



McCORMICK PLACE®

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AN  **MANAGED FACILITY**

McCormick Place | SMG  
Request for Proposal ("RFP")  
Public Furniture Design Consultant  
#S2018-11

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**McCORMICK PLACE | SMG**  
**PURCHASING DEPARTMENT**  
**REQUEST FOR PROPOSAL (RFP)**  
**FOR**  
**PUBLIC FURNITURE DESIGN CONSULTANT**  
**#S2018-11**

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

**KEY DATES:**

<b>RFP Issued:</b>	Friday, October 19, 2018
<b>Pre-Proposal Meeting and Site Visit:</b>	11:00 AM on Tuesday, October 30, 2018
<b>Requests for Interpretation Due:</b>	No later than 3:00 PM on Friday, November 2, 2018
<b>Proposals Due:</b>	No later than 2:00 PM on Monday, November 12, 2018

**Purchasing Contact:**

Hilary Barker, Purchasing & Supplier Diversity Manager  
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REQUIRED FORMS:

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REQUIRED FORM B - STATEMENT OF BUSINESS ORGANIZATION

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REQUIRED FORM D - INSURANCE REQUIREMENTS

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REQUIRED FORM F - FINANCIAL OFFER

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EXHIBIT I - Form of Agreement

## SECTION I. BACKGROUND INFORMATION, DEFINITIONS AND INTERPRETATIONS

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### 1.1 OBJECTIVE

McCormick Place | SMG is seeking proposals from qualified, experienced Consultants for the design of public furniture as described herein.

### 1.2 BACKGROUND

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

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

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 several 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, which is a venue for concerts, sporting events and other major special events. The new Arena features a first-class NCAA basketball court that is the new home court for the DePaul University basketball teams. Additionally, the WNBA’s Chicago Sky calls the Wintrust Arena home court. The Wintrust Arena also serves as a general session hall for large business meetings and conventions.

The four-star Marriott Marquis Chicago made its grand debut to the Chicago skyline in September 2017, the hotel spans 40 stories overlooking the world-class setting of Lake Michigan, downtown Chicago and South Loop. The hotel features 1,205 stylish guest rooms and suites, with over 93,000 square feet of elegant event space, including two 25,000-square-foot ballrooms.

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

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

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

### 1.3 DEFINITIONS

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

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

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

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

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

**“Customer”** means anyone that purchases services from the Contractor.

**“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 Campus”** 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®, the Corporate Center and the new Wintrust Arena. The term “McCormick Place” does *not* include the Hyatt Regency McCormick Place Hotel and/or the Marriott Hotel.

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

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

**“Responsive”** Responsiveness is determined by McCormick Place | SMG and relates to compliance with the provisions of the solicitation, including specifications, and contractual terms and conditions. Conformity in material respects or substantial compliance suffices, although absolute or precise conformity is not required. SMG reserves the right to reject any Proposal that it deems materially non-responsive.

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

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

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

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

**“Sub-Contractor”** means individual(s), partnership(s), corporation(s) or joint venture(s) that the Proposer engages to provide services required by the Agreement.

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

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

#### 1.4 INTERPRETATIONS

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

## SECTION II. GENERAL REQUIREMENTS AND DETAILED SPECIFICATIONS

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### 2.1 SCOPE OF SERVICES

The McCormick Place Convention Center Complex is comprised of four separate buildings: the Lakeside Center, completed in 1971; the North Building, completed in 1986; the South Building, completed in 1996; and the West Building, completed in 2007.

The goal of this project is to significantly enhance the public spaces of the exhibition facilities and dramatically improve the attendee experience through the thoughtful selection and limited placement of public space furniture. The various needs of the visitors should be identified and met with a modern, and durable aesthetic. MPEA and SMG are searching for innovation, value and a distinctive “wow” factor.

The intent of this RFP is to have the firms under consideration specifically address the services required and provide a well-considered price proposal for those services.

MPEA and SMG are seeking a design firm that will provide the following (not listed in order of preference):

- A comprehensive plan for the purchase and placement of public space furniture, incorporating the latest thinking in the field concerning convention center furniture. The plan should include drawings, specifications, pricing, and a phasing strategy developed with MPEA and SMG to accomplish the full scope over several years. Procurement documents for the first phase, with a budget of \$350,000 to \$400,000, is included in the scope of this RFP. The fee for procurement documents for subsequent phases will be based on a percentage of budgeted cost, see required form F for breakdown.
- In collaboration with the appropriate stakeholders from MPEA and SMG, establish goals with regard to uses, locations, challenges, prioritizations, and budgets.
  - Public spaces included in the scope of this project are indicated on the attached floor plans and include lobbies, concourses, food courts, interior balconies and break-out areas. The Grand Concourse (all levels including glassed in area on level 2.5), Entry Lobbies, and other main circulation paths need to remain uncluttered to allow for the free movement of the 100,000 + visitors that are on campus for the largest events.
  - Lobby and concourse areas also accommodate large scale check-in and display materials brought in by exhibitors.
  - Break-out spaces for large assembly areas should be maintained.
  - Seating at the various food courts and venues is included in this scope, but is a low priority and will not be included in the first phase of procurement. There are also food court mezzanines in both the West and South Exhibit Halls, as well as in the various concourse areas. Reference floor plans provided.
  - Exterior seating at the West rooftop and other exterior areas directly adjacent to lobby entries should be considered, but is a low priority.
- Areas specifically **excluded** from the scope of this project include the following. Furniture selections at spaces adjacent to these should consider overall impression.
  - The Hyatt, the Hyatt Conference Center, and associated public areas
  - The Marriott Marquis , ABC Building and associated public areas
  - The Corporate Center
  - Interiors of all meeting rooms, ballrooms, and exhibit spaces
  - Back of house service areas and corridors

- Seating inside enclosed food venues (McDonalds, Connie's)
- Phasing options are to be developed with MPEA and SMG input. Those spaces that will have the largest impact, such as the main entry for Skyline Ballroom (Gate 41), should be prioritized. Other areas, such as the Lakeside Center, are a low priority due to upcoming changes. For Lakeside Center, use of relocated existing furniture should address the majority of areas.
- The Consultant will familiarize themselves with the existing public space furniture in order to make recommendations on what, if any, can be re-purposed, relocated, and/or re-upholstered for use in lower priority areas.
- The comprehensive furniture plan should enhance and highlight the extensive art collection housed at McCormick Place. Potential relocation of art pieces can be considered.
- Wayfinding on the campus is a challenge that creative furniture placement could potentially help with. The selected consultant may need to coordinate with a concurrent Wayfinding study being conducted by others.
- Furniture design should take into account current interior finishes, carpet especially, and anticipate future updates. The carpet in the North, South, and Lakeside halls was replaced in 2015. The carpet in West is original to the 2007 building.
- Furniture and/or lighting requiring power should be located where existing power is available, when possible.
- Planters and other miscellaneous items can be considered, but are a low priority for the facilities.
- Sustainability is a core value at McCormick Place and should be taken into account with all furniture selections.
- The minimum life cycle for all furniture selected will be ten years. Documentation should include recommendations relative to the installation and maintenance of the different furniture in order to achieve this longevity. Furniture mock-up installations from multiple vendors/manufacturers should be considered to test appropriateness to the high volume of use in the environment.
- Material selections should take into account that the public spaces may not maintain optimal indoor temperature and humidity levels when unoccupied. Furniture is also often moved around by various trades in the set-up and break-down periods before and after exhibitions, and should be easily returned to the intended arrangement.
- Specific conceptual drawings for the public spaces, along with pricing information and the phasing strategy, will be used to budget and purchase the furniture over the next several years. Detailed design drawings for the first phase will serve as the basis for bidding and procurement of the furniture for the first phase. Consultant will develop drawings and specifications for furniture that meets MPEA and SMG's requirements and design intent. The Consultant will be responsible for providing specifications for the proposed furniture including product numbers, finishes, colors, dimensions, etc.
- Assist in the preparation of necessary bid documents for the purchase of the furniture for the first phase of this project.
- Preparation of certain marketing materials for McCormick Place management and clients to help communicate the changes.



- Final sign-off on the project, assuring that the final project represents what was originally conceptualized and captured in the working drawings.

## **2.2 MINORITY AND WOMEN BUSINESS ENTERPRISES**

Minority and Women Business Enterprises are encouraged to participate in this Proposal.

SMG has adopted and maintains a minority and women owned business enterprise procurement program for any and all work undertaken by SMG. SMG's goals for MBE and WBE participation in the performance of this Contract 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 sub-consultants and subcontractors.

## **2.3 ENVIRONMENTALLY PREFERABLE PURCHASING (EPP)**

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.

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

### III. RFP PROCESS AND SUBMISSION REQUIREMENTS

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#### 3.1 The RFP Submittal Process

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

Proposer's written response, which includes all required information as outlined herein, are due no later than **2:00 PM (CST) on Monday, November 12, 2018** McCormick Place is committed to initiatives designed to conserve energy, protect vital resources and promote ecologically-efficient policies and procedures. In an effort to achieve this goal, McCormick Place | SMG will not request multiple hard copies of Proposals. Interested parties must submit **One (1) COMPLETE ORIGINAL hard copy and one electronic copy** of the RFP submittal that includes all information in the format outlined in this RFP (Section 3.2). *The electronic copy must be saved as a **searchable PDF document(s)** on a **USB drive**.* Required Form F – Financial Offer and Required Form G – Special Conditions Regarding Minority and Women Business Enterprises **must** be saved as separate documents and identified as such in the electronic copy.

Original copy submittals and supporting documentation must be labeled "Proposal for McCormick Place | SMG Public Furniture Design Consultant" and submitted to:

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

McCormick Place | SMG will accept pre-submittal questions, in writing via e-mail only to Hilary Barker, Purchasing & Supplier Diversity Manager at: [hbarker@mccormickplace.com](mailto:hbarker@mccormickplace.com). The first round of questions are due no later than **3:00 PM (CST) on Friday, November 2, 2018**. A summary of questions received, and answers will be issued as an addendum.

There will be a pre-proposal conference and site visit starting at **11:00 AM on Tuesday, October 30, 2018**. We will begin the pre-proposal conference in Room W472 of the McCormick Place West Building. A tour of portions of the facility will be conducted immediately following the initial meeting. All interested parties are encouraged to attend.

We anticipate that the pre-submittal meeting and site visit will last approximately two (2) hours. There will be a substantial amount of walking involved, therefore, it is highly recommended to wear comfortable walking shoes.

If your firm plans on attending the pre-submittal meetings and site visits, we ask that you register your firm and provide a list of attendees to Hilary Barker, Purchasing Manager, via e-mail at [hbarker@mccormickplace.com](mailto:hbarker@mccormickplace.com).

Parking and driving directions to the facility are located on our website at: <http://mccormickplace.com/attendees/parking.php>

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

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

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

### **3.2 RFP Submittal Requirements and Contents**

Interested Proposers are to provide a thorough submittal using the guidelines presented herein. Submittals should be straightforward and concise in providing evidence of the Proposer's ability to meet the requirements of the RFP. Emphasis should be on conforming to the RFP instructions, responsiveness to the RFP requirements, and the completeness and clarity of content. The following provides an outline of the information to be included in the submittal.

#### **Proposal Contents**

In its Proposal the Proposer must provide, at minimum, detailed information regarding the following:

- a) **Proposed Work Plan:** A detailed Operational Plan which describes the Proposers understanding of the scope of work and how they will accomplish the requirements defined in the scope of the Project. The Work Plan must describe the tasks the Proposer feels need to be accomplished in order to achieve the goals in the most efficient and timely manner. The Work Plan should clearly and specifically identify key personnel assignments that are consistent with the staffing plan. The Work Plan should include a schedule that demonstrates how the Project will be fully and satisfactorily completed and the timeline for each item on the work schedule.
- b) **Experience & Qualifications:** Overview of Proposer's company, including a brief description of at least three (3) relevant agreements for which your company has provided similar Design Services related to convention centers. Provide the following information for each facility, for reference purposes: the Owner Name, Address, Phone, E-Mail, a detailed description of services performed and contract number.
- c) **Subconsultants:** Provide a list of all proposed subconsultants that will be performing professional services for this project. Including the firm name and address, detailed scope of service, relevant experience and whether they are a Minority or Women owned business enterprise.
- d) **Sustainability:** Describe how your firm incorporates sustainability and efficient energy usage into the design. Provide examples from examples from current or previous projects in which your firm has incorporated this aspect of design into the Project.
- e) **Financial Information:** Financial statements, such as balance sheets and/or profit and loss statements, for the last three (3) years demonstrating that the Proposer has the financial viability and ability to perform the services. The Proposer must also provide written disclosure advising of any pending litigation against the Proposer that may have a material effect upon the Proposer's ability to provide the services.
- f) **Supplemental Information:** Provide details regarding any other relevant factors you believe should be considered by McCormick Place | SMG, including a description of any needs your firm may have to carry out the required work. Describe how your firm can add value to the Project and the process. Including examples of situations from comparable projects where the owner realized tangible value.

g) **Required Forms:** In addition to the information required above, Proposals must contain the following completed items, included as attachments to this RFP:

1. **Required Form A – Form of Transmittal Letter**
2. **Required Form B – Statement of Business Organization**
3. **Required Form C – Statement of Qualifications**
4. **Required Form D – Insurance Requirements**
5. **Required Form E – Notification of Exceptions**
6. **Required Form F – Financial Offer**

Proposers are required to submit a Lump Sum Cost that includes all information regarding the fee structure based on the Scope of Services, outlined herein.

Proposers will be required to provide an Hourly Rate Sheet for all professional personnel required for the Project. The Hourly Rate Sheet should include the classifications and their associated hourly billing rates.

7. **Required Form G – Special Conditions Regarding Minority and Women Business Enterprises**

SMG has adopted and maintains a minority and women owned business enterprise procurement program for any and all work undertaken by SMG. SMG's goals for MBE and WBE participation in the performance of this Contract 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 and subcontractors.

## IV. RFP EVALUATION CRITERIA

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### 4.1 Evaluation Process

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

### 4.2 Evaluation Criteria

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

- a. **Experience and Qualifications:** Experience, qualifications and performance on past projects of the same quality, complexity and size. Whether the Proposer has demonstrated previous experience of similar scope as described in the RFP.
- b. **Detailed Work Plan:** Quality of the proposed Work Plan. Whether the Proposer has provided a detailed Work Plan that describes the necessary steps needed to complete the project.
- c. **Financial Considerations:** Reasonableness and competitiveness of Proposer's Lump Sum Cost.
- d. **Financial Capability:** Whether the Proposer has provided sufficient evidence of their company's financial abilities to perform the work.
- e. **Responsiveness:** Completeness, thoroughness and detail of response as reflected by the Proposals coverage of all requirements as outlined herein.

## V. CONDITIONS, DISCLAIMERS AND DISCLOSURES

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

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

### 5.1 General Agreements

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

### 5.2 Signing Forms

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

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

agreement shall be attached to the Proposal and Form of Transmittal Letter. A joint venture will not be accepted unless the joint venture agreement or some other signed and legally binding instrument is certified and attached to the Proposal Form sheet and Form of Transmittal Letter and contains provisions for one of the parties to the joint venture to be in full direction of the services and to exercise this direction through a single individual to be appointed manager of operations with the consent of all parties to the joint venture agreement.

- In every case, the Proposal and Form of Transmittal Letter shall show the present business address of the Proposer at which address communications shall be received and service of notices accepted.
- Where the Proposal and Form of Transmittal Letter are signed by an agent of the Proposer, evidence of the agent's authority to sign must accompany the Proposal. If the Proposer is a corporation, such evidence shall be a certified copy of that section of corporate bylaws or other authorization such as a Resolution by the Board of Directors, which permits the person to sign the offer on behalf of the corporation. The name of each person signing the Proposal shall be typed or printed below his/her signature.

### **5.3 Ownership of Proposals**

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

### **5.4 Improper Practices**

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

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

### **5.5 Interpretation**

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

### **5.6 Multiple Awards**

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

### **5.7 Contract Term**

This Contract begins on the Effective Date and, unless terminated in accordance with the Contract, shall remain in effect until the Project is completed in accordance with the timeline agreed to by the Parties.

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

Submission of a proposal shall include a representation that neither the Proposer, nor any of its joint venture participants, partners, members, affiliates, subsidiaries, officers, directors, managerial employees, or any individual who, directly or indirectly, holds an ownership interest in the Proposer's organization has been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with a

governmental entity in the State of Illinois, or has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the entity's or individual's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes or similar laws.

#### **5.9 Vendor Ethics**

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

#### **5.10 Insurance Requirements**

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

#### **5.11 Taxes**

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

#### **5.12 Rejection of Proposals**

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

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

#### **5.13 Protests**

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

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

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



Failure to file any action, protest or challenges within the time frames set forth above shall constitute a full and absolute waiver to take action against, protest or challenge the RFP process or selection of the Successful Proposer.

**5.14 Freedom of Information Act**

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

**5.15 Confidentiality**

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

**5.16 Prevailing Wage Act**

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

Contractor will be required to adhere to the City of Chicago Minimum Wage Ordinance ([https://www.cityofchicago.org/city/en/depts/mayor/supp\\_info/minimum-wage.html](https://www.cityofchicago.org/city/en/depts/mayor/supp_info/minimum-wage.html)); and the City of Chicago Paid Sick Leave Ordinance ([https://www.cityofchicago.org/city/en/depts/mayor/supp\\_info/minimum-wage.html](https://www.cityofchicago.org/city/en/depts/mayor/supp_info/minimum-wage.html))

**5.17 Invoices**

All invoices must be addressed as follows:

McCormick Place | SMG, agent of MPEA  
Attention: Accounts Payable  
301 East Cermak Road  
Chicago, Illinois 60616

Via e-mail to: [financedept@mccormickplace.com](mailto:financedept@mccormickplace.com)

REQUIRED FORM A – FORM OF TRANSMITTAL LETTER

[Insert Date]

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

Re: **Public Furniture Design Consultant #S2018-11**

Ms. Hilary Barker, Purchasing Manager:

On behalf of \_\_\_\_\_ (Full legal name of Proposer), I submit with this letter its response to McCormick Place | SMG’s Request for Proposals (“RFP”) for **PUBLIC FURNITURE DESIGN CONSULTANT #S2018-11**. In this connection, I state the following:

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

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

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

as: \_\_\_\_\_  
(Relationship to Proposer/Title/etc.)

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

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

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

\_\_\_\_\_ Notary Public Signature (Notary Seal)

REQUIRED FORM B – STATEMENT OF BUSINESS ORGANIZATION

**PROJECT DESCRIPTION:** Public Furniture Design Consultant

**PROJECT NUMBER:** #S2018-11

**CONTRACTOR:**

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

**INDIVIDUAL**

If the Proposal is submitted by an **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 Proposal 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 Proposal 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:	
Name:		Address:	
Phone:		Fax:	
E-Mail:		FEIN	

If incorporated in another State, are you authorized to do business in the State of Illinois?

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

Name	Percentage Ownership

List the names of all officers and directors/managers:

REQUIRED FORM C – STATEMENT OF QUALIFICATIONS

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**PROJECT DESCRIPTION:** Public Furniture Design Consultant  
**PROJECT NUMBER:** #S2018-11  
**CONTRACTOR:** \_\_\_\_\_

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

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

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

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

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

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

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

4. List below two (2) references:

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

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

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

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

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

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

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

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

5. List below one (1) bank reference:

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

Contact \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Title \_\_\_\_\_

Address \_\_\_\_\_

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

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

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

**a. Commercial General Liability**

Coverage	Limit
General Aggregate	\$ 2,000,000.00
Products Liability/Completed	
Oper. Aggregate	\$ 2,000,000.00
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	Statutory
Employer's Liability	
Each Accident	\$ 1,000,000.00
Per Employee - Disease	\$ 1,000,000.00
Annual Aggregate – Disease	\$ 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** \$ 10,000,000.00

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

**e. Errors & Omissions Liability**

\$ 1,000,000.00 each claim and aggregate

2. All insurance companies must be rated A-VIII or better by the A. M. Best Company.
3. Contractor's assumption of liability is independent from, and not limited in any manner by, the Contractor's insurance coverage obtained pursuant to this Contract, or otherwise. All amounts owed by Contractor to McCormick Place | SMG as a result of the liability provisions of the Contract shall be paid on demand.
4. Contractor 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 errors & omissions 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 (or their equivalent) 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 E – NOTIFICATION OF EXCEPTIONS

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The Undersigned understands and agrees that:

**PLEASE CHECK ONLY ONE**

Proposer acknowledges that there are **NO EXCEPTIONS** to the Form of Agreement, Exhibit I, or any other requirements stated in this procurement S2018-11.

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

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

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

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

Proposer acknowledges that **THERE ARE EXCEPTIONS** to the Form of Agreement, Exhibit I, including conflicts of interest, or any other requirements stated in this procurement S2018-11 and has attached them to this Required Form E Notification of Exceptions.

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

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

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

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

**REQUIRED FORM F – FINANCIAL OFFER**

Proposers shall provide a Guaranteed Maximum Price (GMP) for providing design consulting services for this project. This Required Form F – **Proposed Pricing and Fee must be submitted in a separate sealed envelope.**

All costs to McCormick Place | SMG for the performance of the Services are to be included in the hourly billing. Consultants will be paid hourly billing rates as submitted and approved by McCormick Place | SMG for the professional Design Services utilized in the performance of this Project. The hourly rates must include, without limitation, all payroll costs, overhead, burden, fringes, office supplies, wages, prevailing wages, benefits, materials, equipment, parts and supplies, indirect costs and profit. Compensation for sub-consultants shall be at their hourly billing rates, with no further mark-up by the Selected Proposer. For other reimbursable expenditures or specialty consultants, McCormick Place | SMG will pay the Selected Proposer the actual cost with no mark-up.

For other reimbursable expenditures, McCormick Place | SMG will pay the actual cost with no mark-up.

	<b>Lump Sum Fee</b>	<b>% of Budgeted Construction Cost Fee</b>	<b>Not to Exceed Reimbursable Allowance</b>	<b>Total Cost</b>
<b>Comprehensive Public Space Furniture Study, Selection, Documentation</b>	\$		\$	\$
<b>Phase 1 procurement documents-\$400,000 budget</b>	\$		\$	\$
<b>Future Phase procurement documents - &lt; \$500,000 budget</b>		%	%	
<b>Future Phase Procurement documents - &gt;\$500,000 budget&lt;\$1,000,000</b>		%	%	
<b>Future Phase procurement documents - &gt; \$1,000,000 budget</b>		%	%	
<b>MPEA / SMG reserves the right to re-bid the later phases of the project</b>				
<b>Budgets to include all material, delivery, and installations costs</b>				

**Remainder of page is blank.**

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

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

### **BACKGROUND**

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

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

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

- Exhibit 1 – Scope of Services
- Exhibit 2 – Pricing
- Exhibit 3 – Insurance Requirements
- Exhibit 4 – Request for Proposals (RFP) document
- Exhibit 5 – Special Conditions Regarding Minority and Women Business Enterprises

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

- 3. Scope of Contract.**

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

- (b) SMG reserves the right to reject any Services which, in its sole judgment, do not: (i) adequately represent the intended level of completion or standard of performance; (ii) include relevant information or data; (iii) comply with federal, state, or local laws, regulations, codes, or requirements; or (iv) include all documents specified in this Contract or which are reasonably necessary in performing pursuant to this Contract or any phase of the Services. Deliverables must be provided in the format and media required by SMG.
- (c) Partial or incomplete Services may be accepted for review only when required for a specific and well-defined purpose and when consented to in advance by SMG. Such partial or incomplete Services do not satisfy the requirements of this Contract. Further, partial or incomplete Services shall not relieve Contractor of its commitments pursuant to this Contract.
- (d) In performing the Services, Contractor shall attend such meetings with representatives of SMG and Owner as well as SMG's agents and contractors and other interested agencies as may be required in connection with the Project. Contractor and SMG each agree to be reasonably available for meetings on matters pertinent to the Project.
- (e) Subcontractor services are those services which are provided by specialty Subcontractors retained by Contractor in accordance with the assignment provisions set forth in Section XIV. Such Subcontractor Services may include, but are not limited to, providing technical information concerning the Services and such other services as may be necessary to provide the Services or as may be directed by SMG. Contractor shall cause any and all Subcontractors to be bound to the same terms and conditions as those in the Contract between SMG and Consultant. Consultant may award fixed amount lump sum contracts to its Subcontractors solely upon prior written approval by SMG. All billing by Contractor to SMG for Subcontractor services shall be at actual cost with no mark-up by Contractor, and the cost for the Subcontractor Services is indicated within the Guaranteed Maximum Price as defined below.
- (f) The term for the performance of the Services will commence upon the execution of the Contract by SMG, and will conclude upon the completion of all phases of the Services as set forth in Exhibit 1. Prior to the commencement of the Services, the parties shall agree on a Project schedule which may not be amended without SMG's approval.
- (g) Contractor shall report directly to a project manager assigned by SMG to oversee and manage Contractor's Services.
- (h) All Services shall be performed in accordance with the requirements of SMG, this Agreement and the Project schedule. If Contractor fails to comply with any of the above standards, Contractor must perform again, at its own expense, any and all Services required as a direct or indirect result of such failure. The duty to perform again is in addition to and not a limitation of any other remedies available to SMG under this Contract, at law, or in equity.

**4. Standard of Performance.** Contractor shall perform all activities as set forth in the Contract Documents with that degree of skill, care and diligence customarily required of a professional performing services of comparable scope, purpose and magnitude in the Chicago area, and in conformance with the applicable professional standards. Contractor shall at all times use its best efforts on behalf of SMG to assure timely and satisfactory rendering and delivery of the required Services. Contractor and all of Contractor's employees or subcontractors providing Services under this Contract shall be qualified and competent in the applicable discipline or industry, shall be appropriately licensed as required by law, shall comply with all City of Chicago, State of Illinois, and federal laws as applicable and shall conform to the terms of the Contract Documents and this Contract. Contractor remains

responsible for the professional and technical accuracy of all Services and other deliverables furnished, whether by the Contractor or others on its behalf. No review, approval, acceptance, nor payment for any and all of the Services by SMG shall relieve the Contractor from its responsibilities.

- 5. Approvals.** The Services purchased by SMG are subject to approval by SMG to determine compliance with the provisions of this Contract. Provided, under no circumstances shall such approval relieve Contractor from any obligation set forth in this Contract, including, without limitations, all obligations mandated by law or industry safety requirements, or latent defects. Further, such approval is for the purpose of determining the quality and completeness of the Services, including materials used, and is not for the purpose of determining compliance with applicable laws or industry safety requirements.

  - (a) Services determined by SMG to be non-compliant with this Contract shall be corrected or replaced within five (5) days after notification to Contractor. Payment for any Services ordered hereunder prior to inspection and approval shall not constitute acceptance thereof and is without prejudice to any and all claims that SMG may have against Contractor.
  - (b) Services determined by SMG to be compliant with this Contract shall be accepted upon proper completion.
- 6. Shipping.** Unless otherwise set forth on Exhibit 1 or any Purchase Order delivered by SMG hereunder, all costs, fees, and expenses arising in connection with the delivery and shipment to SMG of the Goods furnished in connection with the Services shall be borne by Contractor. Contractor guarantees that all merchandise now being sold or delivered to SMG will be, at the time of its delivery as required by this Agreement, packaged, marked, labeled, and shipped in accordance with all applicable federal, state, and local statutes, regulations, ordinances, and orders. All shipments must be packed in a manner that will provide for efficient handling and prevent damage in transit. Goods must conform to the description, quantity, and other specifications set forth in this Agreement.
- 7. Risk of Loss.** The risk for loss shall remain with the Contractor until any Goods that may be required to be delivered pursuant to this Contract or the Contract Documents are delivered to SMG in accordance with the terms hereof. Contractor shall carry on the work of furnishing and delivering the Goods at Contractor's own risk and expense until the same is fully completed and accepted by SMG and shall be solely liable and responsible for the safety and security thereof.
- 8. Contractor Representations and Warranties.** Contractor hereby represents and warrants to SMG, and agrees as follows:

  - (a) Contractor warrants that it is fully staffed, equipped, trained and otherwise capable to perform this Contract. Contractor further represents that, by its own independent investigation it has ascertained the nature of the Services required, the conditions involved in delivering the Services, and Contractor's obligations under this Contract. Contractor is responsible to verify all information furnished by SMG as to the correctness and accuracy of that information. Any failure by Contractor to investigate independently and become fully informed will not relieve Contractor from its responsibilities under this Contract;
  - (b) Contractor warrants that all Services provided (a) shall be compliant with the standards set forth in Section 4 hereof, (b) shall comply with all City of Chicago, State of Illinois, and Federal laws applicable to the Services, and (c) shall conform to the terms of this Contract;
  - (c) The Contractor further warrants that it is either the original manufacturer of any Goods furnished in connection with the Services and is capable of providing genuine parts, assemblies and/or accessories, or

is capable of transferring and/or assigning original warranties to SMG. SMG may return any nonconforming or defective Goods to Contractor or require replacement of the materials at the time the defect is discovered, all at the Contractor's expense. Contractor must replace any nonconforming or defective Goods within ten (10) days of notification from SMG's designated representative. Acceptance of Goods and Services by SMG by payment shall not relieve Contractor of the responsibilities herein;

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

**9. Compensation.** Contractor shall deliver to SMG an invoice for all requested Services covered in this Agreement. All invoicing and requests for payment shall be in such form and with such documentation as required by SMG.

- (a) **Guaranteed Maximum Price.** The Guaranteed Maximum Price ("GMP") for the Services is \$\_\_\_\_\_.
- (b) **Payment of GMP by Phase.** SMG shall pay Consultant for the Services in accordance with the amounts set forth in Exhibit B for each phase. The maximum payment to Consultant for each phase shall not exceed the amounts set forth on Exhibit B. SMG, in its exclusive discretion, may re-allocate any unexpended funds from one phase of the Services to another. Exhibit 2 indicates the amounts contemplated for each phase of the Services and any transfer of allocations shall be subject to the approval of SMG during the progress of the project.
- (c) **Basis of Payment.** Consultant shall be paid an hourly rate for the satisfactory performance of the Services by each individual assigned to the project, plus authorized amounts for reimbursable costs, subject to the GMP.
- (d) **Reimbursable Costs.** SMG will pay the Consultant the actual cost with no markup for reimbursable expenditures as described in this Section 3.d, which amounts are included within the GMP. The Consultant shall be reimbursed only for the following expenditures made by the Consultant specifically for the project. All other expenditures are included in the hourly billing rates.
  - i. Services provided and expenses incurred by specialty subconsultants which may be retained by the Consultant to provide technical information concerning the Services and/or the project such as acoustics, lighting, vertical transportation, material handling, audio visual, food service, roofing and waterproofing, graphics, traffic and transportation parking, building management systems, security, testing, inspection and such other services as may be necessary to provide the required Services or as may be directed by SMG. Consultant will advise SMG prior to entering into any subconsulting agreement, and SMG reserves the right to reject any proposed subcontract prior to its execution when in SMG's sole discretion, SMG deems it is in its best interests to do so. Consultant shall cause all subconsultants to be bound to the same terms and conditions as those in the Agreement between SMG and Consultant. Consultant may award fixed amount lump sum contracts to its subconsultants solely upon prior written approval by SMG. All billing by the Consultant to SMG for subconsultant Services shall be at actual cost, with no markup by Consultant.

- ii. Non-incident reproduction and binding of memoranda, reports, drawings and other deliverables, or reproduction of existing drawings and data for Consultant's use.
  - iii. Special services or supplies applicable to the Services, such as photography, purchase of maps, renderings, presentation models, mock-ups and samples. Consultant shall provide prior notice to SMG of any such expenditure that may exceed \$1,000, and SMG reserves the right to reject any such proposed expenditure.
  - iv. Transportation and subsistence when on trips required for the performance of the Services, but only upon prior written approval by SMG.
  - v. Long distance telephone and faxes, express shipments and postage.
- (e) Other Costs. All other costs incurred by the Consultant shall be compensated by the hourly rate paid by SMG for the performance of Services by the individuals assigned to the project, which amounts are included within the GMP.
- (f) Classification and Hourly Rates. An hourly billing rate schedule for Consultant is set forth on the attached Exhibit B which includes the hourly billing rates for each professional or technical employee of the Consultant working on the project. The hourly billing rate shall consist of the hourly wage rate as reflected by the employee's W-2 form, plus direct payroll expense items such as FICA, FUTA, medical insurance as paid periodically to or for the employee exclusive of bonuses, rewards, incentives and retirement contributions, and all of Consultant's other indirect costs for providing the services, including but not limited to, administrative, accounting and legal support and incidental intentional reproduction costs. Unless and until advised to the contrary by SMG, payment will be made at the corresponding rate per hour for the time such employee is performing duties directly for the project.
- (g) Method of Payment. The Consultant shall submit an itemized invoice to SMG no later than the twenty-fifth (25th) day of each month. The invoice shall be for Services performed during or prior to the invoice period. Payment will be made on the basis of approved invoices and such supporting documentation as required by SMG. Supporting documentation shall include proof of payment by Consultant to any subconsultant who performed Services billed by Consultant on the preceding invoice. The Consultant shall indicate on each month's invoice, or in the transmittal letter, or on a progress report accompanying the invoices, the percentage of completion of all Services hereunder, as of the date of the invoice, in a manner acceptable to SMG. The Consultant also shall submit with each invoice, an estimate of the approximate value of work remaining to be done under the Scope of Services. Invoices for payment must not include any request for payment of amounts that the Consultant does not intend to pay to a subcontractor because of a dispute or for any other reason.
- (h) Payment for Additional Services. No change increasing or decreasing the Scope of Services required under this Agreement 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. If modifications to the Scope of Services cause an increase or decrease in the Consultant's cost of, or time required for, performance of Services, an equitable adjustment shall be reached by mutual agreement of the parties. The Consultant acknowledges that additional services involving a change to the Agreement pricing may require the prior approval of the Board of SMG. Any claim by the Consultant for adjustment under this clause must be submitted in writing by the Consultant to SMG. SMG will pay the Consultant for such approved additional services on the hourly basis set forth in Exhibit II - Pricing (plus authorized reimbursable expenses), or on such other basis as may be agreed to by the parties, and invoices for



payment shall have these costs tabulated separately. Upon approval of additional services by SMG, SMG and the Consultant shall execute an amendment to this Agreement as may be necessary evidencing the agreement of the parties regarding the changes in Services and related compensation.

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

(a) If, after the Effective Date, there shall be imposed or charged any tax other than a tax upon the income of the Contractor and said imposition or charge shall be made applicable directly on the use, production, manufacture, sale, or transportation of the items covered hereby, which is applicable to the Contractor because of a specific contractual obligation or by the operation of law, and SMG is not otherwise exempt from such tax, then:

(i) The Contract Prices herein stated shall be accordingly adjusted and any amount due to the Contractor as a result of the adjustment in such prices shall be charged to SMG and entered upon such invoices as a separate item; or,

(ii) At its option, when exempt from the payment of such tax, SMG, in lieu of payment of such increase shall furnish to the Contractor appropriate tax exemption certificates or furnish other proof of exemption with respect to such tax or charge.

(b) If the Contractor is relieved from the payment of any tax imposed, or portion thereof, included in the Contract Prices herein stated, by reason of the decrease or elimination of such tax, the Contractor shall promptly submit to SMG a statement showing the amount of such decrease or elimination and the Contract Prices herein stated shall be adjusted to reflect such decreases or elimination.

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

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

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

to Contractor for such Service, Contractor shall pay to SMG the reasonable cost of such audit. In any event, Contractor shall promptly pay to SMG the amount of any such variance which results in an overpayment by SMG to Contractor.

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

#### **15. Wages and Personnel.**

- (a) **Prevailing Wage Act.** Wages of laborers, mechanics and other workers employed under this Agreement shall be subject to the provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/1 *et. seq.*
- (b) **Personnel.** Contractor shall assign and maintain, and update as needed, a staff of competent personnel which is fully equipped and qualified to perform the Services required by this Agreement, including designation of the person on Contractor's behalf to serve as the day-to-day liaison for contractual matters. Provided, SMG shall have the right to review and approve such personnel selections, and may reject any such personnel at any time whenever SMG, in its sole and unlimited discretion, determines that such personnel is not qualified or otherwise unfit for such work. In accordance with the foregoing, Contractor shall, within three (3) days of the effective date of this Agreement, subject to SMG's approval which shall not be unreasonably withheld, appoint a management representative who shall be authorized by Contractor to promptly render decisions pertaining to all matters relating to the Services, in order to avoid delay in the orderly progress of the Services.

#### **16. Indemnification.**

- (a) Contractor shall, at its sole cost and expense, indemnify, defend, and hold harmless SMG, Owner, and their agents, officials, employees, and consultants (individually referred to as "Indemnified Party" and collectively as, the "Indemnified Parties") against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, of any kind and nature, including but not limited to reasonable attorney fees and expert witness fees, which may in any way accrue against any such Indemnified Party (collectively, for purposes of Indemnification, referred to as the "Loss") in consequence of this agreement or the performance thereof, or which may in any way result therefrom, whether or not it shall be alleged or determined that the Loss arose from (i) Contractor's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, and constitutional provisions applicable to Contractor's performance of this Agreement; (ii) any unlawful acts on the part of Contractor or its officers, directors, agents, employees, or subcontractors; (iii) personal or bodily injury to or death of persons or damage to the property of SMG or Owner to the extent caused by the negligent acts, errors, and/or omissions or the willful misconduct of Contractor or its officers, directors, agents, employees, or subcontractors; (iv) personal or bodily injury to or death of persons or damage to the property of SMG, Owner or the other SMG Parties as a result of any use or sale of the Goods and/or Additional Goods, whether or not the Contractor is the manufacturer of such Goods and/or Additional Goods or, (v) the material breach or default by Contractor or its officers, directors, agents, employees, or subcontractors of any provisions of this Agreement.

- (b) Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, regardless of the merit of such claim. If any judgment shall be rendered against such Indemnified Party in any such action, Contractor shall, at its sole cost and expense, satisfy and discharge the same. Contractor expressly understands and agrees that the insurance required by this Agreement or the other related documents of any Indemnified Party or Contractor, or otherwise provided by Contractor or such Indemnified Party shall in no way limit the responsibility to indemnify, defend and hold harmless the Indemnified Parties as herein provided.
- (c) Contractor's defense, indemnification and hold harmless obligations to any Indemnified Party will remain an affirmative obligation of Contractor unless and until a court of competent jurisdiction finally determines otherwise and all opportunities for appeal have been exhausted or have lapsed.
- (d) Contractor's indemnification obligation set forth herein shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Contractor under workers' compensation acts, workers' occupational disease acts, disability benefit acts, or other employee benefit acts or insurance policy coverage. To the extent permissible by law, Contractor waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due pursuant to Contractor's obligations under this Article, including any claim by any employee of Contractor that may be subject to the Workers' Compensation Act, 820 ILCS 305/1 *et. seq.*, or any other law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The Indemnified Parties, however, do not waive any limitations they have on liability under the Illinois Workers' Compensation Act, the Illinois Local Government and Governmental Employees Tort Immunity Act, or any other statute.
- (e) The provisions set forth in this Section shall survive the termination of this Agreement.

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

- (a) **Equal Employment Opportunity/Non-Discrimination.** Throughout the term of this Contract, Contractor agrees as follows:
  - (i) Contractor will comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, and the rules and regulations of the Illinois Department of Human Rights ("IDHR") and all other applicable federal, state and local laws, rules and regulations which prohibit unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination.
  - (ii) Contractor, in performing its obligations under this Contract shall comply with the procedures and requirements of the Illinois Department of Human Rights' (IDHR) regulations concerning equal employment opportunities and affirmative action.
  - (iii) Provide such information, with respect to its employees and applicants for employment, and assistance as SMG and the IDHR may reasonably request.
  - (iv) Contractor shall have written sexual harassment policies that shall include those requirements as set forth by the IDHR:

- (v) Contractor will send to each labor organization or representative or workers with which it has or is bound by a collective bargaining or other Contract or understanding, a notice advising such labor organization or representative of Contractor's obligations under the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and the IDHR's rules and regulations. If any such labor organization or representative fails or refuses to cooperate with Contractor in its efforts to comply with such Act and rules and regulations, Contractor will promptly so notify the IDHR and SMG, and will recruit employees from other resources when necessary.
  - (vi) Contractor further agrees that it shall not commit an unfair labor practice.
  - (vii) Contractor shall include, verbatim or by reference, the provisions of this Section in every contract it awards under which any portion of its obligations under this Contract are undertaken or assumed, so that such provisions shall be binding upon each such sub-Contractor. Contractor shall be responsible and liable for compliance with the pertinent provisions of this Section by such sub-Contractors, and, further Contractor shall promptly notify SMG and IDHR if any sub-Contractor fails or refuses to comply therewith. In addition, Contractor will not utilize any sub-Contractor declared ineligible by IDHR or the Illinois Human Rights Commission for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
  - (viii) In the event of Contractor's non-compliance with any provision of this Section, the Illinois Human Rights Act, or the rules and regulations of IDHR, Contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Contract may be canceled or voided, in whole or in part, or such other sanctions or penalties that may be imposed or remedies invoked as provided by law.
- (b) **Minority and Women Business Enterprise Goals.** SMG has adopted and maintains an affirmative action program with respect to its contracts. The purpose of SMG's affirmative action program is to promote the ability of Minority Business Enterprises ("MBE") and Women-Owned Business Enterprises ("WBE") to have the maximum possible opportunity to participate in SMG contracts. As a minimum, SMG strives to ensure that, for Services necessary for the performance of this Contract, 25% of total contract amount is payable to MBE firms and 5% of the total contract amount is payable to WBE firms. Unless and only to the extent SMG grants an expressed waiver, Contractor shall comply with the Special Conditions Regarding Minority and Women-Owned Business Enterprises, as outlined in Exhibit 5, throughout the term of this Contract.
- (i) **Compliance.** As part of its review and approval of Contractor's monthly payment requests, SMG will monitor Contractor's performance to reasonably satisfy itself that Contractor will meet its commitment and use its good faith efforts to achieve the maximum MBE/WBE allocation. In order for SMG to ensure that Contractor complies with its MBE/WBE commitment, Contractor shall submit certified monthly statements with its invoices that include information on the level and scope of MBE and WBE participation in monetary terms as well as a description of the Services provided by each MBE and WBE.
  - (ii) **Remedies for Noncompliance.** In the event Contractor fails to fulfill its obligations under this Section 17, SMG shall have available to it appropriate remedies at law or in equity, including the right to withhold amounts due to Contractor for any Work until Contractor submits a corrective action plan which has been approved by SMG or demonstrates to SMG's satisfaction that all good faith efforts to comply with the goals set forth herein have been exhausted, together with the ability to disqualify Contractor from future work that may, from time to time, be undertaken by SMG as well as all unfinished Work on the Project.

## 18. Default and Termination.

- (a) **Termination for Convenience.** SMG has the right to terminate this Contract, in whole or in part, for any reason, including the convenience of SMG, by providing Contractor with written notice specifying the date of termination. On the date specified in the notice, this Contract will terminate. SMG will pay Contractor the amount earned or reimbursable to it (if any) up to the termination date. After termination, Contractor 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 Contractor:
- (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 Contractor 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 Contractor of liability for any damages SMG suffers on account of Contractor's failure to meet required deadlines. Contractor must cure any default that is not time sensitive within ten (10) calendar days after Contractor 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, Contractor 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 Contractor with notice setting for the event of default and cure requirements, including the time period permitted for cure. Contractor shall cure any event of default as provided in the notice.

- (ii) If Contractor fails to cure a default as provided in the notice, SMG may, at its sole option, declare Contractor in default. SMG will give Contractor 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. Contractor 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. Contractor 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 Contractor non-responsive in future contracts to be awarded by SMG.
  - (v) The right to take assignment of any or all of Contractor'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 Contractor.
  - (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 Contractor, then the termination shall be treated as a termination for convenience.

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

**20. Cooperation.** The Parties shall cooperate in good faith to implement the terms of this Contract. At such time as this Contract is terminated or expires, the Parties shall undertake in good faith efforts to assure an orderly

transition to another Contractor of the Services, if any. Contractor shall make an orderly demobilization of its own operations, provide, uninterrupted, the Services until the effective date of termination or expiration, and otherwise comply with the reasonable requests and requirements of SMG in connection with the termination or expiration.

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

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

## **22. Confidentiality.**

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

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

## **24. Assignment and Subcontracting.**

- a. SMG may assign this Agreement upon 30 days written notice to the Contractor. Provided, any assignee shall be obligated to provide written acceptance and commitment to be bound by all terms and conditions as set forth

herein. Upon such assignment, SMG shall be relieved from any further liability or obligation under this Agreement, it being understood that the assignee shall have all of SMG's rights, duties and obligations. In the event of such assignment, the term "SMG" as used herein shall mean the assignee.

- b. Contractor shall not assign or subcontract this Agreement, or any part thereof, without the prior written consent of SMG which consent may be granted, denied or conditioned in the sole, unfettered discretion of SMG.

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

- (a) Contractor shall not occupy or use the Facility, nor shall interfere with the activities of the Facility, except as is reasonably necessary to perform its obligations hereunder.
- (b) Contractor shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and from the Facility. "**Hazardous Material**" shall mean, without limitation, those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in any applicable state or federal environmental law.
- (c) Contractor shall not make any alterations or improvements to the Facility without the prior written consent of SMG.
- (d) Contractor shall not operate any equipment or materials belonging to SMG or Owner without the prior written approval of SMG.
- (e) No portion of any passageway or exit at the Facility shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked, or bolted while the Facility is in use. Moreover, all designated 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, Contractor has furnished and will continue to furnish various certifications, affidavits and other information and reports. Contractor represents that any such material and information furnished in connection with the IFB or this Agreement is truthful and complete. Contractor shall promptly update such material and information to be complete and accurate as needed due to events or changes occurring after the date of this Agreement.

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

**McCormick Place | SMG**  
301 East Cermak Road  
Chicago, Illinois 60616  
Attention: Hilary Barker, Purchasing Manager  
E-Mail: [hbarker@mccormickplace.com](mailto: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 Contractor shall be addressed to:

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

## 28. Construction of this Agreement.

### (a) Compliance with Laws.

- i. Contractor shall at its own expense comply with all federal, state and local laws, codes, ordinances and regulations applicable to this Contract and the Services whether by reason of general law or the specific Services required. Contractor shall pay all contributions, premiums, or taxes of whatever nature (including any interest or penalties) that are required of it under any federal, state or local laws arising out of the performance of this Contract.
- ii. Contractor shall comply with applicable licenser or permit requirements and hold SMG harmless against any liability in connection with licenser, permitting, or taxes. Contractor shall obtain and pay for all permits, licenses, and fees which may be necessary for the prosecution and completion of its duties and obligations under the Contract, including royalties for playing, using, or delivering the Services. To the extent required, Contractor shall be duly licensed to operate in Chicago, Illinois. Contractor is liable to SMG for all losses, expenses, including attorney's fees, attributable to any acts of commission or omission by Contractor, its employees and agents, and sub-Contractors resulting from failure to comply with any federal, state or local laws, codes, ordinances or regulations including, but not limited to, any fines, penalties, or corrective measures.

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

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

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

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

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

(g) **Severability and Waiver.**

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

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

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

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

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

[INSERT SUCCESSFUL PROPOSER]

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

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

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

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

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

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

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

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