

**WESTINGHOUSE HIGH SCHOOL – PS1412
CONSTRUCTION MATERIAL TESTING AND INSPECTION SERVICES**

This agreement, effective as of the 11th day of **September, 2008** ("Agreement"), 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 West Washington Street, Chicago, Illinois 60602 ("**Commission**"), and **Flood Testing Laboratories, Inc.**, a Corporation, with offices at 1945 East 87th Street, Chicago, Illinois, ("**Consultant**").

TERMS AND CONDITIONS – INSPECTION AND TESTING SERVICES

1. Definitions. The following phrases have the same meanings for purposes of this Agreement.

a. **Agreement** means this professional services agreement for inspection and testing services, 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. **Commission** as herein referred to shall include the Public Building Commission of Chicago, the Commission's Chairman, Secretary, Assistant Secretary, Executive Director, Director of Construction, Managing Architect, Project Manager, 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.

c. **Contract Documents** consists of all of the component parts of the Contract between the Commission and the General Contractor for the construction and improvement of the Project including, without limitation, the general and special conditions, technical specifications, drawings, addenda, bulletins and modifications thereto.

d. **Consultant** 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.

e. **Key Personnel** means those job titles and persons as identified in those positions as identified in Consultant's proposal and accepted by the Commission.

f. **Project** means the construction and/or improvement of the facility or facilities specified in this Agreement.

g. **Services** means, collectively, the services, duties and responsibilities that are necessary to allow the Consultant to provide the Services required by the Commission under this agreement.

h. **Sub-consultant** means a firm hired by the Consultant to perform professional services related to the construction and/or improvement of the Project.

i. **Technical Personnel** as herein referred to include partners, officers and all other personnel of the Consultant, including technical typists assigned to the Project, exclusive of general office employees.

j. **User Agency** means the municipal corporation that requested the Commission to undertake the construction and/or improvement of the Project.

2. **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, Consultant acknowledges and agrees that Consultant is familiar with the contents of each of such documents and will comply fully with all applicable portions thereof in performing the Services.

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 in this Agreement (the "Project Documents").

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.

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

a. **Engagement.** The Commission hereby engages the Consultant, and the Consultant hereby accepts such engagement, to provide the Services described in this agreement, as the same may be amended, in writing, from time to time by mutual agreement of the Commission and the Consultant.

b. **Performance Standard.** The Consultant 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 consistent with that degree of skill and care ordinarily exercised by practicing inspection and testing professionals performing services of a scope, purpose, and magnitude comparable with the Services to be provided under this Agreement. If in the course of performing the Services, Consultant identifies any condition, situation, issue or problem that may impact the performance of the Services or the Project, Consultant shall promptly provide notice to the Commission. The Consultant further promises that it will assign at all times during the term of the Agreement the number of experienced, appropriately trained employees necessary for the Consultant to perform the Services in the manner required by the Agreement.

c. **Consultant's Personnel.** Consultant must ensure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. Consultant must maintain current copies of any such licenses and provide these copies upon request by the Commission. Consultant remains responsible for the professional and technical accuracy of all Services furnished, whether by the

Consultant or others on its behalf. All deliverables will be prepared in a form and content satisfactory to the Commission and delivered in a timely manner consistent with the requirements of the Agreement.

d. Confidentiality. Consultant acknowledges that it is entrusted with or has access to valuable and confidential information and records of the Commission and User Agency. Consultant must at all times use its best efforts on behalf of the Commission to assure timely and satisfactory rendering and completion of its Services. Consultant must at all times act in the best interests of the Commission and User Agency consistent with Consultant's professional obligations assumed by Consultant in entering into this Agreement. Consultant promises to cooperate with the officials, employees and agents of the Commission and User Agency in furthering the Commission's and User Agency's interests. Consultant must perform all Services in accordance with the terms and conditions of this Agreement, to the reasonable satisfaction of the Commission.

e. Independent Contractor. In performing the Services under this Agreement, Consultant shall at all times be an independent contractor, and does not and must not act or represent itself as an agent or employee of the Commission or the User Agency. As an independent contractor, Consultant is solely and wholly responsible for determining the means and methods for performing the Services. The Agreement will not be construed as an agreement of partnership, joint venture, or agency.

f. Limitations on Sub-Consultants. Consultant must not use any business or individual who is disqualified by the Commission or debarred under any other governmental agency's procedures to provide the Services under the Agreement.

g. Failure to Meet Performance Standard. If the Consultant fails to comply with its obligations under the standards of the Agreement, the Consultant must perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. Any review, approval, acceptance or payment for any of the Services by the Commission does not relieve Consultant of its responsibility to render the Services and deliverables with the professional skill and care and technical accuracy required by the Agreement. This provision in no way limits the Commission's rights against the Consultant, either under the Agreement, at law or in equity.

h. Changes to the Services. The Commission may from time to time, request changes to the terms of the Agreement or in the Scope of Services of the Consultant 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 Consultant, shall be incorporated in a written amendment to this Agreement. The Commission shall not be liable for any changes absent such written amendment.

4. Duties and Obligations of Consultant

a. Nondiscrimination. The Consultant agrees that in performing this Agreement it shall not discriminate against any worker, employee or applicant for employment, or any member of the public, because of race, creed, gender, color, national origin or disability, or otherwise commit an unfair labor practice. Attention is called to applicable provisions of the Civil Rights Act of 1964, 88-352, July 2, 1964, 78 Stat. 241 et. Seq. the Americans with Disabilities Act of 1990, 42 U.S.C. 12010 et. Seq. the Illinois

Human Rights Act 775 ILCS 5/1-101 et. Seq. and the Public Works Employment Discrimination Act 775 ILCS 10/0.0 1 through 10/20, inclusive and a Resolution passed by the Board of Commissioners of the Public Building Commission of Chicago on October 1, 2004, concerning participation of Minority Business Enterprises and Women Business Enterprises on contracts awarded by the Commission. The Consultant will furnish such reports and information as requested by the Commission and the Illinois Department of Human Relations or any other administrative or governmental entity overseeing the enforcement, administration or compliance with the above referenced laws and regulations.

b. Employment Procedures, Preferences and Compliances. Salaries of employees of Consultant 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 only such payroll deductions as are mandatory or permitted by the applicable law or regulations. Attention is called to Illinois Compiled Statutes, 1992 relating to Wages and Hours including 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 Consultant shall comply with all applicable "Anti-Kickback" laws and regulations, including the "Anti-Kickback" Act of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; 40 U.S.C. § 276c) 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 kickback, the Commission shall withhold from the Consultant, out of payments due to it, an amount sufficient to pay employees underpaid 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 shall be disbursed by the Commission for and on account of the Consultant to the respective employees to whom they are due.

c. Compliance with Policies Concerning MBE and WBE. Without limiting the generality of the requirements of the policies of the Commission referred to in paragraph 2 above, the Consultant agrees to use best efforts to utilize minority business enterprises for not less than twenty five percent (25%) for MBE and five percent (5%) for WBE 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.

d. Delays. The Consultant agrees that no charges for damages or claims for damages 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 for 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 Consultant 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.

e. Records. The Consultant shall maintain accurate and complete records of expenditures, costs and time incurred by Consultant 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 Consultant's offices upon reasonable notice during normal business hours. Consultant shall retain all such records for a period of not less than five calendar years after

the termination of this Agreement.

f. Time of Essence. The Consultant 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. Consultant agrees to use its best efforts to expedite performance of the Services and performance of all other obligations of the Consultant under this Agreement and any other agreements entered into by the Commission which are managed or administered by the Consultant as a result of the Consultant's engagement hereunder.

g. Compliance with Laws. In performing its engagement under this Agreement, the Consultant shall comply with all applicable federal, state and local laws, including but not limited to, those referenced in subparagraphs (a) and (b) above and in the documents referred to in paragraph 2 of this Agreement.

h. Progress Meetings. Meetings to discuss the progress of the Project and/or to review the performance of the Consultant may be scheduled upon the Commission's request, at mutually agreeable times and locations, and the Consultant agrees to cause such meetings to be attended by appropriate personnel of the Consultant engaged in performing or knowledgeable of the Services.

Defects in Project. The Consultant shall notify the Commission immediately in the event the Consultant obtains knowledge of a defect in the Project or circumstances which could result in a Project delay or cost overrun.

5. Term.

a. The term of this Agreement shall begin upon the final execution of this Agreement, and, subject to the provisions of subparagraph (b) below, shall expire upon completion of the Services and acceptance thereof by the Commission or, if the Services are of an ongoing nature, on the completion date specified in such Request for Services. The Commission and the Consultant may, from time to time, by mutual agreement, extend the term of this Agreement by amending this Agreement.

b. 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 Consultant 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 Consultant hereunder with respect to all or any part of the Services, by written notice given to the Consultant at least five (5) days prior to the effective date of suspension. Termination or suspension of this Agreement shall not relieve the Consultant from liability for the performance of any obligation of the Consultant under this Agreement performed or to have been performed by the Consultant on or before the effective date of termination or suspension. Provided the Consultant is not in default under this Agreement at the time of termination or suspension, the Commission agrees to pay to the Consultant, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Consultant for periods up to the effective date of termination or suspension. In no event shall the Commission be liable to the Consultant for any loss, cost or damage which the Consultant 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 Consultant for actual expenses approved by the Commission.

c. 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 Consultant, or if the Commission fails to make any payment or perform any other obligation hereunder, the Consultant 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 Consultant for periods up to the effective date of termination.

6. Compensation of Consultant; Reimbursement for Expenses. The Commission shall compensate the Consultant for the Services in the manner set forth Schedule c of this Agreement. In addition, the Commission shall, upon submission of detailed invoices by the Consultant, no more frequently than once every 30 days, and approval by the Commission of those invoices, reimburse the Consultant for all Reimbursable Expenses. As used in this paragraph, the term "Reimbursable Expenses" shall mean those expenses identified as such in 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 Consultant, 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 Consultant 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 4 (d) above, the Commission agrees to make a reasonable effort to examine documents submitted by the Consultant and render decisions pertaining thereto with reasonable promptness.

c. Site Data. To the extent the Commission determines to be necessary for the Consultant to perform the Services, the Commission may furnish, or may authorize the Consultant to obtain from a company or companies 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; (iv) information concerning available service and utility lines; and (v) results of test borings and other information concerning subsoil conditions.

d. Tests and Reports. To the extent required for the Consultant to perform the Services, the Commission may furnish structural, civil, chemical, mechanical, soil mechanical and/or other tests and reports; however, the Commission may authorize the Consultant to procure such tests and reports from Sub-Consultants, which must be approved by the Commission. The costs of such Sub-Consultants shall be payable as Reimbursable Expenses.

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 Consultant.

f. Designated Representatives. The Commission may designate, at its sole discretion, one or more representatives authorized to act in its behalf.

g. Ownership of Documents. All documents, data, studies and reports prepared by the Consultant or any party engaged by the Consultant, pertaining to the Project and/or the Services shall be the property of the Commission including copyrights.

h. Audits. The Commission shall have the right to audit the books of the Consultant on all subjects relating to the Project and/or the Services.

8. Indemnification of Commission. The Consultant hereby agrees to indemnify, 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 property that is or is claimed to be the result of an error, omission or act of the Consultant or any person employed by the Consultant to the maximum extent permitted by applicable law.

9. Insurance to be Maintained by Consultant. The Consultant shall purchase and maintain at all times during the performance of Services hereunder, for the benefit of the Commission, the User Agency and the Consultant, insurance coverage as set forth in Schedule E of 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 Consultant duly to observe or perform any obligation or agreement on the part of the Consultant 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 Consultant by the Commission;

ii. Failure of Consultant to perform the Services to the standard of performance set forth in this Agreement;

iii. Any representation or warranty of the Consultant set forth herein or otherwise delivered pursuant to this Agreement shall have been false in any material respect when so made or furnished;

The Consultant 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 Consultant 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 Consultant's consent or acquiescence, any trustee, receiver, liquidator or other custodian of Custodian or of all or any substantial part of the Consultant'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 Consultant, in which event the Commission shall have no further obligations hereunder or liability to the Consultant except as to payment for Services actually received and accepted by the Commission through the effective date of termination. No course 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 permissibility 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 Consultant in writing specifically referencing this Section, and will include: 1) the issue(s) presented for resolution; 2) a statement of the respective positions of the Consultant and the Project 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. Consultant will promptly provide the Executive Director with a copy of the request for determination of the dispute. The Project Manager will have thirty (30) business days to respond in writing to the dispute by supplementing the submission or providing its own submission to the Executive Director. Failure by the Project Manager to respond will not be deemed to be an admission of any allegations made in the request for dispute resolution, but will be deemed to constitute a waiver of the opportunity to respond to such allegation(s), if any. The Executive Director's decision may thereafter be reached in accordance with such other 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 response by the Project Manager was filed or was due unless the Executive Director notifies the Consultant that additional time for the decision is necessary. The Executive Director's decision will be conclusive, final, and binding on all parties. Consultant 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 Consultant 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 Consultant under this Agreement are confidential, and the Consultant 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 Consultant 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.

13. Assignment. The Consultant acknowledges that the Commission is induced to enter into this Agreement by the personal qualifications of the principals, staff and employees of the Consultant and agrees, therefore, that neither this Agreement nor any right or obligation hereunder may be assigned by the Consultant, in whole or in part, without the prior written approval of the Commission. The Commission expressly reserves the right to assign or otherwise transfer all or any part of its interests hereunder without the consent or approval of the Consultant.

14. Personnel. The Consultant further acknowledges that the Consultant has represented to the Commission the availability of certain members of the Consultant's staff who will be assigned to the Project, and agrees, therefore, that in the event of the unavailability of such members, the Consultant shall so notify the Commission in writing, and, upon the approval of the Executive Director, shall assign other qualified members of the Consultant's staff, to the Project.

15. Relationship of Parties. The relationship of the Consultant to the Commission hereunder is that of an independent contractor, and the Consultant, except to the extent expressly provided to the contrary in this agreement, 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.

16. Miscellaneous.

a. Counterparts. This Agreement may be executed in any number of counterparts, any of which shall be deemed an original.

b. 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.

c. Force Majeure. Neither of the parties shall be liable to the other for any delay or failure in performance hereunder due to causes which are beyond the control of the party unable to perform. If a force majeure 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 Consultant under this Agreement for the duration of the force majeure. 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 force majeure, but, provided the Consultant is not in default of any obligation of the Consultant hereunder, the Commission shall pay to the Consultant, according to the terms hereof, all compensation and reimbursements due to the Consultant for periods up to the effective date of suspension.

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. 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 Consultant 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 Consultant 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. Reimbursable Expenses. Reimbursable expenses includes those actual expenditures, as identified in Schedule D to this Agreement, which are made by the Consultant and payable by the Commission.

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.

j. Consultant's Authority. Execution of this Agreement by the Consultant 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 Consultant have been made with complete and full authority to commit the Consultant to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained or incorporated by reference in it.

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EXECUTION PAGE

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the

16th day of October, 2008.

PUBLIC BUILDING COMMISSION OF CHICAGO

Authorization by the Public Building Commission on attached Requisition for PBC Approval dated September 4, 2008.

CONSULTANT – FLOOD TESTING LABORATORIES, INC.

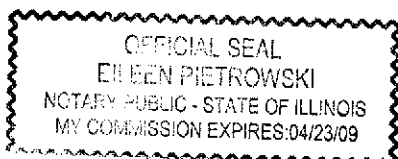
By: Susan R. Flood
President

Date: September 29, 2008

Subscribed and Sworn to before me this 1st day of Oct, 2008

Eileen Pietrowski
Notary Public

My Commission expires: 4.23.09





Public Building Commission of Chicago Professional Services

Requisition for PBC Approval

Project Name: WESTINGHOUSE H.S. Date: 9/4/08
Project Location: 3223 W. FRANKLIN BOULEVARD Project Number: CPS-20
Owner Agency: CPS PS Number: ~~WBS-05022~~ PS 1412
Project Services: MATERIAL TESTING & INSPECTION Project Manager: Eras Basaka
Property Ownership: _____

Contract Type	Request Type	Pre-Qualified Specialty Services:
<input checked="" type="checkbox"/> New Contract <input type="checkbox"/> Existing Contract <input type="checkbox"/> Continuation of Previous Service/Work (provide description of previous work completed)	<input checked="" type="checkbox"/> Request for Services (1) <input type="checkbox"/> Suborder under Term Agreement <input type="checkbox"/> Subconsultant Approval <input type="checkbox"/> Request for Services; Utilities/ City Departments <input type="checkbox"/> Request for Services over \$25,000 Requires Board Approval	<input type="checkbox"/> Bid Proposal Request for: <input type="checkbox"/> Phase I Environmental (Under \$50,000) <input type="checkbox"/> Phase II Environmental (Under \$250,000) <input type="checkbox"/> Environmental Design (Under \$50,000) <input type="checkbox"/> Surveying (Under \$50,000) <input type="checkbox"/> Commissioning (Under \$125,000) <input checked="" type="checkbox"/> Materials Testing (Under \$150,000)

(1) Note: This Request for Service is governed by the terms and conditions set forth in the "Standard Terms and Conditions for Professional Services for Projects of \$25,000.00 or less", dated February 26, 2001, as amended and incorporated as if fully set forth here by this reference and by any Exhibits or Attachments to this Request for Service. Such Standard Terms and Conditions for Professional Services for Projects of \$25,000.00 or less are available from the PBC's website at: www.pbcchicago.com/subhtml/standard.asp.

Vendor Information	
Vendor Name: <u>FLOOD TESTING LABORATORIES, INC.</u>	Phone Number: <u>(773) 721-2200</u>
Vendor Address: <u>1945 EAST 87TH STREET</u>	Contact Name: <u>ROBERT ALAN HAY III</u>
Subconsultant Name (if applicable): _____	<input type="checkbox"/> Please Mail Payment
Subconsultant Services (if applicable): _____	

Scope of Services:

FOR THE REMAINING MATERIAL TESTING & INSPECTION SERVICES FROM JULY 24, 2008 THRU PROJECT COMPLETION. PREVIOUSLY PARSONS CORPORATION HAD CONTRACT WITH FLOOD. THE PARSONS CONTRACT WITH FLOOD WAS TERMINATED ON JULY 24, 2008. THIS PROPOSAL IS FOR SERVICE COMPLETION OF THE PROJECT.

Budget Code: 6.01 513136

TOTAL: \$34,020.03

Approvals:

Project Manager: Eras Basaka
Director of Development: 9/4/08

Date: 9/4/08
Date: 9/4/08

Executive Director: [Signature] Date: 9/5/08
Director of Procurement: [Signature] Date: 9/4/08

For Internal Use Only: Received by: _____

Date Received: _____

SCHEDULE A
WESTINGHOUSE HIGH SCHOOL – PS1412
CONSTRUCTION MATERIAL TESTING AND INSPECTION SERVICES

Project Description and Scope of Services

SEE ATTACHED



Testing Laboratories, Inc.

1945 EAST 87TH STREET
CHICAGO, IL 60617-2948
PHONE (773) 721-2200
FAX (773) 721-2208

**CONSTRUCTION MATERIAL TESTING AND
INSPECTION SERVICES**

**WESTINGHOUSE HIGH SCHOOL
COMPLETION PHASE**

PREPARED FOR:

THE RISE GROUP

AUGUST 28, 2008

Rise Group
Westinghouse High School Project
Page 2 of 27
August 28, 2008



Barry Quinn
Program Manager
Rise Group
120 South LaSalle Suite 1350
Chicago, Illinois 60603

Re: Proposal: Testing and Inspection Services
Westinghouse High School Project
Chicago, Illinois

Dear Mr. Quinn:

Flood Testing Laboratories, Inc. (FTL) is pleased to present our proposal to perform the "completion phase" testing and inspection services for the above-referenced project. This proposal was generated based upon a review of the site on August 28, 2008, and conversations with current site PBC representatives.

Our proposal includes the staffing of your project with inspectors certified through the *International Code Council* (ICC) Special Inspector program. The ICC is an established examination program which tests the proficiency of an inspector in both general knowledge and the practical reading of blueprints. Also indicated in the Project Specifications is that all management and inspectors must comply with ASTM E 329.

Yours very truly,

A handwritten signature in black ink, appearing to read "Robert Alan Hay III", with a stylized flourish at the end.

Robert Alan Hay III
Senior Project Executive



COMPANY OFFICE 1945 EAST 87TH STREET, CHICAGO

About Flood Testing Laboratories . . .

Flood Testing Laboratories, Inc. (FTL) is a family-owned and operated testing and inspection laboratory. FTL has been located at our present address since 1959. The origin of the company dates back to 1913 when the original Walter H. Flood (1885-1951) departed from the City of Chicago Bureau of Standards to establish the first full service testing and inspection laboratory in the Chicago area. The company is owned by the third generation of Floods, Walt and Sue Flood, with several members of the fourth generation presently manning their stations.

Since the 1960's, FTL has continually maintained a reputation for developing and designing high strength concrete mixes for producers, including the present day 20,000 PSI silica-fume mixes. FTL consults with contractors nationally to design specialty mixes for specific applications. FTL Technicians and Inspectors are active in the American Concrete Institute (ACI), the International Code Council (ICC), and the American Welding Society (AWS).

In February of 2002, FTL reached an agreement with the International Union of Operating Engineers (IUOE) Local 150 to represent our field technicians. Thus, our field representatives are members of the Operating Engineers labor union, which is a member of the American Federation of Labor and the Congress of Industrial Occupations (AFL-CIO).

FTL is located eleven (11) miles south of the loop and four (4) miles due south of the Museum of Science & Industry. FTL is the only full-service testing laboratory that is located within the limits of the City of Chicago- and close to your project!

Project Experience

FTL has performed the testing and inspection on many of the buildings that comprise the Chicago skyline. In the past, FTL has performed the testing and inspection on the John Hancock building, the Sears Tower, and the Standard Oil Building.

FTL has provided testing and inspection services for numerous structures in the Chicago area. A partial list of projects with construction costs in excess of 50 million dollars completed or started within the past two (2) years is as follows:

- o 340 on the Park
- o The Shoreham
- o The Tides
- o The FBI Building
- o St. Charles Redevelopment
- o The Dana Hotel
- o Prairie Point
- o Southgate Market
- o The Columbian
- o UIC Student Housing
- o U of C Parking Garage
- o The Wit
- o Benet Academy
- o Rosemont Convention Center
- o Loyola Surgical Expansion
- o Westin North Shore
- o The Lancaster
- o The Shoreham
- o Prairie Pointe
- o Schaumburg Convention Center
- o Kinzie Station Parcel B (Parcel A west and east currently)
- o Westinghouse High School
- o 600 N. Lake Shore Drive
- o 13th and Michigan
- o 50 East Chestnut
- o Twain School
- o Parkside Village
- o Benton Place
- o Howard Street Red Line CTA Project
- o Marshfield Development
- o Maple Point
- o Children's Comer Hospital
- o Rush University Hospital Parking Garage
- o Rush University Hospital Energy Plant
- o Rush University Hospital Loading Dock

- **Rush University Hospital OAB Building**
- **2300 South Michigan**
- **The Regatta**

Highlighted projects include Roosevelt Collection (under construction), 353 N. Clark (under construction), The Schaumburg Convention Center (2006) and the McCormick West Expansion project. Profiles of these projects are listed on the following pages. We encourage you to call our references.

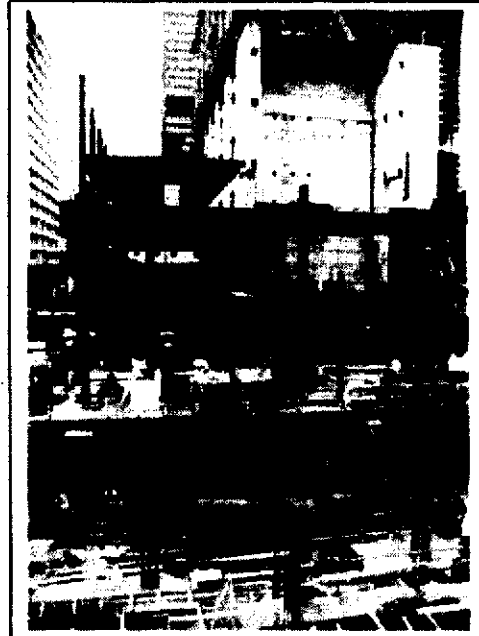
PROJECT: 353 N. Clark

LOCATION: 353 N. Clark
Chicago, Illinois

OWNER: Mesrow Stein Financial
Vince Slivka (312) 595 7817
350 N. Clark, Suite 700
Chicago, Illinois

ENGINEER: Epstein and Sons
Steve Ball (312) 454 9100
600 West Fulton
Chicago, Illinois 60661

CONTRACTOR: Bovis Lend Lease
Dan Fitzpatrick (312) 296 4764
One North Wacker
Chicago, Illinois 60616



CONTRACT AMT: \$ 700,000

COMPLETION: Winter 2009

The 353 N. Clark Project is a forty eight (48) story steel frame structure currently under construction. The project was staffed with up to three (3) technicians during steel erection, detailing, and the installation of concrete core and decks. 9,000 tons of structural steel will be erected on the project.

The primary inspectors performing the work on the project were:

- Michael Hofsommer, Lead Inspector, ICC Special Inspector
- Daniel Eglar, Str. Steel & NDT, ASNT Level II MT PT UT & AWS CWI
- Mick Geyer, Fire Stopping Specialist

The following materials will be tested and inspected at the 353 N. Clark project:

- Structural Steel Welding, Slip Critical and Shear Bearing Bolted Connections
- Steel Decking, Puddle Welding, Nelson Studs
- Reinforcing Steel and Concrete
- Epoxy Drill-in Anchors for Rebar
- Masonry: Block, Reinforcing Steel, Mortar and Grout
- Soils Including Environmental
- Fireproofing and Firestopping

PROJECT: Schaumburg Convention Center

LOCATION: 1601 North Thoreau Drive
Schaumburg, Illinois

CLIENT: HDC International, LLC
Dean Wilkerson (847) 925 1227
1601 Thoreau Drive
Chicago, Illinois 60611

ENGINEER: Halvorson Kaye
Jim Swanson (312) 274 2400
401 West Superior
Chicago, Illinois 60661



CONTRACT AMT: \$ 750,000

COMPLETION: Summer 2006

The Schaumburg Convention Center Hyatt Center is a seventeen story post tension structure with a 500,000 sq. ft. convention / exhibition facility. The project was staffed with three (3) to four (4) technicians during post tension installation, steel erection, detailing, and the installation of concrete decks. 2,500 tons of structural steel was erected on the project.

The primary inspectors performing the work on the project were:

- Michael Hofsommer, Project Manager / Lead Inspector, ICC/AWS Special Inspector
- Ron St. Germain, Structural Steel and Nondestructive Testing, ASNT NDT Level II Technician, AWS CWI
- Jason McClurg, ICC Special Inspector Reinforced Concrete
- Nathan Longnecker, ICC Special Inspector Reinforced Concrete

The following materials were tested and inspected at the SCC project:

- Mass Grading and Sitework
- Bituminous Paving and PCC Pavement
- Structural Steel Welding, Slip Critical and Shear Bearing Bolted Connections
- Steel Decking, Puddle Welding, Nelson Studs
- Steel Welding
- Reinforcing Steel, Post Tensioning, Concrete Epoxy Drill-in Rebar
- Masonry: Block, Reinforcing Steel, Mortar and Grout
- Fireproofing and Firestopping

PROJECT: Roosevelt Collection

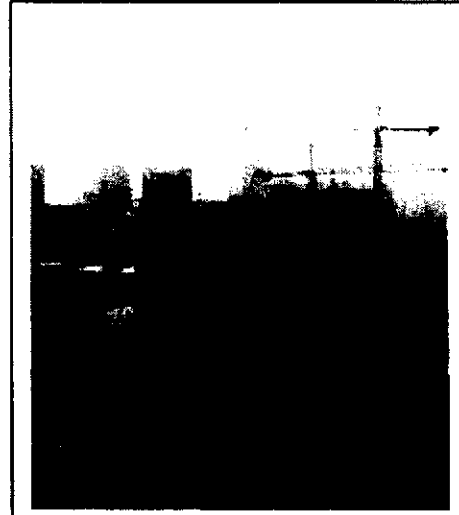
LOCATION: 949 S. Wells
Chicago, Illinois

OWNER REP: Ryan Folger (312) 218 7582
Centrum Properties
225 W. Hubbard
Chicago, Illinois

ENGINEER: Halvorson and Partners
600 West Chicago #650
Chicago, Illinois 60610

CONTRACT AMT: \$ 700,000

COMPLETION: Winter 2009



Roosevelt Collection is a multi use facility consisting of loft residences, retail shops, a theater, parking, a 2 acre park and plans for several high rise towers. The current phase will have a total of 2.4 million square feet and is comprised of almost 100,000 yards of concrete, 500 tons of structural steel, and 100,000 square feet of masonry. As many as 2200 yards of concrete are placed on some days. There have been as many as 5 concurrent placements at one time staffed by up to 5 FTL inspectors.

The primary inspectors performing the work on the project were:

- Michael Ticich, ICC Special Inspector Post Tension Concrete
- Jason McClurg, ICC Special Inspector Reinforced
- Michael McKeand, ACI Technician

The following materials were tested and inspected at the Soldier Field project:

- Structural Steel Bolted Connections, Slip Critical and Shear Bearing Connections
- Steel Decking, Puddle Welding, Nelson Studs
- Welding: including Visual (VT), Ultrasonic (UT), Magnetic Particle (MT), and Dye Penetrant (PT) Testing
- Post Tensioned and Reinforced Concrete
- Masonry: Block, Reinforcing Steel, Mortar and Grout
- Soils, Asphalt Paving
- Fireproofing and Firestopping

PROJECT: McCormick West Expansion

LOCATION: 2222 South Indiana Avenue
Chicago, Illinois

OWNER REP.: Tishman Construction
1 South Wacker Drive
Chicago, Illinois

ARCHITECT: McCormick West, LLC
2223 South Indiana Avenue
Chicago, Illinois

CONTRACTOR: McCormick West, LLC
2223 South Indiana Avenue
Chicago, Illinois

CONTRACT AMT: \$ 3,000,000.00

COMPLETION: Spring 2007



The expansion is to add 2.4 million square feet of exhibition space to McCormick Place. Over 32,000 tons of structural steel were fabricated and erected on the site. With the new addition, McCormick Place will be poised to compete with Las Vegas and other cities for the convention business. As many as eleven inspectors staffed the site at the height of construction.

The primary inspectors performing the work on the project were:

- Michael Ticich, ICC/ICBO Special Inspector
- Michael Chiappetta, AWS Certified Welding Inspector, ICC Special Inspector

The following materials were tested and inspected at the McCormick project:

- Structural Steel Fabrication
- Structural Steel Erection
- Structural Steel Bolted Connections
- Structural Steel Welding
- Reinforcing Steel Placement Inspections
- Post-tensioned Concrete Inspections
- Concrete Testing and Inspection
- Masonry Testing and Inspection
- Fireproofing Testing and Inspection
- Firestop inspection

Statement of Certification

Flood Testing Laboratories (FTL) meets the requirements of ASTM E329 and ASTM C1017 by meeting the "Recommended Requirements for Independent Laboratory Qualification." We maintain a Quality Systems Manual as required by these specifications. FTL is inspected by several outside agencies in order to maintain a high level of service. A partial list follows:

- AASHTO Materials Reference Laboratories (AMRL) for Concrete, Soils, Aggregates and Asphalt
- Cement and Concrete Reference Laboratories (CCRL) at the National Institute of Standards (NIST)
- Illinois Department of Transportation (IDOT)
- International Code Council (ICC)
- U.S. Army Corps of Engineers

FTL is currently one of the only commercial testing laboratories in the Chicago area that subscribes to all of these inspection procedures. This involves not only the production and maintenance of a quality program and written manual but also the participation in a nationwide program of proficiency testing with other laboratories (AMRL). Many of the listed services in Appendix 1 that FTL typically furnishes are inspected by the above-listed agencies. As an inspected construction materials testing laboratory, FTL is capable of testing soil, asphalt, concrete, masonry, structural steel and miscellaneous metals, roofing, and spray-on fireproofing as well as other materials in various aspects to verify compliance with Project Specifications at a high level of proficiency.

FTL intends to perform all of the proposed materials testing and inspection work, both in the laboratory and on site, independently. FTL does not need the participation of any subcontractors to perform the entire testing and inspection scope for the Project.

We are the only laboratory in Illinois who complies with ASTM E329 in regard to field personnel and supervisory personnel certification. ASTM E329 Section 7.2.4 requires field inspectors and technicians to:

- ☐ Have sufficient education and field experience
- ☐ Be able to demonstrate competence by either oral and/or written examination for the inspection discipline
- ☐ Be certified by the International Code Council (ICC), the American Welding Society (AWS), the American Concrete Institute (ACI) and the Society for Nondestructive Testing (ASNT) for field inspections
- ☐ Be supervised by personnel with equal or greater certification level

Proposed Project Staffing and Team

All project testing and inspection services are under the technical direction of our Principal Engineer, Walter H. Flood, P.E. The Executive Project Manager is Bob Hay, who is responsible for the technical performance and financial management of all FTL projects. Resumes for Walt and Bob are included in this proposal.

Reports

The following applies for the preparation and distribution of *field reports*:

- Copies will be prepared and submitted promptly on the site. Reports will be available for viewing and printing as required within seventy-two (72) hours.
- Notification for availability of reports through our website will be via E-mail. (Routings are to be submitted to FTL.)
- Deficiencies or non-compliances will be promptly reported.

The following applies for the preparation and distribution of *laboratory reports*:

- Reports will be available for viewing and printing as required within seventy-two (72) hours. (Routings are to be submitted to FTL.)
- Marginal or failed tests will be promptly reported via Fax and/or E-mail.

Scope of Services

Earthwork

Scope: Prior to the installation of spread footings and column footings, our Inspector will perform the following services:

- Observe and evaluate subgrade soil at design elevation to ensure that unsuitable or unstable soils have been excavated.
- Perform in-place density testing of engineered fill around foundation elements utilizing a nuclear density gauge to confirm compaction compliance with the Project Specifications.
- Monitor the lift thicknesses of fill materials.

Cast-In-Place Concrete

Scope: During the placement of cast-in-place, our Inspector will perform the following services on site:

- Perform concrete testing as required per the Project Specifications: test the slump, air content, and temperature for the first load of concrete and for each load of concrete that compressive strength test specimens are cast from. Please note that statistical charts are to be prepared by others.
- Cast one (1) set of four (4) cylinders for each 50 cubic yards. These cylinders will be tested at the FTL laboratory in accordance with ASTM C39 ($F'_c=4,000$ PSI). These cylinders will be transported, cured, and tested in accordance with ASTM C31 and ASTM C39.
- For reinforced concrete placements, our representative will inspect the steel reinforcement for bar or mesh size, length, number of bars, and overall configuration as compared to approved shop drawings and project specifications.
- Floor flatness testing has been included for three (1) pour in the gymnasium, which has overall F(F) and F(L) requirements of 50 and 35, respectively. Project Specifications require the testing of slab areas with F(F)/F(L) values in excess of 25; the gymnasium is the only location where this is the case.

Structural Steel

Scope: During structural steel repair and detailing operations, our Inspector will perform the following services:

- Review welding procedures, welder certification and material test documentation for compliance to applicable specification requirements.
- Verify preheat temperatures of base metals when possible.
- Visually review weldments for conformance to visual acceptance criteria established by the American Welding Society's Structural Welding Code D1.1-2006.

Firestop

Scope: Our Firestop Specialist will perform the following:

- Inspect penetrations and joints for compliance with firestopping system requirements.
- Randomly perform destructive inspections to confirm that the proper system was installed.
- Perform walk-throughs with regulatory personnel (if requested).

Other Services

Scope: Our Inspector will also perform the following:

- Vapor Emissions for substrate flatwork to have terrazzo tile applied.
- Paint inspection and thickness testing.
- Glass Rail Inspection.
- Site earthwork, concrete, and paving testing and inspection.

Estimated Costs

An estimated cost of **\$34,020.03** has been calculated to finish the project. This includes approximately \$6,000.00 in testing performed since the Rise Group acquired the project. The costs are on the following pages.

ITEMIZED COSTS

<u>Item</u>	<u>Unit Cost</u>	<u>Units</u>	<u>No. of Units</u>	<u>Total Cost</u>
Inspection Costs to Date	6,023.65	Lump	1	6,023.65
<u>SOG and Superstructure Construction</u>				
ICC Inspector, Part Time	81.00	Hours	32	2,592.00
<u>Steel Repairs, Stairs, Hand Rails and Catwalks</u>				
ICC/AWS Inspector, Part Time	81.00	Hours	24	1,944.00
<u>Skeleton and Asphalt Construction</u>				
ICC/DOT Inspector, Part Time	81.00	Hours	120	9,720.00
<u>Vapor Emissions and Paint</u>				
4 Hours / Day, Part Time	81.00	Hours	16	1,296.00
<u>Firestop Inspections</u>				
Firestop Specialist Inspector, As Required	81.00	Hours	100	8,100.00
<u>Roofing Inspections</u>				
Firestop Specialist Inspector, As Required	84.00	Hours	24	2,016.00
<u>Project Oversight</u>				
Project Manager	131.25	Hours	12	<u>No Charge</u>
Labor Total				31,691.65
<u>Miscellaneous Items</u>				
Vapor Emissions Tests	26.75	Each	10	267.50
Concrete Test Cylinders, 4" X 8"	12.60	Each	80	1,008.00
Nuclear Density Gauge	42.00	Days	6	252.00
Mortar 2" X 4" Cylinders	18.38	Each	1	18.38
Masonry / Concrete Test Cylinder Truck Delivery To FTL Laboratory	52.50	Each	20	<u>1,050.00</u>
Miscellaneous Total				2,328.38
Total Testing Costs				\$34,020.03

Our costs for our budget are on the following criteria:

- a. The scope of work is based on a normal workweek, Monday through Friday, eight (8) hours per day for full time inspection. Working hours are anticipated to typically be 7:00 AM to 3:30 PM or 8:00 AM to 4:30 PM.
- b. Overtime and Saturdays will be charged at 1.35 times the specified rate; Sunday and holiday hours will be charged at 1.70 times the personnel rate. Those hours not specified in this proposal for overtime or extended overtime and any hours worked on Sundays and Holidays will be billed outside the contractual amount.
- c. In the event that Flood Testing Laboratories provides personnel on an extended second or third shift basis, these hours will be billed at the overtime-premium rate (1.35). Such work, if authorized, will be invoiced outside the contractual amount.

Additionally, the following general conditions also apply:

- a. Please note that this proposal incorporates the testing and inspection activities as indicated in this proposal; any activities not specified are not addressed in this proposal.
- b. As no Construction Schedule was included in the RFP package, this proposal is qualified in terms of the durations listed in this proposal. This proposal includes two hundred (200) days of full time inspection; additional time on site is not included in the not to exceed amount.
- c. The hourly personnel rates listed in this proposal are applicable through November 1, 2008. Rates will be increased by 5% per hour on this date and on each subsequent anniversary.

RESUMES

Walter H. Flood, P. E.

Walter H. Flood, P.E., - Corporation Secretary, Engineer in Charge

Flood Testing Labs., Inc.
Years w/ firm: 35

Education

Bachelor of Science, Civil Engineering, 1975
Rose-Hulman Institute
Terre Haute, IN

Professional Affiliations

American Society of Testing and Materials
American Concrete Institute
Association of Asphalt Paving Technologists
Construction Specifications Institute
American Society of Civil Engineers

Registration/Certification

Registered P.E. in State of Illinois No. 62042458
Registered P.E. in State of Wisconsin No. 23717006
Registered P.E. in State of Michigan No. 6201031440
Asphalt Institute Superpave Seminar
ASNT Level II Magnetic Particle Inspection

Professional Experience

Walter H. Flood has been involved with testing and inspection throughout his life. He has been actively engaged in the family testing business for over 35 years. He has been involved in the development and testing of high strength regular weight concrete and structural lightweight concrete.

Mr. Flood is currently involved with and has received a U.S. Patent for the development of a conductive asphalt pavement that produces heat when electrified and allows aircraft to land without having to clear runways of snow and ice. He is also involved in the on-going development of a software program for concrete that is able to identify water/cement ratio, setting time, and heat generation. The program can provide simulation of sections for early form removal, winter protection of concrete, or minimizing thermal cracking.

Selected Project Involvement:

225 W. Wacker Drive, Chicago, IL

Helped to develop the commercial use of 14,000 psi concrete for high-rise structure.

Ashland Avenue, Chicago, IL 1997

Supervised the first Superpave project in Illinois District One. Personnel responsible for all aspects of testing and contractor quality control.

Roosevelt Road, Chicago, IL 1996

Supervised the first QC/QA project in Illinois District One. Personnel responsible for all aspects of testing and contractor quality control.

Shedd Oceanarium

Involved with the foundation, structural concrete, and structural steel of the new Shedd Oceanarium that consists of tanks of 3,000,000 gallons of seawater for Beluga Whales and other sea mammals.

Developed Conductive Asphalt Pavement 1992-Present

Developed and received patent for SNOWFREE conductive asphalt pavement for use at airports and in roadways. The system uses electricity to heat the pavement without the use of cables as a heat source.

FAA Technical Center, Atlantic City, NJ 1992

Designed and supervised installation of SNOWFREE.

O'Hare International Airport, 1994

Designed and supervised installation of SNOWFREE. Verified pavement performance and properties of project on active taxiway at the world's busiest airport.

Espoo City, Finland, 2000 and 2002

Designed and supervised installation of SNOWFREE. 2000 - Shopping Center installation is the first conductive pavement system to be placed outside the United States. 2002 - Placed conductive heated pavement system over high speed rail line in Helsinki.

San Diego Ocean Outfall Project - 1997

Supervised installation of low heat, low strength performance concrete placed in excavation 100' below ocean floor. Involved use of software to design and confirm heat characteristics and direct supervision of concrete operations from barges located 2.5 miles from shore.

Field Museum Resources Center

Developed low heat of hydration concrete mixture for mat foundation of the new facility.

Robert Alan Hay III –Senior Project Manager / Consultant

Flood Testing Labs, Inc.
Years w/ firm: 19

Education

Mount San Antonio College 1980-1983

Professional Affiliations

The Association of Asphalt Paving Technologists
The American Welding Society and two AWS Certification Subcommittees
The American Concrete Institute
The American Society of Non Destructive Testing
The Post Tension Institute
The International Code Council
IUOE Local 150 Apprenticeship Structural Steel / Fireproofing and Masonry Committees
IUOE Local 150 Apprenticeship Program Inspection Education Coordinator

Professional Experience

Robert Hay has been involved with testing and inspection for over twenty years. His career began in 1984 working for Smith Emery in southern California, an ICC Seismic Zone Category 4. He was exposed to strict building codes and a high level of inspection early in his career. In 1987 he began a career with Flood Testing Laboratories in Chicago. He was a senior field representative until 1994 when he became a project manager. His construction inspection experience includes structural steel, welding and nondestructive testing, high strength bolting, reinforced and post tensioned concrete, structural masonry, spray applied fireproofing, asphalt paving, soils and deep foundations, firestopping, coatings, concrete finishing operations, load testing / installation of anchors and extensive laboratory testing. He acts as the company ASNT NDT Level III and is responsible for the certification of all field personnel.

Certifications

American Welding Society Certified Weld Insp.	ASNT NDT Level III Magnetic Particle
ICC Steel/Welding Special Inspector	ASNT NDT Level III Dye Penetrant
ICC Masonry Special Inspector	ASNT NDT Level III Ultrasonic
ICC Pre-stressed Concrete Special Inspector	ASNT Level I/II Visual Inspection Technician
ICC Reinforced Concrete Special Inspector	Post Tension Institute Inspector Levels 1 and 2
ICC Fireproofing Special Inspector	ACI Concrete Flatwork Finishing Technician
IDOT QC/QA Aggregate Technician	ACI Concrete Testing Technician
IDOT QC/QA Concrete Level I & II Technician	3M Fire-stopping Installation / Inspection
IDOT QC/QA Bituminous Level I, II & III	IDOT QC/QA Nuclear Density Technician
PADI Certified Diver (Underwater Inspections)	Troxler Certified Nuclear Gauge Operator

Selected Project Involvement:

Hyatt Center, 2003 to 2004

Currently supervising the construction inspection of a 50 story high rise building including the inspection of concrete (60,000 yards of 4ksi to 10ksi), reinforcing steel, load testing of drilled anchors, shop inspection of structural steel including the fabrication of long seam box columns in three states, high strength bolting operations, welding and erection of 11,000 tons of structural steel (UT and MT testing), masonry, firestop and fireproofing. Five technicians staffed the project.

Dearborn Center Project, 2000-2002

Supervised the inspection of concrete mat foundation placement (9,000 yards of 10ksi concrete) and the fabrication, welding and erection of 14,000 tons of structural steel. Duties included developing Welding Procedure Specifications through Procedure Qualification testing of thirty degree bevel groove welds in thick sections to help minimize deposited weldment volumes in thick sections.

Watson Steel, Manchester England, 2000

Performed visual inspection and non destructive testing of extremely thick steel sections (up to 8") including rolled and built up sections for the DBC project. Responsibilities included comparisons of British Welding Standard BS5135 to AWS D1.1 standards to ascertain that fabrication met project specifications. This included comparisons of European Ultrasonic DAC Curve evaluation and the AWS decibel rating system.

Helsinki, Finland, 2002

Supervised installation and batch plant operations of SNOWFREE electrically conductive (heated) asphalt pavement system in pedestrian walkway bridge over the Helsinki transit system.

San Diego Ocean Outfall Project, 1997

Supervised installation of low heat, low strength performance concrete placed in excavation 100' below Pacific Ocean floor. Involved direct supervision of concrete placement and volumetric batch plants operations from barges located 2.5 miles from shore.

American Welding Society, Miami Florida, 2002 to Present

Currently helping to develop new nationally and internationally recognized technical certification programs for bolting, structural steel erection, structural steel fabrication and non destructive testing. His responsibilities include committee work, developing test bank questions for examinations and technical consulting to several committees in regard to Special Inspection.

Soldier Field Project, 2001-2003

Supervised and managed up to fifteen on site inspectors / technicians for the inspection of over 55,000 cubic yards of concrete and over 14,000 tons of structural steel, including thousands of welded connections including full penetration moment connections, three precast concrete structures, soils, shotcrete, restoration concrete, PCC and asphalt pavement, fireproofing, firestopping, and masonry.

International Union of Operating Engineers Local 150, 2004 to Present

Currently is the technical consultant responsible for education and training of the Local 150 Apprenticeship Program. Mr. Hay recently taught a ten week course for American Welding Society CWI/CAWI certification including welding symbols and drawings, welding codes and acceptance criteria for visual inspection, magnetic particle inspection and ultrasonic testing. Mr. Hay is currently teaching an ICC Reinforced Concrete Special Inspection class.

Walter H. Flood, P. E.

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Robert Alan Hay III –Senior Project Executive / Consultant

Flood Testing Labs, Inc.
Years w/ firm: 21

Education

Mount San Antonio College 1980-1983

Professional Affiliations

The Research Council on Structural Connections
The Association of Asphalt Paving Technologists
The American Welding Society and Two AWS Certification Subcommittees
The American Concrete Institute
The American Society of Non Destructive Testing
The Post Tension Institute
The International Code Council

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Certifications

American Welding Society Senior CWI	ASNT NDT Level III Magnetic Particle
ICC Steel/Welding Special Inspector	ASNT NDT Level III Dye Penetrant
ICC Masonry Special Inspector	ASNT NDT Level III Ultrasonic
ICC Pre-stressed Concrete Special Inspector	ASNT Level III Visual Inspection
ICC Reinforced Concrete Special Inspector	Post Tension Institute Inspector Levels 1 and 2
ICC Fireproofing Special Inspector	ACI Concrete Flatwork Finishing Technician
IDOT QC/QA Aggregate Technician	ACI Concrete Testing Technician
IDOT QC/QA Concrete Level I & II Technician	3M Fire-stopping Installation / Inspection
IDOT QC/QA Bituminous Level I, II & III	IDOT QC/QA Nuclear Density Technician
PADI Certified Diver (Underwater Inspections)	Troxler Certified Nuclear Gauge Operator

Selected Project Involvement:

Hyatt Center, 2003 to 2004

Currently supervising the construction inspection of a 50 story high rise building including the inspection of concrete (60,000 yards of 4ksi to 10ksi), reinforcing steel, load testing of drilled anchors, shop inspection of structural steel including the fabrication of long seam box columns in three states, high strength bolting operations, welding and erection of 11,000 tons of structural steel (UT and MT testing), masonry, firestop and fireproofing. Five technicians staffed the project.

Dearborn Center Project, 2000-2002

Supervised the inspection of concrete mat foundation placement (9,000 yards of 10ksi concrete) and the fabrication, welding and erection of 14,000 tons of structural steel. Duties included developing Welding Procedure Specifications through Procedure Qualification testing of thirty degree bevel groove welds in thick sections to help minimize deposited weldment volumes in thick sections.

Watson Steel, Manchester England, 2000

Performed visual inspection and non destructive testing of extremely thick steel sections (up to 8") including rolled and built up sections for the DBC project. Responsibilities included comparisons of British Welding Standard BS5135 to AWS D1.1 standards to ascertain that fabrication met project specifications. This included comparisons of European Ultrasonic DAC Curve evaluation and the AWS decibel rating system.

Helsinki, Finland, 2002

Supervised installation and batch plant operations of SNOWFREE electrically conductive (heated) asphalt pavement system in pedestrian walkway bridge over the Helsinki transit system.

San Diego Ocean Outfall Project, 1997

Supervised installation of low heat, low strength performance concrete placed in excavation 100' below Pacific Ocean floor. Involved direct supervision of concrete placement and volumetric batch plants operations from barges located 2.5 miles from shore.

American Welding Society, Miami Florida, 2002 to Present

Currently helping to develop new nationally and internationally recognized technical certification programs for bolting, structural steel erection, structural steel fabrication and non destructive testing. His responsibilities include committee work, developing test bank questions for examinations and technical consulting to several committees in regard to Special Inspection.

Soldier Field Project, 2001-2003

Supervised and managed up to fifteen on site inspectors / technicians for the inspection of over 55,000 cubic yards of concrete and over 14,000 tons of structural steel, including thousands of welded connections including full penetration moment connections, three precast concrete structures, soils, shotcrete, restoration concrete, PCC and asphalt pavement, fireproofing, firestopping, and masonry.

International Union of Operating Engineers Local 150, 2004 to 2006

Acted as the technical consultant responsible for education and training of the Local 150 Apprenticeship Program. Mr. Hay taught two ten week courses for American Welding Society CWI/CAWI certification, several ICC Reinforced Concrete Special Inspection classes and Non Destructive Testing Classes in MT, PT and UT.

SCHEDULE B
WESTINGHOUSE HIGH SCHOOL – PS1412
CONSTRUCTION MATERIAL TESTING AND INSPECTION SERVICES

PROJECT DOCUMENTS

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SCHEDULE C
WESTINGHOUSE HIGH SCHOOL – PS1412
CONSTRUCTION MATERIAL TESTING AND INSPECTION SERVICES
COMPENSATION OF THE CONSULTANT

C.1 CONSULTANT'S FEE

- C.1.1 The Commission shall pay the Consultant for the satisfactory performance of the Services a Fixed Fee ("**Fee**") of twenty-four thousand dollars (**\$34,020.03**) for all work included in Schedule A. The Fee will, 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 Consultant's full fee for Basic Services.
- C.1.2 Consultant's Fee will include profit, overhead, general conditions, materials, equipment, computers, vehicles, office labor, field labor, insurance, deliverables, and any other costs incurred in preparation and submittal of deliverables.

C.2 METHOD OF PAYMENT

- C.2.1 **Invoices.** The Consultant will submit an invoice to the Commission for Services performed, that will be paid in one lump sum after all Services required by this Agreement have been completed to the reasonable satisfaction of the Commission.

Each invoice must be supported with such reasonable detail and data as the Commission may require, including detail and data related to Subconsultant costs. In accordance with the terms of this Agreement, the Consultant must maintain complete documentation of all costs incurred for review and audit by the Commission or its designated audit representative(s). Each invoice must be submitted in the format directed by the Commission. Invoices must be accompanied by a progress report in a format acceptable to the Commission. Such progress report must identify any variances from budget or schedule and explain the reasons for such variances.

- C.2.2 **Payment.** Payment will be processed within 30 days after Commission receives an acceptable invoice from the Consultant.
- C.2.3 **Invoice Disputes.** If the Commission disputes certain items in the Consultant's invoices, the amount not disputed will be paid in full. The amount in question must be resolved in accordance with the Disputes provisions of this Agreement

ITEMIZED COSTS

<u>Item</u>	<u>Unit Cost</u>	<u>Units</u>	<u>No. of Units</u>	<u>Total Cost</u>
Inspection Costs to Date	6,023.85	Lump	1	6,023.85
<u>SOG and Superstructure Construction</u>				
ICC Inspector, Part Time	81.00	Hours	32	2,592.00
<u>Steel Repairs, Stairs, Hand Rails and Catwalks</u>				
ICC/AWS Inspector, Part Time	81.00	Hours	24	1,944.00
<u>Skeleton and Asphalt Construction</u>				
ICC/IDOT Inspector, Part Time	81.00	Hours	120	6,720.00
<u>Vapor Emissions and Paint</u>				
4 Hours / Day, Part Time	81.00	Hours	16	1,296.00
<u>Firestop Inspections</u>				
Firestop Specialist Inspector, As Required	81.00	Hours	100	8,100.00
<u>Roofing Inspections</u>				
Firestop Specialist Inspector, As Required	84.00	Hours	24	2,016.00
<u>Project Oversight</u>				
Project Manager	131.25	Hours	12	<u>No Charge</u>
Labor Total				31,691.85
<u>Miscellaneous Items</u>				
Vapor Emissions Tests	26.75	Each	10	267.50
Concrete Test Cylinders, 4" X 8"	12.60	Each	80	1,008.00
Nuclear Density Gauge	42.00	Days	6	252.00
Mortar 2" X 4" Cylinders	18.38	Each	1	18.38
Masonry / Concrete Test Cylinder Truck Delivery To FTL Laboratory	52.50	Each	20	<u>1,050.00</u>
Miscellaneous Total				2,328.38
Total Testing Costs				\$34,020.03

SCHEDULE D
INSURANCE REQUIREMENTS
WESTINGHOUSE HIGH SCHOOL - PS1412
CONSTRUCTION MATERIAL TESTING AND INSPECTION SERVICES

The Consultant must provide and maintain at Consultant's own expense, until expiration or termination of the Agreement and during the time period following expiration if Consultant is required to return and perform any additional work, the minimum insurance coverage and requirements specified below, insuring all operations related to the Agreement.

D.1. INSURANCE TO BE PROVIDED

D.1.1. Workers' Compensation and Employers Liability

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

D.1.2. Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence 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, Board of Education of the City of Chicago and 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 Contractor must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

D.1.3. Automobile Liability (Primary and Umbrella)

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

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

D.1.4. Professional Liability

When any professional Consultant performs work in connection with the Agreement, Professional Liability Insurance will be maintained with limits of not less than \$2,000,000 covering acts, errors, or omissions. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede the, start of work on the Agreement. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

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

D.1.5 Property

The Consultant is responsible for all loss or damage to Commission, Board of Education and/or City of Chicago property at full replacement or repair cost. The Consultant 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 Consultant.

D.1.6 Valuable Papers

When any plans, designs, drawings, specifications, data, media, and documents are produced or used under this Agreement, 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.

D.1.7 Contractors Pollution Liability

When any work is performed which may cause a pollution exposure, Contractors 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. Coverage must include completed operations, contractual liability, defense, excavation, 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, Board of Education of the City of Chicago and the City of Chicago are to be named as additional insureds on a primary, non-contributory basis.

D.1.8 Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Contractor must provide, with respect to the operations that Contractor or subcontractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than the requirement of the operating railroad/transit entity for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

D.2. ADDITIONAL REQUIREMENTS

The Consultant 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 Agreement, and Renewal Certificates of Insurance, or such similar evidence, if any insurance coverage has an expiration or renewal date occurring during the term of this Agreement. The Consultant must submit evidence of insurance to the Commission before award of Agreement. The receipt of any certificate does not constitute agreement by the Commission that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the Commission to obtain certificates or other insurance

evidence from Consultant is not a waiver by the Commission of any requirements for the Consultant to obtain and maintain the specified coverage. The Consultant will advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Consultant of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a breach of the Agreement, and the Commission retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

The Commission reserves the right to obtain copies of insurance policies and records from the Consultant and/or its subcontractors at any time upon written request.

The insurance must provide for 60 days prior written notice to be given to the Commission if any policies are canceled, substantially changes, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance must be borne by Consultant.

The Consultant hereby waives and agrees to require their insurers to waive their rights of subrogation against the Commission, Board of Education of the City of Chicago and City of Chicago, their respective Board members, employees, elected and appointed officials, and representatives.

The insurance coverage and limits furnished by Consultant in no way limit the Consultant's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the Commission, Board of Education of the City of Chicago and the City of Chicago do not contribute with insurance provided by the Consultant under the Agreement.

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

If Consultant is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured

The Consultant must require all its subcontractors to provide the insurance required in this Agreement, or Consultant may provide the coverage for its subcontractors. All subcontractors are subject to the same insurance requirements of Consultant unless otherwise specified in this Agreement.

If Consultant or its subcontractors desire additional coverage, the party desiring the additional coverage is responsible for the acquisition and cost.

The Commission's Risk Management Department maintains the rights to modify, delete, alter or change these requirements.



FLOOD

1945 EAST 87TH STREET
CHICAGO, IL 60617-2946
PHONE (773) 721-2200
FAX (773) 721-2206

Testing Laboratories, Inc.

6 October 2008

Ms. Deborah Burton
Public Building Commission
Richard J. Daley Center
50 West Washington Street
Suite 200
Chicago, IL 60602

Re: Professional Services Agreement PS 1412
Construction Material Services for Westinghouse
Chicago, IL

Dear Ms. Burton:

This letter is to be considered a supplement to our contract forwarded to you last week. We have forwarded for insurance requirements to our agent, and a certificate of insurance should be issued shortly.

Please note that in our original proposal with Parsons we did not indicate the use of an MBE or WBE subcontractor. The RFP documents indicate that the participating laboratories must meet the requirements of ASTM E329, "Standard Specification for Agencies Engaged in Construction Inspection and/or Testing". Thus, we again do not propose to utilize the services of an MBE/WBE, or any other construction materials testing firm. Please note that the following are just a few requirements of ASTM E329:

- 1) Field Supervisors are required to be certified by the International Code Council for Masonry/Reinforced and PT Concrete/Structural Steel Bolting/Structural Steel Welding/Spray Applied Fireproofing and the American Welding Society (CWI minimum or Senior CWI) for welding inspection. Flood Testing is the only laboratory with a supervisor with these qualifications (Robert Hay).
- 2) Field technicians shall be certified for inspections by the Internal Code Council, the American Welding Society, and other entities in order to prove competence. Flood Testing is the only employer of multi-certified inspection personnel in Illinois. This is evidenced by the certification summary submitted with our original proposal. We employ the only four individuals in the Midwest with all of the ICC Special Inspection Certificates. Only certified personnel are permitted to perform special inspections at Flood Testing as required per E 329.



FLOOD

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Testing Laboratories, Inc.

October 6, 2008

- 3) Laboratories performing nondestructive testing must employ a written practice for NDT and employ and American Society for Non Destructive Testing NDT Level III. This individual is certified to train and give practical/written exams to NDT personnel. Flood Testing is the only laboratory to employ an ASNT NDT Level III. Robert Hay is an ASNT NDT Level III in Magnetic Particle, Ultrasonic, Dye Penetrant and Visual Inspection. It should be noted that Mr. Hay will be directly involved with the project at the project manager and is employed at FTL on a full time basis.

As mentioned earlier, since our competitors do not subscribe to the qualification requirements of the RFP, we elected not to pursue the participation of an MBE/WBE laboratory.

The above is only a partial listing of the E329 Requirements. I personally can answer any questions you may have regarding the requirements of E329 and the certification of our staff.

Thank you for the opportunity of working with you.

Yours very truly,

Robert A. Hay III
Senior Project Executive