

CITY OF GAINESVILLE

REQUEST FOR PROPOSAL



RFP No. 21021

Lake Lanier Olympic Park Boathouse – Construction Manager at Risk Services

Proposal Release:	August 25, 2021
Mandatory Pre-Proposal Conference:	September 8, 2021
Proposal Questions Deadline:	September 15, 2021
Proposal Due Date:	September 24, 2021
Interviews (if necessary):	TBD

Postal Return Address:

City of Gainesville
Purchasing Office
P.O. Box 2496
Gainesville, GA 30503

Courier Delivery Address:

City of Gainesville
Purchasing Office
300 Henry Ward Way, Room 201
Gainesville, GA 30501

City of Gainesville

Request for Proposal



RFP No. 21021

Lake Lanier Olympic Park Boathouse – Construction Manager at Risk Services

OVERVIEW

The City of Gainesville (the City) requests Proposals from Construction Management at Risk (CMAR) firms for the Construction of a new Boathouse at Lake Lanier Olympic Park. Upon completion of a review of proposals received, the City anticipates awarding a contract for pre-construction services, and at the City's discretion, a subsequent change order for construction of the new facility.

The City intends to demolish the existing boathouse and build a new boathouse to be located in Gainesville, Georgia at Lake Lanier Olympic Park, and is considering the services of a CMAR firm to manage the construction, provide technical review during the pre-construction period, and provide cost evaluation assistance to the architectural and engineering team. The CMAR will assume responsibility for project construction cost by issuing a guaranteed maximum price (GMP). The GMP will be a contractual obligation.

The CMAR will also develop an overall final project schedule, which will be a contractual obligation. In addition, the CMAR will be responsible for methods of construction, safety, and the scheduling and coordination of the work of all construction and miscellaneous contracts required for completion of the project within its established budget and schedule.

The CMAR will be expected to work closely with the design team, the City and their representatives to develop final documents and separate bid packages if required.

The CMAR will be responsible for pricing, value engineering, and maintainability and constructability issues. When the design documents for the project have been developed in sufficient detail, the CMAR, with the support and assistance of the Architect, will commit to a GMP for all construction and site development. If the City requests multiple bid packages, construction will commence with the issuance of the first bid package while remaining bid packages are being finalized. The CMAR shall competitively select construction subcontracts and other work appropriate for competitive selection using cost and other factors. The successful CMAR can perform work with his own forces, but shall not be eligible to enter into contract or subcontract for any of the construction or other services of any nature on the project without the written approval of the City.

In selecting a firm, the City will place emphasis on experience of the firm and assigned personnel in CMAR contracts for projects of similar magnitude and complexity as the proposed project. Emphasis will also be placed on firms having depth, knowledge, and resources in principles of contracting, scheduling, contract coordination and compliance, budget control, familiarity with State and local laws, ordinances and codes as demonstrated by prior experience, and strategies for encouraged participation by local companies and laborers.

Preliminary Construction Budget: \$16,000,000

Preliminary Construction Schedule: 18 months

Refer to the exhibit "D" 50% Design Development Documents Package provided by Millard, Inc. dated June 1, 2021 as a reference point in compiling proposals. The following documents are included in the 50% Construction Documents Package:

1. 50% Construction Drawings. Refer to drawing index on cover sheet for list of sheets.
2. Preliminary Project Manual Table of Contents. Complete specifications and final project manual shall be provided at award of contract.
3. Outline Specification

The CMAR will be responsible for developing the detailed schedule and coordinating activities to accomplish the scheduled completion of the project.

Owner (City)-Construction Manager at Risk Agreement:

The Construction Manager at Risk (CMAR) will be under contract to supply pre-construction services and subsequently, by change order, construction services (under the Agreement) to complete the project and place the City in occupancy of the project in a "turnkey" fashion. The City has contracted with the Architect separately from the CMAR. Once a GMP is agreed upon between the City and the CMAR, the CMAR may be issued a change order for the amount of the GMP and will be "at risk" for project price, project schedule, and completion of all construction as set forth in the Contract Documents. The CMAR shall hold all trade contracts and trade supplier contracts.

PROPOSAL CORRESPONDENT

Upon Release of this RFP, all vendor communications concerning this acquisition must be directed to the Architect's correspondent listed below:

Matthew J Millard

Email: mmillard@millardinc.net

Unauthorized contact regarding the proposal with other City of Gainesville employees or members of the Selection Committee may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City of Gainesville. Vendor should rely only on written statements issued by the proposal correspondent.

MANDATORY PRE-PROPOSAL CONFERENCE

A mandatory Pre-Proposal Conference will be held at 2:00 PM Eastern Daylight Time on Tuesday, September 8, 2021 in the Tower Meeting Room, 2020 Lake Lanier Olympic Park, 3105 Clarks Bridge Road, Gainesville, GA 30506. The doors will be closed precisely at 2:00 PM and only those in attendance for the entire meeting will be allowed to submit a proposal.

PROPOSAL QUESTIONS

All questions must be submitted in writing to the proposal correspondent named above. Questions must be received by 10:00 a.m., September 15, 2021. A list of questions and answers will be provided via Addendum to all known proposers and by request. Requests may be made to the proposal correspondent named above.

All responses, inquiries, or correspondence relating to this RFP will become the property of the City when received and shall be regarded as public record. All information received in response to this RFP, including copyrighted material, is deemed public information and will be made available for public viewing and copying after the time for receipt of proposals has passed, and the award has been made, with the following four exceptions: (1) bona fide trade secrets meeting confidentiality requirements that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by the City; (3) any company financial information requested by the City to determine vendor responsibility, unless prior written consent has been given by the offeror; and (4) other constitutional protections.

PROPOSAL RESPONSE DATE AND LOCATION

The Administrative Services Department must receive the vendor's proposal in a sealed envelope, in its entirety, no later than 2:00 PM, Eastern Standard Time in Gainesville, Georgia on September 24, 2021.

Proposals arriving after the deadline will be returned unopened to their senders. **The RFP Certification and Schematic Estimate of Construction Cost Exhibit "C" attached to this RFP must be enclosed in a separate sealed envelope.** All proposals and accompanying documentation will become the property of the City of Gainesville and may not be returned. One (1) original and five (5) copies of this proposal must be submitted to allow for evaluation. Proposals must be clearly marked on the outside of the package:

**Attn: Kevin Hutcheson
City of Gainesville
300 Henry Ward Way
Suite 201
Gainesville, GA 30503**

Lake Lanier Olympic Park Boathouse– Construction Manager at Risk Services

Vendors assume the risk of the method of dispatch chosen. The City of Gainesville assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual proposal receipt. Late proposals will not be accepted nor will additional time be granted to any vendor. Proposals may not be delivered by facsimile transmission or other telecommunication or solely by electronic means.

Proposal Schedule:

Proposal Release:	August 25, 2021
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WAIVER OF TECHNICALITIES

All items must meet or exceed specifications as stated by the City. The City reserves the right to waive any technicalities and to reject or accept any Proposal in its entirety or to accept any portion thereof if it is determined that either method results in lower costs, better service, final satisfaction or is otherwise determined to be in the best interest of the City. Award may be made by item number or in total. Determination of best response to proposal will be the sole judgment of the City. Proposals shall remain valid for ninety days from the date of proposal opening.

PROPOSAL REJECTION

The City of Gainesville reserves the right to reject any or all proposals at any time without penalty.

Any vendor, who acts as a supplier to another vendor submitting a proposal and also submits a proposal of their own, will be viewed as participating in Collusive behavior. This behavior displays a pattern or practice of unethical or immoral business practices. Any vendor associated with this practice may be banned from doing business with the City of Gainesville for up to three years.

MODIFICATION OF PROPOSALS

Any clerical mistake that is patently obvious on the face of the proposal may, subject to the limitations described below, be corrected upon written request and verification submitted by the proposers. A nonmaterial omission in a proposal may be corrected if the Administrative Service Department determines that correction to be in the City's best interest. Omissions affecting or relating to any of the following shall be deemed material and shall not be corrected after Proposal opening:

- (1) Price Information; and
- (2) Any required Insurance

WITHDRAWAL OF PROPOSALS

Proposals may be withdrawn at any time prior to the proposal opening. After proposals have been publicly opened, withdrawal of a proposal shall be based upon the following:

The Proposer shall give notice in writing of his claim of right to withdraw their proposal due to an error within two business days after the conclusion of the proposal opening procedure. Proposals may be withdrawn from consideration if the price is substantially lower than the other proposals due solely to a mistake therein, provided the proposal was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the proposal, which unintentional arithmetical error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the proposal sought to be withdrawn. The proposer's original work papers shall be the sole acceptable evidence of error and mistake if he elects to withdraw his proposal. If a proposal is withdrawn under the authority of this provision, the second most responsive proposal shall be deemed to be the best proposal.

PROPOSER'S RESPONSIBILITY

When determining whether a proposer is responsible, or when evaluating a proposal, the following factors may be considered, any one of which will suffice to determine whether a proposer is responsible or the

proposal is the most advantageous to the City:

- The ability, capacity and skill of the proposer to perform the contract or provide the equipment and/or service required.
- The character, integrity, reputation, judgment, experience and efficiency of the proposer.
- Whether the proposer can perform the contract within the time specified.
- The quality of performance of previous public and private contracts or services, including, but not limited to, the proposer's failure to perform satisfactorily or complete any written contract. The City's termination for default of a previous contract with a proposer, within the past three years, shall be deemed to be such a failure.
- The previous and existing compliance by the Proposer with laws relating to the contract or service.
- Evidence of collusion with any other Proposers, in which case colluding proposers will be restricted from submitting further proposals on the subject project or future proposals, for a period not less than three years.
- The proposer has been convicted of a crime of moral turpitude or any felony, excepting convictions that have been pardoned, expunged or annulled, whether in this state, in any other state, by the United States, or in a foreign country, province or municipality. Proposer shall affirmatively disclose to the City all such convictions, especially of management personnel or the proposers as an entity, prior to notice of award or execution of a contract, whichever comes first. Failure to make such affirmative disclosure shall be grounds, in the City's sole option and discretion, for termination for default subsequent to award or execution of the contract.
- If the proposer will be unable, financially or otherwise, to perform the work.
- At the time of the proposal opening, the proposer is not authorized to do business in the State of Georgia, or otherwise lacks a necessary license, registration or permit.
- Any other reason deemed proper by the City.

NON-ENDORSEMENT

As a result of the selection of a vendor to supply products and/or services to the City, the City is neither endorsing nor suggesting that the vendor's product is the best or only solution. The vendor agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.

PROPRIETARY PROPOSAL MATERIAL

Any information contained in the proposal that is proprietary will be neither accepted nor honored. All information contained in this proposal is subject to public disclosure.

RESPONSE PROPERTY OF THE CITY OF GAINESVILLE

All material submitted in response to this request becomes the property of the City. Selection or rejection of a response does not affect this right.

NO OBLIGATION TO BUY

The City reserves the right to refrain from contracting with or purchasing from any vendor. The release of this proposal does not compel the City to purchase.

COST OF PREPARING PROPOSALS

The City is not liable for any cost incurred by vendors in the preparation and presentation of proposals and demonstrations submitted in response to this proposal.

NUMBER OF PROPOSAL COPIES REQUIRED

Vendors are to submit one (1) original Proposal and five (5) copies.

ADDENDA

Proposers are responsible to check the City of Gainesville's website for the issuance of any addenda prior to submitting a proposal. The address is <http://www.gainesville.org/purchasing>

PROPOSAL AWARD AND EXECUTION

The City will select the proposal that, in its sole discretion, is the most responsive and responsible proposal to the City. The City reserves the right to make any award without further discussion of the proposal submitted; there may be no best and final offer procedure. Therefore, the proposal should be initially submitted on the most favorable terms the Proposer can offer. The City reserves the right to interview firms if necessary. After interviews (if required), candidates will be ranked and the City will then negotiate a contract with the highest ranked firm. If negotiations are not successful, the City will then negotiate with the second-ranked proposer and so on.

Should the owner require additional time to award the Contract, the time may be extended by the mutual agreement between the Owner and the successful Proposer. If an award of Contract has not been made within ninety days from the Proposal due date or within the extension mutually agreed upon, the Proposer may withdraw the Proposal without further liability on part of either party.

LOCAL VENDOR PREFERENCE

Local Vendor means a bidder or offeror which operates and maintains a brick and mortar business, i.e. a physical business address, within the city limits of the City of Gainesville, has a current business license, has paid in full all real and personal taxes owed the City, is considered a vendor in good standing with the City and can obtain an active vendor status.

A local vendor may receive an opportunity to match for purchases, bids, proposal or contracts over \$20,000 and less than \$150,000. The local vendor may be given an opportunity to match the lowest price proposal, if the quotation or bid of the local vendor is within 3% of the lowest price proposal by a non-local vendor. In the event a local vendor matches the lowest price proposal, including all other terms, quality, services and conditions, then the local vendor shall be awarded the contract.

In the event the price proposal of more than one local vendor is within 3% of the lowest overall price proposal of a non-local vendor, the local vendor with the lowest proposal will be given the first opportunity to match the lowest overall price proposal. If this local vendor declines to match the price proposal, then the local vendor with the next lowest bid within 3% will be given the opportunity to match the lowest proposal. This process will continue with all local vendors having proposal within 3% of the lowest overall

bid by a non-local vendor.

Policy to be stated. This policy shall be so stated in all applicable solicitations.

Exemptions. This provision does not apply to public works construction projects or road projects pursuant to the laws of the State of Georgia (O.C.G.A §36-91 or §32-4).

PROPOSAL REQUIREMENTS/EVALUATION CRITERIA

The City will evaluate all written submittals. It is incumbent upon the proposers to demonstrate within their proposals how each requirement will be satisfied. All Proposals must meet the specification as outlined in this RFP. The City reserves the right to investigate the qualifications and experience of the proposers, or to obtain new proposals. Proposals not sufficiently detailed or in an unacceptable form may be rejected by the City. Dates and documentation included in the proposal become public information upon opening of the proposals. Interested firms must follow the process outlined in the following pages in submitting their proposal.

The following criteria, not listed in order of importance, will be used to evaluate proposals.

20 points **Successful experience in constructing similar facilities for public entities**

20 points **Successful experience in constructing facilities for City of Gainesville**

10 points **Successful experience with the CMAR process**

20 points **Qualifications for proposed project team**

10 points **Proposed approach and management plan**

10 points **Financial information**

10 points **Interviews (if necessary)**

NOTE: Schematic pricing provided by Proposer's will not be used or scored as part of the evaluation process. Schematic pricing provided will be utilized by the City for budgeting and financial planning purposes only.

Proposal Requirements

1. Letter of Interest - A letter executed by a principal of the firm committing to the requirements specified in this Request.
2. Experience - Provide proof of five (5) years of continuous operations in business and provide documentation of successful completion of construction of at least three (3) like kind projects completed in the last ten (10) years similar to the Project under this RFP. The total cost should be at least six million (\$6,000,000) per project. Please note projects which were delivered as CMAR and projects which were contracted directly with a local government entity. Please note projects which were contracted directly with the City of Gainesville. Client references for each project must be included with confirmed email and phone numbers.
3. Project Team - Provide an organizational chart outlining the proposed staff, including superintendent, project manager, project director, cost estimator, project executive, etc., and provide resumes for each.

4. Proposed Approach and Management Plan - Provide a summary of quality control programs, approach to bonding subcontractors, approach to encouraging local participation, and anticipated schedule for construction for the proposed project.
5. Financial - Provide the company's latest financial statement (audited if available). Provide payroll taxes, insurance, and fringe benefits for personnel. Provide Bonding Agent/Surety Company and bonding capacity (performance and payment).
6. Lawsuits - List any pending or settled lawsuits or professional liability claims in which any member of the construction team was involved during the past ten (10) years.
7. Receipt acknowledgement of all Addenda to this RFP (if any).
8. Completed Proposal Form, with Exhibit "A."
9. Schematic Estimate - Provide a schematic cost estimate based on the provided 50% Construction Documents package provided by Millard, Inc dated 06/01/2021. Refer to Exhibit "D" 50% Construction Documents Package TOC. Schematic estimate shall be provided on attached Exhibit "C" – Schematic Estimate Form.

Insurance Requirements

Proposer must provide evidence, satisfactory to the City, of the following insurance requirements:

Owner requires the Contractor to have and maintain the following insurance coverage and indemnification provisions with the City. The required insurance policies shall be endorsed to include "City of Gainesville, Georgia, its officers, elected or appointed officials, agents, employees, volunteers and representatives" as additional insured. This requirement does not apply to Worker's Compensation, Employer's Liability or Professional Liability coverage.

The Contractor agrees to provide and maintain insurance coverage until the contract is completed and to furnish certificates from its insurance carriers showing that it carries insurance in the following minimum limits:

Commercial General Liability	
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Auto Liability (including bodily injury and property damage)	\$1,000,000
Excess / Umbrella Liability	\$5,000,000
Workers Compensation and Employer's Liability	\$1,000,000
Professional	\$1,000,000

All other insurance as required by law

**The City of Gainesville is an equal opportunity owner/employer and will not discriminate against any vendor because of race, creed, color, religion, sex, national origin, or ADA disability status.

***The City of Gainesville will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d—42 USC 2000d—4 (hereinafter referred to as the Act), and all requirements imposed by or

pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement.

City of Gainesville
Request for Proposals

RFP No. 21021

Lake Lanier Olympic Park Boathouse – Construction Manager at Risk Services
RFP Certification

This form must be completed and signed for bid to be considered.

With my signature, I certify that I am authorized to commit my firm to the Proposal and that the information herein is valid for 90 days from this date. I further certify that all information presented herein is accurate and complete and that the scope of work can be performed as presented in this Proposal upon the City's request.

Postal Return Address:

City of Gainesville
Purchasing Office
P.O. Box 2496
Gainesville, GA 30503

Courier Delivery Address:

City of Gainesville
Purchasing Office
300 Henry Ward Way, Room 103
Gainesville, GA 30501

Proposal Response:

Pre-Construction Fee: \$ _____ (lump sum)

General Conditions: \$ _____ (lump sum – see attached Exhibit "A")

Fixed Construction Fee: _____% (percent of Guaranteed Maximum Price)

Having read and responded to all attached specifications, the undersigned offers the above quoted prices, terms and conditions.

Signed, sealed, and delivered

In the presence of:

(Name of Company)

Unofficial Witness

By: _____
(Person authorized to sign binding contract)

Title: _____

Notary Public

Commission Expires: _____

Attest: _____
(Officer of Company if Corporation)

Title: _____

Exhibit A

EXHIBIT A**Lake Lanier Olympic Park Boathouse (*The Project*) Maximum Allowable General Conditions**

ITEM	DURATION	UNIT COST	TOTAL COST
Project Director		\$	\$
Superintendent		\$	\$
Assistant Superintendent		\$	\$
Senior Project Manager		\$	\$
Project Manager/Project Engineer		\$	\$
Field Engineering		\$	\$
MEP/BIM Coordination		\$	\$
In-House Accounting		\$	\$
Exhibit A On Site Safety Engineer		\$	\$
Safety Materials Program		\$	\$
Field Office Rental, Setup and Removal		\$	\$
Storage Trailer Rental		\$	\$
Temporary Toilets		\$	\$
Temporary Power		\$	\$
Temporary Water		\$	\$
Job Signs	LUMP SUM	\$	\$
Copier, Fax Machine		\$	\$
Telephone and Internet Costs and Setup		\$	\$
Ice, Cups, Water		\$	\$
Office Supplies		\$	\$
Office Furniture	LUMP SUM	\$	\$
Jobsite Computers and Technology	LUMP SUM	\$	\$
Postage and Couriers		\$	\$
Progress Photographs		\$	\$
Final Photographs	LUMP SUM	\$	\$
Plan Printing and Copying	LUMP SUM	\$	\$
Progress Cleaning	LUMP SUM	\$	\$
Final Clean	LUMP SUM	\$	\$
Small Tools	LUMP SUM	\$	\$
Cellphones and Radios		\$	\$
Supervision Vehicles		\$	\$
Project Management Vehicles and Travel		\$	\$
Gas, Oil and Maintenance		\$	\$
Builder's Risk Insurance	LUMP SUM (based on \$16M)	\$	\$
General Liability & Umbrella Insurance	LUMP SUM (based on \$16M)	\$	\$
Payment and Performance Bond	LUMP SUM (based on \$16M)	\$	\$

Total General Conditions Cost: \$ _____

Note: No direct CMAR labor may be billed as Cost of Work without prior written approval by the City.

Exhibit B

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONSTRUCTION
MANAGER AT RISK WITH - A
GUARANTEED MAXIMUM PRICE**

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Standard Form of Agreement Between Owner and Construction Manager at Risk With - A Guaranteed Maximum Price

This **AGREEMENT** is made as of the _____ day of _____
in the year of 20_____, by and between the following parties, for services in connection with the Project
identified below:

OWNER:

(Name and address)

City of Gainesville
300 Henry Ward Way, Suite 303
Gainesville, GA 30501

CONSTRUCTION MANAGER AT RISK:

(Name and address)

PROJECT:

(Include Project name and location as it will appear in the Contract Documents)

Lake Lanier Olympic Park
Boathouse
3105 Clarks Bridge Road
Gainesville, GA 30506

In consideration of the mutual covenants and obligations contained herein, Owner and Construction
Manager at Risk agree as set forth herein.

Article 1

Scope of Work

1.1 Construction Manager at Risk (CM@R) shall provide all work required by the Contract Documents (the "Work"). CM@R agrees to do additional Work arising from changes ordered by Owner pursuant to the General Conditions or Contract Amendments ordered by this contract, Owner pursuant to a change order. The Work will be performed in Phases identified as follows:

Phase 1 — Pre-Construction Services

Phase 2 — Construction

During Phase I, the CM@R shall participate with Owner, the Architect for the Project and such other persons hired or designated for the purpose of construction and design for the Project. CM@R shall prepare estimates of costs and other documentation as necessary to ensure an efficient and cost effective design for the Project.

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

The Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion.

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

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

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

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The

Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction.

During Phase II, CM@R shall provide such professional services and act as consultant to Owner, as well as construction management and construction services as are necessary to complete construction of a turn-key Project within the Guaranteed Maximum Price.

1.2 Owner may require the performance of the Work under Phase II by exercising its option, in writing, directing the CM@R to proceed with performance under Phase II. The Option for Phase II may be exercised at any time after the Notice to Proceed is issued for Phase I, but no earlier than commencement of Phase I, nor later than ninety (90) days after the completion of Phase I.

Article 2

Contract Documents

2.1 "Contract Documents" means the Request for Proposal (RFP), the Announcement to Bidders, Instructions To Bidders, Supplementary Instructions to Bidders, if any, the response to the RFP, this Agreement, General Conditions, Supplementary Conditions, Exhibits, Specifications, List of Drawings, Drawings, Addenda, Notice to Proceed, Change Orders, Contract Amendments, Notice of Completion, and all other documents identified in this Agreement that together form the contract between Owner and CM@R for the Work (the "Contract"). The Contract constitutes the complete agreement between Owner and CM@R and supersedes any previous agreements or understandings.

Article 3

Interpretation and Intent

3.1 CM@R and Owner, prior to execution of the Agreement shall carefully review all the Contract Documents, including the various documents comprising the Design Documents, for any conflicts or ambiguities. CM@R and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement or, if applicable, prior to Owner's authorization to proceed under Phase II.

3.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the GMP. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after execution of the Agreement, or if applicable, after Owner's authorization of Phase II, CM@R and Owner shall attempt to resolve any ambiguity, conflict or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof.

3.3 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract, unless specifically defined herein, or if the context requires a different meaning.

3.4 If Owner's Project Criteria contain design specifications: (a) CM@R shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any performance specifications; and (b) CM@R shall be entitled to an adjustment in the GMP and/or Contract Time(s)

to the extent CM@R's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

3.5 The Contract Documents form the entire agreement between Owner and CM@R and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents. No terms, conditions, promises or agreements not set forth herein form a part of this Agreement nor may any such terms, conditions, promises or agreements be relied upon by the parties.

Article 4

Ownership of Work Product

4.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by CM@R to Owner under this Agreement ("Work Product") are deemed to be instruments of service and CM@R shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights and/or patents, subject to the provisions set forth in Sections 4.2 through 4.4 below.

4.2 Owner's Ownership upon Project Completion and Payment in Full to CM@R.

Upon Owner's payment in full for all Work performed under the Contract Documents, CM@R transfers to Owner all ownership and property interests, including but not limited to any intellectual property rights, copyrights and/or patents, in the Work Product. Such transfer is conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of CM@R is at Owner's sole risk and without liability or legal exposure to CM@R or anyone working by or through CM@R.

4.3 Owner's Limited License upon Owner's Termination for Convenience or CM@R's Election to Terminate. If Owner terminates this Agreement for its convenience as set forth in Article 8 hereof, or if CM@R elects to terminate this Agreement CM@R shall, upon Owner's payment in full of the amounts due CM@R under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 4.2 above, conditioned on the following:

4.3.1 Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party, and on the Owner's obligation to provide the indemnity set forth in Section 4.5 below, and

4.3.2 Owner agrees to pay CM@R the additional sum of Zero Dollars (\$0.00) as compensation for the right to use the Work Product to complete the Project and subsequently use the Work Product in accordance with Section 4.2 if Owner resumes the Project through its employees, agents, or third parties.

4.4 Owner's Limited License upon CM@R's Default. If this Agreement is terminated due to CM@R's default of Contract, then CM@R grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section 4.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that CM@R was not in default, Owner shall be deemed to have terminated the Agreement for convenience, and CM@R shall be entitled to the rights and remedies set forth in Section 4.3 above.

Article 5

Contract Time

5.1 Date of Commencement. The Work shall commence within five (5) days of CM@R's receipt of Owner's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion.

5.2.1 A construction duration (in consecutive calendar days) to achieve Substantial Completion of the entire Work shall be established at the same time as the GMP and shall begin upon receipt of a written Notice to Proceed from the Owner. The proposed construction duration shall be submitted as part of the GMP Proposal per Section 6.6.2.1.4 hereof.

5.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work ("Scheduled Interim Milestone Dates") shall be achieved as follows: *(Insert any interim milestones for portions of the Work with different scheduled dates for Substantial Completion)*

5.2.3 CM@R understands that if Final Completion is not achieved within forty-five (45) days of the Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. CM@R agrees that if Final Completion is not achieved within forty-five (45) days of Substantial Completion, CM@R shall pay to Owner Two Hundred Dollars (\$200), as liquidated damages for each calendar day that Final Completion is delayed beyond the above- referenced number of days.

5.2.4 All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 Time is of the Essence. Owner and CM@R mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

5.4 Liquidated Damages. CM@R understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by One (1) day after the Scheduled Substantial Completion Date (the "LD Date"), CM@R shall pay Owner One Thousand Dollars (\$1,000) as liquidated damages for each day that Substantial Completion extends beyond the LD Date.

5.5 Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature, incurred by Owner which are occasioned by any delay in achieving the Contract Time(s).

5.6 Section Not Used

5.7 In addition to CM@R's right to a time extension for those events set forth in Section 8.2.1 hereof, CM@R shall also be entitled to an appropriate adjustment of the Contract Price for those events set forth hereof, provided, however, for Force Majeure Events, CM@R shall only be entitled to an increase in the Contract Price if said events exceed One hundred eighty (180) cumulative days. Said additional compensation shall be limited to:

\$_____dollars a day for each day work is delayed beyond the Scheduled Substantial Completion Date.

or

The direct costs and expenses CM@R can demonstrate it has reasonably and actually incurred as a result of such event.

Article 6

Contract Price

6.1 Contract Price.

6.1.1 Owner shall pay CM@R in accordance with Article 6 hereof a contract price ("Contract Price") equal to CM@R's Fee (as defined in Section 6.2 hereof) plus the Cost of the Work (as defined in Section 6.3 hereof), subject to any GMP established in Section 6.6 hereof and any adjustments made in accordance with the General Conditions of Contract.

6.1.2 Section Not Used

6.2 CM@R's Fee.

6.2.1 CM@R's Fee shall be adjusted in accordance with Section 6.2.2 below.

6.2.2 CM@R's Fee will be adjusted as follows for any changes in the Work:

6.2.2.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that CM@R shall receive a Fee of Zero percent (0%) of the additional Costs of the Work incurred for that Change Order, unless a mark-up for additional costs of the Work is provided in the Change Order.

6.2.2.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include: No additional reduction to account for CM@R's Fee or any other markup.

6.3 Cost of the Work. The term Cost of the Work shall mean costs reasonably and actually incurred by CM@R in the proper performance of the Work. The Cost of the Work shall include the Phase I fee, Phase II fee, Construction Manager's Fee and Construction Manager's General Conditions Fee:

6.3.1 The Phase I fee of \$_____.

6.3.2 The cost for the construction phase (Phase II) shall be approved by a Change Order and shall be \$_____.

6.3.3 Construction Manager's General Condition's Fee \$_____ based on the estimated construction duration.

6.3.4 Construction Manager's Fee _____% (percentage of total Cost of Work) \$_____.

6.3.4 Payments properly made by CM@R to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

6.3.5 Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

6.3.6 Costs (less salvage value) of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of CM@R, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

6.3.7 Costs of removal of debris and waste from the Site.

6.3.8 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

6.3.9 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by CM@R at the Site, whether rented from CM@R or others, and incurred in the performance of the Work.

6.3.10 Premiums for insurance and bonds required by this Agreement or the performance of the Work.

6.3.11 All fuel and utility costs incurred in the performance of the Work.

6.3.12 Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work.

6.3.13 Costs for permits, royalties, licenses, tests and inspections incurred by CM@R as a requirement of the Contract Documents.

6.3.14 Deposits which are lost, except to the extent caused by CM@R's negligence.

6.3.15 Costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property.

6.3.16 Accounting and data processing costs related to the Work.

6.3.17 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

6.4 Allowance Items and Allowance Values.

6.4.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the GMP Exhibit or GMP Proposal and are included within the GMP.

6.4.2 CM@R and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. CM@R and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by CM@R that the Allowance Item in question can be performed for the Allowance Value.

6.4.3 No work shall be performed on any Allowance Item without CM@R first obtaining in writing advanced authorization to proceed from Owner.

6.4.4 The Allowance Value for an Allowance Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable Allowance Item. All other costs, including design fees, CM@R's overall project management and general

conditions costs, overhead and fee, are deemed to be included in the original Contract Price, and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

6.4.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 6.4.4. The amount of the Change Order shall reflect the difference between actual costs incurred by CM@R for the particular Allowance Item and the Allowance Value.

6.5 Non-Reimbursable Costs.

6.5.1 The following shall not be deemed as costs of the Work:

6.5.1.1 Compensation for CM@R's personnel stationed at CM@R's principal or branch offices, except as provided for in Sections 6.3.1, 6.3.2 and 6.3.3 hereof.

6.5.1.2 Overhead and general expenses, except as provided for in Section 6.3 hereof, or which may be recoverable for changes to the Work.

6.5.1.3 The cost of CM@R's capital used in the performance of the Work.

6.5.1.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

6.6 The Guaranteed Maximum Price ("GMP").

6.6.1 GMP Established Upon Execution of this Agreement.

6.6.1.1 CM@R guarantees that it shall not exceed the GMP of _____ Dollars (\$_____) for total costs of Work including Phase I and Phase II. Documents used as a basis for the GMP shall be identified in an exhibit to this Agreement ("GMP Exhibit"). CM@R does not guarantee any specific line item provided as part of the GMP, and has the sole discretion to apply payment due to overruns in one line item to savings due to underruns in any other line item. CM@R agrees, however, that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents.

6.6.1.2 Section Not Used

6.6.2 Section Not Used

6.6.3 Section Not Used

6.7 Section Not Used

Article 7

Procedure for Payment

7.1 Progress Payments.

7.1.1 CM@R shall submit to Owner on the Fifteenth (15th) day of each month, beginning with the first month after the Date of Commencement, CM@R's Application for Payment in accordance with Article 6 hereof.

7.1.2 Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 hereof, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 hereof.

7.1.3 If CM@R's Fee under Article 6 hereof is a fixed amount, the amount of CM@R's Fee to be included in CM@R's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of CM@R's Fee.

7.2 Retainage on Progress Payments.

7.2.1 Owner will retain Ten percent (10%) of the cost of Work from each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by CM@R and CM@R is otherwise in compliance with its contractual obligations, Owner will not retain any additional amounts from CM@R's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

7.2.2 Within fifteen (15) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 hereof, Owner shall release to CM@R all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in Owner's standard Payment and Completion requirements; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3.

7.3 Final Payment. CM@R shall submit its Final Application for Payment to Owner in accordance with Article 31 of the General Conditions of Contract. Owner shall make payment on CM@R's properly submitted and accurate Final Application for Payment within thirty (30) days after Owner's receipt of the Final Application for Payment, provided that CM@R has satisfied the requirements for final payment set forth in Article 31 of the General Conditions of Contract.

7.4 Interest. Shall be paid in accordance with Owner's general conditions. Payments due and unpaid by Owner to CM@R, whether progress payments or final payment, shall bear interest commencing five (5) days after payment is due at the rate of Zero percent (0%) per month until paid.

7.5 Record Keeping and Finance Controls. CM@R acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. CM@R shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time-to-time, upon reasonable notice, CM@R's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Work, all of which CM@R shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at CM@R's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and CM@R as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, with the composition of such multiplier or markup not being subject to audit.

Article 8

Termination

8.1 Termination for Convenience: Upon ten (10) days' written notice to CM@R, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay CM@R for the following:

8.1.1 All Work executed and for proven loss, cost or expense in connection with the Work;

8.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

8.1.3 The fair and reasonable sums for overhead and profit on the sum of items 8.1.1 and 8.1.2 above.

or

Overhead and profit in the amount of Zero percent (0%) on the sum of items 8.1.1 and 8.1.2 above.

8.2 Termination:

8.2.1 Unearned payments under this contract may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by Owner. Moreover, if through any cause, the CM@R shall fail to fulfill its obligations under this Contract in a timely and proper manner, or if the CM@R shall violate any of the covenants, agreements, conditions or obligations of the contract documents; the Owner may terminate this contract by giving written notice to the CM@R and surety of such termination and specifying the effective date of such termination. In such event, the Owner may take over the Work and prosecute the same to completion, by contract or otherwise, and the CM@R and his sureties shall be liable to the Owner for any additional cost incurred by the Owner in its completion of the work and they shall also be liable to the Owner for liquidated damages for any delay in the completion of the Work as provided below. Furthermore, the Contractor will be paid an amount which bears the same ratio to the total compensation as the work and services actually performed bear to the total work and services required. Provided, however, that if less than, sixty percent of the services required by this Contract have been performed upon the effective date of such termination, the CM@R shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the CM@R during the Contract period which are directly attributable to the uncompleted portion of the services required by this Contract,

8.2.2 Liquidated Damages for Delays. If the work is not completed within the time stipulated, therefore, including any extensions of time for excusable delays as herein provided, the CM@R shall pay to the Owner as fixed and agreed liquidated damages (it being impossible to determine the damages occasioned by the delay) for each working day of delay, until the work is completed, the amount as set forth in Article 5 hereof and the CM@R and his sureties shall be liable to the Owner for the amount thereof.

8.2.3 Excusable Delays. The right of the CM@R to proceed shall not be terminated nor shall the CM@R be charged with liquidated damages for any delays in the completion of the work due:

a. To any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency;

b. To any acts of the Owner;

c. To causes not reasonable foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the CM@R, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in the performance of some other contract with the Owner, fires, floods, epidemics, quarantine, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, and cyclones; and

d. To any delay of any subcontractor occasioned by any of the causes specified in subparagraphs (a) (b) and (c) or this subparagraph "d",

Provided, however, that the CM@R promptly notified the Owner within ten (10) days of the cause of the delay. Upon receipt of such notification, the Owner shall ascertain the facts and the cause and extent of delay. If upon the basis of the terms of this Contract the delay is properly excusable, the Owner shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

8.3 If Owner terminates this Agreement pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 4.3 hereof. Such rights may not be transferred or assigned to others without CM@R's express written consent and such third parties' agreement to the terms of Article 4.

Article 9

Representatives of the Parties

9.1 Owner's Representatives.

9.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes:

**Bryan Lackey
City Manager
PO Box 2496
Gainesville, GA 30503**

9.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Article 33 of the General Conditions of Contract:

**Robyn Lynch
Director of Tourism
Gainesville Convention & Visitors B
PO Box 2496
Gainesville, GA 30503**

9.2 CM@R's Representatives.

9.2.1 CM@R designates the individual listed below as its Senior Representative (“CM@R’s Senior Representative”), which individual has the authority and responsibility for avoiding and resolving disputes:

9.2.2 CM@R designates the individual listed below as its CM@R’s Representative:

Article 10

Bonds and Insurance

10.1 **Insurance.** CM@R and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto.

10.2 **Bonds and Other Performance Security.** CM@R shall provide the following performance bond and labor and material payment bond or other performance security if Owner exercises its right to authorize Phase II:

Performance Bond.

[Check one box only. If no box is checked, then no bond is required.]

Required Not Required

Payment Bond.

[Check one box only. If no box is checked, then no bond is required.]

Required Not Required

Other Performance Security.

[Check one box only. If no box is checked, then no other performance security is required. If the “Required” box is checked, identify below the specific performance security that is being required and all salient commercial terms associated with that security.]

Required Not Required

Article 11

Not Used

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

APPROVED AS TO FORM BEFORE EXECUTION:

By: _____
Abbott S. Hayes, Jr., Attorney for the OWNER

CITY OF GAINESVILLE, GEORGIA

By: _____

Name: Bryan Lackey

Title: City Manager

WITNESS: By: _____

Name: Denise Jordan

Title: City Clerk

(SEAL)

CM@R:

By: _____
(Name, Position)

Attest: _____
(Name, Position)

Attachments:

- Insurance Exhibit
- Section 00 61 13 Performance and Payment Bonds
- Section 00 72 13 General Conditions
- Section 00 73 00 Supplementary Conditions
- Section 00 74 00 Administrative and Procedural Items

INSURANCE EXHIBIT

INSURANCE. CM@R shall, before commencing services on the PROJECT and during the performance of this Agreement, and as a condition of any payment for the PROJECT, keep in force insurance with the following requirements:

- a) Additional Insured: The insurance policies required by this Agreement must be endorsed by forms CG 2010 and CG 2037 or their current equivalents and include "City of Gainesville, Georgia, its officers, elected or appointed officials, agents, employees, volunteers, and representatives" as Additional Insured with respect to work performed under the Agreement on an ongoing and completed operations basis. (This requirement does not apply to Worker's Compensation, Employer's Liability or Professional Liability coverage). A copy of each endorsement shall be provided prior to CM@R commencing services on this project. Blanket endorsements shall be accepted.
- b) CM@R shall deliver to OWNER a certificate with signed declaration pages, or written proof that the attached declaration pages are a copy of the original declaration page and attached riders and endorsements which shows (i) that the OWNER is listed as an Additional Insured on the policy and (ii) which shows to the satisfaction of OWNER, that the required insurance is in force or that the policy(s) have not lapsed for nonpayment of premium. The Insurance Carrier(s) shall provide should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with policy provisions to OWNER but with at least thirty (30) days' written notice to OWNER, if such coverage is available at a reasonable cost. Notice should be sent via certified mail, return receipt requested to Matt Tarver, Project Manager and Bryan Lackey, City Manager, City of Gainesville, P.O. Box 2496, Gainesville, Georgia 30503. CM@R shall deliver written notice of any such cancellation, modification or termination within twenty-four (24) hours of receiving any notice thereof. Failure by the CM@R to deliver proof of insurance as provided in this paragraph, or notice as required in this paragraph, shall constitute a material substantial breach of this Agreement. All such documents shall be delivered directly to Matt Tarver, Project Manager, as well as to Owner Manager. Each of these documents which show the required insurance coverage shall be attached to each set of original Agreements when the documents are transmitted to the OWNER for final execution and approval as Attachment "B". If desired, the insurance carrier may redact the premium amount from the declaration page.
- c) Insurance is to be placed with duly licensed or approved non-admitted insurer in the state of Georgia with an "A.M. Best" rating of no less than A-VI. OWNER in no way warrants that the above-required minimum insurer rating is sufficient to protect the CM@R from potential insurer insolvency.
- d) The CM@R shall not allow any subcontractor to commence any work on subcontractor's

contract until all similar insurance required of the subcontractor has been so obtained and approved by the OWNER and CM@R.

e) The Certificates of Insurance, and any subsequent renewals, shall reference the PROJECT.

f) Required Coverages:

(1) Worker's Compensation:

The CM@R shall procure and shall maintain during the life of the Agreement, Worker's Compensation Insurance for all of CM@R's employees to be engaged in services on the PROJECT under this Agreement, and in case any such services is sublet, the CM@R shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees to be engaged in such services unless such employees are covered by the protection afforded by the CM@R's Worker's Compensation Insurance. Worker's Compensation Insurance shall be in accordance with Georgia Law and include Broad Form All States Endorsement and Voluntary Compensation before commencing services on the project. Subcontractors shall provide a waiver of subrogation endorsement, form CG 2404 or its equivalent.

- Workers' Compensation: Statutory Limits

If self-insured, proof of filing with the State of Georgia and secured, set aside funds shall be required.

(2) Employer's Liability:

- \$1,000,000.00 each employee / each accident

If self-insured, proof of filing with the State of Georgia and secured, set aside funds shall be required.

(3) General Liability:

The CM@R shall procure and shall maintain during the life of the Agreement, such Comprehensive General Liability and Broad Form Property Damage Insurance as shall protect the CM@R and any subcontractor performing services covered by this Agreement from claims for damages for bodily injury, including accidental death, as well as from claims for property damages, which may arise from operations under the Agreement, whether such operations are by the CM@R or by any subcontractor or by anyone directly or indirectly employed by either of them. The coverage must be written on an occurrence form and the aggregate coverage on a "per project" basis for ongoing and completed operations. A "per project" endorsement shall be issued that covers Owner of Gainesville, Georgia. The insurance policies shall also be endorsed by forms CG 2010 and CG 2037 or their current equivalents and include "City of Gainesville,

Georgia, its officers, elected or appointed officials, agents, employees, volunteers, and representatives” as Additional Insureds with respect to work performed under the Agreement on an ongoing and completed operations basis. A copy of each endorsement shall be provided prior to CM@R commencing services on this project. Blanket endorsements shall be accepted. The coverage shall be primary and contributory in favor of Owner. Subcontractors shall provide a waiver of subrogation endorsement, form CG 2404 or its equivalent on a per project basis.

The amount of insurance shall not be less than the following amounts:

- \$1,000,000.00 limit of liability per occurrence for bodily injury and property damage combined
- \$2,000,000.00 aggregate

(4) Automobile Liability:

The CM@R shall procure and shall maintain during the life of the Agreement, Comprehensive Automobile Liability Insurance. The insurance shall include coverage for owned, non-owned and hired vehicles. The coverage must be written on an occurrence form. Additional Insured: The insurance policies required by this Agreement must be endorsed by form CG2048 or its current equivalent and include “City of Gainesville, Georgia, its officers, elected or appointed officials, agents, employees, volunteers, and representatives” as Additional Insured with respect to work performed under the Agreement on an ongoing and completed operations basis. The coverage shall be primary and contributory in favor of Owner. Subcontractors shall provide a waiver of subrogation endorsement, form CA0444 or its equivalent. A copy of each endorsement shall be provided prior to CM@R commencing services on this project.

Amounts shall not be less than the following:

- \$1,000,000.00 Combined Single Limit (CSL)

(5) Professional Liability:

Upon execution of this Agreement and during the entire period of CM@R's responsibility under this Agreement, CM@R shall maintain professional liability insurance as provided herein. Proof of professional liability insurance shall be provided to Owner by consultant before commencing services on this project. CM@R shall file with the OWNER the following, from an insurance company authorized to do business within the State of Georgia showing issuance of professional liability errors and omissions insurance which meets the requirements of subparagraphs 12(a), (b), (c), (d) and (e) with limits not less than:

- \$1,000,000.00 per claim

Exhibit C

City of Gainesville
Request for Proposals

RFP No. 21021

Lake Lanier Olympic Park Boathouse – Construction Manager at Risk Services
Schematic Estimate of Construction Cost

Proposer shall provide schematic estimate of construction costs based on the 50% Construction Documents package provided by Millard, Inc dated 06/01/2021.

Total Project Estimated Construction Cost \$ **(lump sum)**

Lump Cost estimates provided above shall not include Pre-Construction fees, General Condition’s fees or CMAR Construction Fees.

In review of this Schematic Construction Cost Estimate, the City understands that the Proposer has no control over the availability of labor, equipment or materials or market conditions. This Schematic Construction Cost Estimate is made on the basis of the Proposer’s professional judgement and experience. The Proposer makes no warranty, expressed or implied, regarding the ultimate bids or negotiated cost of the Work. Escalation of 5% per year should be assumed beyond 2021.