENT

Purchase Orders shall be issued periodically specifying the materials and quantities required. Shipment shall be made in accordance with the quantities specified on each specific Purchase Order.

Delivery shall be made in accordance with the requirements of the User Department and shall be requested via a Purchase Order distributed by the Purchasing Department. Any orders placed without a valid McCormick Place Purchase Order shall be refused and McCormick Place | SMG will not be liable for payment. Any delivery other than what is requested will not be accepted.

2.5 AUTHORIZED DISTRIBUTOR

The Successful Bidder must either be the manufacturer, supplier or an authorized distributor of the proposed equipment, materials and supplies and be capable of furnishing original product warranty and manufacturer's related equipment, materials and supplies, as well as attendant items, such as product information, product re-call notices, etc.

2.6 REPRESENTATION AND WARRANTY

The Successful Bidder represents that all materials are of good quality and workmanship, and free from faults, deficiencies, and defects in material, both latent and patent. McCormick Place | SMG may return any nonconforming or defective materials to the Successful Bidder or require replacement of the materials at the time the defect is discovered, all at the Successful Bidder's expense. The Successful Bidder must replace any nonconforming or defective materials within 10 (ten) days of notification from McCormick Place | SMG's designated representative. Acceptance of materials and supplies by McCormick Place | SMG by payment shall not relieve the Successful Bidder of the responsibilities herein.

All equipment, including refurbished items and parts, must be free from defects in parts, materials and workmanship under normal use and service for a period of 1-year from date of delivery. Parts and labor are included in the warranty. The warranty must be transferable to McCormick Place | SMG or the Successful Bidder must be authorized by the manufacturer to repair the equipment and repair and/or replace any defective unit(s) during that one-year (1-year) period.

2.7 RETURN POLICY

The Successful Bidder will be responsible for any mis-shipments or damaged shipments and shall make arrangements with its common carrier or personnel to pick-up unacceptable items upon notification by McCormick Place | SMG, all without additional charge to McCormick Place | SMG. McCormick Place | SMG shall not be subject to restocking charges.

2.8 BACK ORDERS

Notification must be made during the ordering process when an item is on back order. Electronic or written notification of anticipated ship date must be sent to McCormick Place | SMG for any back orders that cannot be filled within ten (10) business days. McCormick Place | SMG will have the option of accepting or canceling the backorder or may submit a request for a substitute item. McCormick Place | SMG shall not be charged for expenses incurred due to the cancellation of backorders.

2.9 DISCONTINUED EQUIPMENT AND SUPPLIES

Contractor must notify McCormick Place | SMG within five (5) business days of placing an order of any discontinued equipment, materials and/or supplies. An alternate product may be accepted if the alternate is comparable to the item ordered. Approval of such alternate must be obtained from McCormick Place | SMG prior to delivery.

2.10 AVAILABILITY

In the event Bidder is unable to fill a specific Purchase Order (in full or in part), McCormick Place | SMG reserves the right to purchase same from available sources. McCormick Place | SMG also reserves the right to substitute or cancel certain items should a change in the requirements warrant.

2.11 REPORTS AND REPORTING CAPABILITES

Successful Bidder should have the ability to supply detailed reporting of all items supplied to McCormick Place | SMG under this Contract; including, but not limited to, quantities, manufacturer numbers and descriptions, pricing, etc.

2.12 ECONOMIC ADJUSTMENT CLAUSE

In the event In the event the contractor's costs for the goods covered by a purchase order (issued as the result of this Invitation for Bid) should increase by more than one percent (1%) and above during the period of time in which the purchase order is in effect, the contractor shall, upon submission of written proof of such increase to McCormick Place | SMG, be entitled to adjust the price by an amount sufficient to compensate the contractor completely and precisely for such increase. The claim for such adjustment must include a certification from the contractor's supplier verifying its cost at the time of the Bid award and at the time of the requested increase. The increase will be allowed only on the cost to the contractor, no increase or change in the contractor's profit will be approved. McCormick Place | SMG reserves the right to ask for invoices, published price lists, or any other evidence establishing contractor's costs to support the increase.

In the event such costs should decrease by more than one percent (1%) and above during the period of time that such purchase order is in effect, the McCormick Place | SMG reserves the right to adjust the price downward to compensate it completely and precisely for such decrease in the same manner as described above. The vendor must notify the McCormick Place | SMG of any such decrease.

In all cases the contractor must file a claim for such adjustments prior to the delivery of the goods. All claims for adjustment shall be made in writing to the McCormick Place | SMG Purchasing Department and accompanied by both an unaltered, published and dated copy of the product manufacturer's national price listing in effect the first day/month/year of this contract and a dated copy of a subsequent national price list reflecting the percentage of increase requested.

2.13 MANUFACTURER

In cases where an item is identified by a manufacturer's name, trade name, catalog number, or reference it is understood that the Bidder proposes to furnish the item so identified and does not propose to furnish an "equal".

Reference to a specific manufacturer, trade name or catalog is intended to be descriptive, but not restrictive unless the item is marked "No Substitute", and only to indicate to the prospective Bidder articles that will be satisfactory. Bids on the other makes and catalogs will be considered provided each Bidder clearly states on the face of his/her Bid exactly what he/she proposes to furnish, or forwards with his/her Bid, a cut, illustration, or other descriptive matter which will clearly indicate the character of the article covered by his/her Bid.

McCormick Place | SMG hereby reserves the right to approve as an equal, or to reject as not being an equal, an article the Bidder proposes to furnish which contains major or minor variations from Specifications required but which may comply substantially therein.

2.14 INVOICES

Successful Bidder 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.

2.15 ENVIRONMENTAL PREFERABLE PRODUCTS

McCormick Place | SMG desires to use environmentally preferable purchasing (EPP) criteria when making purchases for equipment and services. Environmentally preferable purchasing refers to the procurement of equipment and services that has the least adverse effect on human health and the environment when compared with competing equipment or services that serve the same purpose. In determining the effect of equipment on human health and the environment, consideration may be given to raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the equipment. EPP's minimize the consumption of natural resources, reduce the creation of solid waste, air pollution, or water pollution, minimize the use of materials or processes which compromise the environment and contribute to the goal of mitigating climate change, and/or promote the use of non-toxic substances and avoid toxic materials or processes.

Bidders able to supply EPP's that meet performance requirements are encouraged to offer them in their Bid. Refer to the U.S. Environmental Protection Agency's (EPA) website at www.epa.gov/epaoswer/non-hw/procure/index.htm for guidelines regarding minimum recycled content standards.

III. IFB INSTRUCTIONS AND SUBMITTAL REQUIREMENTS

3.1 IFB Instructions

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

Bidder's written Bid documents are due no later than **12:00 PM (CST) on Wednesday, March 13, 2019**. Bids received after this time will be non-responsive and ineligible for consideration for this opportunity. No Bid may modify or substitute the items to be furnished or the work to be done. Bids that do not conform to the specifications of this invitation for bids may be deemed as non-responsive. The responsibility for submitting a response to this IFB on or before the stated time and date will be solely and strictly that of the Bidder. 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. *Bids received after the deadline outlined above will be non-responsive and ineligible for consideration.*

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 Bid submittals. Interested parties must submit **One (1) COMPLETE ORIGINAL hard copy and one identical electronic copy on a USB** (or submitted via e-mail by the same due date and time to purchasing@mccormickplace.com) of the IFB submittal that includes all information in the format outlined in this IFB (Section 3.2). **The original hard copy must contain the original signatures and original notary certifications/seals. The electronic copy must be saved as a searchable PDF document on a USB drive.** Any discrepancies between the original hardcopy of the electronic version of the Bid submitted may render a bid non-responsive.

Bid documents must be labeled "**McCormick Place IFB – Networking Equipment**" 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: purchasing@mccormickplace.com, until **3:00 PM (CST) on Tuesday, March 5, 2019**. A summary of questions received and answers will be issued as an addendum to all potential Bidders.

If it becomes necessary to revise or amend any part of this IFB, McCormick Place | SMG will publish a revision by written addendum. It will be the responsibility of the Bidder 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 under the 'Doing Business' link. If none are issued, indicate "NONE" on Required Form B - Form of Transmittal Letter. Failure to conform to the requirements of any addenda may result in the rejection of the Bid. SMG will not be liable for Bidder's failure to obtain or download any addenda issued for a Bid.

Bidders are to contact *only* the Purchasing Department, via e-mail at purchasing@mccormickplace.com, concerning this IFB and should not rely on verbal representations, statements, or explanations other than those made in this IFB or in any written addendum to this IFB.

3.2 IFB Submittal Requirements and Contents

The Bid Package must include a completed copy of all the documents outlined below. Bids that do not contain all the necessary documents will be deemed non-responsive and ineligible for consideration.

- a) **Required Form A – Bid Form**
- b) **Required Form B – Form of Transmittal Letter**
- c) **Required Form C – Statement of Bidder’s Business Organization**
- d) **Required Form D – Statement of Bidder’s Qualifications.** Bidders shall submit copies of all certifications, licenses and financials, which are required as part of the Bid qualification process, in addition to any additional requirements and documentation attesting to Bidder’s abilities to provide the materials outlined herein.
- e) **Required Form E – Insurance Requirements.** Bidders must provide evidence of the ability to provide the insurance coverages as identified in this IFB.
- f) **Required Form F – Notification of Exceptions**
- g) **Required Form G - Special Conditions Regarding Minority and Women Owned Business Enterprises.** McCormick Place | SMG has adopted and maintains a minority and female owned business enterprise procurement program for any and all work undertaken by McCormick Place | SMG.

When selecting providers of goods and services, McCormick Place | SMG is authorized to make direct awards to qualified MBEs and WBEs to fulfill its commitments. Accordingly, McCormick Place | SMG invites certified MBEs and WBEs to submit Proposals for consideration in response to this IFB.

McCormick Place | SMG’s goals for MBE and WBE participation are 25% and 5% respectively. Proposers will be required to submit a MBE/WBE utilization plan and to commit to making a good faith effort to achieve these goals with subconsultants, subcontractors and suppliers.

IV. CONDITIONS, DISCLAIMERS AND DISCLOSURES

This IFB does not represent a commitment or offer by McCormick Place | SMG to enter into an agreement with a Bidder. 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 IFB. The Bidder assumes the responsibility for all costs incurred in responding to this IFB. It is understood and agreed that McCormick Place | SMG assumes no liability for the Bidder's costs incurred in responding to this IFB. The IFB and the Successful Bidder's response to the IFB will, by reference, become a part of the final Agreement between the Successful Bidder and McCormick Place | SMG resulting from this solicitation process.

By submitting a Bid, Bidder agrees to accept and abide by the terms of this IFB. 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 IFB 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.

4.1 Bid Canvassing

Bids will be canvassed on the basis of (a) Bidder responsiveness, (b) Bidder responsibility and (c) the Lowest Total Cost per Category.

Bidders must respond to **EACH** item within a category in order to be considered for award

4.2 Signing Forms

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

- If the Bidder is a corporation or limited liability company, the Bid 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 Bidder is licensed to transact business in the State of Illinois.
- If the Bidder is a firm or partnership, the Bid 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 Bid and Form of Transmittal Letter.
- If the Bidder is an individual, he/she shall sign the Bid 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 Bidder is a joint venture, the Bid 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 Bid 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 Bid 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 Bid and Form of Transmittal Letter shall show the present business address of the Bidder at which address communications shall be received and service of notices accepted.
- Where the Bid and Form of Transmittal Letter are signed by an agent of the Bidder, evidence of the agent's authority to sign must accompany the Bid. If the Bidder 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 Bid shall be typed or printed below his/her signature.

4.3 Ownership of Bids

The timely submittals and any information made a part of the Bids 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 Bidder is selected. Submittal of a response to this IFB indicates acceptance by the Bidder of the conditions contained within the IFB document.

4.4 Improper Practices

The Bidder 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 IFB response selection process.

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

4.5 Interpretation

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

4.6 Multiple Awards

McCormick Place | SMG reserves the right to award this Agreement, and individual Categories, to one or more Bidders as it deems to be in its best interest.

4.7 No Criminal/ Civil Liability and Not In Arrears Certification

Submission of a Bid shall include a representation that neither the Bidder, 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 Bidder'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.

4.8 Vendor Ethics

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

4.9 Insurance Requirements

At all times during the term of the Agreement and during the time period following final completion if the Bidder is required to return and perform any additional work, Bidder 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.

4.10 Taxes

The Successful Bidder 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.

4.11 Rejection of Bids

Bids that do not comply with the submittal requirements of the IFB, 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 Bidder 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.

4.12 Protests

Any and all protests or challenges with respect to the selection of the successful Bidder and this IFB, 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
purchasing@mccormickplace.com

All protests or challenges concerning the process, ambiguities or defects of the IFB must be submitted within five (5) calendar days after publication of the IFB. All protests or challenges concerning the selection of the Successful Bidder must be asserted within five (5) calendar days after the notification of award of the Successful Bidder. 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 IFB process or selection of the Successful Bidder.

4.13 Freedom of Information Act

This IFB 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 Bid may be made available for public inspection and copying and if the Bidder believes certain information is exempt from public disclosure under FOIA, the Bidder must clearly mark those portions of its Bid as being "Confidential" and request confidential treatment. The Bidder 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 Bidder will be responsible for any costs or damages associated with McCormick Place | SMG's defending the Bidder's request for exempt treatment.

4.14 Confidentiality

Except with the McCormick Place | SMG's approval, the Bidder 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 IFB process concerning any matter relating to the work or regular business of McCormick Place | SMG.

4.15 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.

4.16 Compliance with Laws

The Successful Bidder shall comply with all existing and future applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the provision of services or items hereunder and shall ensure that all necessary licenses required by the City of Chicago and the State of Illinois are obtained.

4.18 Contract Documents

The Contract Documents shall consist of the Terms & Conditions, Bid documents, including all Attachments, Exhibits, and any Addenda; the submitted Bid to the extent it is consistent with the Bid Documents, and the duly executed Contract. The documents are complementary and binding in whole or in part. The Contract must be signed within 10 days of receiving documents.

4.19 Tie Bids

Tie bids or Bids are those from responsive and responsible vendors that are, in the case of bids, identical in price. Tie bids or Bids will be resolved as follows:

1) The award shall be made by lot unless the Procurement Officer determines that:

a) Awarding to one of the vendors is in McCormick Place | SMG's best interest because, for example, that vendor is likely to be more reliable or responsive to McCormick Place | SMG's needs, based on past performance; provides a better quality of the supply or service; or provides quicker delivery; or,

b) Splitting the award is in McCormick Place | SMG's best interest because of a need to ensure delivery of the supply or service, or is necessary or desirable to promote future competition, and provided the affected vendors agree to the split award.

REQUIRED FORM A – BID FORM

PROJECT DESCRIPTION: McCormick Place Networking Equipment

PROJECT NUMBER: #S2019-02

BIDDER:

Line Item	Description	Manufacturer	QTY	Unit Cost	Extended Cost
1	N3K-C3548P-10GX	Cisco	2	\$ _____	\$ _____
2	SFP-10G-LR-S	Cisco	8	\$ _____	\$ _____
3	SFP-10G-AOC3M	Cisco	12	\$ _____	\$ _____
4	SFP-10G-AOC1M2	Cisco	8	\$ _____	\$ _____
5	Single Mode Fiber Patch Cable 10M (33 feet)	_____ (Specify Proposed Brand)	4	\$ _____	\$ _____
GRAND TOTAL:					\$ _____

REQUIRED FORM B – FORM OF TRANSMITTAL LETTER

_____ [Insert Date]

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

On behalf of _____ (Insert Full legal name of Bidder), I submit with this letter its response to McCormick Place | SMG’s Invitation for Bids (“IFB”) for NETWORKING EQUIPMENT. In this connection, I state the following:

- 1. I have full authority to bind Bidder with respect to this response to the Invitation for Bids and any oral or written presentations and representations made to McCormick Place | SMG.
2. I have read and understand the Invitation for Bids (IFB) and am fully capable and qualified to provide the goods and/or services as described within this Invitation for Bids (IFB) and have made all investigations and examinations required by said documents.
3. I have read and understand the Invitation for Bids, including addenda numbers _____.
4. I understand that McCormick Place | SMG will rely on my firms’ response to the Invitation for Bids 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 Bid 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, Bidder 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 Bidder 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. Bidder understands that McCormick Place | SMG will rely upon the material representations set forth in the IFB and that Bidder has a continuing obligation to update any information which changes or which Bidder learns to be incorrect.
9. It is understood that an original and an electronic copy of the Bid have been submitted for consideration. Bidder warrants that all electronic copies are identical to the original in all respects.
10. If selected by McCormick Place | SMG, Bidder agrees to enter into an Agreement for NETWORKING EQUIPMENT with McCormick Place | SMG.

I declare that all Required Forms A through G 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 Bidder/Title/etc.)

State of _____

County of _____

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 2019.

Notary Public Signature

(Notary Seal)

REQUIRED FORM C – STATEMENT OF BUSINESS ORGANIZATION

PROJECT DESCRIPTION: McCormick Place Networking Equipment
PROJECT NUMBER: #S2019-02
BIDDER:

Note: Each Bidder 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 Bid is submitted by an individual , complete the information listed below:			
Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN:	
Is the individual authorized to do business in Illinois? [] YES [] NO			

PARTNERSHIP

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

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:

REQUIRED FORM C – STATEMENT OF BUSINESS ORGANIZATION

PROJECT DESCRIPTION: McCormick Place Networking Equipment
PROJECT NUMBER: #S2019-02
CONTRACTOR: _____

MINORITY AND WOMEN BUSINESS ENTERPRISE PROFILE

Is Bidder 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 Bidder'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 Bidder'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 D – STATEMENT OF QUALIFICATIONS

PROJECT DESCRIPTION: McCormick Place Networking Equipment
PROJECT NUMBER: #S2019-02
CONTRACTOR: _____

Bidder **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 Bidder 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 Bidder 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 Bidder ever refused to sign a contract? Y ___ N ___ At the original price? Y___ N ___

If yes to either question, provide details. _____

8. Has Bidder ever been terminated for cause? _____ If yes, provide details. _____

9. Has Bidder ever defaulted on a contract? _____ If yes, provide details. _____

10. Has Bidder 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.

11. Is Bidder 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.

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

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

Contact Name _____

Title _____

Address _____

Telephone _____ Email address _____

Location of facility where inventory is maintained:

Address _____

City _____ State _____ Zip _____

REQUIRED FORM E – INSURANCE REQUIREMENTS

Bidder must provide evidence of the ability to provide insurance coverage as specified in this IFB.

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
Each Occurrence	\$ 1,000,000.00
Personal & Advertising Injury	\$ 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	
Employer's Liability	<u>Statutory</u>
Each Accident	\$ 1,000,000.00
Each Employee - Disease	\$ 1,000,000.00
Disease-Policy Limit	\$ 1,000,000.00

Workers' Compensation/ Employer's Liability policies shall be endorsed to waive the insurer's right of subrogation against McCormick Place | SMG.

c. Automobile Liability

Coverage	Limit
Bodily Injury and Property Damage	
Combined - Occurrence	\$ 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.

d. Umbrella Coverage \$ 2,000,000.00

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.

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 expressly understands and agrees that any insurance or self-insurance programs maintained by McCormick Place | SMG shall apply in excess of and not contribute with insurance provided by them under the Agreement.
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. All policies must amend the other insurance clause to be Primary and Non Contributory for any liability arising directly or indirectly from the Services.
8. 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 must accompany the Certificate of Insurance.
9. Subcontractors performing services for the selected contractor shall maintain coverage terms and limits equal to or greater than the contractor.
10. If policies are canceled for any reason, immediate notice is required to be given to the Risk Management Department via certified mail to:

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

REQUIRED FORM F – NOTIFICATION OF EXCEPTIONS

The Undersigned understands and agrees that:

PLEASE CHECK ONLY ONE

Bidder acknowledges that there are **NO EXCEPTIONS** to the Form of Agreement, Exhibit I, or any other requirements stated in this procurement #S2019-02.

Signed: _____

(Typed name of signatory)

As: _____
(Relationship to Bidder/Title/etc.)

Date: _____

Bidder acknowledges that **THERE ARE EXCEPTIONS** to the Form of Agreement, Exhibit I, including conflicts of interest, or any other requirements stated in this procurement #S2019-02 and has attached them to this Required Form F Notification of Exceptions.

Signed: _____

(Typed name of signatory)

As: _____
(Relationship to Bidder/Title/etc.)

Date: _____

Remainder of page is blank.

EXHIBIT I – FORM OF AGREEMENT

[INSERT SUPPLIER 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 Supplier*], a(n) [State and Type of Entity] whose current address is [*insert address of Supplier*] (the “Supplier”).

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. Supplier is prepared to provide the design, manufacture, and/or sale of the goods desired by 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 / Specifications

Exhibit 2 – Pricing

Exhibit 3 – Insurance Requirements

Exhibit 4 – Invitation for Bid (IFB) document

Exhibit 5 – Special Conditions Regarding Minority and Women Business Enterprises

2. **Term.** This Contract begins on the Effective Date and shall remain in effect, unless earlier terminated pursuant to Section 19 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 Supplier. 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 Supplier otherwise mutually agree in writing.

3. **Scope of Contract.**

- (a) **Purchase of Goods.** SMG hereby purchases from Supplier, and Supplier hereby sells to SMG, the materials and/or equipment and related accessories and/or services described in Exhibit 1 attached hereto (collectively, the “Goods”). All orders for Goods will be initiated by SMG and submitted to Supplier via a purchase order (the “Purchase Order”) setting forth the description, quantity, price and delivery terms of such materials and/or equipment. All terms and conditions contained in this Agreement shall be deemed incorporated into and made a part of each Purchase Order.

(b) **Goods.** The Supplier shall at all times during this Contract, have all necessary Goods in sufficient amounts and capabilities and properly maintained, as needed to comply with the terms of this Agreement. The Supplier shall use and supply only Goods of the highest quality and consistency and, where applicable, within budgeted allowance. Supplier shall identify the source for any Goods and 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 Goods providers, and may reject any such providers at any time in its sole and unlimited discretion.

(c) **Additional Goods or Pricing.** No change increasing or decreasing the quantity or price of any Goods, 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 Supplier shall not deliver any Additional Goods until it has received prior written approval from SMG authorizing the Supplier to proceed with such Additional Goods. The Supplier acknowledges that Additional Goods involving costs may require the prior approval of Management. Upon approval of Additional Goods by SMG, SMG and the Supplier 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 Goods.

4. **Standard of Performance.** Supplier 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. Supplier shall at all times use its best efforts on behalf of SMG to assure timely and satisfactory rendering and delivery of the Supplies. Supplier and all of Supplier's employees or subcontractors providing Goods 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. Supplier remains responsible for the professional and technical accuracy of all Goods and other deliverables furnished, whether by the Supplier or others on its behalf. No review, approval, acceptance, nor payment for any and all of the Goods by SMG shall relieve the Supplier from its responsibilities.

5. **Inspections and Approvals.** The Goods purchased by SMG are subject to inspection and approval by SMG to determine compliance with the provisions of this Contract. Provided, under no circumstances shall such inspection relieve Supplier 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 inspection is for the purpose of determining the quality and completeness of the Goods, including materials used, and is not for the purpose of determining compliance with applicable laws or industry safety requirements.

(a) Any or all portions of the Goods not accepted will be returned to Supplier at Supplier's expense for a full credit or refund, or at the option of SMG, Supplier shall be required, at its sole risk and expense, to correct or replace such Goods with conforming Goods within such time as SMG may require, *provided, however,* that such corrected or rejected Goods shall not be converted or replaced by Supplier without written authorization from SMG. Any Goods corrected, replaced, or repaired by Supplier shall be subject to any warranties and other terms of this Agreement. If Supplier fails to correct or replace any nonconforming Goods promptly after notification and authorization from SMG, SMG may correct or replace such Goods and charge Supplier for the cost incurred by SMG and/or set-off the cost hereunder at the sole discretion of SMG. Payment for any Goods 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 Supplier.

(b) Goods determined by SMG to be compliant with this Contract shall be accepted upon proper delivery.

- 6. Delivery.** Time is of the essence in the performance of this Contract. Unless otherwise provided herein or as otherwise specified at time of order, Goods shall be delivered in conformance with the specifications within forty eight (48) hours. If the delivery of Goods is not completed by the time set forth in this Agreement, SMG reserves the right, without liability, in addition to its other rights and remedies, to terminate this Agreement by written notice as provided herein, as to stated Goods not yet shipped, and to purchase substitute Goods elsewhere and charge Supplier with any damages incurred, whether special, direct, indirect, incidental, or consequential. All such damages shall be paid by Supplier and payment shall be remitted no later than seven (7) days from the date of the communicated damage or damages. If at any time Supplier believes it may be unable to comply with any delivery term, Supplier shall immediately notify SMG in writing as to the delay and shall continue to update SMG as to the delay. In the event of Supplier's failure to comply with the delivery terms for any reason, SMG may, in addition to its other remedies hereunder, require Supplier at Supplier's expense to ship the Goods via air freight or expedited routing to avoid or minimize delay.
- 7. 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 the Goods and/or Additional Goods shall be borne by Supplier. Supplier 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.
- 8. Risk of Loss.** The risk for loss shall remain with the Supplier 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. Supplier shall carry on the work of furnishing and delivering the Goods at Supplier'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.
- 9. Supplier Representations and Warranties.** Supplier hereby represents and warrants to SMG, and agrees as follows:
- (a) Supplier warrants that it is fully staffed, equipped, trained and otherwise capable to perform this Contract. Supplier further represents that, by its own independent investigation it has ascertained the nature of the Goods required, the conditions involved in delivering the Goods, and Supplier's obligations under this Contract. Supplier is responsible to verify all information furnished by SMG as to the correctness and accuracy of that information. Any failure by Supplier to investigate independently and become fully informed will not relieve Supplier from its responsibilities under this Contract;
 - (b) Supplier warrants that all Goods provided (a) shall be of good quality and workmanship, and that all materials furnished will be new unless otherwise specified in the Contract Documents or specifically approved in writing by SMG, (b) shall be merchantable, (c) shall be free from faults, deficiencies, and defects, both latent and patent, (d) shall be delivered free of the rightful claim of any person by way of infringement or the like and free of any security interest, lien or encumbrance or the like, (e) shall comply with all City of Chicago, State of Illinois, and Federal laws applicable to the Goods, and (f) shall conform to the terms of this Contract. Without limitation to the foregoing, Supplier warrants that all Goods provided shall be free from defects in materials and workmanship for a period of at least 12 months from the date of final acceptance by SMG; or such time as provided in the Contract Documents; or such time as provided in any manufacturers, producers, suppliers or other warranty; whichever is longer;

- (c) The Supplier further warrants that it is either the original manufacturer of the Goods 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 Supplier or require replacement of the materials at the time the defect is discovered, all at the Supplier's expense. Supplier must replace any nonconforming or defective Goods within ten (10) days of notification from SMG's designated representative. Acceptance of Goods by SMG by payment shall not relieve Supplier of the responsibilities herein;
- (d) Supplier warranty shall survive the termination or expiration of this Contract;
- (e) Supplier has the full power and authority to enter into this Agreement and perform each of its obligations hereunder;
- (f) There is no party which has a lien on, security interest in, or claim to the Goods; and
- (g) No litigation or pending or threatened claims or litigation exist which do or might adversely affect Supplier's ability to fully perform its obligations hereunder or the rights granted by Supplier to SMG under this Agreement.

10. Compensation. Supplier shall deliver to SMG an invoice upon delivery of the Goods. Supplier 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 1 are firm prices for the term of this Agreement.
- (b) Most Favored Nations: The Supplier shall provide prices for Goods 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 Supplier agrees to provide Goods to the State of Illinois or any other unit of local government at a rate lower than that then in effect under this Agreement, Supplier shall offer to adjust the price to SMG accordingly.
- (c) The Supplier shall submit invoices for payment to SMG upon delivery of the Goods, indicating the Goods provided and all authorized reimbursable expenses.
 - (i) Payment will be made on the basis of approved invoices and such supporting documentation as SMG may require.
 - (ii) If SMG objects to all or any portion of any invoice, it shall promptly notify Supplier 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 Goods 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) Supplier shall be solely responsible to ensure that any of its sub-contractors and sub-suppliers 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 Supplier submits evidence satisfactory to SMG that all amounts Supplier owes in connection with performance of this Contract have been paid. Further, SMG is entitled, after giving notice to Supplier, 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 Supplier, 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.

11. 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 Supplier 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 Supplier 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 Supplier 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 Supplier 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 Supplier appropriate tax exemption certificates or furnish other proof of exemption with respect to such tax or charge.
- (b) If the Supplier 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 Supplier 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.

12. Coordination. Supplier shall coordinate its activities with SMG's contractors, suppliers, tenants, customers and Suppliers, if any, so no delays or interference will occur in completion of any part or all of SMG's projects or operations.

13. Clean Condition. The Supplier 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. Supplier 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 Supplier's expense.

14. Assigned Personnel. On signing this Agreement, and subsequent thereto as changes in personnel are made, Supplier shall identify the person on Supplier's staff who will serve as day to day liaison for the Supplier. Supplier

shall assign and maintain a staff of dedicated and competent personnel that is fully equipped and qualified. 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.

15. Report Review and Audit Privileges. SMG shall have the right, but not the obligation, to inspect all records of the Supplier in relation to the Goods under this Contract. Supplier shall make such records reasonably available to SMG, including its authorized representatives. Supplier shall keep and preserve, for at least three (3) years following the sale of each and every Good and Additional Goods hereunder, full and accurate accounting records relating to such Good. Supplier 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. Supplier shall also provide, at Supplier'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 Good or Additional Good purchased hereunder and the amount actually paid to Supplier for such Good or Additional Good, Supplier shall pay to SMG the reasonable cost of such audit. In any event, Supplier shall promptly pay to SMG the amount of any such variance which results in an overpayment by SMG to Supplier.

16. Insurance. Supplier shall procure and maintain at all times during the term of this Contract and at Supplier's expense, the insurance coverage set forth in Exhibit 3 – Insurance Requirements, and shall provide SMG with original certificates evidencing the required coverage. Supplier'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 Suppliers". Supplier's duty to indemnify SMG is independent from, and not limited in any manner by, Supplier's insurance coverage obtained pursuant to this Section or otherwise.

17. Indemnification.

(a) Supplier 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) Supplier's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, and constitutional provisions applicable to Supplier's performance of this Agreement; (ii) any unlawful acts on the part of Supplier 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 Supplier 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 Supplier is the manufacturer of such Goods and/or Additional Goods or, (v) the material breach or default by Supplier or its officers, directors, agents, employees, or subcontractors of any provisions of this agreement.

- (b) Supplier 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, Supplier shall, at its sole cost and expense, satisfy and discharge the same. Supplier expressly understands and agrees that the insurance required by this Agreement or the other related documents of any Indemnified Party or Supplier, or otherwise provided by Supplier or such Indemnified Party shall in no way limit the responsibility to indemnify, defend and hold harmless the Indemnified Parties as herein provided.
- (c) Supplier's defense, indemnification and hold harmless obligations to any Indemnified Party will remain an affirmative obligation of Supplier unless and until a court of competent jurisdiction finally determines otherwise and all opportunities for appeal have been exhausted or have lapsed.
- (d) Supplier'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 Supplier 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, Supplier waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due pursuant to Supplier's obligations under this Article, including any claim by any employee of Supplier 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 this Agreement.

18. 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, Supplier agrees as follows:
 - (i) Supplier 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) Supplier, 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) Supplier shall have written sexual harassment policies that shall include those requirements as set forth by the IDHR:
 - (v) Supplier 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 Supplier'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 Supplier in its efforts to comply with such Act and rules and regulations, Supplier will promptly so notify the IDHR and SMG, and will recruit employees from other resources when necessary.

- (vi) Supplier further agrees that it shall not commit an unfair labor practice.
- (vii) Supplier 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-Supplier. Supplier shall be responsible and liable for compliance with the pertinent provisions of this Section by such sub-Suppliers, and, further Supplier shall promptly notify SMG and IDHR if any sub-Supplier fails or refuses to comply therewith. In addition, Supplier will not utilize any sub-Supplier 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 Supplier's non-compliance with any provision of this Section, the Illinois Human Rights Act, or the rules and regulations of IDHR, Supplier 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 Goods 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, Supplier 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 18, 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.

19. 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 IFB, 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.
- (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.

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 provider of the Goods, if any. Supplier shall make an orderly demobilization of its own operations, provide, uninterrupted, the Goods 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). Supplier shall not use the Navy Pier or McCormick Place name as part of Supplier's business or trade name, and Supplier 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, Supplier 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 Supplier 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. Supplier 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 Supplier under this Contract are confidential, and Supplier 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. Supplier shall implement whatever measures are necessary to ensure that its staff and its sub-Suppliers are bound by these confidentiality provisions.
- (b) Supplier 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 Supplier 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 Supplier's possession by reason of this Contract, Supplier 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. Supplier, 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 Supplier. 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) Supplier 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. Supplier hereby covenants as follows:

- (a) Supplier 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) Supplier 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) Supplier shall not make any alterations or improvements to the Facility without the prior written consent of SMG.
- (d) Supplier 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 exit ways shall be maintained in such manner as to be visible at all times.

26. Accuracy and Update of Information. In connection with this Agreement, Supplier has furnished and will continue to furnish various certifications, affidavits and other information and reports. Supplier represents that any such material and information furnished in connection with the IFB or this Agreement is truthful and complete. Supplier 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: Hilary Barker, Purchasing Manager
E-Mail: hbarker@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 Supplier shall be addressed to:

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

28. Construction of this Agreement.

- (a) **Compliance with Laws.**

- (i) Supplier shall at its own expense comply with all federal, state and local laws, codes, ordinances and regulations applicable to this Contract and the Goods whether by reason of general law or the specific Goods required. Supplier 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) Supplier shall comply with applicable licenser or permit requirements and hold SMG harmless against any liability in connection with licenser, permitting, or taxes. Supplier 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 Goods. To the extent required, Supplier shall be duly licensed to operate in Chicago, Illinois. Supplier is liable to SMG for all losses, expenses, including attorney's fees, attributable to any acts of commission or omission by Supplier, its employees and agents, and sub-Suppliers 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 Supplier 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 Supplier 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 Supplier, 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 Supplier 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 BIDDER]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

