

**Rutherford County Public Building Authority, Inc.**  
**REQUEST FOR QUALIFICATIONS/PROPOSALS**  
**FOR**  
**Construction Manager/General Contractor**

**October 25, 2019**



**OLD JUDICIAL CENTER**  
**REMODELING**  
**AND / OR**  
**ARCHIVES BUILDING**  
**ADDITION**

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*RFQ/P Attachments shown in italics will be issued to a minimum of three highest evaluated Proposers from the Technical Proposal in accordance with RFQ/P Section 2, Schedule of Events.*

# 1 INTRODUCTION

## 1.1 Statement of Purpose

The Rutherford County Public Building Authority, Inc., a Tennessee Non-Profit Corporation, acting under an operating contract with the Rutherford County Commission hereinafter referred to as the "PBA", has issued this Request for Qualifications/Proposals ("RFQ/P") through the Owner's Project Representative ("OPR"), to define the PBA's minimum service requirements; solicit qualifications/proposals; detail response requirements; and, outline the PBA's process for evaluating submissions and selecting the Construction Manager/General Contractor ("CM/GC").

Through this RFQ/P, the PBA seeks to buy the best services at the most favorable prices and to give all qualified businesses, including those that are owned by minorities, women, persons with a disability, and small business enterprises, opportunity to do business with the PBA.

The PBA intends to secure a contract for CM/GC services. The CM/GC shall provide consulting, scheduling and estimating/cost control services and shall be the general contractor during construction, holding the trade contracts and providing the management and construction services during the construction phase. The CM/GC shall competitively procure and contract with the trade contractors and assume the responsibility and the risk of construction delivery within the specified cost and schedule terms, after providing a Guaranteed Maximum Price (GMP) for the scope(s) of work for the Rutherford County, TN Old Judicial Center Remodeling Project and/or Archives Building Addition ("Project").

## 1.2 Scope of Service, Contract Period, and Required Terms and Conditions

The RFQ/P Attachment 6.1, Pro Forma Contract details the PBA's required:

- Scope of Services and Deliverables in Section A;
- Contract Period in Section B;
- Payment Terms in Section C;
- Standard Terms and Conditions in Section D; and,
- Special Terms and Conditions in Section E.
- Contract Attachment A – Scope of Services and Deliverables
- Contract Attachment B – Construction Services Agreement (Guaranteed Maximum Price)

The pro forma contract substantially represents the contract document that the proposer selected by the PBA must agree to and sign.

## 1.5 RFQ/P Communications

1.5.1 Unauthorized contact regarding this RFQ/P with Rutherford County, TN ("County") employees or officials of the PBA other than the RFQ/P Coordinator detailed below may result in disqualification from this procurement process.

1.5.1.1 Interested Parties must direct all communications regarding this RFQ/P to the following RFQ/P Coordinator, who is the PBA's only official point of contact for this RFQ/P.

Ben Mankin  
Rutherford County  
Old Historic Courthouse  
Murfreesboro, TN 37130  
615-642-7668 (cell)  
E-mail: [bmankin@rutherfordcountyttn.gov](mailto:bmankin@rutherfordcountyttn.gov)

## **1.6 Notice of Intent to Propose**

Each potential proposer should submit a Notice of Intent to Propose (e.g. written, facsimile, or electronic mail) to the RFQ/P Coordinator by the deadline detailed in the RFQ/P Section 2, Schedule of Events. The notice should include:

- Proposer's name
- name and title of a contact person
- address, telephone number, e-mail address, and facsimile number of the contact person
- contractor license number, classification, expiration date, and license limit

A Notice of Intent to Propose creates no obligation and is not a prerequisite for making a proposal, however, it is necessary to ensure receipt of RFQ/P amendments, addenda and other communications regarding the RFQ/P (refer to RFQ/P Sections 1.5, et seq., above).

## **1.7 Proposal Deadline**

Proposals must be submitted no later than the Proposal Deadlines time and date detailed in the RFQ/P Section 2, Schedule of Events. A proposal must respond to the written RFQ/P and any RFQ/P exhibits, attachments, amendments or addenda. A late proposal shall not be accepted, and a Proposer's failure to submit a proposal before the deadline shall cause the proposal to be disqualified.

## **1.8 Pre-Proposal Conference**

A Pre-Proposal Conference will be held at the time and date detailed in the RFQ/P Section 2, Schedule of Events. The purpose of the conference is to discuss the RFQ/P scope of services. While questions will be entertained, the response to any question at the Pre-Proposal Conference shall be considered tentative and non-binding with regard to this RFQ/P. Questions concerning the RFQ/P shall be submitted in writing prior to the Written Comments Deadline date detailed in the RFQ/P Section 2, Schedule of Events. To ensure accurate, consistent responses to all known potential Proposers, the official response to questions will be issued by the OPR as described in RFQ/P Sections 1.5, et seq., above and on the date detailed in the RFQ/P Section 2, Schedule of Events.

Pre-Proposal Conference attendance is not mandatory. The conference will be held at the Historic Rutherford County Courthouse in room 205 located in the middle of the square in downtown Murfreesboro, TN 37130.

**2 RFQ/P SCHEDULE OF EVENTS**

The following Schedule of Events represents the OPR's best estimate of the schedule that will be followed. Unless otherwise specified, the time of day for the following events will be between 8:00 a.m. and 4:30 p.m., Central Time.

<b>RFQ/P SCHEDULE OF EVENTS</b>		
The PBA reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. The OPR will communicate any adjustment to the Schedule of Events to the potential proposers from whom the OPR has received a Notice of Intent to Propose.		
<b>EVENT</b>	<b>TIME</b>	<b>DATE</b> (all dates are Owner business days)
1. OPR Issues RFQ/P		October 25, 2019
2. Disability Accommodation Request Deadline	<b>2:00 pm</b>	November 6, 2019
3. Pre-proposal Conference	<b>3:00 pm</b>	November 7, 2019
4. Notice of Intent to Propose and Written Technical Proposal Comments Deadline	<b>2:00 pm</b>	November 12, 2019
5. OPR Responds to Written Comments		November 18, 2019
6. Technical Proposal Deadline	<b>2:00 pm</b>	November 26, 2019
7. Technical Proposal Evaluations Completed		December 5, 2019
8. OPR Issues results of the Technical Proposal Evaluations, Issues Cost Proposal RFQ/P Sections and Attachments & request Cost Proposals and Background Information from the Qualifying Proposers from the Technical Proposal		December 12, 2019
9. Written Cost Proposal Comments and Background Information Deadline	<b>2:00 pm</b>	TBD
10. OPR Responds to Written Comments		TBD
11. Deadline for the Cost Proposal (to be opened in accordance with the procedure provide in the Cost Proposal Request)	<b>2:00 pm</b>	TBD
12. PBA Interviews the Qualifying Proposers from the Technical Proposal and make final selection.		TBD
13. PBA approves CM/GC Final Cost Proposal	<b>4:00 pm</b>	TBD
14. PBA approves & executes CM/GC Contract	<b>4:00 pm</b>	TBD

\*Pre-proposal Conference will be held at the Historic Rutherford County Courthouse in room 205 located in the middle of the square in downtown Murfreesboro, TN 37130.

### 3. PROPOSAL REQUIREMENTS

Each Proposer must submit a proposal in response to this RFQ/P with the most favorable terms that the Proposer can offer. There will be no best and final offer procedure. The Proposal shall be brief and to the point in a direct response to the information requested for each item.

#### 3.1 Proposal Form and Delivery

3.1.1 Each response to this RFQ/P must consist of a Technical Proposal. A Cost Proposal will be requested from a minimum of three **highest evaluated Proposers (“Qualifying Proposers”)** from the Technical Proposal.

3.1.2 Each Proposer must submit one (1) original and seven (7) copies of the Technical Proposal to the OPR in a sealed package that is clearly marked:

“Technical Proposal in Response to RFQ/P No. JCP 2014 - Do Not Open”

3.1.3 The Qualifying Proposers from the Technical Proposal, when requested, must submit the Background information identified in Section 3.3 in a sealed package that is clearly marked:

“Background Information in Response to RFQ/P No. JCP 2014 - Do Not Open”

3.1.4 The Qualifying Proposers from the Technical Proposal, when requested, must submit one (1) Cost Proposal to the OPR in a sealed package that is clearly marked:

“Cost Proposal in Response to RFQ/P No. JCP 2014 - Do Not Open”

3.1.5 The RFQ/P Coordinator must receive all proposals in response to this RFQ/P, at the address identified in Section 1.5.1.1 of this RFQ/P, no later than the Proposal Deadlines detailed in the RFQ/P Section 2, Schedule of Events.

3.1.6 A Proposer may not deliver a proposal orally or by any means of electronic transmission.

#### 3.2 Technical Proposal

3.2.1 The RFQ/P Attachment 6.3, Technical Proposal and Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFQ/P. This guide includes mandatory and general requirements as well as technical queries requiring a written response.

No pricing information shall be included in the Technical Proposal. Inclusion of Cost Proposal amounts (RFQ/P Attachment 6.6) in the Technical Proposal shall make the proposal non-responsive and the PBA shall reject it.

3.2.2 Each Proposer must use the Technical Proposal and Evaluation Guide to organize, reference, and draft the Technical Proposal. Each Proposer should duplicate the Technical Proposal and Evaluation Guide and use it as a table of contents covering the Technical Proposal (adding proposal page numbers as appropriate).

3.2.3 Each proposal should be economically prepared, with emphasis on completeness and clarity of content. A proposal must be written on standard 8 1/2" x 11" paper (although foldouts containing charts, spreadsheets, and oversize exhibits are permissible). All proposal pages must be numbered.

3.2.4 All information included in a Technical Proposal should be relevant to a specific requirement detailed in the Technical Proposal and Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will in no way contribute to the evaluation process.

3.2.5 The PBA may determine a proposal to be non-responsive and reject it if the Proposer fails to organize and properly reference the Technical Proposal as required by this RFQ/P and the Technical Proposal and Evaluation Guide;

3.2.6 The PBA may determine a proposal to be non-responsive and reject it if the Technical Proposal document fails to appropriately address/meet all of the requirements detailed in the Technical Proposal and Evaluation Guide

### **3.3 Background Information**

The PBA requested that background checks be conducted on Qualifying Proposers prior to interviews being held. We request that you provide the following information for three individuals in Project leadership positions. This information will be requested and submitted in accordance with the dates detailed in the RFQ/P Section 2, Schedule of Events.

3.3.1 Example of the three individuals:

1. Project Executive
2. Project Manager
3. Superintendent

3.3.2 Information to provide:

1. Individual's Legal Name
2. Date of Birth
3. Social Security Number
4. Place of Residence

### **3.4 Cost Proposal**

3.4.1 When requested, the Cost Proposal must be submitted by the Qualifying Proposers (only) from the Technical Proposal to the OPR in a sealed package as directed by Section 3.1.3.

3.4.2 Each Cost Proposal must be recorded on an exact duplicate of the RFQ/P Attachment 6.6, Cost Proposal and Scoring Guide.

3.4.3 The Qualifying Proposers shall only record the proposed cost exactly as required or allowed by the Cost Proposal and Scoring Guide and shall not record any other rates, amounts, or information.

3.4.4 The Qualifying Proposers shall submit the Pre-Construction Phase Services Fee (Attachment 6.6-Section A), CM/GC Construction Services Fixed Fee (Attachment 6.6-Section B), CM/GC Construction Services General Conditions Budget Guide (Attachment 6.6-Section C), and the Summary and Scoring Guide (Attachment 6.6-Section D).

3.4.5 The Qualifying Proposer must sign and date the Cost Proposal.

3.4.6 If a Qualifying Proposer fails to submit a Cost Proposal as required, the PBA shall determine the proposal to be non-responsive and reject it.



## 4 PROPOSAL EVALUATION & CONTRACT AWARD

### 4.1 Evaluation Categories and Maximum Points

The PBA will consider qualifications and experience and technical approach in the evaluation of proposals. The maximum points that shall be awarded for each of these categories are detailed below.

CATEGORY	MAXIMUM POINTS POSSIBLE
Qualifications and Experience	40
Technical Approach	35

### 4.2 Evaluation Process

The proposal evaluation process is designed to award the contract to the Proposer with the best combination of attributes based upon the evaluation criteria.

4.2.1 The RFQ/P Coordinator will use the RFQ/P Attachment 6.3, Technical Proposal and Evaluation Guide to manage the Technical Proposal Evaluation and maintain evaluation records.

4.2.1.1 The RFQ/P Coordinator will review each Technical Proposal to determine compliance with mandatory requirements (refer to RFQ/P Attachment 6.3, Technical Proposal and Evaluation Guide, Technical Proposal Section A). If the RFQ/P Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document its determination of whether: (1) the proposal meets requirements for further evaluation; (2) the OPR will request clarifications or corrections; or, (3) the PBA will determine the proposal non-responsive to the RFQ/P and reject it.

4.2.1.2 A Proposal Evaluation Team, made up of three or more members, will evaluate each Technical Proposal that appears responsive to the RFQ/P.

4.2.1.3 Each Proposal Evaluation Team member will independently, evaluate each proposal against the evaluation criteria in this RFQ/P and will score each in accordance with the RFQ/P Attachment 6.3, Technical Proposal and Evaluation Guide.

4.2.1.4 The OPR reserves the right, at its sole discretion, to request Proposer clarification of a Technical Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion shall be limited to specific sections of the proposal identified by the OPR. The subject Proposer shall put any resulting clarification in writing as may be required by the OPR.

4.2.1.5 Evaluators will select the Qualifying Proposers from the Technical Proposals (Qualification, Experience & Technical Approach). Qualifying Proposers will present and be interviewed by the PBA. Oral presentations/interviews and the number of firms interviewed are at the sole discretion of the PBA.

4.2.1.6 The PBA will final selection. The Cost Proposal will be opened and evaluated in accordance with the procedure provide in the Cost Proposal Request.

### 4.3 Contract Award Process

4.3.1 After the approval of the PBA, the OPR will issue an Intent to Award Notice to identify the apparent best-evaluated proposal on the Intent to Award Notice date detailed in the RFQ/P Section 2, Schedule of Events. The Intent to Award Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

- 4.3.3 The PBA will also make the RFQ/P files available for public inspection at the address identified in Section 1.5.1.1 of this RFQ/P on the Intent to Award Notice date detailed in the RFQ/P Section 2, Schedule of Events.
- 4.3.4 The Proposer with the apparent best-evaluated proposal must agree to and sign a contract with the PBA which shall be substantially the same as the RFQ/P Attachment 6.1, Pro Forma Master Contract. However, the PBA reserves the right, at its sole discretion, to add terms and conditions or to revise pro forma contract requirements in the PBA's best interests subsequent to this RFQ/P process. No such terms and conditions or revision of contract requirements shall materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFQ/P process.
- 4.4 Licensure**
- Before a contract pursuant to this RFQ/P is signed, the apparent successful Proposer must hold all necessary, applicable business, contractors and professional licenses. The PBA may require any or all Proposers to submit evidence of proper licensure.
- 4.5 Insurance**
- The PBA will require the apparent successful Proposer to provide proof of insurance coverage as required by the PBA before entering into a contract. Failure to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by the PBA shall be in form and substance acceptable to the PBA.
- At the Option of the CM/GC the trade contract(s) for hazardous materials abatement may be held by the CM/GC or the PBA if a part of the work scope. Under either option the CM/GC shall coordinate the bidding process and implementation of the Work. The PBA shall be named insured under either option.
- 4.6 Contract Approval**
- The RFQ/P and the CM/GC selection processes do not obligate the PBA and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. Contract award and PBA obligations pursuant thereto shall commence only after the contract is signed by the CM/GC and the PBA.
- 4.7 Bonding**
- The CM/GC shall provide bonding in the amount of one hundred percent (100%) of Construction Contract Sum covering faithful performance of the Contract and payment of obligations arising thereunder. The bond form shall be AIA - A312™-2010 Performance Bond and Payment Bond or a mutually agreed to substitute.
- 4.8 Contract Payments**
- All contract payments shall be made in accordance with the contract's Payment Terms and Conditions provisions (refer to RFQ/P Attachment 6.1, Pro Forma Master Contract, Section C). No payment shall be made until the contract is fully executed by the PBA. Under no conditions shall the PBA be liable for payment of any type associated with the contract or responsible for any work done by the CM/GC, if it occurs before contract is executed by the PBA or after the contract end date specified by the contract.
- 4.9 CM/GC Performance**
- The CM/GC shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the PBA. The PBA may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract.

#### **4.10 Additional Work**

The PBA may request the CM/GC to perform additional work during the pre-construction phase services for which the CM/GC would be compensated in accordance with the Contract. That work shall be within the general scope of this RFQ/P. In such instances, the PBA shall provide the CM/GC a written description of the additional work, and the CM/GC shall submit a time schedule for accomplishing the additional work and a price for the additional work. If the PBA and the CM/GC reach an agreement regarding the work and associated compensation, such agreement shall be effected by means of a written letter of authorization. Any such letter requiring additional work must be mutually agreed upon by the parties. The CM/GC shall not commence additional work until the PBA has issued a written letter of authorization.

# RFQ/P Attachment 5.1

## RFQ/P GENERAL REQUIREMENTS

### NONDISCRIMINATION

**1.1** PBA encourages the meaningful participation of minority owned businesses in the project, which includes small-owned business, disadvantaged business enterprises, women business enterprises and minority business enterprises. In the performance of services pursuant to the contract with the PBA, the Proposer must not discriminate against any employee or applicant for employment because of race, religion, sex, national origin, or physical impairment except where race, religion, sex, national origin, or physical impairment is a bona fide occupational qualification reasonably necessary to the normal operation of the Proposer.

### ASSISTANCE TO PROPOSERS WITH A DISABILITY

**2.1** A Proposer with a disability may receive accommodation regarding the means of communicating this RFQ/P and participating in this RFQ/P process. A Proposer with a disability should contact the RFQ/P Coordinator to request reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFQ/P Schedule of Events.

### RFQ/P COMMUNICATIONS

**3.1** Any oral communications shall be considered unofficial and non-binding with regard to this RFQ/P.

**3.2** Each Proposer shall assume the risk of the method of dispatching any communication or proposal to the OPR. The PBA assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or electronic "postmarking" of a communication or proposal to the OPR by a deadline date shall not substitute for actual receipt of a communication or proposal by the OPR.

**3.3** The RFQ/P Coordinator must receive all written comments, including questions and requests for clarification, no later than the Written Comments Deadline detailed in the RFQ/P section 2, Schedule of Events.

**3.4** The OPR reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests for clarification. The OPR's official responses and other official communications pursuant to this RFQ/P shall constitute an addendum of this RFQ/P.

**3.5** The OPR will convey all official responses and communications pursuant to this RFQ/P to the potential Proposers from whom the OPR has received a Notice of Intent to Propose.

**3.6** Only the OPR's official, written responses and communications shall be considered binding with regard to this RFQ/P.

**3.7** The OPR reserves the right to determine, at its sole discretion, the method of conveying official responses and communications pursuant to this RFQ/P (e.g., written, facsimile, electronic mail, or Internet posting).

**3.8** Any data or factual information provided by the OPR, in this RFQ/P or an official response or communication, shall be deemed for informational purposes only, and if a Proposer relies on such data or factual information, the Proposer shall either: (1) independently verify the information; or, (2) obtain the OPR's written consent to rely thereon.

### GENERAL RFQ/P CONDITIONS AND CONTRACTING INFORMATION

**4.1 Waiver of Objections.** Each Proposer shall carefully review this RFQ/P and all Attachments, including but not limited to the *pro forma* contract, for comments, questions, defects, objections, or any other matter requiring clarification or correction (collectively called "comments"). Comments concerning RFQ/P objections must be made in writing and received by the OPR no later than the Written Comments Deadline detailed in the RFQ/P section 2, Schedule of Events. This will allow issuance of any necessary addenda and help prevent the opening of defective proposals upon which contract award could not be made. Protests based on any objection shall be considered waived and invalid if these comments/objections have not been brought to the attention of the OPR, in writing, by the Written Comments Deadline.

**4.2 RFQ/P Addenda and Cancellation.** The PBA reserves the unilateral right to issue addenda to this RFQ/P in writing at any time. If an RFQ/P addendum is issued, the OPR will convey such addenda to the potential Proposers who submitted a Notice of Intent to Propose. Each proposal must respond to the final written RFQ/P and any exhibits, Attachments, and addenda. The PBA reserves the right, at its sole discretion, to cancel and reissue this RFQ/P or to cancel this RFQ/P in its entirety.

**4.3 Proposal Prohibitions and Right of Rejection.**

**4.3.1** The PBA reserves the right, at its sole discretion, to reject any and all proposals in accordance with applicable laws and regulations.

**4.3.2** Each proposal must comply with all of the terms of this RFQ/P and all applicable State laws and regulations. The PBA may reject any proposal that does not comply with all of the terms, conditions, and performance requirements of this RFQ/P. The PBA may consider any proposal that does not meet the requirements of this RFQ/P to be non-responsive, and the PBA may reject such a proposal.

**4.3.3** A proposal of alternate services (i.e., a proposal that offers services different from those requested by this RFQ/P) shall be considered non-responsive and rejected.

**4.3.4** A Proposer shall not restrict the rights of the PBA or otherwise qualify a proposal. The PBA may determine such a proposal to be a non-responsive counteroffer, and the proposal may be rejected.

**4.3.5** A Proposer shall not submit the Proposer's own contract terms and conditions in a response to this RFQ/P. If a proposal contains such terms and conditions, the PBA may determine, at its sole discretion, the proposal to be a non-responsive counteroffer, and the proposal may be rejected.

**4.3.6** A Proposer shall not submit more than one proposal. Submitting more than one proposal shall result in the disqualification of the Proposer.

**4.3.7** A Proposer shall not submit multiple proposals in different forms. This prohibited action shall be defined as a Proposer submitting one proposal as a prime contractor and permitting a second Proposer to submit another proposal with the first Proposer offered as a subcontractor. This restriction does not prohibit different Proposers from offering the same subcontractor as a part of their proposals, provided that the subcontractor does not also submit a proposal as a prime contractor. Submitting multiple proposals in different forms may result in the disqualification of all Proposers knowingly involved.

**4.3.8** The PBA will reject a proposal if the Cost Proposal was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other Proposer. Regardless of the time of detection, the PBA will consider any of the foregoing prohibited actions to be grounds for proposal rejection or contract termination.

**4.4 Waiver of Variances.** The PBA reserves the right, at its sole discretion, to waive a proposal's variances from full compliance with this RFQ/P. If the PBA waives minor variances in a proposal, such waiver shall not modify the RFQ/P requirements or excuse the Proposer from full compliance with such. Notwithstanding any minor variance, the PBA may hold any Proposer to strict compliance with this RFQ/P.

**4.5 Incorrect Proposal Information.** If the PBA determines that a Proposer has provided, for consideration in this RFQ/P process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect, that proposal shall be determined non-responsive and shall be rejected.

#### **4.6 Cost Proposal**

**4.6.1** The Proposer's Cost Proposal shall record only the proposed cost as required in this RFQ/P and shall not record any other rates, amounts, or information except for the additional items allowed for in the CM/GC Construction Services General Conditions Budget Guide – RFQ/P Attachment 6.6 – Section C.

**4.6.2** If a Proposer fails to submit a Cost Proposal as required, the PBA will determine the proposal to be non-responsive and shall reject the proposal.

#### **4.7 Assignment and Subcontracting**

**4.7.1** The Proposer awarded a contract pursuant to this RFQ/P shall not transfer, or assign any portion of the contract without the PBA's prior, written approval.

**4.7.2** A subcontractor may only be substituted for a proposed subcontractor at the discretion of the PBA and with the PBA's prior, written approval.

**4.7.3** At its sole discretion, the PBA reserves the right to refuse approval of any subcontract, transfer, or assignment.

**4.7.4** The Proposer, if awarded a contract pursuant to this RFQ/P, shall be the prime CM/GC and shall be responsible for all pre-construction and construction services work performed.

**4.8 Joint Ventures** If a Proposer intends to submit a Proposal as a joint venture, then the following requirements shall apply:

**4.8.1** For the purposes of this RFQ/P, the PBA recognizes a joint venture as separate organizations or business entities that intend to combine professional or technical expertise and business experience, and to share contractual and project responsibilities in performance of a contract pursuant to this RFQ/P.

**4.8.2.** Each joint venture participant shall meet the licensure requirements stated in the RFQ/P.

**4.8.3** Each joint venture participant shall meet the insurance requirements stated in the RFQ/P.

**4.8.4** Each joint venture participant shall individually provide all documentation required for review of financial responsibility and stability. The PBA will not recognize nor accept as a singular qualification, any combination of financial assets and resources from separate organizations or business entities submitting a Proposal in response to this RFQ/P.

**4.8.5** A sub-contractor to a Proposer is not a joint venture participant.

**4.9 Right to Refuse Personnel** At its sole discretion, the PBA reserves the right to refuse any personnel, of the CM/GC or a subcontractor, for use in the performance of a contract pursuant to this RFQ/P.

**4.10 Proposal Withdrawal.** A submitted proposal may be withdrawn at any time up to the Proposal Deadline time and date detailed in the RFQ/P section 2, Schedule of Events. To do so, a Proposer shall submit a written request, signed by a Proposer's authorized representative to withdraw a proposal. After withdrawing a previously submitted proposal, a Proposer is eligible to submit another proposal at any time up to the Proposal Deadline.

**4.11 Proposal Errors and Amendments.** Each Proposer is liable for all proposal errors or omissions. A Proposer shall not be allowed to alter or amend proposal documents after the Proposal Deadline time and date detailed in the RFQ/P section 2, Schedule of Events unless such is formally requested, in writing, by the OPR.

**4.12 Proposal Preparation Costs.** The PBA will not pay any costs associated with the preparation, submittal, presentation or contracting of any proposal.

#### **4.13 Disclosure of Proposal Contents.**

**4.13.1** Each proposal and all materials submitted to the PBA in response to this RFQ/P shall become the property of the PBA.

**4.13.2** Selection or rejection of a proposal does not affect this right. All proposal information, including detailed price and cost information, shall be held in confidence during the evaluation process. Notwithstanding, a list of actual Proposers submitting timely proposals may be available to the public, upon request, directly after technical proposals are opened by the OPR.

**4.13.3** Upon the completion of the evaluation of proposals, indicated by public release of an Intent to Award Notice, the proposals and associated materials shall be open for review.

**4.13.4** By submitting a proposal, the Proposer acknowledges and accepts that the full proposal contents and associated documents shall become open to public inspection.

**4.14 Severability.** If any provision of this RFQ/P is declared by a court to be illegal or in conflict with any law, said decision shall not affect the validity of the remaining RFQ/P terms and provisions, and the rights and obligations of the PBA and Proposers shall be construed and enforced as if the RFQ/P did not contain the particular provision held to be invalid.

**ATTACHMENT 6.1**  
**PRO FORMA MASTER CONTRACT**

CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC)  
MASTER CONTRACT  
BETWEEN THE  
RUTHERFORD COUNTY PUBLIC BUILDING AUTHORITY, Inc.  
AND  
CM/GC

This Master Contract (MC), by and between the Rutherford County Public Building Authority, Inc., a Tennessee Non-Profit Corporation, acting under an operating contract with the Rutherford County Commission hereinafter referred to as the "PBA," and \_\_\_\_\_, hereinafter referred to as the "CM/GC" is for the provision of Construction Management/General Contracting Services, as further defined in the "SCOPE OF SERVICES."

The CM/GC is a Corporation. The CM/GC's address is:

The CM/GC's place of incorporation or organization is \_\_\_\_\_.

A. SCOPE OF SERVICES

A.1 The CM/GC shall provide consulting, scheduling and estimating/cost control services during the pre-construction phase of the Project, and shall be the general contractor during construction, holding the trade contracts and providing the management and construction services during the construction phase. As soon as practicable after execution of this MC, the CM/GC and the PBA shall negotiate in good faith mutually acceptable terms, conditions, and pricing for a written Construction Services Agreement with a Guaranteed Maximum Price ("CSA-GMP") covering the construction phase. The CM/GC shall competitively procure and contract with the trade contractors and assume the responsibility and the risk of construction delivery within the specified cost and schedule terms, and provide a Guaranteed Maximum Price (GMP) for the scope(s) of work for the Rutherford County, TN Judicial Center Project ("Project") (refer to Attachment A – Scope of Services and Deliverables).

B. CONTRACT TERM

B.1 This MC shall be effective for the period commencing on execution of this agreement and ending one year after Substantial Completion of the Project. The PBA shall have no obligation for services rendered by the CM/GC which are not performed within the specified period.

B.2 Term Extension. The PBA reserves the right to extend this MC for an additional period or periods of time. An extension of the term of this MC will be affected through an amendment to the MC. If the extension of the MC necessitates additional funding beyond that which was included in the original MC, the increase in the PBA's maximum liability will also be affected through an amendment to the MC.

B.3 Construction Services Agreement with a Guaranteed Maximum Price (CSA-GMP). The CSA-GMP is to be negotiated at the appropriate time after execution of this MC.

C. PAYMENT TERMS AND CONDITIONS

- C.1 Lump Sum Payment for Pre-Construction Phase Services. Payment by the PBA to the CM/GC under this MC for pre-construction phase services shall be a lump sum of \_\_\_\_\_ (\_\_\_\_\_). This amount shall constitute the entire lump sum fee due the CM/GC for the pre-construction phase services hereunder regardless of the difficulty, materials or equipment required. The MC amount includes, but is not limited to, applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the CM/GC for pre-construction phase services. This pre-construction lump sum fee does not include the amounts that are to be covered under the CSA-GMP.

The pre-construction lump sum fee represents available funds for payment to the CM/GC and does not guarantee payment of any such funds to the CM/GC under this MC unless the CM/GC performs said work. In which case, the CM/GC shall be paid in accordance with Section C.3.

- C.2 Compensation Firm. The lump sum fee liability of the PBA for pre-construction phase services under this MC is firm for the duration of the MC and is not subject to escalation for any reason unless amended.
- C.3 Payment Methodology. For payment for the pre-construction phase services described in Section A of this MC, the CM/GC shall submit an invoice, in form and substance acceptable to the PBA and with all of the required, if any, supporting documentation, prior to any payment. Request for progress payments for pre-construction phase services may be submitted monthly based on a pro-ration of the lump sum fee divided by the corresponding time. Final payment may be requested upon the completion of these services satisfactory to the PBA. Progress payments and final payment for the construction phase shall be applied for and paid as provided in the CSA-GMP. Payment is due no later than forty-five (45) days after an undisputed invoice for payment has been received by PBA.
- C.4 Travel Compensation. The CM/GC shall not be compensated or reimbursed for travel, meals, or lodging over and above the pre-construction lump sum fee under this MC and the guaranteed maximum price for construction under the CSA-GMP.
- C.5 Payment of Invoice. The payment of the invoice by the PBA shall not prejudice the PBA's right to object to or question any invoice or matter in relation thereto. Such payment by the PBA shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6 Invoice Reductions. The CM/GC's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the PBA, on the basis of audits where applicable, conducted in accordance with the terms of this MC, not to constitute proper remuneration for the services performed.
- C.7 Deductions. The PBA reserves the right to deduct from amounts which are or shall become due and payable to the CM/GC under this contract any amounts which are or shall become due and payable to the PBA by the CM/GC.
- C.8 Invoice Submission. Invoices shall be provided to PBA in a form acceptable to the PBA and payment shall be made using Electronic Funds Transfer (EFT) only, unless PBA in its sole discretion determines that another manner of payment shall be used, in which event the PBA shall notify the CM/GC. The CM/GC shall be required to submit the appropriate banking information necessary to effect payment by EFT.

D. STANDARD TERMS AND CONDITIONS:

- D.1 Required Approvals. Neither party is bound by this MC until it is fully executed.
- D.2 Modification and Amendment. This MC may be modified only by a written amendment executed by all parties hereto.



D.3 Termination for Convenience. The PBA may terminate this MC without cause for any reason. Said termination shall not be deemed a Breach of Contract by the PBA. The PBA shall give the CM/GC at least Sixty (60) days written notice before the effective termination date. The CM/GC shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the PBA be liable to the CM/GC for compensation for any pre-construction phase service which has not been rendered. Upon such termination, the CM/GC shall have no right to any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount on account of pre-construction phase services. With respect to the construction phase, this Section D.3 shall be subject and subordinate to the terms of the CSA-GMP.

D.4 Termination for Cause. If the CM/GC fails to properly perform its obligations under this MC in a timely or proper manner, or if the CM/GC violates any terms of this Contract, the PBA shall have the right to immediately terminate the MC and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the CM/GC shall not be relieved of liability to the PBA for damages sustained by virtue of any breach of this MC by the CM/GC.

If the PBA does not pay the CM/GC within seven days after the date for payment established in this MC the amount currently due as of that date, then the CM/GC may, upon seven additional days' written notice to the PBA, stop the work until payment of the amount due has been received. The CM/GC may terminate this MC if the work is stopped for non-payment for a period of 45 consecutive days.

D.5 Subcontracting. The CM/GC shall not assign this MC without obtaining the prior written approval of the PBA. Subcontracts to this MC shall contain, at a minimum, Sections D.6, D.7, and D.8 of this MC.

D.6 Conflicts of Interest. The CM/GC warrants that no part of the total amount paid to the CM/GC shall be paid directly or indirectly to a Rutherford County, TN employee or official of the PBA as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the CM/GC in connection with any work contemplated or performed relative to this MC.

D.7 Nondiscrimination. The PBA encourages the meaningful participation of minority owned businesses in the project, which includes small-owned business, disadvantaged business enterprises, women business enterprises and minority business enterprises. In the performance of services pursuant to this contract, the CM/GC must not discriminate against any employee or applicant for employment because of race, religion, sex, national origin, or physical impairment except where race, religion, sex, national origin, or physical impairment is a bona fide occupational qualification reasonably necessary to the normal operation of the CM/GC.

D. 8 Illegal Immigrant Participation. The CM/CG shall not knowingly utilize services of an illegal immigrant in performance of this MC and shall not knowingly utilize services of a subcontractor who will utilize services of an illegal immigrant in performance of this MC.

D.9 Records. The CM/GC shall maintain documentation for all charges against the PBA and all costs of delivery of the Project under this MC. The books, records, and documents of the CM/GC shall be maintained for a period of three (3) full years from the date of final payment to the CM/GC and shall be subject to audit at any reasonable time and upon reasonable notice by the PBA or their duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles. Upon final completion of the Project, the CM/GC shall have the right to transfer such records to the PBA, along with a sworn statement that all such records are included in this transfer.

D.10 Monitoring. The CM/GC's activities conducted and records maintained pursuant to this MC shall be subject to monitoring and evaluation by the PBA or their duly appointed representatives.

D.11 Progress Reports. The CM/GC shall submit brief, periodic, progress reports to the Owner's Project Representative as required by the Scope of Work and Deliverables.

D.12 Strict Performance. Failure by any party to this MC to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this MC shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this MC shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.13 Independent CM/GC. The parties hereto, in the performance of this MC, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this MC shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The CM/GC, being an independent contractor and not an employee of the PBA, agrees to provide insurance coverage as required by the CSA-GMP.

D.14 PBA Liability. The PBA shall have no liability except as specifically provided in this Contract and the CSA-GMP.

D.15 Hold Harmless. To the fullest extent permitted by law, the CM/GC shall indemnify and hold harmless the PBA, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from performance of the Work or to injury to or destruction of tangible property including loss of use resulting there from, but only to extent caused by the willful or negligent acts or omissions of the CM/GC, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph D.15.

In the events of such suit or claim, the CM/GC shall give the PBA immediate notice thereof and shall provide all assistance required by the PBA in the PBA's defense. The PBA shall give the CM/GC written notice of any such claim or suit, and the CM/GC shall have the full right and obligation to conduct the CM/GC's own defense thereof. Nothing contained herein shall be deemed to accord to the CM/GC, through its attorney(s), the right to represent the PBA.

With respect to the construction phase, the CM/GC's indemnity and hold harmless obligations shall be as provided in the terms and conditions of CSA-GMP to be negotiated and executed by the parties.

D.16 State and Federal Compliance. The CM/GC shall comply with applicable State and Federal laws and regulations in the performance of this Contract. Services provided under this MC do not include professional design services of any type by the CM/GC.

D.17 Governing Law. This MC shall be governed by and construed in accordance with the laws of the State of Tennessee. The CM/GC agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract.

D.18 Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This MC supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral. With respect to the construction phase, all terms and conditions of this Contract shall, however, be subject and subordinate to the terms and conditions of the CSA-GMP to be negotiated and executed between the parties.

D.19 Severability. If any terms and conditions of this MC are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this MC are declared severable.

E. SPECIAL TERMS AND CONDITIONS:

E.1 Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

E.2 Written Notice. All notices, consents, demands, or other communications required or contemplated by this MC shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below.

The PBA:

The CM/GC:

All notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the fax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

E.3 Document Priority. Should any conflict arise within any of the requirements of these MC documents, the documents shall be interpreted in priority in the following order:

1. Construction Services Agreement-Guaranteed Maximum Price ("CSA-GMP"), upon negotiation of its terms and conditions and execution by both parties, and subsequent amendments, and modifications.
2. Addenda or amendments to the documents referenced in 3 and 4 below
3. This MC and its attachments
4. The RFQ/P documents, which are incorporated by reference
5. The Proposer's Proposal, which is hereby incorporated by reference

E.4 Patents or Copyrights. The CM/GC shall indemnify and hold the PBA harmless of all claims or suits which may be brought against the PBA for infringement of any laws regarding patents or copyrights which may arise from the performance of the CM/GC under the MC. In any such action brought against the PBA, the CM/GC shall satisfy and indemnify the PBA for the amount of any final judgment, or settlement entered into in good faith by the PBA for infringement.

E.5 Subject to Funds Availability. This MC is subject to the availability of County funds. In the event that the funds are not appropriated or are otherwise unavailable, the PBA reserves the right to terminate the MC upon written notice to the CM/GC. Said termination shall not be deemed a breach of Contract by the PBA. Upon receipt of the written notice, the CM/GC shall cease all work associated with this MC. Should such an event occur, the CM/GC shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the CM/GC shall have no right to recover from the PBA any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

This Agreement entered into as of the day and year written below as witnessed:

Construction Manager/General Contractor:

Rutherford County Public Building Authority, Inc.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

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

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

## Scope of Services and Deliverables

### 1 PRE-CONSTRUCTION PHASE SERVICES

The CM/GC services shall consist of providing Pre-Construction Phase Services (PCPS) as required including an acceptable Guaranteed Maximum Price(s).

#### 1.1 Project Review

1.1.2 The CM/GC shall meet with the OPR, the Architect and any other design team members to gain a full understanding of the program, the design documents, the Project scope and all other aspects of the Project.

1.1.3 The CM/GC is an integral part of the Project team that will coordinate the development and progress of the pre-construction and construction phases.

1.1.4 The CM/GC may develop written Project procedures, in cooperation with the OPR and the Architect, to be used as a guide for the management and coordination of this Project.

#### 1.2 Consultation During Project Development

1.2.1 The CM/GC shall attend regularly scheduled meetings with the OPR, Architect and consultants during the design phases established by the contract between the PBA and the Architect, to advise them on matters relating to site use, improvements, selection of materials, building methods, construction details, building systems and equipment, phasing and sequencing, and cost. The CM/GC shall provide written recommendations. The CM/GC shall not be called upon to provide advice on legal issues or to engage in the practice of architecture or engineering. The CM/GC's review of design documents is solely in its capacity as a construction manager and general contractor, not as a design professional. Such review is limited to issues of constructability, cost, value analysis, and scheduling. The CM/GC is not responsible for design of the Project.

#### 1.3 Schedule

1.3.1 The CM/GC in consultation with the OPR, Architect shall prepare, provide, and maintain appropriately detailed pre-construction phase Critical Path Method (CPM) schedules utilizing the same standard software that will later be used to develop the Project Construction Schedule.

1.3.2 The Project schedule shall be sufficiently detailed to allow for a realistic projection of design activity sequences and durations. Updated schedules will be required at the end of each Design phase established by the contract between the PBA and the Architect, and after major value analysis decisions.

1.3.3 Within thirty (30) days from the execution of the Master Contract, the CM/GC is to establish a detailed CPM schedule of the pre-construction phase with the concurrence of the OPR and the Architect. The CM/GC is responsible to monitor this schedule during the pre-construction/design phases, and advise the OPR and Architect of any deficiencies in adhering to this schedule by any party.

#### 1.4 Constructability Review

1.4.1 CM/GC shall review the design documents during the pre-construction phase as to constructability. The review shall be conducted and reported following "Uniformat." With respect to each such issue, the CM/GC shall submit a written report to both the OPR and the Architect. At a minimum, each such written report shall contain:

- (1) A description of the constructability issue with background information;
- (2) a summary of the CM/GC's in-depth study/research including a description of the degree that the design/construction documents have been reviewed; and,

(3) written recommendations for addressing the issue.

1.4.2 The CM/GC shall promptly notify the OPR and Architect in writing upon recognizing any features in the design documents that appear to the CM/GC to be ambiguous, confusing, conflicting or erroneous.

#### 1.5 Construction Cost Model / Estimates

1.5.1 The CM/GC shall develop a Project Construction Cost Model/Estimate that shall be independent from any similar estimate of construction cost required of the Architect and shall be updated as needed, but at a minimum at the end of Schematic Design Phase, Design Development Phase, and one during the Construction Documents Phase.

1.5.2 Each Construction Cost Model/Estimate must contain a statement of the total amount determined to be the total construction costs for the Project, including alternates, CM/GC construction services General Conditions Budget, CM/GC construction services Fixed Fee, and CM/GC Contingency.

1.5.3 The Maximum Construction Cost (MCC) is the amount available for construction: GMP Target as established by the PBA plus the PBA's construction contingency. The GMP Target shall include the amount available for construction; the CM/GC construction services General Conditions Budget, CM/GC construction services Fixed Fee, and CM/GC Contingency.

1.5.4 Each Construction Cost Model/Estimate and the Architect's estimate of construction cost will be reviewed by the Architect and the OPR for reasonableness and compatibility with the GMP Target. The OPR, Architect and the CM/GC will work together to resolve questions and differences that may occur between the Architect's estimate of construction cost and the Construction Cost Model/Estimate and to reach a mutually acceptable joint estimate of construction cost.

1.5.5 In the event that the Architect's or the CM/GC's estimate of construction cost exceeds the GMP Target, the OPR may direct the CM/GC to continue to provide its pre-construction phase services in conjunction with the Architect's redesign of the Project as necessary to maintain the Project program within the GMP Target; in which case, the CM/GC shall do so without additional compensation. Also, the PBA may elect to revise the Project scope or increase funding.

#### 1.6 Value Analysis

1.6.1 The CM/GC shall, after a complete review of the Project program, review the design documents available at the time of the CM/GC's commencement of PCPS, and obtain an understanding of the intent of the OPR and the Architect, provide an initial value analysis study within a time frame agreed upon between OPR, Architect, and CM/GC based on available information and offer cost savings suggestions to the OPR. All recommendations shall be in writing, and must be fully reviewed with the Architect and OPR, and approved prior to implementation.

1.6.2 Value analysis efforts are intended to facilitate a design by the Architect that is effective in first costs as well as long term operational costs relative to issues of energy use and facility maintainability. Value analysis studies shall include life cycle cost analysis as may be required to assist the Architect to achieve an appropriate balance between costs, aesthetics and function. The CM/GC's analyses and recommendations are for issues of constructability, scheduling, value analysis, and cost, and are not made in the capacity of a design professional evaluating the adequacy of the design or compliance of the design with applicable design standards or codes.

1.6.3 Value analysis efforts shall take into consideration applicable constructability issues.

1.6.4 All value analysis studies must be provided on a timely basis within the pre-construction schedule.

1.6.5 Value analysis shall be continuous.

1.6.6 The CM/GC shall conduct a value analysis study on a date agreed upon by the Project team which shall include, but not be limited to, the items noted below:

- a. Develop value analysis concepts for consideration at the session noted in (b) below. This activity shall be coordinated with the Architect.
- b. Brainstorming session(s) with design team and OPR.
- c. Written cost studies and a pro/con evaluation shall be produced and submitted to the OPR and Architect within two (2) weeks of the brainstorming session.
- d. Formal presentation of the written study shall be conducted by the CM/GC.
- e. A formal written value analysis study document including a summary of value analysis items, applicable cost savings, selected items and their corresponding cost savings shall be presented to the OPR and Architect.

### 1.7 Coordination of Contract Documents

1.7.1 The CM/GC shall review the construction documents, recommending alternatives whenever the CM/GC recognizes that design details unduly affect costs, construction feasibility or schedules. The CM/GC shall notify the Architect and the OPR in writing upon recognizing any features in the construction documents, which appear to the CM/GC to be ambiguous, confusing, conflicting or erroneous.

1.7.2 The CM/GC shall provide a thorough trade coordination review of the construction documents before trade contract bidding. Review shall be performed utilizing a structured, industry-accepted process. The CM/GC shall review the final documents to see that all comments have been incorporated.

1.7.3 All ambiguous, confusing, conflicting and/or erroneous features discovered in the construction documents by the CM/GC during the review process shall be promptly reported to the OPR and Architect.

### 1.8 Guaranteed Maximum Price (GMP) for Construction

1.8.1 The GMP shall be established not later than the date documented in the project schedule. The CM/GC may bid trade contracts prior to establishment of the GMP at its own risk subject to Paragraph 1.10 below; however, the CM/GC shall not enter into binding contracts with trade contractors until after the Construction Services Agreement - Guaranteed Maximum Price (CSA-GMP) is negotiated and executed. The CM/GC shall develop and provide to the OPR and Architect a GMP which shall include all construction costs and project related cost required under the GMP, the CM/GC-GMP Contingency, the CM/GC construction services Fee, and construction services General Conditions Budget. The GMP shall identify each anticipated trade contract amount, the CM/GC's Fixed Fee, the CM/GC's contingency, General Conditions costs, identifying all line items, and all Project related costs.

1.8.2 The CM/GC's detailed construction cost estimates and GMP will be reviewed by the Architect and the OPR for reasonableness and compatibility with the Project GMP Target. The OPR, Architect and the CM/GC will work together to resolve questions and differences that may occur between the GMP Target and the CM/GC's construction cost estimate and corresponding GMP.

1.8.3 The GMP shall not exceed the GMP Target as established by the PBA.

1.8.4 In the event that the GMP exceeds the GMP Target, the PBA reserves the right to direct the CM/GC to continue to provide pre-construction phase services in conjunction with the Architect's redesign of the Project as necessary to maintain the Project program and meet the GMP Target.

- a. After consultation with the OPR, the CM/GC shall coordinate and cooperate with the Project team as the Architect alters and redrafts construction documents as necessary to accomplish the required reduction in cost.
- b. The CM/GC shall analyze the Architect's originally submitted and as altered and redrafted construction documents, and make recommendations to the OPR as to ways and methods to reduce the costs of constructing the Project to a sum which does not exceed the GMP Target.
- c. The CM/GC shall develop and provide to the OPR and Architect a revised GMP in connection with the redrafted and altered construction documents.

1.8.5 Upon acceptance by the PBA of a GMP, the PBA and the CM/GC shall negotiate and execute a mutually acceptable agreement including the approved GMP as a part of the PBA-CM/GC Construction Services Agreement (the CSA-GMP). All required bonds and insurance shall be provided in accordance with the terms of the CSA-GMP, and shall be furnished on or before the date of the PBA's execution of the CSA-GMP.

1.8.6 The CM/GC shall perform the work set forth in this Section without additional compensation over and above the lump sum pre-construction fee provided in the Master Contract.

### 1.9 Contingencies

1.9.1 PBA's Construction Contingency:

- a. A PBA's Construction Contingency will be established. Expenditures against this contingency will be available to cover all costs resulting from modifications not specifically covered in subparagraph 1.9.2 and initiated by the OPR and implemented through a modification to the CSA-GMP during the Construction Phase Services.
- b. The PBA's Construction Contingency is not included in the GMP.

1.9.2 CM/GC-GMP Contingency

- a. The GMP shall include a construction contingency (CM/GC-GMP contingency) in an amount approved by the PBA, to help reduce the risks assumed by the CM/GC in providing the GMP for the Project. The PBA and the CM/GC acknowledge that the contingency is included to adjust the estimate for eventualities which have not been taken into precise account in the establishment of the GMP, including, but not limited to, those resulting from
  - (1) the Construction Documents not being complete at the time the GMP is established,
  - (2) scope gaps between trade contractors, and
  - (3) unforeseen field conditions, circumstances, other occurrences, or errors and omissions in the Contract Documents which a prudent CM/GC would not have reasonably detected or anticipated during the discharge of the CM/GC's pre-construction duties.
- b. The amount of the CM/GC-GMP Contingency is the maximum sum available to the CM/GC to cover costs incurred as a result of such unanticipated causes or details. Cost overruns in excess of the amount of the CM/GC-GMP Contingency will be borne by the CM/GC under the existing GMP, unless the GMP is adjusted pursuant to the terms of the PBA-CM/GC CSA-GMP.

c. The CM/GC-GMP Contingency may be applied to any items within the cost of the work without the necessity of a modification, without constituting a change in the work, and without resulting in any change in the GMP. The CM/GC shall advise the Architect and the OPR in writing prior to applying a part of the CM/GC-GMP contingency to an item within the cost of the work. The CM/GC shall fully document the change on its copy of the construction documents that will be used as a part of the record documents.

d. The amount of the CM/GC-GMP Contingency is to be reviewed by the OPR as part of its review of the GMP. No set amount or percentage for the CM/GC-GMP Contingency will be agreed to prior to the submittal of the GMP. The PBA retains the right to specifically request revisions to the amount of the CM/GC-GMP Contingency prior to the PBA's acceptance and approval of the GMP.

#### **1.10 Non-Acceptance of the GMP and Termination**

1.10.1 The PBA, at its sole discretion, may decline to proceed with the CM/GC's GMP for the Project or Project phase(s) and thereupon without penalty, the Contract services for the Project or Project phase(s) shall terminate at the end of the Pre-Construction Phase.

1.10.2 In any event, such termination shall likewise terminate all further services and obligations of the CM/GC for the Project or Project phase(s). The CM/GC shall accept the lump sum contract amount for PCPS as full and complete reimbursement of all costs and services performed by the CM/GC for PCPS, and shall not be entitled to any further amount for such services. Thereafter, the PBA shall have the right to continue its activities to place the Project or Project phase(s) under construction with no obligation or restriction regarding the CM/GC and with full ownership and use of any data and information developed during PCPS.

1.10.3 Termination under this Section is in addition to the termination provisions set forth elsewhere in the Contract, including, but not limited to, the General Conditions of the Contract included in the CSA-GMP.

#### **1.11 Ownership of Documents**

1.11.1 All data information, material and all copies thereof developed by the CM/GC or in the CM/GC's possession or control, relating to the Project are the property of the PBA and shall be turned over to the PBA within ten (10) days after the OPR's request. However, the CM/GC may keep its own counterparts of executed agreements and one duplicate of its other data and documents for its own records.

#### **1.12 Trade Contractor Qualification Requirements**

1.12.1 The OPR and the Architect shall cooperate and participate with the CM/GC in the CM/GC's establishment of qualification requirements for all trade contractors. Then the CM/GC shall proceed to obtain written, sealed competitive bids from qualified trade contractors.

1.12.2 Basic qualification information from principal trade contractors may be requested on AIA Document 305 (Contractor's Qualification Statement). There may be a need to request additional Project or task specific information. The CM/GC may establish any qualification requirements that are consistent with Request for Qualifications/Proposals that the CM/GC responded to.

1.12.3 The CM/GC shall conduct pre-bid meetings and award meetings for all trade contracts. The CM/GC shall notify the OPR and Architect of the time and place of each such meeting.

1.12.4 The CM/GC may verify any trade contract bid as hereinafter provided.

## **2 CONSTRUCTION PHASE SERVICES**

The CM/GC services shall consist of providing Construction Phase Services (CPS) as required herein and by the Contract Documents including, but not limited to, the General Conditions of the Contract and all additional documents enumerated in Article 1 of the CSA-GMP to effect the complete construction of the Project and to maintain the established GMP of the Project.

### **2.1 Consultation During Continuing Project Development**

Upon acceptance of the GMP, the CM/GC shall continue to advise and assist the OPR and Architect during any continuing design activities as described in 1 above, but solely in its capacity as a construction manager and general contractor, not as a design professional. Such advice and assistance is limited to issues of constructability, cost, value analysis, and scheduling. The CM/GC is not responsible for design of the Project.

### **2.2 Project Construction Costs**

2.2.1 The CM/GC will publicly bid trade contracts in accordance with the established Project schedule. Upon completion of the award process for trade contracts, the CM/GC will summarize the values of all of the subcontracts and compare this total with the budgeted amount within the GMP cost estimate. Should the value of the awarded subcontracts be less than the GMP trade contract budget, a reserve fund will be established. The sum of the CM/GC contingency and the reserve fund shall be limited to ten percent of the value of the GMP or a different percent agreed to in writing by the OPR and the CM/GC. Any funds in excess of the ten percent cap will be deducted from the GMP by modification and added to the PBA's contingency. The CM/GC may utilize the reserve fund as follows:

- a. There are certain uses for the CM/GC contingency delineated in 1.9.2 above. The CM/GC can only utilize the reserve fund for these uses after the CM/GC contingency has been expended and upon prior written approval of the OPR, which shall not be unreasonably withheld.
- b. The CM/GC shall be authorized to use or allocate reserve funds for other purposes only upon mutual agreement that the purpose is appropriate to the Project and to the CSA-GMP, and only with the prior written approval of the OPR.

2.2.2 Upon completion of the CM/GC's obligations under the CSA-GMP, any and all non-expended funds remaining in the GMP will be retained by the PBA.

### **2.3. Project Construction Schedule**

2.3.1 The CM/GC shall provide a Critical Path Method (CPM) schedule utilizing accepted standard computer based software. The scheduling software shall allow for integration of all aspects of the Project and provide for coordination of all work to be performed. The scheduling software used by the CM/GC shall be capable of producing and coordinating logic developed network diagrams, and tabular format reports.

2.3.2 After acceptance of the GMP and issuance of a CSA-GMP to the CM/GC for a Construction Phase of the Project and within fifteen (15) days after receipt of the written Notice To Proceed with construction (NTP), the CM/GC shall submit a preliminary CPM schedule that is consistent with the preliminary schedule included in trade contract bid packages.

2.3.3 The CM/GC shall develop the complete and final CPM schedule in the form of a CPM network diagram using the CM/GC's logic and time estimates for each segment of the work. The network diagram will be drawn in a level of detail suitable for display of salient features of the work including, but not limited to, the placing of orders for materials, submission of shop drawings for approval, approval of shop drawings by the Architect, delivery of material, and all work activities inclusive of the punch list. Each work activity shall be assigned a time estimate by the CM/GC. One-day shall be the smallest time unit used. Data shall also be provided in Gantt form.

2.3.4 Upon completion of the network diagram, the CM/GC shall have computer input data prepared, and a computer run made to generate a printout for the Project based on the information supplied. In the event the completion date indicated by the schedule exceeds the contractual date(s), the logic and time estimates used to develop the plan will be reviewed, changes will be made in the logic and time estimates, and another computer run will be made to generate a new schedule. This procedure shall be repeated, if necessary, to provide a plan and schedule to meet the contractual date(s). All submissions shall be both in hard copy and in electronic format.

2.3.5 Within thirty (30) days after receipt of the written NTP with construction, the final CPM schedule shall be submitted to the Architect and the OPR. This working plan shall show job identification, job duration, calendar dates for start and finish of each job, and jobs critical to the completion of the Project on schedule.

2.3.6 The CM/GC shall review the plan and schedule each month. An updated Project schedule shall be furnished showing actual completed work at the end of each month in respect to the entire Project.

2.3.7 The CM/GC shall provide regular monitoring of the schedule as construction progresses, identify potential variances between scheduled and desired completion dates, review schedule for work not started or incomplete and take the action necessary to meet the required completion date.

**2.3.8 Adherence to Schedule:**

- a. It is the CM/GC's responsibility to meet the required construction completion date(s) as modified pursuant to Article 8 of the General Conditions of the Contract.
- b. If the CM/GC finds that the schedule is likely to be impacted by an action or inaction on the part of the OPR or the Architect, the CM/GC must review the situation with the Architect and the OPR in a timely manner, and proceed in accordance with the General Conditions of the Contract.

**2.4 Trade Contracts**

2.4.1 The CM/GC shall prepare trade contract packages as required. Contracts between the CM/GC and trade contractors shall be in accordance with the General Conditions of the Contract and documents enumerated in Article 1 of the CSA-GMP.

2.4.2 After the CM/GC has developed qualifications for trade contractors, the CM/GC shall invite and receive bids for all qualified contractors for each package. In coordination with the PBA, the CM/GC shall publicly advertise for trade bids. The CM/GC shall publicly open the bids and then tabulate the bids received on each package. Next, the CM/GC shall determine the apparent low bidder for each package. Upon this determination, the CM/GC shall have the right to review all bid documentation from the apparent low bid contractor to verify the scope of the bid. If the CM/GC's review shows that the low bidder fully accounted for all costs associated with the scope of the work on which it was bidding, and the low bidder satisfies all qualification criteria and requirements established pursuant to subparagraph 1.12.2, then the contract shall be awarded to the low bidder as a subcontractor. If, however, the CM/GC's review shows that the low bidder failed to account for all costs associated with the scope of the work on which it was bidding or the low bidder is not in full and strict compliance with all qualification criteria and requirements established pursuant to subparagraph 1.12.2, then the bid may be disqualified with the approval of the OPR, which shall not be unreasonably withheld. The CM/GC shall have the right as outlined above to verify the scope and qualifications of each low bidder in the same manner to determine the lowest verified bid from a qualified bidder.

2.4.3 The CM/GC may repeat the bidding for a trade contract only if:

- (1) the initial bidding produces no responsible, responsive bid for that portion of the work, or
- (2) no responsible, responsive bidder for that portion of the work will execute the subcontract form included in the bid package

without material alterations, and

(3) the OPR approves of such a re-bid, which approval shall not be unreasonably withheld.

2.4.4 All contract documents between the CM/GC and the trade contractors shall be made available for review by the Architect and the OPR.

2.4.5 Trade contracts are not to include contingencies. All construction contingency is to be included in the CM/GC GMP contingency.

**2.5 Project Control**

**2.5.1 Project Staffing**

a. The CM/GC's on-site representatives shall coordinate the work of the trade contractors and coordinate the work with the activities and responsibilities of the OPR, Architect and CM/GC to complete the Project in accordance with the CSA-GMP requirements.

b. The CM/GC shall maintain a competent and adequate full-time staff at the Project site to coordinate and provide adequate direction of the work, and to monitor progress of the trade contractors on the Project at all times.

c. The on-site CM/GC representatives will remain on the job and in responsible charge as long as those persons remain employed by the CM/GC, unless the OPR has reason to agree otherwise during the course of the Project.

**2.5.2 Meetings**

a. The CM/GC shall schedule and conduct regular progress meetings with trade contractors as conditions on the Project require. The CM/GC shall conduct biweekly OPR's meetings and other meetings as may be required, at which trade contractors, OPR, Architect, and other designated representatives, and the CM/GC can discuss jointly agenda items.

b. The CM/GC shall take and distribute complete minutes of meetings to all attendees, and to the Architect and OPR even if not attending, within three (3) days of such meetings. Representatives of the OPR and Architect may attend meetings and shall in any case receive all notices and minutes of meetings.

2.5.3 The CM/GC may self perform Project work to assist with the coordination of trade contracts and minor Project facilitation. The CM/GC shall not perform trade contract work. The maximum percent of the GMP that the CM/GC can self perform shall be three (3) percent.

**2.6 Requests for Information (RFI)**

2.6.1 The CM/GC will be responsible for developing and implementing a RFI form for use on the Project.

2.6.2 The CM/GC will be responsible for logging and reviewing all RFIs prior to submission to the Architect. The CM/GC is to ensure that the RFIs submitted are not frivolous.

2.6.3 The CM/GC shall track and monitor all RFIs throughout the Construction Phase in a timely manner until they are processed by the Architect.

2.6.4 All responses to the RFIs that have an added cost impact shall also be discussed with the Architect and the OPR.

2.6.5 The CM/GC shall develop an RFI aging report which is to be submitted at each progress meeting.



## **2.7 Substitution Requests**

2.7.1 The CM/GC shall log all substitution requests.

2.7.2 The CM/GC shall review all substitution requests to ensure that they are complete; and, if not complete, return them to the trade contractor for proper submission.

2.7.3 The CM/GC shall not submit a substitution request to the Architect if CM/GC believes it to be inappropriate. The CM/GC's review of substitution requests will be solely in its capacity as a construction manager and general contractor, not as a design professional. Such review shall be in accordance with the Contract Documents enumerated in Article 1 of the CSA-GMP.

2.7.4 The CM/GC shall track and monitor all substitution requests throughout the Construction Phase until all substitution requests are processed by the Architect. The CM/GC shall ensure that all substitution requests are submitted in accordance with the Contract Documents.

2.7.5 The CM/GC shall include substitution requests, if any, on the agenda at the progress meetings.

## **2.8 Project Photographs**

2.8.1 The CM/GC shall submit progress photographs monthly in sufficient detail to properly record the work.

## **2.9 Cost Control**

2.9.1 The CM/GC shall develop and maintain an effective system of Project cost tracking and control.

2.9.2 The CM/GC shall maintain cost accounting records on authorized work performed under unit costs, actual costs for labor and material, or other bases requiring accounting records, and afford the Architect and the OPR access to these records and preserve them in accordance with Paragraph D.9 of the Master Contract.

## **2.10 Quality Control / Inspection**

2.10.1 The CM/GC shall perform quality control inspections on the work of the trade contractors to guard the PBA against defects and deficiencies in the work and shall coordinate this activity with the on-site duties of the Architect. He shall advise the Architect of any known variation and deviation from the Contract Documents and shall take the necessary action to cause such variations and deviations from the Contract Documents to be corrected. CM/GC shall provide one set of all inspection reports (in binder form) as part of the bi-weekly job progress meetings.

2.10.2 The PBA reserves the right to independently contract for compliance inspection and testing.

2.10.3 The CM/GC shall track deficiencies reported by the Architect, as well as those noted in 2.10.1 above.

## **2.11 Project Safety**

2.11.1 The CM/GC shall develop and implement a Project safety program in accordance with the General Conditions of the Contract and applicable regulations.

2.11.2 The CM/GC shall document any safety violations it discovers and actions taken to protect the safety of persons and property engaged in the work.

## **2.12 Modifications and Change in GMP**

2.12.1 Changes in the scope of work to be performed during the Construction Phase shall be governed by the General Conditions of the Contract.

2.12.2 The CM/GC shall develop and implement a system for review, negotiation, and processing of proposed modifications that is consistent and compatible with the Contract Documents; and shall, with complete supporting data, recommend necessary changes to the OPR and the Architect for approval.

2.12.3 Modification proposals will consist of actual costs only; that is, trade contractors' change order proposals and General Conditions items, if applicable, only. No CM/GC fee shall be assessed for PBA requested modifications to the work of the Project until such modifications aggregate to a sum in excess of two (2%) percent of the Project original GMP. Additional CM/GC fee shall apply only to modifications that exceed the two (2%) percent.

2.12.4 All actual net costs associated with scope reductions shall revert to the PBA in accordance with the General Conditions of the Contract.

## **2.13 Shop Drawing Review/Processing**

2.13.1 The CM/GC shall be responsible for logging all shop drawings / submittals prior to submission to the Architect. The CM/GC is to ensure that shop drawing / submittal packages are submitted in accordance with the contract documents and, if not appropriately submitted, return them to the trade contractor for proper submission.

2.13.2 The CM/GC shall develop and implement a system for review, acceptance or rejection, and processing of all shop drawings / submittals, including the projected lead time on the CPM schedule; and shall review this system with the Architect.

2.13.3 The CM/GC shall be responsible for tracking and monitoring all shop drawings/submittals throughout the Construction Phase until all shop drawings/submittals have been approved by the Architect.

2.13.4 The CM/GC shall include shop drawings as an agenda item on all progress meetings.

2.13.5 The CM/GC shall develop a shop drawings/submittal aging report which is to be submitted at each bi-weekly progress meeting.

## **2.14 Document Control**

2.14.1 The CM/GC shall devise, implement and maintain at the Project site, a structured document control system which includes and tracks records of all necessary contracts, RFI's, shop drawings, samples, purchases, materials, equipment, maintenance and operating manuals and instructions, and any other documents and revisions thereto which arise out of the Contract; and, shall keep these documents readily available to the Architect and the OPR any time during the performance of this contract.

## **2.15 Reports**

2.15.1 General

a. The CM/GC shall keep accurate and detailed written records of Project progress during all stages of construction.

b. The CM/GC shall submit a monthly progress report to the Architect and the OPR to include a progress report on the status of construction, updated copies of all logs including Pending Action Items Log, RFI Log, Modification Status Log, Submittals Log, an updated Construction Schedule, updated Contract Time and GMP Status, and progress photographs.

#### 2.15.2 Daily Diary

a. The CM/GC shall maintain a detailed daily diary of all events, which occur at the jobsite or elsewhere, and which affect, or may be expected to affect, Project progress. The diary shall record, as applicable, weather data, including minimum and maximum temperatures, precipitation type and amount, sky conditions, and wind velocities, and be used to support the standard Weather Delay Report. The diary shall include a detailed list of all material deliveries to the site and describe the construction activities of the day along with manpower and equipment usage, including that of the trade contractors. The diary shall be available to the Architect and OPR at all times and shall be turned over to the OPR upon completion of the Contract.

#### 2.16 Project Manual Documents

2.16.1 The following Bidding Requirements, Contract Forms, General Conditions of the Contract, and General Requirements shall be a part of the CSA-GMP and, in all cases in these documents, references to "General Contractor" shall mean the CM/GC:

- a. The Contract Documents will include AIA A201 – 2007 General Conditions of the Contract for Construction (with modification to be negotiated).
- b. Standard Bidding and Construction documents that are applicable to the CM/GC's Work are identified in Article 1 of the CSA-GMP.

#### **End of Scope of Services and Deliverables**

# Construction Services Agreement

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Between  
Rutherford County Public Building Authority, Inc.  
and  
Construction Manager / General Contractor

Where the Basis is a  
GAURANTEED MAXIMUM PRICE

## AGREEMENT

made as of the \_\_\_\_\_ Day of \_\_\_\_\_ in the year of  
Two Thousand

**BETWEEN** the **Rutherford County Public Building Authority, Inc. ("PBA")**

and the Construction Manager / General Contractor ("CM/GC"):

the Project:

the Architect:

The PBA and the CM/GC agree as set forth below.

**ARTICLE 1**  
**THE WORK AND THE CONTRACT DOCUMENTS**

- 1.1** The CM/GC shall perform all the Work required by the Contract Documents for the Project identified on page one.
- 1.2** The Contract Documents include the Master Contract and the Individual Contract elements of the Contract Documents identified below in Paragraph 1.4. These form the Contract and together constitute the entire agreement between the PBA and the CM/GC, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. An enumeration of the Contract Documents appears in paragraph 1.4.
- 1.3** Terms used in this Agreement which are defined in the General Conditions of the Contract shall have the meanings designated in those Conditions.
- 1.4** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:
- 1. The Construction Manager / General Contractor (CM/GC) Master Contract**  
Dated \_\_\_\_\_ between the PBA, and \_\_\_\_\_ for the project titled:
  - 2. This Agreement**
  - 3. General Conditions**  
*Specific reference information will be added here.*
  - 4. Supplementary Conditions**  
*Specific reference information will be added here.*
  - 5. Specifications**  
*Specific reference information will be added here.*
  - 6. Drawings, dated \_\_\_\_\_ and titled:**  
*Specific reference information will be added here.*
  - 7. The portions of the following Addenda as apply to the above documents:**  
*Specific reference information will be added here.*
  - 8. Scope of Services and Deliverables**  
*Specific reference information will be added here.*

**ARTICLE 2**  
**TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**2.1** The Work to be performed under this Contract shall be commenced on the date stipulated in the Notice to Proceed; and, subject to authorized adjustments, Substantial Completion shall be achieved for the work and each Phase thereof in accordance with the number of calendar days Contract Time allotted each, from and including the Commencement of each, wholly and severally for the Work of each Phase.

**2.2** Liquidated Damages, as set forth in the Contract Documents.

"Will Apply"

**ARTICLE 3**  
**CONTRACT SUM**

**3.1** The PBA shall pay the CM/GC in current funds for the performance of the Work an amount not to exceed the Guaranteed Maximum Price, also referred to as the "Contract Sum", of,

subject to additions and deductions by Modifications as provided in the Contract Documents.

**3.2** The Guaranteed Maximum Price (GMP) is determined as follows:

**Trade Contracts**  
**Self-Performance (3% limit)**  
**General Conditions Budget**  
**CM/GC Contingency**  
**CM/GC Construction Services Fixed Fee** \_\_\_\_\_  
**Guaranteed Maximum Price**

**3.3** Unit Prices will be used as specified.

This Agreement entered into as of the day and year first written above as witnessed:

**BY: Construction Manager / General Contractor**

\_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

**AND BY: RUTHERFORD COUNTY PUBLIC BUILDING AUTHORITY, INC.**

**SIGNATURE:** \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

**END of AGREEMENT FORM**

**PROPOSAL TRANSMITTAL/STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Proposer must complete and sign this Technical Proposal Transmittal. It must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFQ/P and any contract awarded pursuant to it.

**PROPOSER LEGAL ENTITY NAME:** \_\_\_\_\_

**PROPOSER FEDERAL TAXPAYER IDENTIFICATION NUMBER:** \_\_\_\_\_

**Tennessee Contractor License Information:**

License Number: \_\_\_\_\_

License Classification(s) applicable to Project: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_ Dollar Limit: \$ \_\_\_\_\_

**In regard to the project identified in the header above the Proposer does hereby affirm and expressly declare, confirm, certify, and assure the following:**

1. This proposal constitutes (a) a commitment to provide all services as defined in the RFQ/P Pro Forma Master Contract (MC) and attached Scope of Services for the total contract period and (b) confirmation that the Proposer shall comply with all of the provisions in this RFQ/P and shall accept all terms and conditions set out in the MC.
2. The information detailed in the proposal submitted herewith in response to the subject RFQ/P is accurate.
3. The proposal submitted herewith in response to the subject RFQ/P shall remain valid for at least 60 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFQ/P.
4. The Proposer acknowledges and accepts that the full proposal contents and associated documents shall become open to public inspection.
5. As applicable to the proposed Master Contract, the Proposer shall comply with:
  - a) the laws of the State of Tennessee;
  - b) Title VI of the federal Civil Rights Act of 1964;
  - c) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
  - d) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government;
  - e) the condition that the submitted proposal was independently arrived at, without collusion, under penalty of perjury; and,
  - f) the condition that no amount shall be paid directly or indirectly to an employee of Rutherford County, TN or official of the PBA as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the Procurement under this RFQ/P.
6. The Proposer shall provide proof of insurance in accordance with the requirements of the RFQ/P.
7. The Proposer acknowledges receipt of Addenda:
 

Addendum number and date: \_\_\_\_\_ Addendum number and date: \_\_\_\_\_

Addendum number and date: \_\_\_\_\_ Addendum number and date: \_\_\_\_\_

*By signing this Proposal of Certifications and Assurances, below, the signatory also certifies legal authority to bind the submitting entity to the provisions of this RFQ/P and any contract awarded pursuant to it.*

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Printed Name and Title:** \_\_\_\_\_

TECHNICAL PROPOSAL & EVALUATION GUIDE — SECTION A		
PROPOSER NAME:		
<b>SECTION A — MANDATORY REQUIREMENTS &amp; INFORMATION</b>		
<p>The Proposer must address all Mandatory Requirements &amp; Information items and provide, in sequence, the information and documentation as required (referenced with the associated item references). The RFQ/P Coordinator will review all general mandatory requirements &amp; information items, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>▪ Proposal received on or before the Proposal Deadline.</li> <li>▪ Technical Proposal packaged correctly.</li> <li>▪ Technical Proposal contains no cost data.</li> <li>▪ Proposer did not submit alternate proposals.</li> <li>▪ Proposer did not submit multiple proposals in a different form.</li> <li>▪ Technical Proposal does not contain any restrictions of the rights of the Owner or other qualification of the proposal.</li> </ul>		
Proposal Page # (to be completed by Proposer)	Pass/Fail Mandatory Requirement Items	Owner Use ONLY Pass/Fail
	<b>A.1</b> Provide the <i>Proposal Transmittal and Statement of Certifications and Assurances</i> (RFQ/P Attachment 6.2) completed and signed, in the space provided, by an individual empowered to bind the Proposer to the provisions of this RFQ/P and any resulting contract.	
	<b>A.2</b> Provide a statement on the firms experience at providing CM/GC services (pre-construction and construction phase services). A Proposer, to be considered, must have a minimum of five (5) years of experience as a CM/GC in providing these services outlined in RFQ/P Attachment 6.1 Pro Forma Master Contract. If proposing as a joint venture firm, each joint venture firm must meet the criteria above.	
	<b>A.3</b> Provide a letter(s) from an insurance and/or surety agency stating your firm’s capability to provide insurance and bonding for this Project. (Refer to RFQ/P Section 6.5 Exhibit B). Provide current percent of contract rate charged by the surety for your firm’s contract bond.	
	<b>A.4</b> Identify your firm’s form of business (i.e., individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and the name of the U.S. state in which it is established.	



	<b>A.5</b>	Provide a statement of whether there have been any mergers, acquisitions, or sales of your firm within the last five years, and if so, an explanation providing relevant details.	
	<b>A.6</b>	Provide the Quick Ratio and the Debt-to-Worth ratio for the last three years of your firm's operations. The information must be prepared according to the generally accepted accounting principles and certified by a CPA. The Owner may request CPA audited or reviewed financial statements from the apparent best-evaluated proposer prior to the final award of the contract. If the requested documents do not support the financial stability of the proposer the Owner reserves the right to reject the proposal. <i>(Note RFQ/P requirements for Joint Venture Proposals.)</i>	
	<b>A.7</b>	Provide your firm's annual construction services volume in revenue dollars and number of projects for the last three years and identify what percentage of each figure is for CM/GC services.	
	<b>A.8</b>	Provide your firm's insurance experience modification rate for the last three (3) years.	
	<b>A.9</b>	Provide a statement that discloses any pending litigation against your firm; and if such litigation exists, an attached opinion of counsel as to whether the pending litigation will impair your firm's performance in a contract under this RFQ/P.	
	<b>A.10</b>	Provide a statement declaring whether, in the last ten years, your firm has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details.	
	<b>A.11</b>	Identify your firm's contact person for the RFQ/P Coordinator regarding the proposal with mailing address, telephone number, and e-mail address.	
	<b>A.12</b>	<p>Conflict of Interest – Provide signed and dated Conflict of Interest Letter in a format substantially similar as Exhibit A. (RFQ/P Section 6.5).</p> <p>The PBA has adopted a resolution respecting conflicts of interest for employees and contractors. In submitting a response to this RFQ/P, each Proposer must certify that the proposal is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce or any other fraudulent act punishable under the laws of the United states of America or the State of Tennessee.</p>	

## TECHNICAL PROPOSAL & EVALUATION GUIDE — SECTION B

**PROPOSER NAME:**

### SECTION B — QUALIFICATIONS & EXPERIENCE

The Proposer must address all Qualifications and Experience section items and provide, in sequence, the information and documentation as required (referenced with the associated item references).

Proposal Page # (to be completed by Proposer)	Qualifications & Experience Items	Owner Use ONLY
	<p><b>B.1</b> Provide a brief, descriptive statement indicating your firm's credentials to deliver the services required by this RFQ/P. Include your firm's license information, number of employees, type of client base, and location of offices</p>	<b>0-6 Points</b>
	<p><b>B.2</b> Provide a Project Reference Form (2 pages following this section) for each of three projects similar in scope and complexity, completed or being constructed by your firm, and describe the services provided. For each project, complete the <i>Project Reference Form</i> (2 pages) included after this section.</p>	<b>0-8 Points</b>
	<p><b>B.3</b> Provide a list of current projects for which your firm is presently committed, or will be committed, with the client name, the dollar volume and time frame for each, the start and completion dates, and what services are being provided (e.g., Construction Manager, General Contractor, etc.).</p>	<b>0-2 Points</b>
	<p><b>B.4</b> Identify your firm's management, supervisory, and technical personnel that will be assigned to the project in the pre-construction phase and the construction phase.</p> <p>a. Provide one page resumes of key personnel with title/position, education, professional license or registration, and general employment history. Provide decision making authority of each person. Key personnel shall include, at a minimum, the project executive, project manager(s), superintendent(s), and pre-construction phase manager and cost estimator(s). Provide relevant references for the project manager(s) and superintendent(s) with names and contact information.</p> <p>b. Include a project organizational chart demonstrating the lines of authority and where each person is positioned for pre-construction and construction phases.</p>	<b>0-6 Points</b>
	<p>b. Provide the amount of time (in percentage or hours) that each of the key personnel will be committed to this Project during the pre-construction and construction phase.</p>	<b>0-6 Points</b>

	<p><b>B.5</b> Provide a table that identifies the personnel named in B.4 that worked on any projects named in B.2, and their job titles for those projects.</p>	<p><b>0-6 Points</b></p>
	<p><b>B.6</b> Provide a listing of the construction management consultants for Architectural, Civil, Structural, HVAC, Plumbing, and Electrical work that will be assigned to this project in the pre-construction phase, and be under the administrative control of the CM/GC. Provide names of each, with position, firm name (in or out of house), education, professional registration (if any), and general employment history.</p>	<p><b>0-6 Points</b></p>
<p>(Maximum Section B Score = 40 points)</p>		
<p>SCORE (for all Section B items above:</p>		

**Project Reference Form**

Project #

*Utilize project reference forms with Section B, Qualifications and experience, of the Qualifications and Evaluation Guide.*

<b>PROPOSER NAME:</b>	
Owner Name: _____	
Address: _____ City: _____ State: _____ Zip: _____	
Contact Person's Name: _____ Title: _____	
Phone: _____ E-Mail: _____	
Architect of Record: _____ Company Name: _____ Phone: _____	

**Project Information:**

Project Title:	
Owner's Project or Contract #:	
Project Location (City, State):	
Construction Start Date:	
Construction Final Completion Date:	
Project Square Footage (New):	
Project Square Footage (Renovation):	
Dollar Value of Construction: \$	
CM/GC Contingency Assigned: \$	
CM/GC Contingency Returned to Owner: \$	
Project Executive:	
Project Manager:	
Construction Superintendent(s):	
HVAC Subcontractor:	
Plumbing Subcontractor:	
Electrical Subcontractor:	
Masonry Subcontractor:	
Third Party Commissioning Agent (if used):	

**Project Reference Form**

**Project #**

*Utilize project reference forms with Section B, Qualifications and experience, of the Qualifications and Evaluation Guide.*

<b>PROPOSER NAME:</b>	
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Provide a brief description (maximum of one page) of the project that includes the scope of the work and the services provided by your firm. Relate the work in this project to the scope and required services contained in the RFQ/P.

## TECHNICAL PROPOSAL & EVALUATION GUIDE — SECTION C

PROPOSER NAME:

### SECTION C — TECHNICAL APPROACH

The Proposer must address all Technical Approach section items and provide, in sequence, the information and documentation as required (referenced with the associated item references).

Proposal Page # (to be completed by Proposer)	Technical Approach Items	Owner Use ONLY
	<b>C.1</b> Provide a brief, descriptive summary for the following:	
	a. A brief statement indicating your firm’s approach to delivering the services required by this RFQ/P.	<b>0-4 Points</b>
	b. Describe your firm’s experience with the processes and tools used, and examples of LEAN construction on similar size projects.	<b>0-3 Points</b>
	c. Describe your firm’s capabilities and processes for utilizing technology during Preconstruction, Construction and Close-out Phases (Project software, Building Information Modeling, etc.).	<b>0-3 Points</b>
	<b>C.2</b> Provide a brief descriptive summary for the following:	
	a. Value Analysis: Describe the process by which your firm performs value analysis so as to achieve an appropriate balance between costs and function. Provide a sample value analysis report from one of the projects listed in the <i>Project Reference Form</i> , section B.2.	<b>0-3 Points</b>
	b. Constructability Items: Identify three constructability items in regard to the projects listed in the <i>Project Reference Form</i> , section B.2, and provide a brief description of your firm’s approach to these items. Summarize the contribution of each constructability review to the project.	<b>0-3 Points</b>
	c. Cost Model/Estimates: Provide the cost model format used on one of the projects listed in the <i>Project Reference Form</i> , section B.2, and describe the timing of its updates during pre-construction services phase, and summarize how the final construction cost related to this cost model.	<b>0-3 Points</b>
	<b>C.3</b> Provide a brief descriptive summary for the following:	
	a. Project Tracking/Reporting: Describe your firm’s approach and procedures for project tracking and reporting, including scheduling, and accounting. Name the software used. Provide an example of a progress report.	<b>0-3 Points</b>

	<p>b. Request for Information, Request for Proposals, change orders, and shop drawings: Describe your firm's approach to handling, tracking and reporting these documents to ensure accuracy and timeliness.</p>	<b>0-3 Points</b>
	<p>c. Quality Control: Describe how your firm implements processes and tools to insure quality control throughout pre-construction and construction phases. Describe how your firm tracks, manages, and reports the CM/GC GMP contingency.</p>	<b>0-4 Points</b>
	<p><b>C.4</b> Provide a brief descriptive summary for the following:</p> <p>a. Subcontractor Evaluation/Selection: Describe your firm's procedure for qualifying, evaluating, and selecting qualified subcontractors.</p>	<b>0-2 Points</b>
	<p>b. Independent Commissioning: Describe your firm's experience working with an independent commissioning agent.</p>	<b>0-2 Points</b>
	<p><b>C.5</b> Equal Opportunity:</p> <p>a. Provide signed and dated Equal Opportunity or Anti-Discrimination Letter. Each Proposer must submit with its proposal a signed statement that it will not engage in discriminatory practices. PBA encourages the meaningful participation of minority owned businesses in the project, which includes small-owned business, disadvantaged business enterprises, women business enterprises and minority business enterprises. In the performance of services pursuant to the contract with the PBA, the Proposer must not discriminate against any employee or applicant for employment because of race, religion, sex, national origin, or physical impairment except where race, religion, sex, national origin, or physical impairment is a bona fide occupational qualification reasonably necessary to the normal operation of the Proposer.</p> <p>b. Provide a description of your firm's existing programs and procedures designed to encourage and foster equal opportunity or anti-Discrimination commerce.</p>	<b>0-2 Points</b>
(Maximum Section C Score = 35 points)		
SCORE (for all Section C items above, C.1 through C.5):		

**PROPOSAL SCORE SUMMARY MATRIX**

Evaluator	Qualification & Experience 40 Points						Technical 35 Points						Total Q&E+T	Normalized Total
	1	2	3	4	5	Median	1	2	3	4	5	Median		
Proposer A														
Proposer B														
Proposer C														
Proposer D														
Proposer E														

The median of the scores of all evaluator for the Q&E+T will be totaled and then the scores will be normalized to give the highest score a value of 75 points. The formula is:

$$\frac{\text{Proposers Median Score Total Q\&E+T}}{\text{Highest Median Score Total Q\&E+T}} \times 75 \text{ Points}$$

Evaluators select top three Proposers from the Technical Proposals (Qualification, Experience & Technical Approach) for presentations and interviews by the PBA. Refer to Evaluation Process RFQ/P Section 4.2.

Cost Proposals are requested from the evaluated top three Proposers (only).



## **PROJECT(S) DESCRIPTIONS**

### **Old Judicial Building Remodeling**

This project is the interior renovation of an existing five story building located on the Murfreesboro Public Square. The building occupants were re-located into the County's new Judicial Building last year. The existing spaces are to be remodeled for other county offices currently located in various locations throughout the County.

Four floors of the existing building (first, second, fourth and fifth) will be remodeled. Total area of renovation to be approximately 20,000 square feet. Plans are currently being developed and will be available for review prior to interviews.

### **Archives Building Addition**

This project is the additional of a new two story to the existing Count Archives Building located in Murfreesboro, Tennessee. The addition is warehouse type space to allow for expanding the collection of archived material. The addition is approximately 11,000 square feet. Plans will be available for review upon request.

**EXHIBIT A  
RUTHERFORD COUNTY  
PUBLIC BUILDING AUTHORITY  
CONFLICTS OF INTEREST POLICY**

1. A company that is owned by a current PBA member will not be eligible to enter into a contract with the PBA.
2. A company that has an employee on the current PBA will not be eligible to enter into a contract with the PBA.
3. A company that has an employee or owner on the PBA and is working with another company in a joint venture or partnerships for a potential PBA project, both companies will not be eligible for such project.
4. Members of the PBA who own firms that provide professional services or who are employed by firms that provide professional services (architecture, engineering, surveying) such firms will not be eligible to perform professional services for an architect or anyone else and can not work on any aspect of the PBA directly or indirectly concerning the project.
5. Members of the PBA who own firms or who are employed by firms that provide construction services, subcontractor services, or other professional services will not be eligible to work on PBA projects in a manner that receives monetary compensation.
6. A PBA member who is a contractor or service provider will NOT be allowed to purchase material items from companies that are owned by PBA members or who employ PBA members. A PBA Member who is a contractor or service provider may provide second tier (major subcontractors) with services relating to PBA projects provided that the fair market price is paid. This would be specific for a PBA project only.
7. Any past PBA member will be ineligible to enter into contracts, bid on, or work on PBA projects for twelve months, if a Bi-Party or Tri-Party Agreement has been entered into with the County while the member served on the PBA board.
8. PBA members may only purchase county property at a public event or through the disclosure of sealed bids.
9. The PBA requests that a person not be appointed to the PBA if he/she is a paid employee of the County or Municipalities.
10. PBA members doing business with a contractor or other professionals, who pursues work on a contract with the PBA must disclose such relations.

I, \_\_\_\_\_, being the authorized agent of the hereinafter said company hereby state neither our firm nor any of our employees violate the Conflict of Interest Policies stated herein by the Rutherford County Public Building Authority.

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

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name

## **Exhibit B - Insurance Requirement Guideline**

Prior to Award the CM/GC shall provide Certificate(s) of Insurance

All insurance coverages required below, except for Workers' Compensation, shall name the PBA as an additional insured and shall be written in a comprehensive form that meets or exceeds the following insurance requirements:

Type of overage	Limits of Coverage	Detail
Commercial General Liability (Contractor Controlled Insurance Program allowed)	Combined single Limits for bodily injury and property damage \$1,000,000 Each Occurrence \$3,000,000 Aggregate \$3,000,000 Products-Completed Operations Aggregate (for injuries or property damages caused by faulty workmanship)	Premises & Operations; Underground, Explosion & Collapse; Products & Completed Operations; Contractual; Independent Contractors; Owner/Contractor Protective; Broad form Property Damage; Personal Injury (employment exclusion deleted)
Automobile Liability (Owned, Non-Owned, and Hired Vehicles)	\$1,000,000 Combined single limit each accident for bodily injury and property damage	
Workers' Compensation	Statutory Limits (Applicable Federal and State)	Certificate Holder only (with Wavier of Subrogation)
Employers Liability	\$500,000 Bodily Injury Each Accident \$1,000,000 Policy Limit Bodily Injury or Disease \$500,000 Each Employee Bodily Injury by Disease	Certificate Holder only
Aircraft and/or Watercraft Liability (Owned, Non-owned, and Hired)	\$1,000,000.00 Combined single limit each accident for bodily injury and property damage (if applicable)	
Builders Risk	Total Insurable property value of building and materials with Special Cause of Loss Form	
Installation Floater	Total Insurable property value of installation and materials	

**Exhibit B – Insurance Requirement Guideline continued**

Type of Coverage	Limits of Coverage	Detail
Pollution/ Environmental Liability	\$1,000,000 Per Occurrence and \$1,000,000 Aggregate	If asbestos abatement or other hazardous material abatement is included in the scope of work then the pollution policy must include coverage for same. If Contractor is performing no portion of the asbestos removal or other abatement with its own forces, Contractor may substitute a certificate of insurance from its subcontractor evidencing Contractor's Pollution Liability Coverage that includes coverage for the material being abated. The minimum limit of this policy will be the same. Such coverage by the subcontractor or does not relieve the Contractor's requirement for Contractor's Job Pollution Liability Coverage in the minimum limits required.
Umbrella or Excess Liability	\$5,000,000 Each Occurrence and \$5,000,000 Aggregate	