

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSTRUCTION MANAGER**

AGREEMENT NO. PS-928

THIS AGREEMENT, dated as of the 13th day of December, 2005, but actually executed on the date witnessed herein below, by and between the **PUBLIC BUILDING COMMISSION OF CHICAGO**, a municipal corporation of the State of Illinois, having its principal office at Room 200, Richard J. Daley Center, 50 W. Washington, Chicago, Illinois 60602, hereinafter called "**Commission**", and **The McClier Corporation** with offices located at 303 East Wacker Drive, Suite 900, Chicago, Illinois 60601, hereinafter referred to as the "**Construction Manager**".

WITNESSETH

WHEREAS, the Commission, on behalf of the **Department of General Services and the Office of Emergency Management and Communications** (referred to in this Agreement as the "**User Agency**"), intends to undertake the design and improvement of the following facility in Chicago, Illinois, described in Schedule A to this Agreement:

**Project:
Construction Management Services**

**Technology Enhancements for Traffic Management/ Snow Command Center
911 Center Project
1411 W. Madison Street
Chicago, Illinois**

hereinafter called the "**Project**"; and

WHEREAS, the Commission requires certain professional construction management services, described in Schedule A to this Agreement (the "**Services**"), in connection with the Project and desires to retain the Construction Manager, on the terms and conditions set forth in this Agreement, to perform such Services; and

WHEREAS, the Construction Manager desires so to be retained by the Commission and has represented to the Commission that the Construction Manager has the knowledge, skill, experience and other resources necessary to perform the Services in the manner herein provided; and

WHEREAS, the Construction Manager has consulted with the Commission, reviewed the Project Documents (defined below) and taken such other actions as the Construction Manager has deemed necessary or advisable to familiarize itself with the scope and requirements of the Project and the Services; and

WHEREAS, the Construction Manager has made site inspections, consulted with the Commission and the User Agency, and is fully acquainted with the requirements of the foregoing Project; and

WHEREAS, the Construction Budget for the Project as determined by Commission is \$793,000.00 and the Construction Manager does hereby confirm to the Commission that such Budget, based upon current area, volume or other unit cost, the requirements of the Program and allowances for cost escalation and Project contingencies, is reasonable for the construction of the Project; and

WHEREAS, the Construction Manager represents that it is qualified and competent by education, training and experience to prepare Drawings and Specifications and Construction Documents necessary to complete the construction of the Project in accordance with standards of reasonable professional skill and diligence; and

WHEREAS, the parties anticipate that the Construction Manager shall enter into one or more trade contracts or trade agreements with subcontractors in order to complete the development and construction of the Project;

NOW THEREFORE, the Commission and the Construction Manager, for the considerations hereinafter set forth, **AGREE** as follows:

1. Incorporation of Recitals. The Recitals set forth herein above and the following documents are incorporated into this Agreement.
2. Definitions. The following phrases have the same meanings for the purposes of this Agreement:
 - a. Agreement means this professional services Agreement, including all exhibits or documents attached hereto and/or incorporated by reference herein, and all amendments, modifications, or revisions made in accordance with the terms hereof.
 - b. Architect or Architect/Engineer means any person or firm utilized by the Construction Manager for the purpose of designing and observing the Work embraced in this Contract.
 - c. Commission as herein referred to shall include the Commission's Chairman, Secretary, Assistant Secretary, Executive Director, Director of Construction, Managing Architect, Project Manager, Director of Procurement or designated consultant or consultants, acting on behalf thereof, as designated by the Commission in writing, for the purpose of giving authorizations, instructions, and/or approval pursuant to this Agreement.
 - d. Construction means, for the purpose of this contract, the Technology Enhancements purchase and installation of equipment and related modifications to

the City Operations Room at the 911 Center necessary for the effective implementation of the Project.

- e. **Construction Manager** means the company or other entity identified in this Agreement, and such successors or assigns, if any, as may be authorized by the terms and conditions of this Agreement.
- f. **Construction Budget** means the total funds budgeted by the Commission for designing and constructing the Project and furnishing all items which shall be shown or described in the Contract Documents to be prepared by the Construction Manager in accordance with this Agreement, but does not include any payments made to the Construction Manager or sub-consultants or reimbursable expenses pursuant to Schedule C, paragraph C.3.
- g. **Contingent Additional Services** means any additional services to be provided by the Construction Manager for the Project pursuant to the provisions of Schedule A of this Agreement.
- h. **Contract Documents** consists of all of the component parts of the Contract between the Commission and the Construction Manager for the construction and improvement of the Project including, without limitation, the terms and conditions, technical specifications, Drawings and Specifications, addenda, bulletins and modifications thereto.
- i. **Control Estimate** means the sum of the following (i) professional fees; (ii) reimbursable expenses; (iii) contingency; (iv) the then estimated Cost of Work based on the Construction Documents approved by the Commission and the User Agency. The Control Estimate is the budget estimate against which the actual costs will be measured.
- j. **Cost of Work** means the sum of all trade contractor costs related to construction of the project.
- k. **Day or Days** means calendar day(s) unless otherwise specified.
- l. **Design Development Documents** means plans, elevations and other drawings and outline specifications which fix and illustrate the size and character of the Project in its essentials, including kinds of material, type of structure, mechanical and electrical systems and such other work as may be required.
- m. **Design Team** means the licensed Architect of Record and its sub-consultants, including but not limited to, structural, civil, mechanical, electrical, plumbing and fire protection engineers, employed or engaged by the Construction Manager for the Project.

- n. **Drawing and Specifications** means the detailed drawings and technical specifications, prepared by a licensed Architect, which describe the scope of work to be performed.
- o. **Executive Director** means the person employed by the Commission as its Executive Director or the duly authorized representative thereof.
- p. **Federal Government** means the government of the United States of America, including, but not limited to, the U. S. Department of Homeland Security.
- q. **Final Completion and Acceptance of the Work** means the last date on which all of the following events have occurred: the Commission has determined that all Punch List Work and any other remaining Work have been completed in accordance with the Contract Documents; final inspections have been completed and operations systems and equipment testing have been completed; final occupancy certifications have been issued; all deliverables have been provided to the Commission; and all contractual requirements for final payment have been completed.
- r. **Local Government or City** means the City of Chicago, Illinois within which the Project is situated.
- s. **Project** means the improvement of the facility specified on page 1 of this Agreement.
- t. **Punch List or Punch List Work** means minor adjustments, repairs or deficiencies in the Work as determined at the sole discretion of the Commission. Items of incomplete Work that preclude full or beneficial use of any portion of the Work or that preclude the Commission from full operation, maintenance, or security of the facility shall not be considered Punch List items.
- u. **Record Documents** are all documents required under the terms of the Contract to be provided to the Commission by the Construction Manager, including but not limited to shop drawings, as-built drawings, blue line drawings, parts manuals, operation and maintenance manuals, and Project manuals or specifications
- v. **Reimbursable Expenses** as herein referred to includes actual expenditures, as identified in Schedule C, paragraph C.3.1, made by the Construction Manager.
- w. **Services** means collectively, the services, duties and responsibilities that are necessary to allow the Construction Manager to provide the Services required by the Commission under this Agreement. The required Services are described in Schedule A of this Agreement.
- x. **Special Consultants** means special consulting services requested by the Commission.

- y. **Subcontractor** means any partnership, firm, corporation or entity other than an employee of the Construction Manager, that contracts with the Construction Manager to furnish labor, or labor and materials, at the Site. The term also includes subcontractors of any tier, suppliers, fabricators, trade contractors or manufacturers whether or not in privity with the Construction Manager.
- z. **Submittal** means a schedule, shop drawings, video tape, product data, samples, or other items as may be required by the Contract for review and/or approval prior to prosecution of a portion of the Work.
- aa. **Substantial Completion of the Work or Substantial Completion** means the date on which the Commission has determined that the Contract Documents have been essentially completed except for Punch List Work, when the User is able to occupy and use the Project for the purpose intended, and when the Construction Manager has obtained and delivered to the Commission a "Certificate of Occupancy" issued by the authority that has jurisdiction.
- bb. **Technical Personnel** as herein referred to includes partners, officers and all other personnel of the Construction Manager, including technical typists assigned to the Project, exclusive of general office employees.
- cc. **User Agency or User** means the municipal corporation that requested the Commission to undertake the construction and/or improvement of the Project.

3. **Incorporation of Documents.** The documents identified below in this paragraph are hereby incorporated in and made a part of this Agreement. By executing this Agreement, the Construction Manager acknowledges and agrees that the Construction Manager is familiar with the contents of each of such documents and will comply fully with all applicable portions thereof in performing the Services. In the case of a conflict between the terms of this agreement and any requirements brought about by federal grant requirements, the federal requirements shall take precedence.

- a. **Project Documents.** The plans and specifications for the Project, to the extent that plans and specifications for the Project have been prepared, as set forth and described on Schedule B to this Agreement.
- b. **Policies Concerning MBE and WBE.** The Commission's policies concerning utilization of minority business enterprises ("MBE") and women business enterprises ("WBE"), as the same may be revised from time to time.

4. **Engagement and Standards for Performing Services.**

- a. **Engagement.** The Commission hereby engages the Construction Manager, and the Construction Manager hereby accepts such engagement, to provide the Services described in Schedule A to this Agreement, as the same may be amended

from time to time by mutual agreement of the Commission and the Construction Manager.

- b. Nondiscrimination. The Construction Manager agrees that in performing this Agreement the Construction Manager will not discriminate against any worker, employee, applicant for employment, or any member of the public, because of race, color, creed, national origin, gender, age, or disability, or otherwise commit an unfair labor practice. The Construction Manager certifies that he/she is familiar with, and will comply with, all applicable provisions of the Civil Rights Act of 1964, 28 U.S.C. § 1447, 42 U.S.C. §§ 1971, 1975a-1975d, 2000a to 2000h-6 (1992); the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 623-634 (1992); the Americans with Disabilities Act of 1990, 29 U.S.C. § 706, 42 U.S.C. §§ 12101-12213, 47 U.S.C. §§ 152, 221, 225, 611 (1992); 41 C.F.R. § 60 (1992); 41 C.F.R. § 60 (1992); reprinted in 42 U.S.C. 2000(e) note, as amended by Executive Order No. 11,375 32 Fed. Reg. 14,303 (1967) and by Executive Order No. 12,086, 43 Fed. Reg. 46,501 (1978); the Age Discrimination Act, 43 U.S.C. Sec. 6101-6106 (1981); P.L. 101-336; 41 C.F.R. part 60 *et seq.* (1990); the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended; the Discrimination in Public Contracts Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended; the Environmental Barriers Act., 410 ILCS 25/1 *et seq.*; and the Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 *et seq.* of the Municipal Code (1990), as amended. The Construction Manager further agrees to furnish such reports and information as may be requested by the Commission, the Illinois Department of Human Relations, or any other administrative or governmental entity overseeing the enforcement, or administration of, or compliance with, the above-mentioned laws and regulations.
- c. Employment procedures; preferences and compliance. Salaries of employees of the Construction Manager, performing work under this Agreement, shall be paid unconditionally, and not less often than once a month, without deduction or rebate on any account except such payroll deductions as are mandatory or permitted by applicable law or regulations. The Construction Manager certifies that he/she is familiar with, and will comply with, all applicable provisions of 820 ILCS 130/0.01 through 130/12 thereof (Prevailing Wage Act), 30 ILCS 570/1 through 570/7 (Employment of Illinois Workers on Public Works Act) and 30 ILCS 560/0.01 through 560/7 (Public Works Preference Act). The Construction Manager shall also comply with all applicable "Anti-Kickback" laws and regulations, including the "Anti-Kickback" Act of 1986, 41 U.S.C. §§ 51-58 (1992); 18 U.S.C. § 874 (1992); 40 U.S.C. § 276c (1986) and the Illinois Criminal Code of 1961 720 ILCS 5/33E-1 *et seq.* If, in the performance of this Agreement, there is any direct or indirect "kick-back", as defined in any of the above mentioned laws and regulations, the Commission may withhold from the Construction Manager, out of payments due to the Construction Manager, an amount sufficient to pay any underpaid employees the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by

the Commission for and on account of the Construction Manager to the respective employees to whom they are due, as determined by the Commission in its sole discretion.

- d. Compliance with Policies Concerning MBE and WBE. Without limiting the generality of the requirements of the policies of the Commission referred to in paragraph 3(b) above, the Construction Manager agrees to use its best efforts to utilize minority business enterprises for not less than twenty-five percent (25%) and women business enterprises for not less than five percent (5%) of the value of the Services, in accordance with the Resolution passed by the Board of Commissioners of the Commission on October 1, 2004, concerning participation of minority business enterprises and women business enterprises on contracts awarded by the Commission and to furnish to the Commission, such reports and other information concerning compliance with such Resolution as may be requested by the Commission from time to time.
- e. No Damage for Delays. The Construction Manager agrees that no charges for damages or claims for damages due to delays shall be asserted by it against the Commission for any delays or hindrances from any cause whatsoever during the progress of any portion of the Services. Such delays or hindrances, if any, shall be compensated by an extension of time to complete the Services for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the agreement of the Commission to allow the Construction Manager to complete the Services or any part of them after the time provided for the completion thereof herein shall in no way operate as a waiver on the part of the Commission of any of its rights hereunder.
- f. Records. The Construction Manager shall maintain accurate and complete records of expenditures, costs and time incurred by the Construction Manager and by consultants engaged by the Construction Manager in connection with the Project and the Services. Such records shall be maintained in accordance with recognized commercial accounting practices. The Commission may examine such records at the Construction Manager's offices upon reasonable notice during normal business hours. The Construction Manager shall retain all such records for a period of not less than five calendar years after the termination of this Agreement.
- g. Time of Essence. The Construction Manager acknowledges and agrees that time is of the essence in the performance of this Agreement and that timely completion of the Services is vital to the completion of the Project by the Commission. The Construction Manager agrees to use its best efforts to expedite performance of the Services and performance of all other obligations of the Construction Manager under this Agreement and any other agreements entered into by the Commission which are managed or administered by the Construction Manager as a result of the Construction Manager's engagement hereunder.

- h. **Compliance with Laws.** In performing its engagement under this Agreement, the Construction Manager shall comply with all applicable federal, state and local laws, including but not limited to, those referenced in subparagraphs (b) and (c) above and in the documents referred to in paragraph 3 of this Agreement.
- i. **Progress Meetings.** Meetings to discuss the progress of the Project and/or to review the performance of the Construction Manager may be scheduled upon the Commission's request, at mutually agreeable times and locations, and the Construction Manager agrees to cause such meetings to be attended by appropriate personnel of the Construction Manager engaged in performing or knowledgeable of the Services.
- j. **Defects in Project.** The Construction Manager shall notify the Commission immediately regarding any significant problems in connection with the Project including, but not limited to, construction defects, cost overruns or scheduling delays.
- k. **Performance Standard.** The Construction Manager represents and agrees that the Services performed under this Agreement will proceed with efficiency, promptness and diligence and will be executed in a competent and thorough manner in accordance with reasonable professional standards in the field. The Construction Manager further agrees that it will assign to the Project at all times during the term of this Agreement the number of experienced, appropriately trained employees necessary for the Construction Manager to perform the Services in the manner required hereunder.
- l. **Changes (Amendments).** The Commission may from time to time, request changes to the terms of the Agreement or in the Scope of Services of the Construction Manager to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation and revisions to the duration of the Services, which are mutually agreed upon by and between the Commission and Construction Manager, shall be incorporated in a written amendment to this Agreement. The Commission shall not be liable for any changes absent such written amendment.
- m. **Energy Conservation Ordinance.** Whenever the services of the Construction Manager require design of new buildings and structures, addition or alteration of existing buildings and structures or portion thereof, Construction Manager must comply with the provisions of the Energy Conservation Ordinance, Chapter 18-13 of the Municipal Code of Chicago as appropriate. The Construction Manager shall also select and/or recommend for installation energy-efficient mechanical, service water-heating, electrical distribution and illumination systems and equipment for the effective use of energy in the faculty as appropriate.
- n. **Exceptions.** Liquidated damages and consequential damages are excluded from Book 1 referenced in Schedule B.

5. Term.

- a. Duration. The term of this Agreement shall begin on the Commencement Date of Services specified in Schedule A to this Agreement and, subject to the provisions of subparagraph (b) below, shall terminate when all Services required by this Agreement have been completed to the satisfaction of the Commission or on the Project Completion Date specified on Schedule A, whichever is the later to occur. The Commission and the Construction Manager may, from time to time, by mutual agreement, extend the term of this Agreement by amending Schedule A hereto.
- b. Termination or Suspension by the Commission. The Commission shall have the right, at any time, to terminate the term of this Agreement, with or without cause, by written notice given to the Construction Manager at least thirty (30) days prior to the effective date of termination. In addition, the Commission shall have the right, at any time and from time to time, with or without cause, to suspend the performance of the Construction Manager hereunder with respect to all or any part of the Services, by written notice given to the Construction Manager at least five (5) days prior to the effective date of suspension. Termination or suspension of this Agreement shall not relieve the Construction Manager from liability for the performance of any obligation of the Construction Manager under this Agreement performed or to have been performed by the Construction Manager on or before the effective date of termination or suspension. Provided the Construction Manager is not in default under this Agreement at the time of termination or suspension, the Commission agrees to pay to the Construction Manager, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Construction Manager for periods up to the effective date of termination or suspension. In no event shall the Commission be liable to the Construction Manager for any loss, cost or damage which the Construction Manager or any other party may sustain by reason of the Commission terminating or suspending this Agreement as provided herein; provided, however, that the Commission may, in its sole discretion, reimburse the Construction Manager for actual expenses approved by the Commission.
- c. Termination by the Construction Manager. If the Project, in whole or substantial part, is stopped for a period longer than thirty (30) days under an order of any court or other governmental authority having jurisdiction of the Project, or as a result of an act of government, such as a declaration of national emergency making materials unavailable, through no act or fault of the Construction Manager, the Construction Manager shall have the right to terminate this Agreement, by written notice given to the Commission at least seven (7) days prior to the effective date of termination, and shall have the right to recover from the Commission all compensation and reimbursements due to the Construction Manager for periods up to the effective date of termination.

- d. **Force Majeure.** Neither of the parties shall be liable to the other for any delay or failure in performance hereunder due to a force majeure event. If a force majeure event occurs, the party delayed or unable to perform shall give prompt notice to the other party, and the Commission may, at any time during the continuation of the force majeure event, elect to suspend the performance of the Construction Manager under this Agreement for the duration of the force majeure event. The Commission shall not be obligated to pay for Services to the extent and for the duration that performance thereof is delayed or prevented by the force majeure event, but, provided the Construction Manager is not in default of any obligation of the Construction Manager hereunder, the Commission shall pay to the Construction Manager, according to the terms hereof, all compensation and reimbursements due to the Construction Manager for periods up to the effective date of suspension. The term "force majeure" means an extraordinary event or effect that the parties could not have anticipated or controlled and that renders performance impossible or impracticable for the duration of the event or effect. Such events or effects include but are not limited to: extraordinary acts of nature, such as tornadoes; or of people, such as acts of terrorism; or of governments, such as imposition of martial law. The term does not include, for example, typical Chicago inclement weather (i.e. weather the severity of which is less than a standard deviation from the 5-year mean for the Chicago Midway area as established by the National Oceanic and Atmospheric Administration) or labor strikes.

6. **Compensation of the Construction Manager and Reimbursement for Expenses.** The Commission shall compensate the Construction Manager in the amount and the manner set forth in Schedule C to this Agreement.

7. **Rights and Obligations of Commission.** In connection with the administration of the Project by the Commission and the performance of this Agreement by the Construction Manager, the Commission shall have the following rights and obligations, in addition to those provided elsewhere in this Agreement:

- a. **Information.** The Commission shall provide the Construction Manager all reasonably requested information concerning the Commission's requirements for the Project and the Services.
- b. **Review of Documents.** Subject to the provisions of subparagraph 3 (e) above, the Commission agrees to make a reasonable effort to examine documents submitted by the Construction Manager and render decisions pertaining thereto with reasonable promptness.
- c. **Site Data.** To the extent the Commission determines to be necessary for the Construction Manager to perform the Services, the Commission may furnish, or may authorize the Construction Manager to obtain from a consultant or consultants approved by the Commission as Reimbursable Expenses: (i) a certified survey of the site or sites; (ii) information concerning locations, dimensions and data pertaining to existing buildings and other improvements; (iii) title information; and

(iv) information concerning available service and utility lines. The Construction Manager shall not be liable to the Commission for the substantive content of such tests and reports obtained from a consultant engaged by the Construction Manager and approved by the Commission, provided that the Construction Manager has exercised reasonable diligence in the selection of the consultant.

- d. Tests and Reports. To the extent required for the Construction Manager to perform the Services, the Commission may furnish structural, civil, chemical, mechanical, soil and/or other tests and reports or may authorize the Construction Manager to procure such tests and reports from a consultant or consultants approved in writing by the Commission as Reimbursable Expenses. The Construction Manager shall not be liable to the Commission for the substantive content of such tests and reports obtained from a consultant engaged by the Construction Manager and approved by the Commission, provided that the Construction Manager has exercised reasonable diligence in the selection of the consultant and provided that the Construction Manager has caused the consultant to purchase and maintain professional liability insurance in accordance with paragraph A.4 of Schedule D protecting the Commission, the User Agency, and the Construction Manager from any loss or claim arising out of the consultant's performance.
- e. Legal, Auditing and other Services. The Commission shall arrange and pay for such legal, auditing, insurance counseling and other services as the Commission, in its sole discretion, may determine to be required for the Project. Such payments shall not include legal or auditing expenses arising out of or relating to any errors or omissions, or claimed errors or omissions, of the Construction Manager or its subcontractors.
- f. Designated Representatives. The Commission may designate, at its sole discretion, one or more representatives authorized to act on its behalf.
- g. Ownership of Documents. All documents, data, studies and reports prepared by the Construction Manager or any party engaged by the Construction Manager pertaining to the Project and/or the Services shall be the property of the Commission.
- i. The parties intend and agree that, to the extent permitted by law, the drawings, specifications and other design documents to be produced by the Construction Manager and its sub-consultants pursuant to this Agreement (the "Work") shall conclusively be deemed "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101 *et seq.*, and that the Commission, the User Agency and their successors and assigns, will be the copyright owner of all aspects, elements and components thereof in which copyrights can subsist. To the extent that any of the foregoing does not qualify as a "work made for hire," the Construction Manager hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the Commission, the User Agency and their successors and assigns, all

right, title, and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals therefor, and all other intangible, intellectual property embodied in or pertaining to the Work contracted for under the Agreement, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. The Construction Manager will execute all documents and, at the expense of the Commission, perform all acts that the Commission may reasonably request in order to assist the Commission, the User Agency and their successors and assigns, in perfecting their rights in and to the copyrights relating to the Work.

ii. The Construction Manager warrants to the Commission, the User Agency and their successors and assigns, that (1) the Work constitutes a work of authorship; (2) the Construction Manager is or will be the lawful owner of good and marketable title in and to the copyrights for the Work (including the copyrights on designs and plans relating to the Work); (3) the Construction Manager has the legal right to fully assign any such copyright with respect to the Work; (4) the Construction Manager has not assigned any copyrights nor granted any licenses, exclusive or non-exclusive, pertaining to the Project or the Services to any other party; (5) the Construction Manager is not a party to any other agreement or subject to any other restrictions with respect to the Work; and (6) the plans and designs for the Work will, upon completion of the Services by complete, entire and comprehensive. Further, the Construction Manager agrees that it will not restrict or otherwise interfere with the Commission's and/or the User Agency's future actions in authorizing the use, adaptation, revision, or modification or destruction of the Work provided that the Construction Manager is indemnified for any damages resulting from any such future re-use or adaptation of the Work as may be authorized by the Commission.

h. Audits. The Commission shall have the right to audit the books of the Construction Manager and its sub-consultants on all subjects relating to the Project and/or the Services.

8. Indemnification of Commission. The Construction Manager hereby agrees to indemnify, defend, keep and save harmless the Commission and the User Agency and their respective commissioners, board members, officers, agents, officials and employees, from and against all claims, demands, suits, losses, costs and expenses, including but not limited to, the fees and expenses of attorneys, that may arise out of or be based on any injury to persons or damage to property that is or is claimed to be the result of an error, omission or negligent or willfully wrongful act of the Construction Manager, any person employed by the Construction Manager, or any sub-consultant retained by the Construction Manager in connection with this Project.

9. Insurance to be Maintained by the Construction Manager. The Construction Manager shall purchase and maintain, and cause its subcontractors and sub-consultants to purchase and maintain, at all times during the performance of Services hereunder, for the benefit of the Commission, the

User Agency and the Construction Manager, insurance coverage which will adequately insure the Commission, the User Agency and the Construction Manager against claims and liabilities which could arise out of the performance of such Services, including but not limited to, the insurance coverages set forth in Schedule D to this Agreement.

10. Default.

a. Events of Default. Any one or more of the following occurrences shall constitute an Event of Default under this Agreement:

- i. Failure or refusal on the part of the Construction Manager duly to observe or perform any obligation or agreement on the part of the Construction Manager contained in this Agreement, which failure or refusal continues for a period of ten (10) days, or such longer period as the Commission, in its sole discretion, may determine if such failure is not capable of being cured within such ten (10) day period, after the date on which written notice thereof shall have been give to the Construction Manager by the Commission;
- ii. Any representation or warranty of the Construction Manager set forth herein or otherwise delivered pursuant to this Agreement shall have been false in any material respect when so made or furnished;
- iii. The Construction Manager becomes insolvent or ceases doing business as a going concern, or makes an assignment for the benefit of creditors, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, or files a voluntary petition in bankruptcy, or is adjudicated a bankrupt or an insolvent, or files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar arrangement under any present or future statute, law or regulation relating to bankruptcy or insolvency, or files an answer admitting the material allegations of a petition filed against it in any such proceeding, or applies for, consents to or acquiesces in the appointment of a trustee, receiver, liquidator or other custodian of it or of all or any substantial part of its assets or properties, or if it or its principals shall take any action in furtherance of any of the foregoing; or
- iv. There shall be commenced any proceeding against the Construction Manager seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation relating to bankruptcy which is not vacated, stayed, discharged, bonded or dismissed within sixty (60) days thereof, or there shall be appointed, without the Construction Manager's consent or acquiescence, any trustee, receiver, liquidator or other custodian of Construction Manager or of all or any substantial part of the Construction Manager's assets and

properties, and such appointment shall not have been vacated, stayed, discharged, bonded or otherwise dismissed within sixty (60) days thereof.

- b. **Remedies.** If an Event of Default shall occur and be continuing, then the Commission may exercise any right, power or remedy permitted to it by law or in equity and shall have, in particular, without limiting the generality of the foregoing, the right to terminate this Agreement upon written notice to the Construction Manager, in which event the Commission shall have no further obligations hereunder or liability to the Construction Manager except as to payment for Services actually received and accepted by the Commission through the effective date of termination. No courses of dealing on the part of the Commission or delay or failure on the part of the Commission to exercise any right shall operate as a waiver of such right or otherwise prejudice the Commission's rights, powers or remedies.
- c. **Remedies not Exclusive.** No right or remedy herein conferred upon or reserved to the Commission is exclusive of any right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

11. Disputes.

- a. **General.** All disputes arising under, related to or in connection with the terms of this Agreement or its interpretation, whether involving law or fact or both, including without limitation questions concerning allowability of compensation, and all claims for alleged breach of contract, shall be presented in writing to the Executive Director for final determination.
- b. **Procedure.** Requests for determination of disputes will be made by the Construction Manager in writing specifically referencing this Section, and will include: 1) the issue(s) presented for resolution; 2) a statement of the position of the Construction Manager; 3) the facts underlying the dispute; 4) reference to the applicable provisions of the Agreement by page and section; 5) identify any other parties believed to be necessary to the resolution; and 6) all documentation which describes and relates to the dispute. The Construction Manager will promptly provide the Executive Director with a copy of the request for determination of the dispute. The Executive Director's decision will be reached in accordance with such information or assistance as she or he may deem reasonable, necessary or desirable.
- c. **Effect.** The Executive Director's final decision will be rendered in writing no more than forty-five (45) business days after receipt of the request for resolution unless the Executive Director notifies the Construction Manager that additional time for the decision is necessary. The Executive Director's decision will be conclusive, final, and binding on all parties. The Construction Manager must follow the procedures set out in this Section and receive the Executive Director's final decision

as a condition precedent to filing a complaint in the Circuit Court of Cook County or any other court.

The Construction Manager will not withhold performance of any Services required by the Commission under this Agreement during the dispute resolution period. The Executive Director's written determination will be complied with pending final resolution of the dispute.

12. Confidentiality. All of the reports, information, or data prepared or assembled by the Construction Manager under this Agreement are confidential, and the Construction Manager agrees that such reports, information or data shall not be made available to any party without the prior written approval of the Commission. In addition, the Construction Manager shall not, without the prior written consent of the Commission, prepare or distribute any news releases, articles, brochures, advertisements or other materials concerning this Agreement, the Project or the Services. If the Construction Manager is served with a subpoena requiring the production of documents or information which is deemed confidential, the Construction Manager shall immediately notify the Commission in writing and provide a copy of the subpoena to the Commission in sufficient time for the Commission to attempt to quash, or take other action in relation to, the subpoena.

13. Assignment. The Construction Manager acknowledges that the Commission is induced to enter into this Agreement by the personal qualifications of the principals, staff and employees of the Construction Manager and agrees, therefore, that neither this Agreement nor any right or obligation hereunder may be assigned by the Construction Manager, in whole or in part, without the prior written approval of the Commission. For purposes of this paragraph, if the Construction Manager undergoes a change in control, the change in control shall be deemed an assignment of the Agreement; a change in control is defined as a transfer of more than 50% of the equity ownership of the Construction Manager during any twelve (12) month period. In the event of an assignment by the Construction Manager without the prior written approval of the Commission, the Commission shall have the right to immediately terminate the Agreement without fault or responsibility. The Construction Manager further acknowledges that the Construction Manager has represented to the Commission the availability of certain members of the Construction Manager's staff who will be assigned to Project, and agrees, therefore, that in the event of the unavailability of such members due, the Construction Manager shall so notify the Commission in writing, and shall assign other qualified members of the Construction Manager's staff, as approved by the Commission, to the Project.

14. Relationship of Parties. The relationship of the Construction Manager to the Commission hereunder is that of an independent contractor, and the Construction Manager, except to the extent expressly provided to the contrary on Schedule A hereto, shall have no right or authority to make contracts or commitments for or on behalf of the Commission, to sign or endorse on behalf of the Commission any instruments of any nature or to enter into any obligation binding upon the Commission. This Agreement shall not be construed as an agreement of partnership, joint venture, or agency.

15. General.

- a. **Construction Manager's Authority.** Execution of this Agreement by the Construction Manager is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document if a partnership or a joint venture, and the signatures(s) of each person signing on behalf of the Construction Manager have been made with complete and full authority to commit the Construction Manager to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained or incorporated by reference in it.
- b. **Counterparts.** This Agreement may be executed in any number of counterparts, any of which shall be deemed an original.
- c. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the parties hereto and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof, all of which communications are merged herein. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.
- d. **Governing Law.** This Agreement has been negotiated and executed in the State of Illinois and shall be construed under and in accordance with the internal laws of the State of Illinois.
- e. **No Waiver.** The waiver by either party of any breach of this Agreement shall not constitute a waiver as to any succeeding breach.
- f. **Notices**{ TC "Notices" \f C \l "3" }. All notices required to be given hereunder shall be given in writing and shall be hand delivered or sent by United States certified or registered mail, postage prepaid, addressed to Commission and to the Construction Manager at their respective addresses set forth above. If given as herein provided, such notice shall be deemed to have been given on the date of delivery, if delivered by hand, and on the second business day after mailing, if given by mail. The Commission or the Construction Manager may, from time to time, change the address to which notices hereunder shall be sent by giving notice to the other party in the manner provided in this subparagraph.
- g. **Non-liability of Public Officials**{ TC "Non-liability of Public Officials" \f C \l "3" }. No Commission board member, employee, agent, officer, or official is personally liable to Construction Manager or its sub-consultants, and Construction Manager and its sub-consultants are not entitled to, and must not attempt to, charge any of them with liability or expense or hold them personally liable to Construction Manager or its sub-consultants under this Agreement.

- h. Severability.** In the event that any provisions of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- i. Successors and Assigns.** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the 24th day of April, 2006.

**PUBLIC BUILDING COMMISSION
OF CHICAGO**

ATTEST:

By: Edmund Johnson
Title: Secretary

By: Richard M. Daley
Title: Chairman

The McClier Corporation

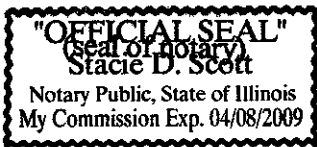
By: Michael R. Calloway
Title: Secretary/Assistant Secretary
(select one)

By: [Signature]
Title: President/Vice President
(select one)

**AFFIX CORPORATE
SEAL HERE**

Subscribed and sworn to before me
this 15 day of March, 2006

Stacie D. Scott
Notary Public



Schedule A

**City of Chicago Office of Emergency Management & Communications
Technology Enhancements for Traffic Management/ Snow Command Center
Office of Emergency Management & Communication
1411 West Madison Street
Chicago, Illinois**

The term for this Agreement shall be as defined below.

Commencement Date of Services December 13, 2005

Completion Date of Services February 28, 2006

A. Scope of Services for Design

The Construction Manager shall engage the services of an Architect of Record to provide all services required to design and administer the construction of the Project. The Agreement shall terminate when all services have been completed to the satisfaction of the Commission or on the Project Completion Date referred below, whichever is the later to occur.

The Design Services are separated into phases as stated in Section A below. The Commission and the User Agency shall approve the work product of each of the phases prior to commencement by the Architect of Record of the subsequent phase. It is expressly understood and agreed that references herein to "approved by the Commission" or to "approval by the Commission" shall not be interpreted to absolve the Architect of Record from liability due to errors and omissions.

The Architect of Record shall provide the following Services:

A.1 Programming / Schematic Design (Section A.1 NOT APPLICABLE)

A.1.1 Consult with the Commission and the User Agency regarding the goals and requirements of the project and define the scope of the Project. Project phases will be as follows:

- A.1.1.1 Programming and Schematic
- B.1.1.2 Construction Document
- B.1.1.3 Bidding
- B.1.1.4 Construction
- B.1.1.5 Project Close Out

A.1.2 Identify for and review with the Commission and the User Agency the requirements of any state, federal, or city agencies having jurisdiction, advise on the cost impacts, if any, and suggest possible alternatives.

- A.1.3 Confirm the programming needs for the project.
- A.1.4 Present the programming options for the project for review by the Commission and the User Agency.
- A.1.5 The Architect of Record shall analyze the requirements of the User Agency, the conditions of the site, and consult with the Commission the User Agency to establish the design, type of construction and the materials to be used. Based upon such analysis, the Architect of Record shall prepare schematic drawings and design studies, general description of the scope of the Project, preliminary estimates of construction costs and analysis of any re-zoning requirements for the Project.
- A.1.6 Present schematic design options for the facility for review by the Commission and the User Agency.
- A.1.7 Upon direction from the Commission prepare plans, elevations, sections and outline specifications, as required, to describe the architectural, structural, mechanical, plumbing and electrical aspects of the selected design option for pricing by the Commission's designated representative.
- A.1.8 As required, review schematic design documents along with value engineering items with the Commission the User Agency to align project scope with project budget.
- A.1.9 At the completion of Schematic Design Phase the Architect of Record will transmit three (3) complete copies of the final documents for such Phase to the Commission for review and transmittal to the User Agency. In addition, the Consultant shall make presentations to the User Agency as requested by the Commission. Any comments presented by the User Agency must be approved by the Commission prior to incorporating such comments into the Construction Documents.
- A.1.10 The Schematic Design Services shall commence on August 9, 2005, and shall be completed and documents submitted to the Commission for approval as soon as possible following the commencement of services provided pursuant to this Agreement.

A.2 Construction Documents

- A.2.1 Following approval by the Commission of the Programming / Schematic Design Phase, the Architect of Record shall prepare and complete, based upon the approved Documents, all Construction Documents, including, but not limited to, architectural and engineering working drawings, designs, plans, calculations and specifications setting forth in detail all of the elements required for the architectural, structural, mechanical, electrical, plumbing, heating, ventilation, air conditioning, fire

protection and service-connected equipment as may be necessary in order to obtain bids for construction of the Project.

- A.2.2 The Construction Documents shall include any modifications and revisions resulting from Peer Review and environmental remediation upon approval by and direction of the Commission.
- A.2.3 As required, review the Construction Documents along with value engineering items with the Commission the User Agency to align project scope with project budget.
- A.2.3.1 In the event that the estimate of the construction cost exceeds the Commission's Construction Budget, as herein above defined, the Architect of Record shall, after review and comment and upon written request of the Commission, and without additional compensation continue to revise, modify or correct any or all of the Project design, drawings and specifications in a manner satisfactory to the Commission until the revised construction estimate conforms to the Construction budget. Such revisions, modifications and corrections in the plans, specifications and drawings shall be submitted to the Commission within a reasonable time (not to exceed 10 days) after notice and direction by the Commission.
- A.2.3.2 In the event that the Commission requests, on behalf of the User Agency, a change in scope of the project the Architect of record shall, after review and comment and upon written request of the Commission, and with additional compensation revise, modify or correct any or all of the Project design, drawings and specifications in a manner satisfactory to the Commission.
- A.2.4 At the completion of the Construction Document Phase the Architect of Record will transmit three (3) complete copies of the final documents for such Phase to the Commission for transmittal to the User Agency for final review and approval. In addition, the Architect of Record shall make presentations to the User Agency as requested by the Commission. Any comments presented by the User Agency must be approved by the Commission prior to incorporating such comments into the final Bid Documents.
- A.2.5 Review the necessary Instructions to Bidders, Proposal Forms, Contract Forms, General Conditions and Special Conditions of the Contract supplied by the Construction Manager.
- A.2.6 In conjunction with the Construction Manager, coordinate the preparation of Bid Packages. Inform the Commission is writing that the documents are complete and ready for bid.

- A.2.7** Prepare the required documentation for submittal of the project to the Chicago Department of Construction and Permits (DCAP) for the required construction permit(s).

A.2.7.1 Provide assistance in securing all necessary orders, ordinances, permits, licenses, or other approvals, as applicable, required by local, state and federal regulatory agencies to permit construction of the Project. Such assistance shall include conferences with and presentations to appropriate regulatory agencies including without limitation, DCAP, Fire Prevention Bureau of the City of Chicago, Mayor's Office with People with Disabilities (MOPD) and other governmental bodies, as directed by the Commission.

A.3 Bidding Phase (Section A.3 NOT APPLICABLE)

- A.3.1** Attend and participate at Pre-Bid Conference Meeting
- A.3.2** Prepare addendum(s) as directed by the Construction Manager to address bidders' questions that require clarification.
- A.3.3** Consider written requests for product substitutions prior to receipt of bids.
- A.3.4** Participate in the review and evaluation of the bids.
- A.3.5** If the lowest responsible bid, as determined by the Construction Manager, obtained on any solicitation of bids, is in excess of the Construction Budget, the Construction Manager may either award the construction contract to the lowest responsible bidder, or the Architect of Record shall, upon the request of the Commission and without additional compensation, continue to revise any or all of the Project design, scope, quality, including revised drawings and specifications to the end that the construction cost not be in excess of the Construction Budget.
- A.3.6** The Architect of Record shall thereafter assist the Commission, without additional compensation, in the solicitation of new bids on the revised Project design, drawings and specifications. All revisions in design, specifications, deletions and substitutions shall be approved by the Commission. The right of the Commission to require such revision and re-bidding shall not be exhausted by a single revision and re-bidding, but shall be a continuing right until the lowest responsible bid received is within the Construction Budget.

A.4 Construction Phase

- A.4.1** Provide all drawings required during construction. Review and approve schedules, samples, shop drawings, product data, as-built drawings, product substitutions and other submissions to assure compliance with the design concept of the Project and fulfillment of the subcontractor(s) obligations as set forth in the Contract Documents, including monitoring of the subcontractor(s) progress against the approved progress schedule.
- A.4.2** In cooperation with the Construction Manager, review and make recommendations to the Commission concerning all bulletins, proposals, revisions in drawings and change orders with respect to the Project. The Architect of Record shall process and

prepare all bulletins and recommendations for change orders as directed by the Commission.

- A.4.3 Review subcontractor(s) applications for payment, invoices and other supporting documentation in accordance with the Construction Manager's policies and procedures, and recommend action concerning subcontractors' periodic and final applications for payment. By issuing recommendations to the Construction Manager for payment to subcontractor(s) the Architect of Record shall represent to the Construction Manager that, to the best of its knowledge, information and belief, the quality of the work for which payment is requested is in accordance with the Contract Documents, and the payment amount applied for by the subcontractor is justified. These provisions shall not be construed as conferring any rights hereunder for the benefit of contractors, subcontractors, materialmen, workmen or employees, or any other persons performing portions of the work, nor as enlarging or altering the application or effect of existing lien laws.
- A.4.4 Qualified personnel of the Architect of Record, as approved by the Commission, shall provide adequate and competent observations on the Project site at least twice weekly for the purpose of determining if the work is being performed in accordance with the Contract Documents, and shall advise the Commission accordingly. The Commission may request the Architect of Record to maintain a full-time observer at the Project site. Compensation for a full-time on-site observer shall be established as a not-to-exceed fee in accordance with the billing rates identified in Schedule C, Section A.2. On the basis of on-site observations, the Architect of Record shall keep the Commission advised of the progress and quality of the work and endeavor to guard the Commission against defects and deficiencies in the work of subcontractors and reject any materials or work which fails to conform to the Contract Documents. The on-site representative shall not be removed or replaced prior to full completion of the work without prior written approval of the Commission. The representative shall be removed immediately upon written request of the Commission.
- A.4.5 Issue clarifications for proper execution of the work required by the Contract Documents.
- A.4.6 Advise the Commission on the coordination of the work so that the intent of the design is adequately carried out and use reasonable diligence in monitoring the subcontractor's adherence to the approved construction work schedule.
- A.4.7 Review the work to establish preliminary acceptance of the project.
- A.5 Project Close Out**
- A.5.1 Conduct a final inspection of the project with the Construction Manager, Commission and User Agency to verify that the materials furnished and work performed are in accordance with the contract documents.
- A.5.2 Coordinate the consolidation and preparation of punch lists compiled by the

Construction Manager, Commission and User Agency indicating the items of work remaining to be accomplished.

A.5.3 Coordinate with the Construction Manager to assemble and deliver to the Commission all guarantees, warranties, operating and maintenance manuals required by the contract documents. Make recommendations as to the withholding of payments to the subcontractors. Determine the value of any uncorrected and/or deficient work.

A.5.4 Coordinate with the Construction Manager to expedite the preparation and delivery of "as-built" drawings and operations and maintenance manuals of the project in accordance with the specifications. The "as-built" documents will be subject to the approval of the Commission's and User Agency's designated representative

A.5.5 Upon completion of the construction contract and all "punch list" items in accordance with the Contract Documents, the Architect of record shall issue a Certificate of Final Acceptance and obtain from the subcontractors a sworn statement stating that all debts, liabilities and demands on account of work and materials furnished with respect to the Project have been fully paid, released and discharged and that there is nothing due to subcontractors, mechanics or materialmen. No Certificate shall be issued by the Architect of Record until, to the best of its knowledge, information and belief, all work has been completed in accordance with the Contract Documents.

A.6 Additional Responsibilities and Representations

A.6.1 The Architect of Record agrees that in performing this Agreement it shall comply with all applicable local, state and federal ordinances, laws and regulations including but not limited to the Illinois Environmental Act (415 ILCS 4/1 et. seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12010 et. seq.), including standards and regulations issued pursuant to these Acts.

A.7 Contingent Additional Services

The Architect of Record shall provide any or all of the following Contingent Additional Services as may be authorized in writing by the Commission at its sole election:

A.7.1 Furnish consulting services after occupancy of the building in connection with the operation of the building, including various electrical and mechanical systems.

A.7.2 Provide consultation concerning replacement of any work damaged or destroyed by fire or other cause during construction and furnish additional Basic Services as may be required in connection with the replacement of the work.

A.7.3 Provide additional Basic Services made necessary by the default of the subcontractors in the performance of the construction contract.

- A.7.4 Furnish required services in connection with additional site demolition beyond that described in the original Program.
- A.7.5 Provide all measured drawings of existing construction as required for the completion of the Project.

B. Scope of Services for Construction Management

The Construction Manager shall perform, or cause to be performed, the following Construction Management Services. The Services shall be performed in the phases listed in Section B.1.1. If the Commission and the Construction Manager agree, the Construction Phase may commence before the Preconstruction Phase is completed, in which case both phases will proceed concurrently. The term for Construction Management Services of this Agreement shall be as follows:

Commencement Date of Services	December 13, 2005
Substantial Completion Date	February 3, 2006
Final Completion and Acceptance Date	February 17, 2006
Completion Date of Services	February 28, 2006

The Construction Manager shall provide the following Services:

B.1 General Project Requirements (Pre Construction) (Section B.1 NOT APPLICABLE)

- B.1.1 Consult with the Commission and the User Agency regarding the goals and requirements of the project. Project phases will be as follows:
 - B.1.1.1 Bidding
 - B.1.1.2 Construction
 - B.1.1.3 Project Close Out
- B.1.2 Review the requirements of any federal, state, or local agencies having jurisdiction over various aspects of the project with the Architect of Record, Commission and the User Agency regarding costs and alternatives.
- B.1.3 Recommend potential value engineering alternatives.
- B.1.4 Provide a preliminary evaluation of the Project scope, budget and schedule requirements.
- B.1.5 Schedule and attend regular meetings with the Architect of Record, the Commission and the User Agency. Prepare and distribute minutes of all project meetings within two (2) business days.

- B.1.6 Review the Drawings and Specifications at the completion of Construction Documents to confirm that all assumptions, clarifications and value engineering alternatives agreed to by the User Agency and the Architect of Record have been incorporated. Promptly notify the Commission if the Drawings and Specifications are inconsistent with the agreed upon assumptions, clarifications and value engineering alternatives.**
- B.1.7 Provide recommendations to the Commission for constructability that may decrease the duration of the construction schedule and/or decrease the construction cost.**
- B.1.8 Provide recommendations to the Commission on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets and possible economies.**
- B.1.9 Prepare, and periodically update, a project schedule for review and approval after project requirements have been sufficiently identified.**
- B.1.10 Prepare a budget estimate(s) for review by the Commission after the Construction Documents have been completed and approved by the Commission and the User Agency. Include the following in each budget estimate:**
 - B.1.10.1 An overview of the current budget estimate compared to the Commission's budget.**
 - B.1.10.2 A detailed comparison and reconciliation of the current budget estimate to the previous budget estimate, with an explanation of any variance by component.**
 - B.1.10.3 A summary of all approved cost revisions.**
 - B.1.10.4 A list of Drawings and Specifications, including all addenda thereto.**
 - B.1.10.5 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the current budget estimate to supplement the information contained in the Drawings and Specifications.**
 - B.1.10.6 A statement of the estimated Cost of the Work organized by trade categories or systems, and the Construction Manager fee.**
 - B.1.10.7 A statement of the actual or estimated date of commencement of the Construction Phase and the estimated date of Substantial**

Completion, with a schedule of the construction documents issuance dates upon the estimated date of Substantial Completion is based.

- B.1.10.8 A cash flow analysis of the Work based on the latest budget estimate information, including design services and any other costs.
 - B.1.10.9 Develop and implement a detailed cost control system that will provide the Commission and the User Agency with timely information as to the anticipated total Cost of the Work.
 - B.1.10.10 Prepare and update a 30-60-90 day cash flow analysis for the Work, including professional fees.
 - B.1.10.11 Create a cost control system that compares the project budget with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes.
 - B.1.10.12 Review and report the anticipated total Cost of the Work to the Commission in writing monthly.
 - B.1.10.13 Make appropriate adjustments to the budget estimate if the Commission discovers any inconsistencies or inaccuracies in the information presented.
 - B.1.10.14 Provide recommendations to the Commission if any budget estimate submitted to the Commission exceeds the Commission's budget.
- B.1.11 If the Drawings and Specifications are not finished at the time the budget estimates are prepared, the Construction Manager shall provide allowances within the current budget estimate for further development of the Drawings and Specifications that are consistent with the Project Documents and reasonably inferable therefrom. Such allowances for further development does not include such things as changes in scope, systems, kinds or quality of materials, finishes or equipment.
- B.1.12 Upon the Commission's approval of the Control Estimate prepared at the completion of the Construction Documents, the Project Documents shall consist of (i) this Agreement, (ii) General Conditions, Special Conditions and Project Specifications – Division 1 – Project Requirements) and (iii) modifications issued subsequent to the Commission's approval of the Control Estimate. If anything in the other Project Documents is inconsistent with this Agreement, this Agreement shall govern.

B.1.13 Prepare the required documentation for submittal of the project to the Chicago Department of Construction and Permits (DCAP) for the required construction permit(s).

A.2.7.1 Provide assistance in securing all necessary orders, ordinances, permits, licenses, or other approvals, as applicable, required by local, state and federal regulatory agencies to permit construction of the Project. Such assistance shall include conferences with and presentations to appropriate regulatory agencies including without limitation, DCAP, Fire Prevention Bureau of the City of Chicago, Mayor's Office with People with Disabilities (MOPD) and other governmental bodies, as directed by the Commission.

B.2 Bidding Phase (Section B.2 NOT APPLICABLE)

B.2.1 Review the list of bid packages for all materials and work and provide full assignment, coordination and responsibility for the work.

B.2.2 Provide the Commission with a schedule for procurement of long-lead time items and confirm inclusion of all requirements for special receipt, handling, and installation of materials and equipment to meet the Project schedule. The Construction Manager shall procure and expedite the delivery of such long-lead time items in order to meet the Project schedule.

B.2.3 Where appropriate, develop bidding alternatives on materials, construction techniques, fabrication and installation methods, to take advantage of current conditions in the construction marketplace.

B.2.4 Prepare a Notice of Bid Opportunity and deliver, via fax and/or Registered Mail, to all subcontractors on the applicable Commission Qualified List for the scope of the work to be bid.

B.2.5 If a Commission Qualified List does not exist for the scope of work to be bid, then the Construction Manager shall either:

B.2.5.1 Bid the work in accordance with Section 20 of the Public Building Commission Act, 50 ILCS 20/20; or

B.2.5.2 Develop a Qualified List of subcontractors in accordance with the Commission's qualification procedures. The scope of work shall be bid in accordance with paragraph B.2.3 after a Qualified List has been established by the Construction Manager.

B.2.6 Maintain accurate records of the bid notification process for each trade package. Provide a copy of these records to the Commission in a timely manner but in no

event shall these records be presented to the Commission less than five (5) days prior to the bid opening.

B.2.7 Provide copies of each notice of bid package and the corresponding Qualified List of subcontractors eligible to bid on the scope of work to the following agencies when the Notice of Bid Opportunity letters are delivered or when the bidding opportunity is publicly advertised pursuant to 50 ILCS 20/20:

Chicago Urban League
220 S. State, 11th Floor
Chicago, Illinois 60604
Tel: 312-692-0766 Fax: 312-692-0769

Hispanic American Construction Industry
Association
901 West Jackson, Suite 205
Chicago, Illinois 60607
Tel: 312-666-5910 Fax: 312-666-5962

Black Contractors United
400 West 76th St, Suite 200
Chicago, Illinois 60620
Tel: 773-483-4000 Fax: 773-483-4150

Latin American Chamber Of Commerce
3512 West Fullerton
Chicago, Illinois 60647
Tel: 773-252-5211 Fax: 773-252-7065

Federation Of Women Contractors
5650 S. Archer Avenue
Chicago, Illinois 60638
Tel: 312-360-1122 Fax: 312-360-0239

Association Of Asian Construction Enterprises
333 North Ogden Avenue
Chicago, Illinois 60607
Tel: 312-563-0746 Fax: 312-666-1785

African American Contractor's Association
3706 South Indiana
Chicago, Illinois 60653
Tel: 312-915-5910 Fax: 312-657-9919

B.2.8 Schedule and administer pre-bid conferences and respond to questions raised during the bid period, outline the proposed approach to the Project, project logistics, manpower requirements, schedule and sequence of operations; and prepare and distribute minutes of the pre-bid meetings.

B.2.9 Schedule and administer Bid Openings in accordance with Commission's Procurement protocol and in the presence of the Commission's representative.

B.2.10 Evaluate base bids, alternate proposals, unit prices, and such other data as may be pertinent.

B.2.10.1 Determine the lowest responsive bidder for a scope of work in accordance with the criteria and requirements of the Subcontract Documents. (Refer to Appendix 1).

B.2.11 Recommend the award of a subcontract for each scope of work to the Commission in writing.

B.2.12 After the Commission approves the award of a subcontract for a specific scope of work in writing, the Construction Manager shall execute a subcontract with the successful bidder on behalf of the Commission. The subcontract shall contain all of the Commission's requirements, including, but not limited to, MBE/WBE participation and EEO requirements as indicated in the Subcontract Documents (refer to Appendix 1).

B.3 Construction Phase

B.3.1 The Construction Phase shall commence on the earlier of:

B.3.1.1 the Commission's approval of the Control Estimate and issuance of Notice to Proceed; or

B.3.1.2 the Commission's first authorization to the Construction Manager to award a subcontract, or to issue a purchase order for materials or equipment required for the Project.

B.3.2 Throughout the construction phase, maintain a full-time project manager as the primary point of contact with the Commission, the User Agency, the Architect of Record, and subcontractor(s), responsible for the day-to-day on-schedule and on-budget performance of the construction work.

B.3.3 Throughout the construction phase, review and monitor, on a weekly basis, the subcontractor(s) baseline and updated schedules for compliance with the individual general contract milestone dates and the Master CPM milestone dates using Primavera. In instances where schedule slippage and/or schedule conflicts are forecast to occur, recommend corrective action to the Commission as to how to remedy the schedule slippage and/or schedule conflicts.

B.3.4 Throughout the construction phase, monitor the approved Control Estimate. Show actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with the approved control estimate.

B.3.5 Establish and implement procedures for, and maintain coordination among, the Architect of Record, the Commission, the User Agency, subcontractor(s), and other agencies having jurisdiction of the project with respect to all construction aspects of the project.

B.3.6 Throughout the construction phase, conduct weekly meetings with the Architect of Record, the Commission, the User Agency, and specialty consultants and subcontractor(s). Review the project schedule, submittals, scope change, requests for information, outstanding bulletins, pending issues and field problems. Prepare meeting minutes and distribute to all parties in attendance within two (2) business days.

B.3.7 Provide the Commission with a monthly report containing the following:

- B.3.7.1 Executive Summary - include a summary of financial status, highlights of and a schedule summary.
- B.3.7.2 Status of Construction - summarize project construction activities, including current anticipated start and completion dates by project elements.
- B.3.7.3 Outstanding Items - include items to be completed by the Construction Manager, the Architect of Record, the Commission, the User Agency and subcontractor(s).
- B.3.7.4 Purchasing Activity - detail current status of materials procurement based upon information received from the subcontractor(s).
- B.3.7.5 Budget Status Report - include a summary of anticipated costs and status of scope changes that are approved, pending, and/or anticipated. Develop 30, 60 & 90 day cash flow reports and forecasts for the project. Advise the Commission as to variances between actual and estimated costs.
- B.3.7.6 Schedules - include construction schedule indicating current project status (both in CPM and summary bar chart form), updated cash flow and a look-ahead plan for the following period.
- B.3.7.7 Progress Photographs - arrange for production and distribution of progress photographs as required by the Commission. Digital photographs are preferred.
- B.3.7.8 Anticipated Project Activity - indicate, in narrative form, the activities of the project in the upcoming month, actions to be taken during that period, and any scheduled governing agency reviews/ approvals, etc.
- B.3.7.9 Other - include such additional or revised information as shall be required by the Commission.
- B.3.7.10 Submit reports in both written and electronic format and post to the Commission's Portal Web site
- B.3.8 Expedite approvals and coordination issues between federal, state and local agencies to obtain any required permits, licenses and fees.
- B.3.9 Verify the completeness and accuracy of Construction Documents and coordinate the various parts of the Work so that no part shall be left in an unfinished or incomplete condition.

- B.3.10** Provide sufficient forces and work shifts as may be required to ensure completion of the Work in accordance with the Project schedule and Control Estimate. Cooperate fully with the Architect of Record, the Commission and the User Agency during construction operations to minimize conflicts, interference, and to facilitate uninterrupted occupant usage and critical operations.
- B.3.11** Continuously protect the Work and the User Agency's property from damage, injury or loss.
- B.3.12** Implement a safety program to ensure the safety of the workers on the site, and prevent accidents or injury to any persons on, about, or adjacent to the site where the Work is being performed.
- B.3.13** Perform site observations of the subcontractor(s) to ensure that the Work is progressing on schedule.
- B.3.14** Review the adequacy of the subcontractors' supervision, personnel and equipment and the availability of necessary materials and supplies. Where inadequate, direct that the necessary action be taken to remedy the deficiency.
- B.3.15** Maintain all Project documentation systems at the job site or at a mutually agreed location. These systems shall be used to organize and administer document updates and to continuously keep the subcontractors up-to-date with the latest design conditions.
- B.3.16** Establish and maintain on the site a complete library of all Construction Documents, addenda, bulletins, scope changes, approved shop drawings and material samples.
- B.3.17** Expedite and assist in the clarification of the Construction Documents and provide additional information as required to facilitate subcontractor decisions on-site. In the event that the interpretation of the meaning and intent of the Construction Documents becomes necessary during construction, ascertain the Architect of Record's interpretation and transmit such information to the subcontractor.
- B.3.18** Maintain and coordinate a shop drawing and sample submission system for timely approval by the architect of record.
- B.3.19** Coordinate all Architect of Record directed testing required by the technical sections of the specification and applicable codes and regulations for compliance with the contract documents.
- B.3.20** Review all subcontractor payment applications to verify the accuracy of all such payment applications. After verification, approve and submit payment applications for approval and payment by the Commission.

- B.3.21 Administer all payments to the subcontractors and perform all construction accounting consistent with the cost reporting system.**
- B.3.22 Solicit proposals from the subcontractors to perform changes in the scope of work and assist the Commission in evaluating the cost of these changes.**
 - B.3.22.1 Review all subcontractor change order requests to ensure that such requests are appropriate.**
 - B.3.22.2 Integrate all change order costs approved by the Commission into the established cost accounting system.**
 - B.3.22.3 Evaluate requests for scope changes required by field conditions and other unforeseen conditions and submit such requests to, and obtain approval from, the Commission and User Agency prior to instituting any changes to the requirements of the Construction Documents.**
 - B.3.22.4 Evaluate any construction claims originating from the Work and negotiate or otherwise settle all such construction claims.**
 - B.3.22.5 Monitor all changes in the Construction Documents and confirm their approval by the Commission and User Agency.**
- B.3.23 Administer the testing, acceptance and turnover of all systems to the Commission, and assist with the move-in process.**
- B.3.24 Coordinate with all governmental and regulatory agencies regarding required permits, licenses and certificates schedule all inspections required by those agencies.**
- B.3.25 Coordinate, procure and assemble of all required permits, licenses, and certificates from the trade contractors and arrange delivery of same to the Commission.**
- B.3.26 Develop and establish a quality inspection control system so that the required standards of construction are achieved.**
- B.3.27 Coordinate review of all shop drawings, materials and all other required submittals by the Architect of Record. If requested by the Commission, requests for approval of subcontractors, delivery schedules, material lists, shop drawings, samples, and the like will be commented upon and submitted to the Commission.**
- B.3.28 Monitor and facilitate the flow of all documents and materials for proper sequence of approvals so as not to delay the progress of the work.**
- B.3.29 Establish and maintain a complete library of all contract documents, addenda, bulletins, scope changes, approved shop drawings and samples .**
- B.3.30 Receive and review all change order requests from the subcontractors. Review unit prices, time and material changes and similar items. Submit**

recommendations to the Commission for approval.

- B.3.31 Review all scope changes proposed by the Commission, the User Agency, and/or design team and make recommendations regarding practicality, costs, effect on completion schedule and risk to the project.
- B.3.32 Monitor requests for change orders required by field conditions and other unforeseen conditions and submit such requests to the Commission for approval prior to instituting any changes to the requirements of the contract documents.
- B.3.33 Monitor all scope changes during construction to ensure compliance with approved revisions.
- B.3.34 Monitor the specifications and the Commission's procedures for processing scope changes, including applications for extensions of time.
- B.3.35 Maintain cost accounting records of the work performed in accordance with the specifications and the Commission's procedures.

B.4 Project Close Out

- B.4.1 Coordinate and attend a comprehensive final inspection by the Commission, the User Agency and the Architect of Record to verify that the materials furnished and work performed are in accordance with the Contract Documents.
- B.4.2 Coordinate certificate of Substantial Completion as prepared by the Architect of Record in consultation with the Commission and the User Agency.
- B.4.3 Coordinate the preparation of punch list(s) by the Architect of Record indicating the items of work remaining to be accomplished. Coordinate the completion of such items within 30 days of the issuance of the certificate of Substantial Completion. Coordinate certificate of Final Completion as prepared by the Architect of Record in consultation with the Commission and the User Agency.
- B.4.4 Coordinate and cause to be delivered to the Commission all guarantees, warranties, operating and maintenance manuals required by the contract documents after review by the Architect of Record. Coordinate equipment and systems training sessions for User Agency personnel. Make recommendations as to the withholding of payments to the trade contractors. Determine the value of any uncorrected and/or deficient work.
- B.4.5 Facilitate the preparation of "as-built" drawings as prepared by the subcontractor(s) and operations and maintenance manuals of the project in accordance with the specifications. The "as-built" documents will be subject to the approval of the Commission and the User agency. Submit approved "as-built"

documents to the User Agency upon completion of the project.

B.5 Contingent Additional Services

Provide any or all of the following Contingent Additional Services as may be authorized in writing by the Commission at its sole election:

- B.5.1 Furnish consulting services after occupancy of the building in connection with the operation of the building, including various electrical and mechanical systems.
- B.5.2 Provide consultation concerning replacement of any work damaged or destroyed by fire or other cause during construction and furnish additional Basic Services as may be required in connection with the replacement of the work.
- B.5.3 Provide additional Basic Services made necessary by the default of any subcontractor in the performance of the construction contract.
- B.5.4 Furnish required services in connection with additional site demolition beyond that described in the original Program.
- B.5.5 Coordinate effort of the Architect of Record to provide all measured drawings of existing construction as required for the completion of the Project.

Schedule B

Project Documents

- 1) **Public Building Commission of Chicago's
Book 1 Standard Terms and Conditions for Construction Contracts**
- 2) **Traffic Management/ Snow Command Project Enhancements memo, dated
10/28/05**
- 3) **Subcontract Provisions**
- 4) **Certifications Regarding Debarment, Suspension and Other Responsibility Matters;
Drug-Free Workplace Requirements and Lobbying**

Schedule C

Compensation

A.1 Compensation of the Architect of Record

A.1.1 The Architect of Record shall be paid a lump sum fee of \$ 31,000.00. The Fee, in the absence of a change in scope of the Project by the Commission or the issuance of Commission-originated additive change orders, constitutes the Architect's of Record full fee for Basic Services described in Schedule A, Section A. The fee for Basic Services shall be allocated and payments made on a monthly basis as follows:

Programming and Schematic Design	15%
Construction Document Phase	40%
Bidding Phase Services	5%
Construction Phase	30%
Project Close-out Phase	10%

A.1.2 Architect's of Record fee for Basic Services shall include profit, overhead, general conditions, and all items not specifically identified as Reimbursable Expenses.

A.2 Billing Rates

A.2.1 The Commission shall compensate the Architect of Record for contract modifications and/or Additional Services based upon a *Lump Sum Fee* or a *Time Card Not to Exceed Fee*, as approved by the Commission in writing. In the case of *Time Card* billings, rates of reimbursement for the Architect of Record's employees shall be the actual base salaries paid to the specific employee performing the services plus a multiplier not to exceed 2.5 (not to exceed the maximum Commission hourly salary rates-listed below).

Position Title		Maximum Hourly Rate with Multiplier
Principal		\$150.00
Senior Project Manager		\$125.00
Project Manager	Senior Architect/Engineer	\$115.00
Project Architect/Engineer	Field/Technical Specialist	\$95.00
Architect/Engineer	Designer	\$80.00
CADD Draftsman	Intern Architect/Engineer	\$70.00
Clerical/Administrative		\$50.00

The following items are considered to be a part of the multiplier, and shall not be considered as additional reimbursable expenses:

A.2.2 Worker's Compensation Insurance.

A.2.3 Direct Personnel Expenses:

- A.2.3.1 Social Security Tax.
- A.2.3.2 Unemployment Insurance.
- A.2.3.3 Health insurance Benefits.
- A.2.3.4 Long Term Disability Insurance.
- A.2.3.5 Other Statutory and Non-Statutory Employee Benefits.
- A.2.3.6 Pensions and Similar Contributions.

A.2.4 Telephone Service including Local Calls.

A.2.5 General and Administrative Expense including Overhead and Profit.

A.2.6 General Liability, (Excluding costs for Insurance Premiums on Special Consultant(s) and Trade Contractors) Professional Liability, Valuable Papers, Auto and other Insurance as mandated by the Contract.

A.2.7 Computer Charges.

A.2.8 Postage and Handling.

A.2.9 Parking and Mileage.

A.2.10 Other items not specifically identified below as "Reimbursables".

A.3 Reimbursables

A.3.1 "Reimbursable Expenses" as they relate to Basic Services, are actual expenditures at cost, incurred by the Architect of Record, and required to provide its services to the Commission. The following shall be considered reimbursable expenses:

- A.3.1.1** Plotting, printing and reproduction of drawings specifications, and presentation materials requested by the Commission, or required for scheduled reviews of the progress of the work by the Commission and/or the User Agency, public or city agency meetings and hearings, and as required for professional peer reviews of documents as directed by the Commission. One coordination set shall be provided to each consultant at the conclusion of schematic, design development and construction document phases.

- A.3.1.2 Distribution (by messenger or special shipping) of drawings, specifications, and presentation materials requested by the Commission, or required for scheduled reviewed of the progress of the work by the Commission and/or the User Agency, public or city agency meetings and hearings, and as required for professional peer reviews of documents as directed by the Commission.
 - A.3.1.3 Plotting, printing, reproduction and distribution of drawings and specifications for the purposes of soliciting subcontractor bids, issuing documents for building permit and issuing documents for construction.
 - A.3.1.4 Printing and distribution costs associated with shop drawing and submittal reviews during construction.
- A.3.2 Costs of reimbursable expenses are on a not to exceed basis of \$3,000.00.
- A.3.3 The following reimbursable expenses require prior written approval by the Commission:
- A.3.3.1 Expense of transportation and living of principals and employees traveling in connection with the Project, but not including travel and expense to and from the job site or within a 50-mile radius of downtown Chicago. Travel expenses include coach air fare, hotel and per diem costs, auto rental, fuel and insurance, and must be supported with proper documentation in the form of itemized invoices.
 - A.3.3.2 Fees and costs of special consulting services requested by the Commission shall be paid as a reimbursable expense. Structural, mechanical, electrical, plumbing, fire protection, Information Technology/Audio Visual engineering services, and Commissioning are included within the Fee indicated in paragraph A.1.
 - A.3.3.3 Costs for rental or purchase of special items or equipment requested by the Commission.
 - A.3.3.4 Fees and costs to secure necessary permits or civil agency approvals, including permit fees and expenditure fees.
 - A.3.3.5 Costs of surveys, geotechnical and environmental technical testing and reports.
- A.3.4 The following are not reimbursable expenses:
- A.3.4.1 Plotting, printing and distribution of drawings and specifications for the purposes of coordination between members of the Architect of Record

project team, or otherwise incidental to the normal execution of the Architect's work.

A.3.4.2 Office and administrative expenses, including telephonic or telecopier system expenses, photocopying and duplicating costs, except as defined under A.3.1, office or drafting supplies, and delivery services except as defined under A.3.1.

B.1 Compensation for Construction Management Services

B.1.1 The Construction Manager shall be paid a lump sum fee of \$31,000.00. The Fee shall, in the absence of a change in scope of the Project by the Commission or the issuance of Commission-originated additive change orders, constitute the Construction Managers full fee for Basic Services described in Schedule A, Section B. The fee for Construction Manager Services shall be allocated and payments made on a monthly basis as follows:

Pre-Construction Phase	20%
Bidding Phase	20%
Construction Phase	50%
Project Close-out	10%

B.1. Construction Manager's fee for Construction Management Services shall include profit, overhead, general conditions, and all items not specifically identified as Reimbursable Expenses.

B.3.1.1 B.1.2 The Construction Manager's fee for Construction Management Services shall not include any subcontractor costs, vendor costs, consultant costs, or any other construction costs. Such costs or fees, which require approval by the Commission prior to engagement of the subcontractor(s), vendor(s) or consultant(s), shall be billed as a reimbursable expense with no additional mark-up.

B.2 Reimbursable Expenses

The Construction Manager shall be reimbursed for actual costs incurred by the Construction Manager of Professional fees paid to sub-consultants engaged in the interest of the Project by the Construction Manager, with the Commission's prior written approval (hereinafter referred to as "Reimbursable Expenses"). Reimbursable Expenses as they relate to Construction Management Services include the following: [(i) Subcontract Costs,] (ii) Professional Consultant Costs and (iii) other miscellaneous costs as defined below:

- B.2.1 General Conditions.** The Construction Manager shall be paid a lump sum of \$31,000.00. The fee shall be allocated and payments made on a monthly basis based on the work in place for General Conditions, which include the following:
- B.2.1.1** Wages of individuals employed by the Construction Manager to perform the work at the site or, with the Commission's approval, at off-site workshops.
 - B.2.1.2** Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Commission's approval.
 - B.2.1.3** Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged, at factories, workshops, or on the road, in expediting the production or transportation of materials or equipment required for the Project, but only for that portion of their time required for the Project.
 - B.2.1.4** Workmen's compensation insurance.
 - B.2.1.5** Direct Personnel Expenses (DPE):
 - B.2.1.5.1.** Social Security Tax.
 - B.2.1.5.2.** Unemployment insurance.
 - B.2.1.5.3** Health insurance benefits.
 - B.2.1.5.4** Long term disability insurance.
 - B.2.1.5.5** Other statutory and non-statutory employee benefits.
 - B.2.1.5.6** Pensions and similar contributions.
 - B.2.1.6** Telephone service including local calls.
 - B.2.1.7** General and administrative expenses.
 - B.2.1.8** General liability, excluding costs for insurance premiums on special consultants and trade contractors, professional liability, valuable papers, auto and other insurance as mandated by the Agreement.
 - B.2.1.9** Computer charges.
 - B.2.1.10** Postage and handling.

B.2.1.11 Parking and mileage.

B.2.2 Costs or fees of [subcontractors and] consultants. With regard to fees of consultants only, exclusive of the Architect of Record, the Construction Manager may be reimbursed for actual cost of the consultant plus an additional 2% mark-up.

B.2.2.1 For approved [subcontractor or] consultant costs, the Construction Manager shall submit an Application for Payment as per Article 15 of Book 1-"Standard Terms and Conditions for Construction Contracts", as set forth in Appendix 1 and Section 01025 of the Project Specifications, Division 1

B.2.2.2 Increases or decreases in [subcontractor or] consultant costs (change orders) require prior approval by the Commission and the User Agency.

B.2.2.3 Consultants may include Engineering, Cost Estimating, Surveys, Geotechnical, Environmental Technical Testing and Reporting Services, and other Specialty Consultants

B.2.3 Expense of transportation and living of principals and employees traveling in connection with the Project, but not including travel and expense to and from the job site or within a 50-mile radius of downtown Chicago. Travel expenses requiring airfare or overnight accommodations require the advance written approval of the travel budget by the Commission. Travel expenses, when specifically requested by the Commission, and supported with proper documentation in the form of itemized invoices, shall be paid as a reimbursable expense:

- B.2.3.1** Coach air fare.
- B.2.3.2** Hotel per diem costs.
- B.2.3.3** Car rental, gas, oil and insurance

B.2.4 Reproduction of bidding documents (including photographs) used for final review of Schematic Design and Construction Document phases. Reproduction of additional sets of documents requested by the Commission which are not otherwise a reimbursable expense, when specifically requested by the Commission, and supported with proper documentation in the form of itemized invoices, shall be paid as a reimbursable expense:

- B. 2.4.1** Shop drawings
- B. 2.4.2** Plans and specifications
- B. 2.4.3** Presentation materials for public meetings
- B. 2.4.4** Builder's Risk Insurance

B.2.5 Costs of the Reimbursable Expenses identified in paragraphs B.2.3 and B.2.4 are on a not to exceed basis and are to be included under Section A.3.2. Reimbursable Expenses shall not include office and other administrative expenses, including without limitation, telephonic or telecopier system expenses, photocopying and duplication costs, office or drafting supplies, delivery services and similar items.

B.3 Compensation for Additional Services

B.3.1 The Commission may order changes in the Work and/or Additional Services without invalidating the Agreement.

B.3.2 The Commission shall compensate the Construction Manager for Additional Construction Management Services based upon a *Lump Sum Fee* or a *Time Card Not to Exceed Fee*, as approved by the Commission in writing. In the case of *Time Card* billings, rates of reimbursement for the Construction Manager's employees shall be the actual base salaries paid to the specific employee performing the services not to exceed the maximum Commission salary rates, which include a multiplier of 2.5.

B.3.2.1 The maximum hourly rate including the multiplier the Commission shall pay the Construction Manager for its employees and consultant's employees shall be as follows:

<u>Position Title</u>	<u>Maximum Hourly Rate with Multiplier</u>
Principal	\$150.00
Senior Project Manager	\$125.00
Project Manager	\$115.00
Assistant Project Manager	\$80.00
Clerical/Administrative	\$50.00

B.3.2.2 The following items are considered to be a part of the multiplier, and shall not be considered reimbursable expenses:

B.3.2.2.1 Workmen's compensation insurance.

B.3.2.2.2 Direct Personnel Expenses (DPE):

B.3.2.2.2.1 Social Security Tax.

B.3.2.2.2.2 unemployment insurance.

B.3.2.2.2.3 Health insurance benefits.

B.3.2.2.2.4 Long term disability insurance.

B.3.2.2.2.5 Other statutory and non-statutory employee benefits.

B.3.2.2.2.6 Pensions and similar contributions.

B.3.2.2.3 Telephone service including local calls.

B.3.2.2.4 General and administrative expense including overhead and profit.

B.3.2.2.5 General liability, **[including]** costs for insurance premiums on special consultants and subcontractors, professional liability, valuable papers, auto and other insurance as mandated by the Agreement.

B.3.2.2.6 Computer charges.

B.3.2.2.7 Postage and handling.

B.3.2.2.8 Parking and mileage.

C.1 Submission of Invoices for Compensation

C.1.1 The Construction Manager shall submit detailed invoices no more frequently than once every 30 days to the Commission for approval. After approval of the invoices by the Commission, payment shall be remitted to the Construction Manager.

C.1.2 All invoices shall clearly distinguish between amounts billed for Design Services and amounts billed for Construction Management Services and the invoices shall also include an explanation of the services for which the amounts are being billed.

Schedule D

Contract Insurance Requirements

Technology Enhancements for Traffic Management/ Snow Command Center Contract #PS 928

The Construction Manager must provide and maintain at Construction Manager's own expense, during the term of the contract and during the time period following expiration if Construction Manager is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

A. INSURANCE TO BE PROVIDED BY CONSTRUCTION MANAGER

1) Workers' Compensation and Employers Liability

Workers' Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Contract and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence and in the aggregate for bodily injury, personal injury, and property damage liability. Coverage must include the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Public Building Commission and the City of Chicago must be named additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors [and consultants] performing work for Construction Manager must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Construction Manager must provide Automobile Liability Insurance, with limits of not less than \$2,000,000 per occurrence and in the aggregate for bodily injury and property damage. The Public Building Commission and the City of Chicago must be named additional insureds on a primary, non-contributory basis.

Subcontractors [and consultants] performing work for Construction Manager must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

4) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Contract, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$5,000,000 per claim and in the aggregate. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

[Sub-consultants performing work for Construction Manager must maintain professional liability insurance with limits of not less than \$1,000,000 per occurrence with the same terms herein.]

5) Valuable Papers

When any plans, designs, drawings, specifications, data, media, and documents are produced or used under this Contract, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creation and reconstruction of such records.

B. INSURANCE TO BE PROVIDED FOR CONSTRUCTION

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Contract and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence and in the aggregate for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Public Building Commission and the City of Chicago must be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Subcontractor must maintain limits of not less than \$1,000,000 with the same terms herein.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Subcontractor must provide Automobile Liability Insurance with limits of not less

than \$2,000,000 per occurrence and in the aggregate for bodily injury and property damage. The Public Building Commission and the City of Chicago must be named as additional insureds on a primary, non-contributory basis.

Subcontractors performing work for the Subcontractor must maintain limits of not less than \$1,000,000 with the same terms herein.

4) Builders Risk

When Subcontractor undertakes any construction, including improvements, betterments, and/or repairs, the Subcontractor must provide All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. Coverages must include but are not limited to the following: right to partial occupancy, material stored off-site and in-transit, collapse, water including overflow, leakage, sewer backup, or seepage, debris removal, faulty workmanship or materials, testing, and mechanical-electrical breakdown. The Public Building Commission and the City of Chicago must be named as additional insureds and loss payees

The Subcontractor is responsible for all loss or damage to PBC or City property at full replacement cost.

The Subcontractor is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools, and supplies) owned, rented, or used by Subcontractor.

5) Contractors Pollution Liability

When any work is performed which may cause a pollution exposure, Subcontractors Pollution Liability must be provided covering bodily injury, property damage and other losses caused by pollution conditions that arise from the Contract scope of services with limits of not less than \$1,000,000 per occurrence and in the aggregate. Coverage must include completed operations, contractual liability, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Contract. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years. The Public Building Commission and the City of Chicago must be named as additional insureds.

C. ADDITIONAL REQUIREMENTS

Construction Manager must furnish the Public Building Commission Procurement Department, Richard J. Daley Center, Room 200, Chicago, IL 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Construction Manager must submit evidence of insurance to the Public Building Commission prior to Contract award. The receipt of any certificate does not constitute agreement by the Commission that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are

in compliance with all Contract requirements. The failure of the Commission to obtain certificates or other insurance evidence from Construction Manager is not a waiver by the Commission of any requirements for the Construction Manager to obtain and maintain the specified coverages. The Construction Manager shall advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the Commission retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The insurance must provide for 60 days prior written notice to be given to the Commission in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Construction Manager.

The Construction Manager agrees that insurers waive their rights of subrogation against the Public Building Commission and the City of Chicago.

The coverages and limits furnished by Construction Manager in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

Any insurance or self-insurance programs maintained by the Commission or the City do not contribute with insurance provided by the Construction Manager under the Contract.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed on the indemnity in this Contract given as a matter of law.

If the Construction Manager is a joint venture, the insurance policies must name the joint venture as a named insured.

The Construction Manager must require all subcontractors to provide the insurance required herein, or Construction Manager may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Construction Manager unless otherwise specified in this Contract.

The Public Building Commission maintains the right to modify, delete, alter or change these requirements.

Schedule E

Commission's Additional Rights and Responsibilities

Intentionally Deleted

EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE(MM/DD/YYYY)
4/6/2006

THIS IS EVIDENCE THAT INSURANCE AS IDENTIFIED BELOW HAS BEEN ISSUED, IS IN FORCE, AND CONVEYS ALL THE RIGHTS AND PRIVILEGES AFFORDED UNDER THE POLICY.

PRODUCER NAME, CONTACT PERSON AND ADDRESS Aon Risk Services, Inc. of Southern California 707 Wilshire Boulevard, Suite 6000 Los Angeles, California 90017 (213) 630-3200		PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:		COMPANY NAME AND ADDRESS Affiliated FM 2350 Empire Avenue Burbank, CA 91504-3350		NAIC NO:
CODE:		SUB CODE:		IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH		
AGENCY CUSTOMER ID #:		LOAN NUMBER		POLICY NUMBER TF858		
NAMED INSURED AND ADDRESS McClier Corporation 303 E. Wacker Dr., Suite 900 Chicago, IL 60601		EFFECTIVE DATE 4/1/2006		EXPIRATION DATE 4/1/2007		<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
ADDITIONAL NAMED INSURED(S)		THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION (Use additional sheets if more space is required)

LOCATION/DESCRIPTION MCIL / Standard / 3673

OFFICE OF EMERGENCY MANAGEMENT & COMMUNICATION (OEMC)
 911 CITY OPERATIONS CENTER, 1411 W. MADISON, CHICAGO, IL 60607
 MCCLIER PROJECT NO. 04-916; CONTRACT # PS 797; VALUE: \$25,000
 A Waiver of Subrogation is afforded to the certificate holder where required by written contract.

COVERAGE INFORMATION

CAUSE OF LOSS FORM BASIC BROAD SPECIAL OTHER

COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$1,000,000 DED: \$50,000 *See Remarks Section

	YES	NO			
BUSINESS INCOME / RENTAL VALUE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, LIMIT: Included	<input checked="" type="checkbox"/>	Actual Loss Sustained # of months:
BLANKET COVERAGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, indicate amount of insurance on properties identified above:		\$100,000,000
TERRORISM COVERAGE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	IF YES, SUBLIMIT:		DED:
IS COVERAGE PROVIDED FOR "CERTIFIED ACTS" ONLY?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	IF YES, LIMIT:		DED:
IS COVERAGE A STAND ALONE POLICY?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	IF YES, SUBLIMIT:		DED:
DOES COVERAGE INCLUDE DOMESTIC TERRORISM?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	IF YES, LIMIT:		DED:
COVERAGE FOR MOLD	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
MOLD EXCLUSION (If "YES", specify organization's form used)	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REPLACEMENT COST	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
AGREED AMOUNT	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
COINSURANCE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	IF YES, %		
EQUIPMENT BREAKDOWN (If Applicable)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, LIMIT: \$50,000,000.00		DED: See Remarks Section
LAW AND ORDINANCE - Coverage for loss to undamaged portion of building	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, LIMIT: \$50,000,000.00		DED:
- Demolition Costs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, LIMIT: \$2,500,000.00		DED:
- Incr. Cost of Construction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, LIMIT: \$2,500,000.00		DED:
EARTHQUAKE (If Applicable)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, LIMIT: \$5,000,000.00		DED:
FLOOD (If Applicable)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IF YES, LIMIT: \$5,000,000.00		DED:
WIND / HAIL (If Separate Policy)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	IF YES, LIMIT:		DED:
PERMISSION TO WAIVE SUBROGATION PRIOR TO LOSS	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

REMARKS - Including Special Conditions (Use additional sheets if more space is required)

Deductibles: All Other Perils - except \$50,000 / 100 yr Flood Zone \$500,000 / Outside 100 yr Flood \$50,000 / EQ California & High Hazard Zones 5% with a \$100,000 min / EQ New Madrid 3% with \$100,000 min / EQ All Other \$50,000 \ Boiler - PD \$5,000 \ Boiler - BI 24 hour waiting BI \ Named Windstorm Continental US 2% with \$100,000 minimum \ CBI,Civil Authority, Ingress/Egress, Service Interruption 24 hours, \$50,000 minimum.

CANCELLATION

THE POLICY IS SUBJECT TO THE PREMIUMS, FORMS, AND RULES IN EFFECT FOR EACH POLICY PERIOD. SHOULD THE POLICY BE TERMINATED, THE COMPANY WILL GIVE THE ADDITIONAL INTEREST IDENTIFIED BELOW 60 DAYS WRITTEN NOTICE, AND WILL SEND NOTIFICATION OF ANY CHANGES TO THE POLICY THAT WOULD AFFECT THAT INTEREST, IN ACCORDANCE WITH THE POLICY PROVISIONS OR AS REQUIRED BY LAW.

ADDITIONAL INTEREST

NAME AND ADDRESS PUBLIC BUILDING COMMISSION OF CHICAGO ATTN: JAMES GALLAGHER, PROCUREMENT DEPT. 50 W. WASHINGTON STREET RICHARD J. DALEY CENTER, ROOM 200 CHICAGO, IL 60602	LENDER SERVICING AGENT NAME AND ADDRESS <div style="text-align: right; font-size: 2em; font-family: cursive;"> <i>OK 4/18/06</i> </div>
<input type="checkbox"/> MORTGAGEE <input type="checkbox"/> <input type="checkbox"/> LOSS PAYEE <input type="checkbox"/>	AUTHORIZED REPRESENTATIVE <i>Aon Risk Services, Inc. of Southern California Insurance Services</i>

DISCLOSURE OF RETAINED PARTIES

A. Definitions and Disclosure Requirements

1. As used herein, "Contractor" means a person or entity who has any contract or lease with the Public Building Commission of Chicago ("Commission").
2. Commission contracts and/or qualification submittals must be accompanied by a disclosure statement providing certain information about attorneys, lobbyists, consultants, subcontractors, and other persons whom the Contractor has retained or expects to retain with respect to the contract or lease. In particular, the Contractor must disclose the name of each such person, his or her business address, the name of the relationship, and the amount of fees paid or estimated to be paid. The Contractor is not required to disclose employees who are paid solely through the Contractor's regular payroll.
3. "Lobbyists" means any person (a) who for compensation or on behalf of any person other than himself undertake to influence any legislative or administrative action, or (b) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

B. Certification

Contractor hereby certifies as follows:

1. This Disclosure relates to the following transaction: Technology Enhancements for the Traffic Management /Snow Command Center

Description or goods or services to be provided under Contract: Agreement No. PS-928 Construction Manager Services; Traffic Management/Snow Command Center

2. Name of Contractor: McCluer

3. EACH AND EVERY attorney, lobbyist, accountant, consultant, subcontractor, or other person retained or anticipated to be retained by the Contractor with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary. NOTE: You must include information about certified MBE/WBEs you have retained or anticipate retaining, even if you have already provided that information elsewhere in the contract documents.

Retained Parties:

Name	Business Address	Relationship (Attorney, Lobbyist, Subcontractor, etc.)	Fees (indicate whether paid or estimated)
Mary Richardson-Lowry Mayer Brown Rowe & Mawe, LLP	71 S. Wacker Drive Chicago, IL 60606	Attorney	

Check Here If No Such Persons Have been Retained or Are Anticipated To Be Retained: _____

DISCLOSURE OF RETAINED PARTIES

4. The Contractor understands and agrees as follows:

- a. The information provided herein is a material inducement to the Commission execution of the contract or other action with respect to which this Disclosure of Retained Parties form is being executed, and the Commission may rely on the information provided herein. Furthermore, if the Commission determines that any information provided herein is false, incomplete, or inaccurate, the Commission may terminate the contract or other transaction, terminate the Contractor's participation in the contract or other transactions with the Commission.
- b. If the Contractor is uncertain whether a disclosure is required under the Contractor must either ask the Commission's Representative or his or her manager whether disclosure is required or make the disclosure.
- c. This Disclosure of Retained Parties form, some or all of the information provided herein, and any attachments may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. The Contractor waives and releases any possible rights or claims it may have against the Commission in connection with the public release of information contained in the completed Disclosure of Retained Parties form and any attachments.

Under penalty of perjury, I certify that I am authorized to execute this Disclosure of Retained Parties on behalf of the Contractor and that the information disclosed herein is true and complete.

Signature

Date

KENNETH M. TERPIN
Name (Type or Print)

MARCH 15, 2006
Date

PRESIDENT & CEO
Title

Subscribed and sworn to before me

this

day of

March 2006

Notary Public

