



**Construction  
Management-at-Risk  
REQUEST FOR  
PROPOSALS**

**PROPOSAL MUST BE RECEIVED BEFORE:  
2:00 p.m., December 13, 2012  
Opening will be public**

**MAIL PROPOSAL TO:**

**City of South Padre Island**  
City Secretary Office  
4601 Padre Blvd  
South Padre Island, TX 78597

**HAND DELIVER AND/OR  
EXPRESS MAIL TO:**

**City of South Padre Island**  
City Secretaries Offices  
4601 Padre Blvd  
South Padre Island, TX 78597

**NOTE: RESPONSES** must be time stamped at **the City of South Padre Island Secretarys office** before the hour and date specified for receipt of responses.

The statement of qualifications and proposal shall be submitted in an opaque envelope plainly marked with the name and address of the entity submitting a response. The response envelope must contain the following: Additions and Renovations to the South Padre Island Convention Center and the date and time of the submittal deadline.

A contract will not be awarded on opening day. The City of South Padre Island will only award after study and consideration of responses. Acceptance of responses shall not constitute or imply The City's acceptance of the suitability of the respondent or response. Prices and other proposal details will be divulged after the award, as allowed.

For information regarding any part of this proposal, call: Diana Bravo Gonzalez, AIA phone: (956) 688-2307 or (956) 545-5504

**NOTE:** Proposals received after the 2:00 p.m. deadline will not be accepted and will be returned to bidders unopened.

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## SECTION 1

### INTRODUCTION

#### 1.1 **Description of City of South Padre Island (“The City”)**

1.2 South Padre Island lies on the southernmost tip of Texas and is situated on the south end of Padre Island, the longest Barrier Island in the world and the largest stretch of undeveloped ocean beach in North America. It sits just 30 miles north of Mexico and is linked to the mainland by a two and a half mile long bridge, the Queen Isabella Memorial Causeway.

1.3

The City of South Padre Island is home to an estimated 5,000 people, and according to the Convention and Visitors Bureau, over one million people visit the Island every year

The City of South Padre Island, Texas wishes to increase the size of their current convention facility which was built in 1992 in order to accommodate larger groups and functions. They also wish to renovate the current existing facility which is now 20 years old and in need of some repairs and interior updates

#### 1.2 **Background and Special Concerns**

- A. **Definition:** A “construction manager-at-risk” is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to The City regarding construction during and after the design of the facility.
- B. **Architects and Engineers:** Before or concurrently with selecting a construction manager-at-risk, The City shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with the Texas Engineering Practice Act (Article 3271a, Texas Revised Civil Statutes [Vernon]), or the Texas Architectural Practice Act (Article 249a, Texas Revised Civil Statutes [Vernon]), as applicable.
- C. **Trade Contractors and Subcontractors:** A construction manager-at-risk shall publicly advertise and solicit either competitive bids or competitive sealed proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in general conditions. A construction manager-at-risk may seek to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if The City determines that the construction manager-at-risk’s bid proposal provides the best value for the institution. The City’s determination in such matters is final.
- D. **Receipt of Bids or Proposals:** The construction manager-at-risk and The City shall receive and open all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process. All bids and proposal shall be made public within seven (7) days after the date of final selection.
- E. **Acceptance of Recommendations for Trade Contractors and Subcontractors:** If the construction manager-at-risk reviews, evaluates, and recommends to The City a bid or proposal from a trade contractor or subcontractor, but The City requires a bid or proposal from another trade contractor or subcontractor to be accepted, then, pursuant to the terms of the Contract, The City shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk, which has been demonstrated to The City’s satisfaction and as required by the Contract, that the construction manager-at-risk may incur because of The City’s requirement that another trade contractor or subcontractor bid or proposal be accepted.
- F. **Scope, Schedule, Budget:** Detailed information about scope, schedule, and budget, are contained in section 5.2 herein below.

### 1.3 Objective

The objective is for the City of South Padre Island is to select one Construction Manager-at-Risk organization to provide pre-construction and construction phase services for the \$27,000,00 Additions and Renovations to the South Padre Island Convention Center .By selecting the Construction Manager-at-Risk, it is the desire of the City of South Padre Island to complete facilities by December 2014

## SECTION 2

### NOTICE TO RESPONDENTS

#### 2.1 General

**The City** is accepting qualification information concurrently with, competitive sealed proposals for a construction management-at-risk contract, pursuant to the one step process noted in Sec. 2267.253 Selection Process of the, *Texas Government Code*, in accordance with the terms, conditions and requirements set forth in this Request for Proposal (“RFP”), . This RFP provides sufficient information for interested parties to prepare and submit submittals for consideration by The City.

**RESPONDENTS ARE CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.**

#### 2.2 Submittal Deadline

The City will accept proposals until 2:00 CST December 16, 2012. They will be publicly read shortly after

#### 2.3 The City Contacts

City of South Padre Island respectfully requests that none of the short list respondents contact any member of the SPI City Council and Executive Administration. This will allow for a process that will be based upon submission information and a fair evaluation of criteria established within this RFP.

Any questions or concerns regarding this Request for Proposal shall be directed to:

Diana Bravo Gonzalez, AIA  
Broaddus & Associates  
111 E Jasmine Ave Suite 102  
McAllen Texas 78501  
(956)688-2307 Wk., (956)545-5504 cell  
dgonzalez@broaddusassociates.com

The City specifically requests that Respondents restrict all contact and questions regarding this RFP to the above named individual.

#### 2.4 Type of Contract

After proposals are received in response hereto, and an award of contract is made, the successful respondent will be required to enter into a contract in the form of the Construction Manager-at-Risk Agreement attached hereto.

Submission of a proposal indicates Respondent’s acceptance of the terms and conditions of the CM @ R Agreement, attached hereto for reference.

**ANY SIGNIFICANT CHANGES TO THE AGREEMENT WILL REQUIRE THE OWNER TO ALLOW THE OTHER RESPONDENTS AN OPPORTUNITY TO SUBMIT REVISED PROPOSALS SO AS TO PRESERVE THE NOTION OF FAIR COMPETITION. PLEASE SUBMIT ISSUES, QUESTIONS OR COMMENTS REGARDING RFP AS PART OF RESPONSE.**

## **2.5 Inquiries and Interpretations**

Responses to inquiries which directly affect an interpretation or change to this RFP will be issued in writing by addendum (amendment) and mailed to all parties recorded by The City as having received a copy of the RFP. All such addenda issued by The City prior to the time that proposals are received shall be considered part of the RFP, and the Respondent shall be required to consider and acknowledge receipt of such in his proposal. Firms receiving this RFP other than directly from The City are responsible for notifying The City that they are in receipt of a proposal package and are to provide a name and address in the event an amendment is issued.

Only those inquiries The City replies to which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect. The Respondent must acknowledge receipt of all addenda in Section 7.4 of this RFP.

There will be a pre-proposal meeting on November 29, 2012, at 2:00 p.m., at the South Padre Island Convention Center. At this meeting, respondents will have an opportunity to ask any questions regarding this RFP. This pre proposal is not mandatory but encouraged.

## **2.6 Public Information**

The City considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.) after a contract is awarded.

Respondents are hereby notified that The City strictly adheres to all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFP information.

## **2.7 Contract Award Process**

An award to one or more respondents for the construction management-at-risk services specified herein will be made following a procedure using competitive sealed proposals. Proposals will be opened publicly to identify the names of the Respondents, and the monetary proposals. Other contents of the proposals will be afforded security sufficient to preclude disclosure of the contents of the proposal prior to award. Within 30 days after the date of opening the proposals, The City will evaluate and rank each proposal with respect to the selection criteria contained in the Request for Proposals (RFP). After opening and ranking, an award may be made on the basis of the proposals initially submitted, without discussion, clarification or modification, or, The City may discuss with the selected Respondent offers for cost reduction and other elements of the Respondent's proposal. If The City determines that it is unable to reach a contract satisfactory to The City with the selected Respondent, then The City will terminate discussions with the selected Respondent and proceed to the next Respondent in order of selection ranking until a contract is reached or The City has rejected all proposals. The City may not disclose any information derived from the proposals submitted from competing offers in conducting such discussions. The City reserves the right to award a Contract for all or any portion of the requirements proposed by reason of this request, award multiple Contracts, or to reject any and all proposals if deemed to be in the best interests of The City and to re-solicit for proposals, or to reject any and all proposals if deemed to be in the best interests of The City and to temporarily or permanently abandon the procurement. If the City awards a contract, it will award the contract to the offeror or offerors whose proposal is the most advantageous to The City and offers the best value, considering price and the evaluation factors set forth in the RFP. The contract file must state in writing the basis upon which the award is made.

## **2.8 Criteria for Award**

The Respondent(s) selected will be the Respondent whose qualifications, as presented in the response to this RFP, are the most advantageous and offer the best value to The City.

Responses will be evaluated by Convention Center Planning Group. The criteria for evaluation of proposals, and selection of the qualified respondent(s), will be based on the factors listed below:

- A. Respondent's proposed fees set forth in Section 7.
- B. Respondent's capability to perform the construction management services for the project.

- C. Respondent's project execution plan and technical competence as a construction manager.
- D. Respondent's utilization of project scheduling, throughout the design and construction phases, in construction management.
- E. Respondent's utilization of a project cost control plan, in construction management, which will assure that the Owner's project budget shall not be exceeded.
- F. Respondent's capability to perform a quality control process during the entire project duration.
- G. Respondent's job site safety program.
- H. The Respondent's local participation plan in terms of adequacy & probable level of success.

Consideration may also be given to any additional information and comments if they should increase the benefits to The City.

**2.9 Respondent's Acceptance of Evaluation Methodology**

Submission of proposals indicates Respondent's acceptance of the evaluation technique and Respondent's recognition that some subjective judgments must be made by The Convention Planning Group during the determination of ranking order and award.

**2.10 Commitment**

Respondent understands and agrees that this RFP is issued predicated on anticipated requirements for City of South Padre Island and that The City has made no representation, written or oral, that any such requirements be furnished under a Contract arising from this RFP. Furthermore, Respondent recognizes and understands that any cost borne by the Respondent which arises from Respondent's performance hereunder shall be at the sole risk and responsibility of Respondent.

**2.11 Local Business Participation**

It is desire of City of South Padre Island to maximize local and Rio Grande Valley participation and to promote and encourage contracting and subcontracting opportunities for Locally Owned Businesses and labor in all contracts. Accordingly, the Construction Manager at Risk will be required to outline local participation plan and documentation thereof.

**2.12 Key Events Schedule:**

Pre Proposal Conference	November 29, 2012 2:00 CST
Receive RFP's	December 13, 2012 2:00 CST
City Council Approval	December 19, 2012
NTP Preconstruction Services	January 2, 2013
GMP	September 2013
Substantial Completion	December 2014

**2.13 Eligible Respondents**

Only individual firms or lawfully formed formal business organizations may apply, unless, if the Respondent does not meet the foregoing criteria, the Respondent states in writing to The City that, if awarded the contract, it will lawfully form a formal business organization in a timely manner so as not to delay the Project. Any associates will be disqualified. (This does not preclude an applicant from having consultants.) The City will contract only with individual firms or formal organizations such as a) joint ventures, b) limited liability corporations, c) partnerships, or d) corporations authorized to do business in the State of Texas.

## SECTION 3

### PROPOSAL REQUIREMENTS

#### 3.1 General Instructions

- A. Respondents should carefully read the information contained herein, and submit a complete response to all requirements and questions as directed.
- B. Proposals and any other information submitted by Respondents in response to this RFP shall become the property of The City.
- C. The City will not provide compensation to Respondents for any expenses incurred by the Respondent(s) for proposal preparation or for any demonstrations that may be made, unless otherwise expressly stated or required by law. Respondents submit qualifications and proposals at their own risk and expense.
- D. Submittals which are qualified with conditional clauses, or alterations, or items not called for in the RFP documents, or irregularities of any kind are subject to disqualification by The City, at its option.
- E. Each proposal should be prepared simply and economically, providing a straightforward, concise description of your firm's ability to meet the requirements of this RFP. Emphasis should be on completeness, clarity of content, responsiveness to the requirements, and an understanding of The City's needs.
- F. The City makes no guarantee that an award will be made as a result of this RFP, and reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP or contract when deemed to be in The City's best interest. Representations made within the qualifications submittal and any subsequent proposal will be binding on responding firms. The City will not be bound to act by any previous communication or proposal submitted by the firms other than this RFP.
- G. Firms wishing to submit a "No-Response" are requested to return the first page of the Execution of Offer (ref. Section 6). The returned form should indicate your company's name and include the words "No-Response" in the right-hand column.
- H. Failure to comply with the requirements contained in this RFP may result in a finding that the respondent is not qualified and is ineligible to submit a proposal in response to any RFP.

#### 3.2 Preparation and Submittal Instructions

- A. Respondents must complete, sign and return the attached Execution of Offer, Section 6, as part of their qualifications proposal response. Proposals must be signed by Respondent's company official(s) authorized to commit such proposals. Failure to sign and return these forms will subject your proposal to disqualification.
- B. Responses to this RFP should consist of answers to required questions in Section 8 Respondent Questionnaire. It is not necessary to repeat the question in your response; however, it is essential that you reference the question number with your response corresponding accordingly. In cases where a question does not apply or if unable to respond, reference the question number and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Briefly explain your reason when responding N/R.
- C. Page Size, Binders and Dividers

Proposals must be typed on letter-size (8-1/2" x 11") paper. The City requests that proposals be submitted in a binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections should be divided by tabs for ease of reference. Number each side

of each page consecutively, including letter of interest, brochures, licenses, resumes, supplemental information, etc. Submittals must be limited to 100 pages. Covers, table of contents and divider tabs will not count as pages, provided no additional information is included on those pages. Provide the number of copies of the submittal specified in the advertisement. Any submittals exceeding the 100-page limit will be disqualified.

D. Table of Contents

Include with the proposal a Table of Contents that includes page number references. The Table of Contents should be in sufficient detail to facilitate easy reference of the sections of the proposal as well as separate attachments (which should be included in the main Table of Contents). Supplemental information and attachments included by your firm (i.e., not required) should be clearly identified in the Table of Contents and provided as a separate section.

E. Pagination

All pages of the proposal should be numbered sequentially within each section response in Arabic numerals (1, 2, 3, etc.) Attachments should be numbered or referenced separately.

F. Number of Copies

Submit a total of Ten (10) complete copies of the entire response. An original signature must appear on the Execution of Offer (ref. Section 6) on at least one (1) copy submitted.

G. Submission

1. Ten (10) identical copies of the proposal including any supplemental printed material referenced with the RFP, must be submitted and received in the The City Secretaries office of The City of South Padre Island on or before the time and date specified, pursuant to the Notice to Respondents (ref. Subsection 2.2) and delivered to:

City of South Padre Island  
City Secretaries office  
4601 Padre Blvd  
South Padre Island, TX 78597

NOTE: Show the Project name and submittal date in the lower left-hand corner of your sealed proposal envelope (box/container).

2. The materials submitted must be enclosed in a sealed envelope (box or container); the package must show clearly the submittal deadline; the project name number must be clearly visible; and name and the return address of the Respondent must be clearly visible.
3. Late proposals properly identified will be returned to Respondent unopened. Late proposals will not be considered under any circumstances.
4. Telephone proposals are not acceptable when in response to the Request for Proposals.
5. Facsimile ("FAX") proposals are not acceptable when in response to this Request for Proposals.

### **3.3 Bonding**

Attach a letter of intent from a surety company indicating the applicant's bond ability for this project. The surety shall acknowledge that the firm may be bonded for each phase of the project, with a potential maximum construction cost not to exceed \$25,000,000. Bonding requirements are set forth in section 4.16E of this RFP.

### **3.4 Pricing**

Respondent must complete Pricing and Delivery Schedule Section 7

- A. Pricing reflects the full Scope of Work defined herein; inclusive of all associated cost for delivery, labor, insurance, taxes, overhead, and profit, or as otherwise defined, as appropriate.
- B. The City will not recognize or accept any charges or fees to perform this work that are not specifically stated in the Respondent's proposal.
- C. Cash or prompt payment discounts will not be considered in determining an award. All payment discounts offered will be taken, if earned and deemed in The City's best interest.

### **3.5 Submittal Checklist**

Firms are instructed to complete, sign, and return the following documents as a part of their proposal submittal. Failure to return these documents may subject your proposal to disqualification.

- Bonding letter (ref. Section 3.3)
- Signed and Completed Execution of Offer (ref. Section 6)
- Pricing and Delivery Schedule (ref. Section 7)
- Responses to Respondent's Questionnaire (ref. Section 8)

## **SECTION 4**

### **GENERAL TERMS AND CONDITIONS**

#### **4.1 General**

These General Terms and Conditions shall be made a part of and govern any Purchase Order and/or Contract, if any, resulting from this Request for Proposal. The successful offeror will be required to enter into the form of Agreement found at Exhibit A and hereby agrees to do so by signing this Request for Proposals. When the Agreement is signed by the successful offeror the terms of the Contract, including, without limitation, the Agreement shall supersede these General Terms and Conditions.

#### **4.2 Definitions**

Whenever the following terms are used in these General Terms and Conditions or in the other Contract Documents the intent and meaning shall be interpreted as follows:

Contract Documents shall mean the documents that form the Contract between The City and the Contractor. The Contract Documents consist of the Agreement or Purchase Order, Owner's Standard Uniform and Supplemental General Conditions, Conditions of the Contract (this Section 4 - General Terms and Conditions, and any Additional or Special Conditions issued for this RFP), Specifications, Pricing, Scheduling and Proposal Particulars, Execution of Offer, Respondent's Questionnaire, and all Addenda and Amendments issued prior to and after the execution of the Contract.

The City shall mean City of South Padre Island.

Respondent shall mean the individual, partnership, corporation, or other entity responding to this RFP.

Contractor shall mean the individual, partnership, corporation, or other entity awarded a Contract for Construction Management at Risk services under this RFP, in accordance with the terms, conditions, and requirements herein.

Project shall mean the complete undertaking by Contractor to provide the goods and/or services contemplated by the Contract.

### **4.3 Entire Agreement**

The Contract Documents, for all intents and purposes, are intended as the complete and exclusive statement of the agreement between The City and the Contractor and supersede all prior or contemporaneous agreements, negotiations, course of prior dealings, or oral representations relating to the subject matter hereof.

The terms and conditions of any purchase order, agreements, amendments, modifications, or other documents submitted by either party which conflict with, or in any way purport to amend or add to any of the terms and conditions of the Contract are specifically objected to by the other party and shall be of no force or effect, nor shall govern in any way the subject matter hereof, unless set forth in writing and signed by both parties.

### **4.4 Time of Performance**

Time is of the essence in the rendering of services hereunder. Contractor agrees to perform all obligations and render services set forth per this Contract in accordance with the schedules herein and as mutually agreed upon between The City and Contractor during the term of this Contract.

#### **A. Work Hours**

All work required hereunder shall be performed during standard business hours, 8:00 a.m. to 5:00 p.m. (CT), Monday through Friday, excluding The City observed holidays, or as otherwise agreed, or in accordance with standard industry practice.

### **4.5 Default**

In the event that the Contractor fails to carry out or comply with any of the terms and conditions of the Contract with The City, The City may notify the Contractor of such failure or default in writing and demand that the failure or default be remedied within ten (10) days; and in the event that the Contractor fails to remedy such failure or default within the ten (10) day period, The City shall have the right to cancel the Contract.

Without limiting the foregoing, the following shall constitute a material breach by the Contractor, upon the occurrence of which the Contractor shall immediately notify The City; the Contractor ceases its business operation, makes a general assignment for the benefit of creditors, is adjudged bankrupt, or becomes insolvent.

The cancellation of the Contract, under any circumstances whatsoever, shall not effect or relieve Contractor from any obligation or liability that may have been incurred or will be incurred pursuant to the Contract and such cancellation by The City shall not limit any other right or remedy available to The City at law or in equity.

### **4.6 Termination**

#### **A. For Convenience:**

The Contract may be terminated, without penalty, by The City without cause by giving thirty (30) days' written notice of such termination to the Contractor.

B. In no event shall such termination by The City as provided for under this Section give rise to any liability on the part of The City including, but not limited to, any claims of Contractor for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. The City's sole obligation hereunder is to pay Contractor for products and/or services ordered and received prior to the date of termination.

### **4.7 Payment**

Prior to ten (10) days before the end of each calendar month during the term of this Agreement, Contractor shall submit to the City an application for payment covering the services performed to that date, which application shall be accompanied by lien waivers and other forms, statements, invoices, and payroll reports that The City may reasonably require to support the amount requested and to be submitted. The City will, within thirty (30) days from the date it receives such application and supporting documentation for payment, approve or disapprove the amount reflected in such application and if The City approves such amount or any portion of such amount, it shall promptly

pay to Contractor the amount so approved, provided Contractor is not in breach of or in default under this Agreement. If The City disapproves any amount requested by Contractor, The City shall give Contractor specific reasons for its disapproval in writing.

The cumulative amounts of monthly progress payments as set forth in this Article ("Progress Payment") shall not exceed the amount of Contractor's total price, previously approved and accepted by The City, for the goods or services hereunder.

Ten (10) days after final completion of the goods or services and acceptance thereof by The City or as soon thereafter as possible, Contractor shall submit a final request ("Final Request") which shall set forth all amounts due and remaining unpaid to Contractor and upon approval thereof by The City, The City shall pay to Contractor the amount due ("Final Payment") under such Final Request.

Any provision hereof to the contrary notwithstanding, The City shall not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor hereunder if any one or more of the following conditions precedent exist:

Contractor is in breach or default;

Any part of such payment is attributable to goods or services which are not performed in accordance with this Contract, provided, however, such payment shall be made as to the part thereof attributable to goods and services which are performed in accordance with this Contract, or the resultant purchase order or agreement;

Contractor has failed to make payments promptly to its consultants, subcontractors, suppliers, or other third parties used in connection with the goods or services for which The City has made payment to Contractor; or

If The City, in its good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the goods or services in accordance with this Contract, no additional payments will be due Contractor hereunder unless and until Contractor, at its sole cost, performs a sufficient portion of the goods and services so that such portion of the compensation then remaining unpaid is determined by The City to be sufficient to so complete the goods and services.

No partial payment made hereunder shall be or construed to be final acceptance or approval of that part of the goods or services to which such partial payment relates or relieve Contractor of any of its obligations hereunder with respect thereto.

Contractor shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of its obligations pursuant to this Contract.

The acceptance of Final Payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the Final Request for payment.

The City shall have the right to verify the details set forth in Contractor's billings, certificates, and statements, either before or after payment therefore, by (1) inspecting the books and records of Contractor at mutually convenient times; (2) examining any reports with respect to this Project; (3) interviewing Contractor's business employees; (4) visiting any place where performance of all or a portion of the Project occurs; and (5) other reasonable action.

Invoices must reference The City purchase order number and must agree in every detail with the Contract. The City's suggested payment terms are 2%/10 NET 30.

#### **4.8 Contract Amendments**

The Contract may be amended within the Contract period by mutual consent of the parties. No modification or amendment to the Contract shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the Contract must be forwarded to The City's Designated Representative.

#### **4.9 Independent Contractor Status**

Contractor recognizes that it is engaged as an independent contractor and acknowledges that The City will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Contractor, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct

itself consistent with such status, that it will neither hold itself out as nor claim to be an officer, partner, employee or agent of The City by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of The City, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Contractor hereby agrees to make its own arrangements for any of such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law.

#### **4.10 Compliance with Law**

Contractor is aware of, is fully informed about, and in full compliance with its obligations under existing applicable law and regulations, including Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000(D)), Executive Order 11246, as amended (41 CFR 60-1 and 60-2), Vietnam Era Veterans Readjustment Act of 1974, as amended (41 CFR 60-250), Rehabilitation Act of 1973, as amended (41 CFR 60-741), Age Discrimination Act of 1975 (42 USC 6101 et seq.), Non-segregated Facilities (41 CFR 60-1), Omnibus Budget Reconciliation Provision, Section 952, Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended, Immigration Reform and Control Act of 1986, and Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (PL 96-507), the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.), the Civil Rights Act of 1991 and all laws and regulations and executive orders as are applicable.

#### **4.11 The City's Right to Audit**

At any time during the term of any Contract resulting from this solicitation and for a period of four (4) years thereafter The City or a duly authorized audit representative of The City, or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided under this Contract. In the event such an audit by The City reveals any errors/overpayments by The City, Contractor shall refund The City the full amount of such overpayments within thirty (30) days of such audit findings, or The City, at its option, reserves the right to deduct such amounts owing The City from any payments due Contractor.

#### **4.12 Access to Documents**

To the extent applicable to this procurement, in accordance with Public Law 99-499 under TEFRA, Contractor agrees to allow, during and for a period of not less than four (4) years after the Contract term, access to this Contract and its books, documents, and records; and contracts between Contractor and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives.

#### **4.13 Title and Risk of Loss**

For goods to be provided by Contractor hereunder, if any, the title and risk of loss of the goods shall not pass to The City until the City actually receives, takes possession, and accepts the goods at the point or points of delivery.

#### **4.14 Acceptance of Products and Services**

All products furnished and all services performed under this Contract shall be to the satisfaction of The City and in accordance with the specifications, terms, and conditions of the Contract. The City reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.

#### **4.15 Sales and Use Tax**

The City, as an agency of the State of Texas, qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The Contractor may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.

#### **4.16 Insurance and Bonds**

For any Contract resulting from this procurement which requires the Contractor to provide on-site services, the Contractor shall, prior to commencement of work, provide The City with Certificates of Insurance in the below

amounts and shall maintain such coverage in effect for the full duration of the Contract, unless such Contract specifies different coverage's or amounts.

Workers' Compensation:	Statutory
Employer's Liability	\$ 500,000.00
Comprehensive General Liability:	\$1,000, 000.00 each occurrence
	\$1,000,000.00 in the aggregate
	\$1,000,000.00 products
	\$1,000,000 personal & adv. injury
	\$50,000.00 fire damage
	\$5,000.00 medical expense

Comprehensive Automobile Liability (Any auto, hired auto, non-owned auto)

Bodily Injury:	\$1,000,000.00 each person
	\$1,000,000.00 each occurrence
Property Damage:	\$1,000,000.00 each occurrence

Owner's and Contractor's Protective Builder's Risk:	\$1,000,000 full value of contract
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Contractor shall deliver to The City:

Certificates evidencing the existence of all such insurance promptly after the execution and delivery hereof and prior to the continued or additional performance of any services to be performed by Contractor hereunder from or after the date of any agreement or purchase order; and

Replacement certificates not less than thirty (30) days prior to the expiration of any such insurance. If, however, Contractor fails to pay any of the renewal premiums for the expiring policies, The City shall have the right to make such payments and set-off the amount thereof against the next payment coming due to Contractor under any purchase order or agreement; and

Such Certificates shall name The City as an Additional Insured, with the exception of Workers' Compensation and Employer's Liability, and shall provide that the policies will not be canceled until after thirty (30) days' unconditional, unqualified written notice to The City, giving the City the right to pay the Premium to maintain coverage, in which event Paragraph 4.16.B.2 shall apply.

The insurance policies specified herein shall be kept in force for the periods specified below:

Commercial General Liability Insurance, Auto Liability, Builder's Risk, and Owner's and Contractor's Protective shall be kept in force until receipt of final payment by the Contractor;

Workers' Compensation Insurance shall be kept in force until the Contractor's obligations have been fully performed and substantial completion certificate has been issued by The City in writing.

Contractor shall provide The City a full and complete copy of any insurance policy promptly upon request by The City, and without charge to The City.

1. Respondent shall provide evidence satisfactory to Owner of bonding capacity in the total estimated maximum amount of the construction management-at-risk contract along with Respondent's response to this Request for Qualifications.
2. Payment and Performance Bonds shall be supplied within ten (10) days of execution of the GMP. A Payment Bond is not required on contracts of \$25,000.00 or less. A Performance Bond is not required on contracts of \$100,000.00 or less. If the total contract price exceeds \$25,000.00, the Contractor shall execute in accordance with the provisions of Chapter 2253, Texas Government Code, a Payment Bond in the amount equal to the total contract amount, solely for the protection of those supplying labor, materials and/or equipment in the prosecution of the subject contract. If the total contract price exceeds \$100,000, the Contractor shall execute in accordance with the provisions of said Chapter 2253, Texas Government

Code, a Performance Bond in the amount of the total contract price conditioned upon the faithful performance of the contract, solely for the protection of City of South Padre Island.

3. Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to the Owner, and on the Owner's form. If any bond is for more than 10 percent of the surety's capital and surplus, the Owner may require certification that the company has reinsured the excess portion with one or more reinsurers authorized, accredited, or trusted to do business in the State. A reinsurer may not reinsure for more than 10 percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, the Contractor shall within thirty (30) days after such loss furnish a replacement bond at no added cost to the Owner.
4. Each bond shall be accompanied by a valid Power-of-Attorney (issued by the surety company and attached, signed and sealed with the corporate embossed seal, to the bond) authorizing the attorney in fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.

#### **E. Bonding**

Each bond with a penal sum in excess of \$100,000 shall be executed by a corporate surety or sureties listed on the then-current version of U.S. Treasury Department circular 570 and which hold a certificate of authority from the U.S. Secretary of the Treasury as a surety, or obtain reinsurance from a reinsurer authorized as a reinsurer in Texas and which is listed on the then-current U.S. Treasury Department circular 570 and holds a certificate of authority from the U.S. Secretary of the Treasury as a surety or reinsurer.

Bonds: The Construction Manager @ Risk Contractor will be required upon execution of Part II – Construction Phase Services, and as part of GMP Submission, to execute a Bonds as required in Section 4.16.

#### **4.17 Indemnification**

**TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR AND ITS AGENTS, PARTNERS, EMPLOYEES, AND CONSULTANTS (COLLECTIVELY "INDEMNITORS") SHALL AND DO AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY THE CITY, AND HOLD HARMLESS THE THE CITY AND CITY OF SOUTH PADRE ISLAND SYSTEM, ITS AFFILIATED ENTERPRISES, REPRESENTATIVES OF THE THE CITY, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, REGENTS, PARTNERS, EMPLOYEES AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING ATTORNEY FEES, OF ANY NATURE, KIND, OR DESCRIPTION (COLLECTIVELY "LIABILITIES") OF ANY PERSON OR ENTITY WHOMSOEVER ARISING OUT OF, CAUSED BY, OR RESULTING FROM THE PERFORMANCE OF SERVICES, OR PROVISION OF GOODS, BY CONTRACTOR PURSUANT TO THIS CONTRACT, OR ANY PART THEREOF, WHICH ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY IT OR ANYONE FOR WHOSE ACTS IT MAY BE LIABLE EVEN IF IT IS CAUSED IN PART BY THE NEGLIGENCE OR OMISSION OF ANY INDEMNITEE, SO LONG AS IT IS NOT CAUSED BY THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE. IN THE EVENT MORE THAN ONE OF THE INDEMNITORS ARE CONNECTED WITH AN ACCIDENT OR OCCURRENCE COVERED BY THIS INDEMNIFICATION, THEN EACH OF SUCH INDEMNITORS SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE TO THE INDEMNITEES FOR INDEMNIFICATION AND THE ULTIMATE RESPONSIBILITY AMONG SUCH INDEMNITORS FOR THE LOSS AND EXPENSE OF ANY SUCH INDEMNIFICATION SHALL BE SETTLED BY SEPARATE PROCEEDINGS AND WITHOUT JEOPARDY TO ANY INDEMNITEE. THE PROVISIONS OF THIS ARTICLE SHALL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH THE CITY OR ANY OF THE INDEMNITEES HAS BY LAW.**

**CONTRACTOR SHALL PROTECT AND INDEMNIFY THE THE CITY FROM AND AGAINST ALL CLAIMS, DAMAGES, JUDGMENTS AND LOSS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT, OR COPYRIGHT, ARISING BY OR OUT OF ANY OF THE SERVICES PERFORMED OR GOODS PROVIDED HEREUNDER OR THE USE BY CONTRACTOR, OR BY THE CITY AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL, PROVIDED THAT UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR PATENT OR COPYRIGHT INFRINGEMENT, THE CITY SHALL PROMPTLY NOTIFY**

**CONTRACTOR AND CONTRACTOR SHALL BE GIVEN FULL OPPORTUNITY TO NEGOTIATE A SETTLEMENT. CONTRACTOR DOES NOT WARRANT AGAINST INFRINGEMENT BY REASON OF THE CITY'S DESIGN OF ARTICLES OR THE USE THEREOF IN COMBINATION WITH OTHER MATERIALS OR IN THE OPERATION OF ANY PROCESS. IN THE EVENT OF LITIGATION, THE CITY AGREES TO COOPERATE REASONABLY WITH CONTRACTOR AND PARTIES SHALL BE ENTITLED, IN CONNECTION WITH ANY SUCH LITIGATION, TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.**

**The indemnities contained herein shall survive the termination of any agreement or purchase order for any reason whatsoever.**

#### **4.18 Force Majeure**

If either The City or Contractor (individually, a "Party") is delayed at any time in the performance of its obligations hereunder by economic industry-wide strikes, fire, unusual delay in deliveries, unavoidable casualties, or other causes reasonably beyond such Party's control and which could not have been reasonably anticipated by such Party, then the time for performance of such Party shall be extended by one (1) day for each day of such delay.

#### **4.19 Other Benefits**

It is understood and agreed that no benefits, payments or considerations received by Contractor for the performance of services associated with and pertinent to the resultant Contract shall accrue, directly or indirectly, to any employees, elected or appointed officers or representatives, or any other person identified as agents of, or who are by definition an employee of, the City.

#### **4.20 Non-Disclosure**

Contractor and The City acknowledge that they or their employees may, in the performance of the resultant Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Contractor or The City, unless (i) required by law, (ii) by order of any court or tribunal, (iii) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (iv) such information has been acquired from other sources.

#### **4.21 Publicity**

Contractor agrees that it shall not publicize this potential Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of The City's employees or use The City's name in connection with any sales promotion or publicity event without the prior express written approval of The City.

#### **4.22 Assignment**

The potential agreement with Contractor resulting from this RFP is a personal service contract for the services of Contractor, and Contractor's interest in such agreement, duties thereunder and/or fees due thereunder may not be assigned or delegated to a third party. The benefits and burdens of such agreement are, however, assignable by The City.

#### **4.23 Assignment of Overcharge Claims**

Contractor hereby assigns to The City any and all claims for overcharges associated with the Contract arising under the antitrust laws of the United States, 15 U.S.C.A., Sec. 1 et seq. (1973), or arising under the antitrust laws of the State of Texas, Texas Business and Commerce Code Annotated, Sec. 15.01, et seq. (1967).

#### **4.24 Severability**

In case any provision hereof, or of any resulting agreement or purchase order, shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid or unenforceable provision had not been included herein.

#### **4.25 Non-Waiver of Defaults**

No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party hereto of any of the provisions of this Contract shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions, or agreements thereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement therein contained.

#### **4.26 Patent and Copyright**

Contractor shall pay for any royalties, license fees, copyrights or trade and service marks required to perform the services required by any resulting Contract.

#### **4.27 Texas Public Information Act**

The City considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq) after a contract is awarded.

Respondents are hereby notified that The City strictly adheres to all statutes, court decisions, and opinions of the Texas Attorney General regarding the disclosure of RFP information.

#### **4.28 Freedom of Access and Use of Facilities**

Contractor's employees shall have reasonable and free access to use only those facilities of The City that are necessary to perform services under a resulting Contract and shall have no right of access to any other facilities of The City.

#### **4.29 Observance of The City Rules and Regulations**

Contractor agrees that at all times its employees will observe and comply with all regulations of the facilities, including but not limited to, no smoking, and parking and security regulations.

#### **4.30 Section Headings**

All section headings are for convenience of reference only and are not intended to define or limit the scope of any provisions of this RFP.

#### **4.31 Notices**

Any notices required or permitted to be given shall be in writing and effective upon receipt and shall be sent by certified mail, return receipt requested, postage pre-paid, addressed as follows:

If to Contractor, to the Contractor's last known mailing address.

If to The City:

Joni Clarke  
City Manager  
4601 Padre Blvd  
South Padre Island, TX 78597

#### **4.32 Governing Law**

This RFP, and any resulting Contract, agreement or purchase order, shall be construed and governed by the laws of the State of Texas.

**4.33 Hazardous Material Abatement**

Hazardous material abatement is not included within the scope of work.

**SECTION 5**

**SPECIFICATIONS**

**5.1 General**

The City requests proposals from qualified and experienced firms for Additions and Renovations to the City of South Padre Island Convention Center meeting the following minimum specifications stated in this Section.

**5.2 Specifications/Scope of Work**

	<b>Renovations</b>	<b>CCL</b>	<b>New Construction</b>	<b>CCL</b>
<i>Exhibit Hall</i>	22,500	<b>\$2,925,000</b>		
<i>New Exhibit Hall (addition)</i>			18,000	<b>\$4,500,000</b>
<i>Meeting Rooms</i>	12,000	<b>\$1,560,000</b>		
<i>Administration space</i>	2,500	<b>\$325,000</b>	3,000	<b>\$750,000</b>
<i>Kitchen</i>	3,000			
<i>Lobby Circulation/ Pre Function Space</i>	16,000	<b>\$2,080,000</b>	6,000	<b>\$1,500,000</b>
<i>Storage</i>	5,000	<b>\$650,000</b>	2,000	<b>\$500,000</b>
<i>Restroom and Support services</i>	15,000	<b>\$1,950,000</b>	4,000	<b>\$1,000,000</b>
<i>Ballroom (addition)</i>		<b>\$0</b>	6,000	<b>\$1,500,000</b>
	76,000	\$9,490,000	39,000	\$9,750,000
<b>TOTAL SQ FT</b>	<b>115,000</b>			
Preliminary Cost Estimate				
<b>TOTAL BUILDING CCL</b>	<b>\$19,240,000</b>			
<i>Parking Garage</i>	<b>\$5,000,000</b>	Allowance		
<i>Sitework</i>	<b>\$1,000,000</b>	Allowance		
<b>CCL</b>	<b>\$25,240,000</b>			

**B. Estimated Project Budget:**

The Construction Cost Limitation to include Preconstruction Services, Construction Manager's Fees, Cost of Work, Allowances, and Contingencies is as per above program cost breakdown.

Respondents are instructed to carefully review all project information which has been provided to interested potential respondents.

**5.3 Delivery**

- A. Schedule: A Generic project schedule will be provide as part of this RFP.
- B. Time will be of the essence in the performance of Contractor's duties. Failure of the Contractor to notify The City sufficiently in advance of inability to complete within the delivery schedule, shall grant The City the option of canceling the Contract, purchasing from the best available source, and charging the Contractor the difference between the Contract price and actual purchase, if any, plus cost of handling. Notwithstanding the foregoing, The City shall have no obligation to accept late performance or to waive timely performance by Contractor.

**5.4 Miscellaneous Provisions**

A. Personnel

Contractor shall maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Contract.

- 1. Contractor shall assign to the City a designated representative who will be responsible for the coordination and administration of The City's requirements.

B. Project Execution

The City shall provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by The City.

**5.5 Liquidated Damages**

For each consecutive calendar day after the completion period established in the contract that any work, including the correction of deficiencies found during final testing and inspection, is not completed, the amount of One Thousand Dollars (\$1,000) will be deducted from the money due or becomes due to the Construction Manager, not as a penalty but as liquidated damages representing the parties' estimate at the time of the contract execution of the damages which the Owner will sustain for late completion. This will be determined as part of contract negotiations.

**SECTION 6**  
**EXECUTION OF OFFER**

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED, AND RETURNED WITH RESPONDENT'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSAL MAY RESULT IN REJECTION OF THE PROPOSAL.

SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED PROPOSAL OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S PROPOSAL, AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS AT THE CITY. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT THE CITY'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT OR PURCHASE ORDER.

By signature hereon, Respondent acknowledges and agrees that (1) this RFP is a solicitation for proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Respondent in response to this RFP will not create a contract between The City and Respondent; (3) The City has made no representation or warranty, written or oral, that one or more contracts with The City will be awarded under this RFP; and (4) Proposer shall bear, as its sole risk and responsibility, any cost which arises from Respondent's preparation of a response to this RFP.

By signature hereon, Respondent offers and agrees to furnish to The City the products and/or services more particularly described in its proposal, at the at the prices quoted in the proposal, and to comply with all terms, conditions and requirements set forth in the RFP documents and contained herein.

By signature hereon, Respondent affirms that he has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted proposal.

By signature hereon, a corporate Respondent certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporate Respondent is exempt from the payment of such taxes, or that the corporate Respondent is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable.

By signature hereon, the Respondent hereby certifies that neither the Respondent nor the firm, corporation, partnership or institution represented by the Respondent, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this state, codified in Section 15.01, et. seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

By signature hereon, Respondent represents and warrants that:

Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the RFP;

Respondent has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the RFP;

Respondent is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances;

Respondent understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Contract under which Respondent will be required to operate;

Respondent, if selected by The City, will maintain insurance as required by the Contract;

All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Respondent acknowledges that The City will rely on such statements, information and representations in selecting the Successful Respondent. If selected by The City as the Successful Respondent,

Respondent will notify The City immediately of any material change in any matters with regard to which Respondent has made a statement or representation or provided information.

By signature hereon, Respondent certifies that the individual signing this document and the documents made part of the RFP is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements which may result from the submission of Respondent's proposal.

By signature hereon, Respondent certifies that if a Texas address is shown as the address of the Respondent, Respondent qualifies as a Texas Resident Respondent as defined in Rule 1 TAC 111.2.

By signature hereon, Respondent certifies as follows:

"Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

"Under Section 2155.004, Texas Government Code, the vendor or applicant certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

"Under Section 2254.004, Texas Government Code, the vendor or applicant certifies that each individual or business entity which is an engineer or architect proposed by Respondent as a member of its team was selected based on demonstrated competence and qualifications only."

By signature hereon, Respondent certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and an employee of any The City of Texas component, or Respondent has not been an employee of any The City of Texas component within the immediate twelve (12) months prior to your RFP response. All such disclosures will be subject to administrative review and approval prior to The City entering into any contract with Respondent.

By signature hereon, Respondent affirms that no compensation has been received for participation in the preparation of the specifications for this RFP. (ref. Section 2155.004 Texas Government Code).

Respondent represents and warrants that all articles and services quoted in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation.

By signature hereon, Respondent signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

By signature hereon, Respondent agrees to defend, indemnify, and hold harmless the The City, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any agreements or other contractual arrangements which may result from the submission of Respondent's proposal.

By signature hereon, Respondent agrees that any payments that may become due under any agreements or other contractual arrangements which may result from the submission of Respondent's proposal will be applied towards any debt including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.

Please complete the following:

Respondent's VIN No: \_\_\_\_\_

Respondent's FEI No: \_\_\_\_\_

If Sole Owner:

Respondent's SS No: \_\_\_\_\_

If a Corporation:

Respondent's State of Incorporation: \_\_\_\_\_

Respondent's Charter No: \_\_\_\_\_

Please identify each person who owns at least 25% of Respondent's business entity by name and social security number:

\_\_\_\_\_

Name

\_\_\_\_\_

Social Security Number

Submitted and Certified By:

\_\_\_\_\_

(Respondent's Name)

\_\_\_\_\_

(Authorized Signature)

\_\_\_\_\_

(Date)

\_\_\_\_\_

(Printed Name/Title)

\_\_\_\_\_

(Telephone Number)

\_\_\_\_\_

(Street Address)

\_\_\_\_\_

(Facsimile Number)

\_\_\_\_\_

(City, State, Zip Code)

## SECTION 7

### PRICING AND DELIVERY SCHEDULE See attached

## SECTION 8

### RESPONDENT QUESTIONNAIRE

**Respondents are requested to submit a complete response to each of the below listed items. Responses requiring additional space should be brief and submitted as an attachment to your proposal package. Please reference each response by its item number indicated below.**

**A. CRITERION: Respondent's proposed fees set forth in Section 7**

Refer to Section 7, Pricing and Delivery Schedule

**B. CRITERION: Respondent's capability to perform the construction management services for the project:**

Describe your management plan for performing the work required of this project and include your program for managing subcontractors and material providers.

Describe your method of subcontractor contract award process including review/approval by Owner.

List separately all key personnel to be employed on site and those to be employed in home office for this project.

Describe your plan for partnering and team building at all levels for this project.

Describe how you propose to interface with the design team and influence the design process.

Describe your firm's start-up and commissioning (closeout procedures) procedures for this project.

Describe the pre-construction and construction phase services to be provided by your firm for this project.

**C. CRITERION: Respondent's project execution plan, schedule, and technical competence as a construction manager:**

Describe your project execution plan, and schedule for this project.

Describe the types of records, reports, monitoring systems, and information management systems which your firm will utilize on this project.

Describe your plan for assuring that the project design meets the Owner's contract requirements.

Describe your procedures and objectives for reviewing the design and construction documents and providing feedback to the A/E and Owner.

Describe your method of assuring that materials, equipment, and construction methods meet the Owner's design requirements.

Describe your constructability methodology for this project and how you would implement it.

Comment on the feasibility and integration of Respondent's proposal, based on quality/schedule/cost criteria established in this RFP and recommend any improvements in the proposal.

Describe your firm's procedures for implementing the industry's "best practices" as defined by the Construction Industry Institute and similar organizations; Establishing project objectives; Project scope definitions, such as the Project Definitions Rating Index (PDRI) in assisting the Owner to obtain complete and accurate construction documents from the A/E; Partnering; Change (order) management system; Total quality management for each

phase, including close-out and commissioning; Dispute resolution among Owner, contractor, and subcontractors or suppliers; and Any others not listed.

**D. CRITERION: Respondent's utilization of project scheduling throughout the design and construction phases, in construction management.**

Describe in detail the project scheduling system or methodology you propose to use on this project.

Identify all key process steps, phases, milestones, approvals, and project meetings you commonly anticipate.

Describe your execution plan for meeting or shortening the Owner's schedule; During design; and During construction.

Describe any phased construction you anticipate.

Describe your ability to provide a scheduling system utilizing Primavera Project Planner (P3).

**E. CRITERION: Respondent's utilization of a project cost control plan, in construction management, which will assure that the Owner's project budget shall not be exceeded.**

Describe your cost control methods and what procedures you will utilize to maintain the GMP within the Owner's budget for this project.

Describe your project financial plan and the projected monthly cash flow (draw-down) during the design and construction phases.

Describe your cost control method for confirmation of subcontractor pricing with Owner.

Describe your firm's plans for cost reporting and tracking and change order management systems.

Describe the contingencies you would propose to be contained within the GMP and during what phase.

Describe your payment plan to the subcontractors and material suppliers.

Describe your cost estimating system using CSI format.

**F. CRITERION: Respondent's capability to perform a quality control process during the entire project duration.**

Describe your firm's quality control program for each phase of this project in detail.

Describe your quality control objectives for this project.

Identify the quality control team for this project and their duties.

Describe how you will effect the quality control of the project during the design process and development of construction documents.

Describe how you propose to control the quality of construction performed by your subcontractors on this project.

**G. CRITERION: Respondent's job site safety program.**

Describe your job site safety program plan for this project and specific safety policies in which employees must be in compliance.

Identify the safety team, and their duties for this project.

**H. CRITERION: Service Support**

Describe your company's service support philosophy, how it is carried out, and how success in keeping this philosophy is measured. Provide a minimum of three (3) reference letters, from previous project customers, which describe your firm's response and performance quality regarding warranty service after building substantial completion. (Use similar building types if possible.)

#### **EXHIBITS TO THE RFP**

**The following documents are a part of the RFP and are provided for information purposes and will be incorporated into the CM at Risk Agreement.**

Sample CM at Risk Agreement  
**Pricing and Delivery Schedule**