



City of Swainsboro

Request for Qualifications

To Provide

***Construction Management at-Risk Services
(CM/GC)***

For

“Boys & Girls Club- Gumlog Road Gym”

Swainsboro, Georgia

Solicitation Issue Date: April 15, 2022

Qualifications Packages Due: May 9, 2022

TABLE OF CONTENTS

STEP I - REQUEST FOR QUALIFICATIONS (RFQ)

1. GENERAL PROJECT INFORMATION
2. CONSTRUCTION MANAGEMENT AT-RISK SERVICES REQUIREMENTS
3. QUALIFICATIONS REVIEW PROCESS
4. SCHEDULE OF EVENTS (STEP I)
5. SUBMITTAL OF QUESTIONS AND REQUESTS FOR CLARIFICATION
6. INSTRUCTIONS FOR PREPARING *STATEMENT OF QUALIFICATIONS*
7. SUBMITTAL OF *STATEMENTS OF QUALIFICATIONS*

STEP II - REQUEST FOR PROPOSALS (RFP) from Qualified Finalists

1. CONTRACT INFORMATION
2. SCHEDULE OF EVENTS (STEP II)
3. PRE-PROPOSAL SITE VISIT
4. SELECTION PROCESS
5. INSTRUCTIONS FOR PREPARING *PROJECT PROPOSALS*
6. SUBMITTAL OF QUESTIONS AND REQUESTS FOR CLARIFICATION AND EXTENSIONS
7. SUBMITTAL OF *PROJECT PROPOSALS* AND *FEE PROPOSALS*
8. PRESENTATION / INTERVIEW INFORMATION
9. ADDITIONAL TERMS AND CONDITIONS
10. Exhibit "A" - GM/GC Fee Proposal Form
11. Exhibit "B" – Contractor Affidavit
12. Exhibit "C" – Sub-Contractor Affidavit
13. Exhibit "D" – Sub-Sub-Contractor Affidavit
12. Sample RFQ and RFP Evaluation Forms
13. Sample Contract - Owner/Construction Manager Contract AIA133
14. Project Program – Renovations to Gumlog Road Gym- permit drawings.



REQUEST FOR QUALIFICATIONS

Construction Management at-Risk (CM/GC) Services

“Boys & Girls Club- Gumlog Road Gym” **Swainsboro, Georgia**

The City of Swainsboro As (“Owner”), is soliciting statements of qualifications from firms interested in providing construction management at-risk services for the construction of a project known as **“Boys and Girls Club- Gumlog Road Gym”** Swainsboro City Hall, 101 W. Main Street, Swainsboro, Georgia, 30401. This Request for Qualifications (RFQ) seeks to identify potential providers of the above-mentioned services. Some firms that respond to this RFQ, who are determined by the Owner to be especially qualified, may be deemed eligible and may be invited to interview and offer proposals for these services. All respondents to this RFQ are subject to instructions communicated in this document, and are cautioned to completely review the entire RFQ and follow instructions carefully. The Owner reserves the right to reject any or all statements of qualifications or proposals, and to waive technicalities and informalities at their discretion.

1. GENERAL PROJECT INFORMATION

Project Background

The intent of this project is to renovate the existing school gymnasium for public use. The building sat vacant for many years and a renovation was begun in 2021. Some work has been completed without construction documents and it is the city’s intent to bring the building to a point where a certificate of occupancy can be obtained for it’s intended use. Most work to date has focused on remediating safety issues and introducing conditioned air. The facility will be multi-purpose and the intent is for this to be a cost conscious effort to allow the residents in the surrounding neighborhood to utilize the facility safely.

Project Description

The project is to be the renovation of a roughly 16,000 s.f. K-12 gymnasium for multi-purpose use. The project includes new plumbing and electrical as well as all new finishes. Currently a permit set of drawings has been completed which gives a broad intent of the design and serves to rectify life safety issues with the intent of getting a building permit. Details of the work will be developed with the CM during pre-construction services. It will be the CM’s responsibility to evaluate the exiting conditions and review the design intent. They will then prioritize the scope of work to complete as much as possible within the stated budget. The existing gym contains, lobby, wood bleachers, concessions, offices, four gang toilets, showers, performance platform, etc. typical of a middle school gymnasium. Some exterior work is included in terms of HC parking and building access.

Sustainable Approach

In the interest of creating an environment that is healthful and comfortable for its various occupants and reducing operating cost the proposed project should adopt recommendations of the United States Green Building Council Leadership in Energy and Environmental Design (LEED) Green Building Rating System when economically feasible to do so. **However, LEED rating will not be included in the scope of work and commissioning will not be required.**

Project Delivery Method

The delivery method for this Project will be CM @ Risk (CM/GC).

Project Budget

The preliminary stated cost limitation (SCL) or construction cost of the Project is estimated at **\$750,000**. The final SCL may be revised by the Owner due to final programmatic requirements, funding availability or other circumstances.

Design Professional

The Design Professional firm will provide design and construction documents for the project. Construction documents are currently complete. The start of construction is anticipated to begin in the Summer/Fall of 2022. *(All of the dates above are estimates and are contingent on the availability of funding and unforeseen impacts to the construction schedule).*

2. CONSTRUCTION MANAGEMENT AT-RISK SERVICES REQUIREMENTS

The CM/GC will be expected to work collaboratively with the Design Professional to develop component bid packages during the course of construction. The prospective CM/GC will provide preconstruction services which may include, without limitation, technical review, cost verification, cost evaluation, value engineering, schedule development, and schedule evaluation, in addition to management of the construction. In addition, CM/GC will be responsible for methods of construction, safety, and the scheduling and coordination of the work of all construction and miscellaneous contracts required for completion of the project within its predetermined budget and schedule. The successful CM/GC will be required to work collaboratively with the Owner's consultants.

3. QUALIFICATIONS REVIEW PROCESS

Selection of the CM/GC will be a multi-step process as follows:

Step I- Qualifications Review This **RFQ** is issued for the purpose of acquiring Statements of Qualifications from prospective CM/CG firms. A selection of finalist firms will be made by a Selection Committee. The Selection Committee will consist of representatives of the User and representatives of the City of Swainsboro. The Selection Committee will receive and review Statements of Qualifications submitted in response to this RFQ. To be deemed eligible for evaluation, firms must meet the following minimum qualifications:

Minimum Qualifications Required (evaluated on a pass/fail basis by the selection committee)

- The firm or its principals are not currently ineligible, debarred, suspended, or otherwise excluded from bidding or contracting by any local, state or federal agency, department, or authority.
- Firm must have sufficient bonding capacity for anticipated total cost of work. Provide a letter or other supporting documentation from a bonding company indicating the firm’s capacity to bond the project.
- Firm must have a current Contractor’s Public Liability Insurance policy, and must be insurable in the following amounts: Bodily injury, including death- limits of \$1,000,000 for each accident. Property damage- limits of \$2,000,000 for each accident and \$5,000,000 for the aggregate of operations. (The Owner reserves the right to require additional limits and/or coverage for actual contract.) Provide your current insurance certificate.
- Firms must have all necessary, valid and current licenses to do business in the State of Georgia. Provide a copy of your GC license, business license and Georgia Certificate of Existence.
- Firm must demonstrate sufficient cash flow to undertake the project as evidenced by a current ratio (assets/liabilities) of 1.0 or higher.
- The firm must demonstrate a commitment to safety with regard to Worker’s Compensation by having an Experience Modification Rate (EMR) over the past three years of 1.2 or less.
- The firm or its principals have not been terminated for cause or currently in default on any public works contract.

The firms must provide a sworn statement attesting to compliance with the minimum criteria listed above and provide supporting documentation as requested further in the process in accordance with deliverable (A) A-1 below in this RFQ.

The Selection Committee will then evaluate the submittals which have met the above minimum qualifications. Criteria for the evaluation are listed below:

Criteria for Evaluation of Statements of Qualifications

- 30% Factor:* Stability of the firm, including the firm’s corporate history, resources, form of ownership, litigation history, financials, etc.
- 30% Factor:* Firm’s relevant project experience and qualifications, including the demonstrated ability of firm in effective management of construction of facilities comparable in complexity, size, and function, for public owners.
- 40% Factor:* Firm’s suitability to provide services for this project, including the firm’s apparent fit to the project type, delivery method, any unique qualifications for the project, current and projected workloads, describe your firms plan for competitively selecting subcontractors. Additional factors for a firm’s suitability will include the construction manager’s office location/proximity to the project site and ability to demonstrate a commit to using local materials and labor whenever reasonable.

Step II- CM/CG Selection, will be initiated by invitation to finalists to submit Project and Fee Proposals as instructed in the Owner’s RFP. Short listed firms will be issued a notice to finalists and invited to do a presentation/interview. The successful CM/GC will be determined based on the evaluation factors in the request for proposal.

4. SCHEDULE OF EVENTS (STEP I)

The following Schedule of Events represents the Owner’s best estimate of the schedule that will be followed. All times indicated are prevailing times in Swainsboro, Georgia. The Owner reserves the right to adjust the schedule as the Owner deems necessary.

STEP I (RFQ) Estimated Time Line		
a. Owner issues public advertisement of RFQ	04/15/22	-----
b. Deadline for written questions/requests for clarification (see section 6).	05/02/22	2:00pm
c. Deadline for submission of Statements of Qualifications	05/09/22	2:00pm
d. Owner completes evaluation, post results, and issues notification to finalist firms	05/12/22 — 05/16/22	-----

5. SUBMITTAL OF QUESTIONS AND REQUESTS FOR CLARIFICATION

It is the responsibility of each respondent to examine the entire RFQ and RFP, seek clarification in writing, and review its submittal for accuracy before submitting the document. Questions about any aspect of the RFQ, or the project, shall be submitted in writing (e-mail is preferable) to:

T. Kevin Palmer- Architect of Record
DPR Architecture
12A East Grady Street
Statesboro, Georgia 30458
e-mail: kevin@dprarch.com

The deadlines for submission of questions relating to the RFQ are the times and dates shown in the (*Schedule of Events- Section 4*). ***All relevant questions and requests for clarification received by the Architect and the corresponding responses will be posted on the Georgia Procurement Registry as an addendum to the original solicitation for services.*** From the issue date of this solicitation until a successful proposer is selected and the selection is announced, respondents are not allowed to communicate for any reason with any members or employees of the City of Swainsboro except for submission of questions as instructed in the RFQ, or as provided by any existing work agreement(s). For violation of this provision, the Owner shall reserve the right to reject the proposal of the offending proposer.

6. INSTRUCTIONS FOR PREPARING STATEMENTS OF QUALIFICATIONS

Each submittal shall be identical and include a transmittal letter. Submittals must be typed on standard (8-1/2” x 11”) paper. The pages of the qualification submittals must be numbered. A table of contents, must be included to identify each section. Responses are limited to twenty (20) double-sided pages or

less using a minimum of an 11-point font. Any exhibits, affidavits or other enclosure information called for may be included in an appendix and will not count toward the limit. Each Statement of Qualifications shall be prepared simply and economically, providing straightforward, concise delineation of respondent's capabilities. Spiral bound submittals in lieu of ring-bound binders are preferred but not required. Emphasis must be on completeness, relevance, and clarity to content. To expedite the review of submittals, it is essential that respondents follow the format and instructions outlined below. **The content of all Statement of Qualifications must be categorized and numbered as outlined below and be responsive to all requested information:**

**STATEMENT OF QUALIFICATIONS
(DELIVERABLES "A", "B", and "C" FOR ALL FIRMS)**

A. Stability

- A1- Provide basic company information: Company name, address, name of primary contact, telephone number, fax number, e-mail address, and company website (if available). If the firm has multiple offices, include information about the parent company and branch office separately. Identify the office from which project will be managed and proximity to the project site. Provide form of ownership, including state of residency or incorporation, and number of years in business. For joint venture entities that have not undertaken at least *two* projects together, each firm should submit its qualifications separately. Joint submittals are subject to the same submittal page limit.
- A2- Briefly describe the history of your firm(s). Provide general information about the firm's establishment, personnel resources, including disciplines and numbers and classifications of employees, and locations and staffing of offices that will be directly involved with this Project.
- A3- Please disclose whether or not the firm has been involved in any litigation with an Owner or Architect during the past five (5) years. List any active or pending litigation and provide a thorough explanation of its scope. List any claims against your firm or against Owners where your firm is named.
- A4- List the firm's annual average gross revenue for each of the past 3 years. Supply main financial and banking references.
- A5- Please provide information as to whether or not your firm has ever been removed from a contract for cause OR failed to complete a contract as awarded?
- A6- The firm, in order to be deemed eligible for further evaluation, will issue the following statement asserting that the firm meets the minimum qualifications required for this project (supporting information is requested and can be included as an Appendix in the Statement of Qualifications). The SIGNED statement shall read as follows:
 - a. We certify our firm or its principals are not currently ineligible, debarred, suspended, or otherwise excluded from bidding or contracting by any local, state or federal agency, department, or authority.
 - b. *We certify that our firm has sufficient bonding capacity for anticipated total cost of work.* Provide a letter or other supporting documentation from a bonding company indicating the firm's capacity to bond the project.
 - c. We certify our firm has a current Contractor's Public Liability Insurance policy, and our firm is insurable in the following amounts: Bodily injury, including death- limits of \$1,000,000 for each accident. Property damage- limits of \$2,000,000 for each accident and \$5,000,000 for the aggregate of operations. (The Owner reserves the

right to require additional limits and/or coverage for actual contract.) Provide your current insurance certificate.

- d. We certify our firm has all necessary, valid and current licenses to do business in the State of Georgia. Provide a copy of your GC license, business license and Georgia Certificate of Existence.
- e. Firm must demonstrate sufficient cash flow to undertake the project as evidenced by a current ratio (assets/liabilities) of 1.0 or higher.
- f. The firm must demonstrate a commitment to safety with regard to Worker's Compensation by having an Experience Modification Rate (EMR) over the past three years of 1.2 or less. Firm must provide a letter or other supporting documentation.
- g. We certify the firm or its principals have not been terminated for cause or are currently in default on any public works contract.

B. Experience and Qualifications

B1- Provide information on the firm's experience on projects of similar, size, function, and complexity (similar type of construction and a contract dollar amount equal to 60% or more of the anticipated amount of the incumbent project). Describe 3-5 projects, in order of most relevant to least relevant, which demonstrate the firm's capabilities to perform the project. For each project, provide the following information:

- a. Project name, location and dates during which services were performed.
- b. Brief description of project and physical description (delivery method, cost, square footage, number of stories, type of foundation, structural system, envelope, site area).
- c. Services performed by your firm.
- d. Provide any Owner-written letters of reference/recommendation about the firm's performance on the project.
- e. Owner/User/Architect contact information.

C. Statement of Suitability

C1- Provide any information that may serve to differentiate your firm from other firms regarding suitability for the project. Suitability may include, but is not limited to, the firm's fit to the project and/or needs of the Owner, any special or unique qualifications for the project, current and projected workloads, the proximity of office to project location along with experience working with local (within 45 miles of the project site) materials, suppliers and labor. List any techniques or methodologies offered by the firm that may be particularly suitable for this project type.

7. SUBMITTAL OF STATEMENTS OF QUALIFICATIONS

All responses must be sealed in an opaque envelope or box, and reference to the **City Of Swainsboro-Gumlog Road Gym RFQ** on envelopes or boxes and addressed to the addresses below. Statements of Qualifications **must be physically received by the Owner** prior to the deadline indicated in the Schedule of Events (*Section 4 of RFQ*) at the exact addresses below:

Proposers should deliver **two (2) hard copies and one (1) electronic copy** (.pdf format on a disk) of their Qualifications submittal to the City of Swainsboro to:

Mr. Greg Bennett- Mayor
c/o Swainsboro City Hall
101 West Main Street
Swainsboro, Georgia 30401

And **two (2) copies hard copies and one (1) electronic copy** (.pdf format on a disk) of the Qualifications submittal to DPR Architecture to:

T. Kevin Palmer
DPR Architecture
12A East Grady Street
Statesboro, Georgia 30458

It is the sole responsibility of the Proposers to assure delivery to the noted locations by the specified deadlines; the Owner cannot accept responsibility for incorrect delivery, regardless of reason. No Qualifications submittals will be accepted after the time stipulated above. Qualifications submittals will not be accepted via facsimile or e-mail.

It is the responsibility of the Proposers to examine the entire Request, seek clarification in writing, and review their qualifications for accuracy before submitting a response. Once the deadline has passed, all submittals will be final.

All expenses for preparing and submitting responses are the sole cost of the party submitting the response. The Owner is not obligated to any party to reimburse such expenses. All submittals upon receipt become the property of the Owner. Labeling information provided in submittals “proprietary” or “confidential” or any other designation of restricted use will not protect the information from public view. Subject to the provisions of the Open Records Act, the details of the proposal documents will remain confidential until final award.

STEP II
REQUEST FOR PROPOSALS
(From Qualified Finalists)
Construction Management at-Risk Services for
Boys and Girls Club- Gumlog Road Gym
Swainsboro, Georgia

Note: The information in this Section, Step II (Request for Proposals) is provided for firms who have been issued notification as having been deemed eligible and are shortlisted for the project.

To firms who have been issued notification as having been deemed eligible, the City of Swainsboro as “Owner”, issues this Request for Proposals (RFP), for those firms to offer proposals for construction management at-risk services for the specific project.

1. CONTRACT INFORMATION

This is a CM-At-Risk Contract. The contract format will be an *Actual Cost plus a Fixed Fee not to exceed the Guaranteed Maximum Price (GMP) Agreement*. The Project will be *Open-Book*. During Pre-Construction, the CM/GC will be responsible for pricing, value engineering, and maintainability and constructability issues. Construction will commence with the release of distinct work packages based on the design documents. **The CM/GC shall select all construction subcontracts by competitive selection using cost and other factors with a minimum of three bids per work package.** The CM/GC shall not be eligible to bid or enter into contract or subcontract for any of the construction or other services of any nature on the project except they submit competitive bids under the same requirements as the other bidders. The contract will have liquidated damages. All savings, including unused contingency, will be returned to the Owner. It is to the Owner’s discretion to share in realized savings as an encouragement for delivering the services under budget.

2. SCHEDULE OF EVENTS (STEP II)

The following Schedule of Events represents the Owner’s best estimate of the schedule that will be followed. All times indicated are prevailing times in Statesboro. The Owner reserves the right to adjust the schedule as the Owner deems necessary.

STEP II (RFP) Estimated Time Line		
Event	Projecte d Date	Projected Time
a. Owner issues notice to finalist firms to propose as instructed in RFP	05/16/22	-----
b. Owner conducts Mandatory Pre-Proposal Site Visit for finalists	05/19/22	TBD
c. Deadline for finalist submission of written questions and requests for clarification	05/23/22	2:00 PM
d. Deadline for submission of Project Management Proposals	05/27/22	2:00 PM
e. Owner interviews finalist firms and Fee Proposals due	06/01/22	TBD

3. PRE-PROPOSAL SITE VISIT

A pre-proposal site visit will be conducted by the Owner, and attendance of finalist firms is mandatory. The date for the conference and site visit will be as listed above. The site visitors will convene at a time and location to be determined and communicated in the Notice to Finalists. Additional information, possibly including some plans and drawings, may be available at the site visit for finalist review. *The Owner reserves the right to disqualify a proposer from the selection process due to a failure by a proposer to arrive for the site visit by the scheduled time. Failure to attend a mandatory site visit will automatically result in disqualification from the selection process.*

4. SELECTION PROCESS

Step II- CM/CG Selection, will be initiated by the invitation to the qualified finalists by the Selection Committee (determined in Step I from evaluation of Statements of Qualifications) to submit **Project Proposals** and **Fee Proposals** as instructed in this **RFP**. **Finalist interviews** will also be conducted by the Owner. The successful CM/GC will be determined based on the evaluation factors in the request for proposal.

Criteria for the evaluation of Project Proposals and Interviews:

- 15% Factor: Previous Performance of the firm including level of quality of the services of the firm to previous customers, customer's statements of that quality, the firm's ability to meet established time requirements, the firm's response to project needs during preconstruction and construction, the firm's control of construction quality and budget. The Owner will use references from stakeholders of the Owner's choosing from previous projects of the finalists, among other information as necessary. This information will be collected by the selection committee from project references provided in the phase I (RFQ) submittal.
- 20% Factor: Relevant Experience and Qualifications of the Proposed Project Team. Experience of the project manager and superintendent on completed projects of similar size, type, and complexity; Assigned team's experience with effective budget and schedule control plans for this project.
- 15% Factor: Quality of Proposed Management Plan: The firm's cost and schedule management plans; Firm's approach for managing changes within the stated cost and schedule limitations; Firm's approach for competitively administering and evaluating bid packages; The firm's subcontractor management plan; The firm's quality assurance program and plan.
- 15% Factor: Interview: The firm's presentation of the proposed management plan, and the committee's overall impression of the firm and the overall impression of key team members (project manager, superintendent, project director, cost estimator, project executive, etc.)
- 20% Factor: Team Communications/Project Solutions: The effectiveness in communication of the team members during the interview process, and the firm's ability to effectively answer project questions and provide solutions during the interview.
- 15% Factor: Fee Proposal

5. INSTRUCTIONS FOR PREPARING PROJECT PROPOSALS

Provide two (2) hard copies and one (1) electronic copy of the Project Proposal on Compact Disc in .pdf format to City of Swainsboro and one (1) hard copy and one (1) electronic copy to the Architect for a total of five (5) sets of responses. All copies of the proposal must be submitted in a sealed, opaque envelope or box, and reference to the **City Of Swainsboro- Gumlog Road Gym RFP and the words “SEALED PROPOSAL”**, must be indicated on the outside of all of the envelopes or boxes.

Each submittal shall be identical and include a transmittal letter. Submittals must be typed on standard (8½” x 11”) paper. The pages of the Project Proposal must be numbered. A table of contents, must be included to identify each section. Responses are limited to twenty (20) double-sided pages or less using a minimum of an 11-point font. Any, exhibits, affidavits, or other enclosure information called for may be included in an appendix and will not count toward the page limit. Submittals that include proposals of more than one firm shall not exceed the page limit. Such submittals shall be prepared with careful consideration to the limit. Each Project Proposal shall be prepared simply and economically, providing straightforward, concise delineation of respondent’s services. Fancy bindings, colored displays, and promotional materials are not desired or encouraged. Emphasis must be on completeness, relevance, and clarity of content.

To expedite the review of submittals, it is essential that respondents follow the format and instructions outlined below. The content of all Project Proposals must be categorized and numbered as outlined in the following “PROJECT PROPOSAL DELIVERABLES”, and must address in a responsible and responsive manner all requested information:

PROJECT PROPOSAL (DELIVERABLES “D”, and “E” FOR FINALIST FIRMS ONLY)

D. Qualifications and Experience of Proposed Project Team

- D1- Describe your firm's proposed organization for the construction management team including, project executive, project director, project manager, superintendent, cost estimator, etc., who will manage the project. Please designate the specific individuals to fill the following key roles on your team:
- a. Superintendent
 - b. Project Manager
 - c. Cost Estimator
 - d. Other (please describe, if applicable)
- D2- Please provide, for each of the above personnel, current resumes listing relevant project experience and percentage of the person’s time to be committed to this project.
- D3- Please identify the individual who, from project start to finish, will be the leader of your construction team and the principal point of contact between your firm and the Owner, the Architect, and other consultants. Provide detailed information on the qualifications of this individual and the direction, authority, and management tools that will be provided to the individual by the firm. This individual’s competence, his/her leadership, and his/her ability to achieve *customer satisfaction* will be heavily considered in the selection of a construction management firm.

- D4- Provide an organizational chart showing the lines of responsibility and accountability for your team and proposed sub-consultants. If a joint-venture, identify responsibility relationships, where there may be past experience at such relationships, and levels of experience.
- D5- Provide examples of your recent experience as CM or GC in constructing facilities similar to this project, including the following information:
- a. Provide photographs, size and cost of similar projects your firm/team completed in the past five (5) years.
 - b. Provide a written reference from the Architect/Owner/User (with current contact information) familiar with your performance on each of the above projects. Provide a Program Manager reference (if applicable).
 - c. List the individuals who served as the Project Manager, Superintendent, and Cost Estimator on the projects. Please note whether these individuals are still employed with your firm.
 - d. Indicate those projects where an architect, engineering consultant, and contractor served a corporate or public client as a team.
 - e. Provide information about the two most recent similar projects your firm has completed. Include the total quantity of change orders and net total cost increase of change orders to the project. Summarize the actual schedule performance relative to the initial project schedule. For each project, provide the name of an Owner's representative (with a current phone number) who is most familiar with your performance on the project.

E. Management Plan

- E1 Describe your process for efficiently resolving issues and maintaining the project commitments while working collaboratively with the Architect, Owner, User, and other stakeholders as applicable.
- E1.1 Provide detailed procedures for routine solving of complex project issues without compromising your team commitments.
- E1.2 Provide your proposed methods and plans of CM communication.
- E2- Describe your firm's approach to providing pre-construction services on this project, with emphasis on cost estimating and value engineering during design.
- E3- Provide your detailed cost management plan for controlling costs on this project within the GMP during construction. Describe your systems and procedures for controlling costs during construction.
- E4- Provide your detailed management plan for managing cost and schedule exposures, within the stated limitations, as they relate to satisfying design intent during pre-construction services.
- E5- Provide your procurement and workforce plan including details on your plan to assure local contractor opportunity. Describe how your firm intends to arrange the construction into bid packages in order to maintain the schedule and budget objectives.

E6- Provide your detailed schedule management plan for this project during construction. Describe systems and procedures your firm uses to manage the project schedule. Describe alternatives that may be explored to shorten the schedule.

6. SUBMITTAL OF QUESTIONS AND REQUESTS FOR CLARIFICATION, AND EXTENSIONS

It is the responsibility of each respondent to examine the entire RFP, seek clarification in writing, and review its submittal for accuracy before submitting the document. Questions about any aspect of the RFP, or the project, shall be submitted in writing (e-mail is preferable) to:

T. Kevin Palmer- Architect of Record
DPR Architecture
12A East Grady Street
Statesboro, Georgia 30458
e-mail: kevin@dprarch.com

7. SUBMITTAL OF PROJECT PROPOSALS AND FEE PROPOSALS

Project Proposals

Construction Management Team Proposal responses are limited to twenty (20) double-sided pages or less using a minimum of an 11-point font. Any exhibits or other enclosure information called for may be included in an appendix and will not count towards the page limit.

The proposals must be sealed in an opaque envelope or box, and clearly reference the **City Of Swainsboro- Gumlog Road Gym RFP** and the words **“CONSTRUCTION MANAGEMENT TEAM PROPOSAL”** must be clearly indicated on the outside of all of the envelopes or boxes. The Construction Management Team Proposals must be physically received by the City of Swainsboro and the Architect prior to the deadline in the Estimated Time Line at the exact addresses below:

Proposers should deliver **two (2) hard copies and one (1) electronic copy** (.pdf format on a disk) of their Qualifications submittal to the City of Swainsboro to:

Mr. Greg Bennett- Mayor
c/o Swainsboro City Hall
101 West Main Street
Swainsboro, Georgia 30401

And **one (1) hard copy and one (1) electronic copy** (.pdf format on a disk) of the Qualifications submittal to Palmer Architects to:

T. Kevin Palmer
DPR Architecture
12A East Grady Street
Statesboro, Georgia 30458

Fee Proposals

Fee Proposals must be submitted at the conclusion of the interview session in a sealed envelope. **Firms must use “CM Fee Proposal” form Exhibit A.** Fee proposals will be considered during the selection process and will account for 15% of the evaluation criteria.

8. PRESENTATION/ INTERVIEW INFORMATION

Interview Format

Firms selected to make presentations shall be notified by the Invitation to Interview letter issued by the Selection Committee Manager. The Invitation to Interview letter shall designate a place and time for the interview session. The Invitation letter will specify the manner in which the presentations will be conducted.

- Electronic presentations, such as PowerPoint presentations, are allowed but may not comprise more than 30 minutes of the 45 minute presentation.
- The Owner will typically have a screen, projector and a computer available in the interview room. Nevertheless, presenters must be prepared with their own projector and computer in case unforeseen technical difficulties are encountered.
- The presentation may involve flip charts or boards along with the oral presentation.
- All members of the Selection Committee will be present during all of the presentations and interviews.

Interview Requirements

The primary intent of the formal interview process is to provide the Selection Committee with in-depth and clarifying information about the firm. The Selection Committee will make a recommendation for award to the City of Swainsboro. Information provided should assist the Selection Committee in making an informed recommendation as to the proposer best suited for the work.

Firms should focus their presentations on:

- Describing their detailed plan for managing the construction, cost, schedule, and quality on the project; and
- Unique characteristics or services the firm offers; and,
- Firm’s concepts or plans for the division of the project into separate packages for award.

Firms are discouraged from reviewing general company history and past experience as submitted in Statements of Qualifications or Project Proposals unless this information is particularly relevant to the presentation. All key personnel should be present at the interview including at a minimum, the project superintendent, cost estimator and project manager.

Final Selection

Once the Selection Committee has made a determination as to the proposer the Committee believes is best suited to the work, the Committee will make a final recommendation to the City of Swainsboro. The CM/GC services contract will be awarded by the City of Swainsboro. The actual Form of Contract will be developed by the Owner.

9. ADDITIONAL TERMS AND CONDITIONS

Deadlines

The deadline for submission of questions relative to the RFP is the time and date shown in the Schedule of Events (Section 3). All relevant and significant questions that have been submitted in writing prior to the deadline will be compiled and answered in writing, and issued directly to all proposers via E-mail. Any proposer exceptions to the RFP requirements or requests for deadline extensions must also be communicated to the Owner by the deadline to be properly considered. Any requests for proposal deadline extensions must include the reason(s) for such a request. The Owner reserves the right to approve or reject such requests as the Owner deems necessary

Restriction of Communication

From the issue date of this (RFQ) solicitation until a successful proposer is selected and the selection is announced, proposers are not allowed to communicate about this solicitation or this Project for any reason with any members of the Selection Committee, or City of Swainsboro, except for submission of questions as instructed in the RFQ/RFP, or as provided by any existing work agreement(s). For violation of this provision, the Owner reserves the right to reject the proposal of the offending proposer.

Submittal Costs and Confidentiality

All expenses for preparing and submitting responses are the sole cost of the party submitting the response. The Owner is not obligated to any party to reimburse such expenses. All submittals upon receipt become the property of the Owner. Labeling information provided in submittals “proprietary” or “confidential”, or any other designation of restricted use will not protect the information from public view. Subject to the provisions of the Open Records Act, the details of the proposal documents will remain confidential until final award.

Award Conditions

This request is not an offer to contract or a solicitation of bids. This request and any statement of qualifications or proposal submitted in response, regardless of whether the proposal is determined to be the best proposal, is not binding upon the Owner and does not obligate the Owner to procure or contract for any services. Neither the Owner nor any party submitting a response will be bound unless and until a written contract mutually accepted by both parties is negotiated as to its terms and conditions and is signed by the Owner and a party containing such terms and conditions as are negotiated between those parties. The Owner reserves the right to waive non-compliance with any requirements of this Request for Proposal and to reject any or all proposals submitted in responses. Upon receipt and review of responses, the Owner will determine the party(s) and proposal that in the sole judgment of the Owner is in the best interest of the Owner (if any is so determined), with respect to the evaluation criteria stated herein. The Owner then intends to conduct negotiations with such party(s) to determine if a mutually acceptable contract may be reached.

Joint-Venture Proposals

The Owner does not desire to enter into “joint-venture” agreements with multiple firms. In the event two or more firms desire to “team up” it is strongly recommended that one incorporated firm propose and maintain status as the contracted lead firm with the remaining firms participating as major consultants to the lead firm.

Minority and Small Business Enterprise

It is the policy of the City of Swainsboro that minority-owned business enterprises (MBE), woman-owned business enterprises (WBE), and small business enterprises (SBE), have a fair and equal opportunity to participate in the County purchasing process. Therefore, the Owner encourages all MBE, WBE, and SBE to compete for contracts to provide goods, services, and construction, and encourages contractors to solicit MBE, WBE, and SBE in procuring subcontractors and suppliers. This desire on the part of the Owner is not intended to restrict or limit competitive bidding or to increase the cost of the work. The Owner supports a healthy free market system that seeks to include responsible businesses and provides ample opportunity for business growth and development.

Immigration Reform Compliance Requirement.

In order to comply with immigration requirements under Georgia law as set forth in OCGA 13-10-91, proposers must include in their proposals a completed and executed "Contractor Affidavit Under OCGA 13-10-91(b)(1)" in the form included herein as Exhibit B. Proposals that are not accompanied by a completed and executed "Contractor Affidavit Under OCGA 13-10-91(b)(1)" cannot be considered pursuant to Georgia law. In addition, the successful proposer shall not enter into any subcontract unless the subcontractor registers and participates in the federal work authorization program and submits, at the time of the subcontract, a completed and executed "Subcontractor Affidavit Under OCGA 13-10-91(b)(3)" in the form included herein as Exhibit C. Furthermore, the successful proposer shall require subcontractors not to enter into any contracts with sub-subcontractors unless the sub-subcontractor registers and participates in the federal work authorization program and submits, at the time of the contract with the sub-subcontractor, a completed and executed "Sub-subcontractor Affidavit Under OCGA 13-10-91(b)(4)" in the form included herein as Exhibit D.

Statement of Agreement

With submission of a proposal, the Proposer agrees that he/she has carefully examined the Request for Qualifications (RFQ) & Request for Proposals (RFP), and the Proposer agrees that it is the Proposer's responsibility to request clarification on any issues in any section of the RFQ/RFP with which the Proposer disagrees or needs clarified. The Proposer also understands that failure to mention these items in the proposal will be interpreted to mean that the Proposer is in full agreement with the terms, conditions, specifications and requirements in the therein.

EXHIBIT A

Boys and Girls Club- Gumlog Road Gym

CM/GC FEE PROPOSAL

(Submit In a Sealed Envelope with Attachment A and B at Interview)

1. CM/GC'S FEE:

Basis of Fee. The CM/GC's fee is the amount, established by and agreed to by both parties, which is the full amount of compensation due to the CM/GC as gross profit, and for any and all expenses of the Project not included and identified as a Cost of the Work, provided that the CM/GC performs all the requirements of the Contract Documents within the time limits established.

A. PRECONSTRUCTION FEE including all overhead:

Pre-Construction Fee. Representing the gross profit for the pre-construction consulting services provided by CM/GC as set forth in Section 2, Parts 1 and 2 of the Owner and CM Contract AIA Document A133, and as described in Section 4, Owner shall pay to CM/GC a Preconstruction Fee:

	TOTAL
Pre-Construction Fee (fixed fee)	\$

B. CONSTRUCTION FEE including all overhead:

Construction Fee. Representing the gross profit for the construction services provided by CM/GC as set forth in Section 2, Part 3 of the Owner and CM Contract AIA Document A133, and as described in Section 5, Owner shall pay to CM/GC a Construction Fee.

	TOTAL
Construction Fee (percentage of construction cost)	%

Note: See Project Cost Matrix for all items to be included in the Construction fee above for Construction Management Services.

By signing, contractor agrees to honor the fee proposal for a period of 30 days from the date of submission.

CM/GC Name

By: _____
Signature of CM/GC Officer

Title of CM/GC Officer

Exhibit B

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of (name of public employer) has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, ____, 201__ in _____(city), _____(state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE _____ DAY OF _____, 201__.

NOTARY PUBLIC

My Commission Expires:

REQUEST FOR QUALIFICATIONS

EVALUATION FORM
Boys and Girls Club- Gumlog Road Gym

Selection Team Member Name: _____

Date: _____ **Time:** _____

Construction Management Firm Name: _____

RFQ Received by the Deadline: YES ___ NO ___

Statement of Qualification Deliverables Submitted: A1-A6 ___ B1 ___ C1 ___

Evaluation:

30% Stability of the firm, including the firm’s corporate history, resources, form of ownership, litigation history, financials, etc. _____ of 30

30% Firm’s relevant project experience and qualifications, including the demonstrated ability of firm in effective management of construction of facilities comparable in complexity, size, and function, for public owners. _____ of 30

40% Firm’s suitability to provide services for this project, including the firm’s apparent fit to the project type, delivery method, any unique qualifications for the project, current and projected workloads, describe your firms plan for competitively selecting subcontractors. Additional factors for a firm’s suitability will include the construction manager’s office location/proximity to the project site and ability to demonstrate a commit to using local materials and labor whenever reasonable. _____ of 40

100% Total Score _____ of 100

Notes: _____

Signed: _____

REQUEST FOR PROPOSALS

EVALUATION FORM
Boys and Girls Club- Gumlog Road Gym

Selection Team Member Name: _____

Date: _____ **Time:** _____

Construction Management Firm Name: _____

RFP Received by the Deadline: YES___ NO___

Firm Attended Mandatory Site Visit: YES___ NO___

Statement of Qualification Deliverables Submitted: D1-D5___ E1-E11___

Fee Proposal and Proposal Bond Received: YES___ NO___

Immigration Affidavit Received: YES___ NO___

Evaluation:

15% Previous Performance of the firm including level of quality of the services of the firm to previous customers, customer’s statements of that quality, the firm’s ability to meet established time requirements, the firm’s response to project needs during preconstruction and construction, the firm’s control of construction quality and budget. The Owner will use references from stakeholders of the Owner’s choosing from previous projects of the finalists, among other information as necessary. This information will be collected by the selection committee from project references provided in the phase I (RFQ) submittal. _____ of 15

20% Relevant Experience and Qualifications of the Proposed Project Team. Experience of the project manager and superintendent on completed projects of similar size, type, and complexity; Assigned team’s experience with effective budget and schedule control plans for this project. _____ of 20

15% Quality of Proposed Management Plan: The firm’s cost and schedule management plans; Firm’s approach for managing changes within the stated cost and schedule limitations; Firm’s approach for competitively administering and evaluating bid packages; The firm’s subcontractor management plan; The firm’s quality assurance program and plan; The firm’s close-out plan; The firm’s work force plan; The firm’s safety plan and site logistics plan for proposed project. _____ of 15

15% Interview: The firm’s presentation of the proposed management plan, and the committee’s overall impression of the firm and the overall impression of key team members (project manager, superintendent, project director, cost estimator, project executive, etc.) _____ of 15

20% Team Communications/Project Solutions: The effectiveness in communication of the team members during the interview process, and the firm’s ability to effectively answer project questions and provide solutions during the interview. _____ of 20

15% Fee Proposal _____ of 15

100% Total Score _____ of 100

Signed: _____

Exhibit C

Boys and Girls Club- Gumlog Road Gym: Project Cost Matrix

All items marked Pre-Con or Const. Services must be included in your fee if you seek payment for these items. However, it is not required that you provide each item. The GM/GC will use its common practices to determine which items are necessary for the execution of the work.

Project No. 2194

Office Expense	Construction Management Services within Fee	Cost of Work	Owner
CM Field Office, Furniture and Furnishings	X		
Office Supplies	X		
Field Office Equipment & Maintenance	X		
Jobsite Radios/Beepers/Cell Phones	X		
Copy Machine & Maintenance	X		
Computers, Usage, Software & Maintenance	X		
Fax Machine & Service	X		
Field Office Telephone	X		
Long Distance/Local, all	X		
Office Janitorial	X		
Postage & Overnight deliveries, unless authorized by Owner	X		
Plans and Specifications (All printing of plans and specifications). Owner will provide 4 sets	X		
Scheduling Expenses	X		
Construction Photos & Supplies	X		
Personal Relocation Expenses and Temporary Housing	X		
Job Travel, All	X		
Project meetings	X		
Construction Trade Training Programs	X		
Record Drawings (As Built)	X		
Messenger/Runner/Courier	X		
Audit (If Required)			X
Records Storage			X

Boys and Girls Club- Gumlog Road Gym: Project Cost Matrix

All items marked Pre-Con or Const. Services must be included in your fee if you seek payment for these items. However, it is not required that you provide each item. The GM/GC will use its common practices to determine which items are necessary for the execution of the work.

Project No. 2194

Testing, Inspection & Quality Control	Construction Management Services Within fee	Cost of Work	Owner
Testing Laboratory Services			X
Soils Testing & Inspection			X
Concrete Testing & Inspection			X
QC/QA Manager	X		
Provide NPDES storm water monitoring and maintenance of sediment control associated with construction activity. Include all fines incurred from authorities having jurisdiction.		X	

Boys and Girls Club- Gumlog Road Gym: Project Cost Matrix

All items marked Pre-Con or Const. Services must be included in your fee if you seek payment for these items. However, it is not required that you provide each item. The GM/GC will use its common practices to determine which items are necessary for the execution of the work.

Project No. 2194

Taxes/Insurance/Fees	Construction Management Services Within fee	Cost of Work	Owner
File and obtain permits from authorities having jurisdiction. Coordinate and schedule inspection. (Fees to authorities having jurisdiction shall be paid by the Owner)	X		
Building Permit Fees			X
Special Permits, Licenses, Fees		X	
Utility Connection Fees		X	
Operational Permits		X	
Easements			X
Impact Fees			X
Builder's Risk Insurance	X		
Insurance Deductibles	X		
General Liability & Umbrella Insurance for Project	X		
Miscellaneous Insurance	X		
Sales, Use and Gross Receipts Taxes		X	
Cost of temporary services. Cost if temporary and permanent services. Includes electrical, water, sanitary, and security until owner takes beneficial occupancy.		X	
OSHA, Fines and Penalties Incurred	X		
Construction Managers own legal fees and expenses	X		

Boys and Girls Club- Gumlog Road Gym: Project Cost Matrix

All items marked Pre-Con or Const. Services must be included in your fee if you seek payment for these items. However, it is not required that you provide each item. The GM/GC will use its common practices to determine which items are necessary for the execution of the work.

Project No. 2194

Construction Management Labor	Construction Management Services within fee	Cost of Work	Owner
Construction Management Labor	X		
General Conditions Labor		X	
Coordinate post-completion activities, including the assembly of guarantees, manuals, closeout documents, training and the Owner's final acceptance.	X		
Conduct, record, and complete preliminary deficiency list prior to issuance of Architect's deficiency list. Coordinate and monitor the resolution of all deficiency items.	X		
Coordinate, monitor and resolve all warranty complaints and latent deficiencies to the satisfaction of the Owner and the Using Agency during the one-year general warranty period.	X		

Boys and Girls Club- Gumlog Road Gym: Project Cost Matrix

All items marked Pre-Con or Const. Services must be included in your fee if you seek payment for these items. However, it is not required that you provide each item. The GM/GC will use its common practices to determine which items are necessary for the execution of the work.

Project No. 2194

Fees	Construction Management Services within fee	Cost of Work	Owner
Legal Fees	X		
Engineering equipment including transits and levels		X	
Field engineering		X	
Layout crew, and exterior		X	
Engineering Supplies		X	
Layout/Batterboards		X	
Licensed Survey Layout, Baseline and benchmarks		X	
Site Surveys & Soils Reports			X
Temporary Sanitation Facilities		X	
Temporary storage and protection of materials including Owner purchased items with approved purchase orders		X	
Dump trucks, rubber tire loaders, sweeps, including dump fees for site clean up. General site and on-going site and job cleanup.		X	
Provide portable construction heat and lighting as required.		X	
Financially responsible for all utilities to the project until the authority having jurisdiction provides temporary permit/certificate of occupancy.		X	

Boys and Girls Club- Gumlog Road Gym: Project Cost Matrix

All items marked Pre-Con or Const. Services must be included in your fee if you seek payment for these items. However, it is not required that you provide each item. The GM/GC will use its common practices to determine which items are necessary for the execution of the work.

Project No. 2194

Permanent Construction	Construction Management Services within fee	Cost of Work	Owner
Trade Contract Cost		X	
Self-Perform Labor & Materials		X	
Materials incorporated into the Work		X	
Corrective Work: Punch list work and warranty work within the “cost of work” coordinating all corrective work during construction and after Owner’s acceptance shall be within construction management services. It is the CM/GC responsibility within the fee to complete any item not performed by subcontractor.	X		

DRAFT AIA® Document A133™ – 2009

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status and address)

»

and the Construction Manager:
(Name, legal status and address)

»

for the following Project:
(Name and address or location)

The Architect:
(Name, legal status and address)

»

The Owner's Designated Representative:
(Name, address and other information)

»

The Construction Manager's Designated Representative:
(Name, address and other information)

»

The Architect's Designated Representative:
(Name, address and other information)

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 3 OWNER'S RESPONSIBILITIES
- 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 6 COST OF THE WORK FOR CONSTRUCTION PHASE
- 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
- 8 INSURANCE AND BONDS
- 9 DISPUTE RESOLUTION
- 10 TERMINATION OR SUSPENSION
- 11 MISCELLANEOUS PROVISIONS
- 12 SCOPE OF THE AGREEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior

to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect.

The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal or the Owner’s issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager’s own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a “related party” according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™-2007, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within «4 » («four ») months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid «30 » («thirty ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 The Construction Manager's Fee:

§ 5.1.2 The method of adjustment of the Construction Manager's Fee for changes in the Work:

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed « ten » percent (« 10 » %) of the standard rate paid at the place of the Project for changes in the scope of work.

§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

« »

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201-2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201-2007 shall have the meanings assigned to them in AIA Document A201-2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201-2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 6.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

§ 6.2.3 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 Work, but only for that portion of their time required for the Work.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

§ 6.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 6.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.

§ 6.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

§ 6.6.7 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 6.6.8 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 6.6.9 Subject to the Owner's prior approval, expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201–2007.

§ 6.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term “related party” shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term “related party” includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the «5th » day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the « 15th » day of the « same » month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than « twenty » (« 20 ») days after the Architect receives the Application for Payment.

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;

- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of « five » percent (« 5 » %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of « ten » percent (« 10 » %) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007. *(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)*

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

Arbitration pursuant to Section 15.4 of AIA Document A201-2007

Litigation in a court of competent jurisdiction

Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201-2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201-2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201-2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction
- .3 Other documents:
(List other documents, if any, forming part of the Agreement.)

« »

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

CONSTRUCTION MANAGER (Signature)

» _____
(Printed name and title)

» _____
(Printed name and title)