



# CITY OF FAYETTEVILLE REQUEST FOR QUALIFICATIONS

<b>Issue Date:</b> 09/16/2020	<b>RFQ Number:</b> MS565-01	<b>RFQ Title:</b> Construction Manager-at-Risk Services for Southern Ground Amphitheater Renovation
<b>RFQ Due Date and Time:</b> Thursday, 09/30/2020 @ 10 AM EST		<b>Number of Pages:</b> 22

CONTACT INFORMATION	
<b>Procurement Agent and Contact for this RFQ:</b> Carleetha Talmadge	<b>Main Contact for this RFQ:</b> Scott Dowdy, Program Manager
Carleetha Talmadge Procurement Agent Phone: (770) 461-6029 Email: <a href="mailto:ctalmadge@fayetteville-ga.gov">ctalmadge@fayetteville-ga.gov</a>	<b>Scott Dowdy</b> <b>Program Manager</b> Phone: (404) 780-8175 Email: <a href="mailto:sdowdy@cps-atlanta.com">sdowdy@cps-atlanta.com</a>

INSTRUCTIONS TO OFFERORS	
Return Sealed Proposal to:  City of Fayetteville Finance & Administrative Services Department 240 South Glynn Street Fayetteville, GA 30214	Mark Face of Sealed Envelope/Package: <b>RFQ Name and Number:</b> Construction Manager-at-Risk Services for Southern Ground Amphitheater Renovation – MS565-01 <b>RFQ Due Date &amp; Time:</b> 09/30/2020 @ 10AM <b>Special Instructions:</b> Submit two (2) copies of all documents & one (1) thumb drive in Portable Document Format (.pdf)
<b>IMPORTANT: SEE STANDARD TERMS AND CONDITIONS</b>	

OFFERORS MUST COMPLETE THE FOLLOWING	
<b>Offeror Name &amp; Address:</b>	<b>Authorized Signatory:</b>  (Please Print Name and Sign in Ink)
<b>Offeror Phone Number:</b>	<b>Offeror Fax Number:</b>
<b>Offeror Federal I.D. Number:</b>	<b>Offeror Email Address:</b>
<b>OFFEROR MUST RETURN THIS COVER SHEET WITH RFP RESPONSE</b>	

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## **SCHEDULE OF EVENTS**

<b>EVENT</b>	<b>DATE</b>
<b>RFQ Issue Date</b>	09/16/2020
<b>Deadline for Receipt of Written Questions</b>	09/23/2020 at 2PM EST
<b>Deadline for Receipt of City's Answers</b>	09/25/2020
<b>RFQ Response Due Date</b>	09/30/2020 at 10AM EST
<b>Notify Respondents of Results and Begin Discussions</b>	10/06/2020
<b>Intended Date for Contract Award</b>	10/15/2020

\*Dates indicated are tentative and subject to change as needed

Present recommendation for approval at 10/15/2020 Council meeting – submit recommendation on 10/01/2020

# SECTION 1: INTRODUCTION AND BACKGROUND

## 1.1 INTRODUCTION AND BACKGROUND

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The City of Fayetteville is soliciting Statements of Qualifications from qualified Firms interested in providing Construction Manager-at-Risk Services for the Southern Ground Amphitheater Renovation project. Firms with relevant experience and qualifications are encouraged to submit Statements of Qualifications. The purpose of the RFQ process is to identify the most qualified firms. The funding for the project is secured. The cost of the project and the terms of the contract will be negotiated with the selected firm.

The Southern Ground Amphitheater has outlasted its useful life and the City of Fayetteville will be updating the property in hopes to draw popular artist along with increased local crowd sizes. The City looks to expand seating views, install new seating, enhanced VIP experience, update concessions, update bus parking along with band staging elements. The City would also like to upgrade landscaping and install signage.

**Estimated Project Budget: \$2.5 MM to 4.0 MM.**

## 1.2 Required Review

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**1.2.1 Review RFQ:** Firms should carefully review the instructions, mandatory requirements, specifications, and standard terms/conditions as set out in this RFQ and promptly notify the Procurement Agent, identified above, in writing or via e-mail of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover upon examination of this RFQ.

**1.2.2 Form of Questions:** Firms with questions or requiring clarification or interpretation of any section within this RFQ must address these questions in writing or via e-mail to the Contact below on or before 9/23/2020 at 2PM EST. Each question must provide a clear reference to the section, page, and item in question. Questions received after the deadline may not be considered.

Written inquiries regarding this RFQ may be addressed to:

Scott Dowdy  
Comprehensive Program Services  
Program Manager  
Email: [sdowdy@cps-atlanta.com](mailto:sdowdy@cps-atlanta.com)

**1.2.3 Answers:** Answers will be provided by 9/25/2020, all responses will be by formal written addendum. Any other form of interpretation, correction, or change to this RFQ will not be binding upon the City. Any formal written addendum will be posted on the City's website alongside the posting of the RFQ at [www.fayetteville-ga.gov](http://www.fayetteville-ga.gov) by the close of business on the date listed.

### **1.3 Cost of Preparing a Proposal**

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**1.3.1 City Not Responsible for Preparation Costs:** The costs for developing and delivering responses to this RFQ and any subsequent presentations of the proposal as requested by the City are entirely the responsibility of the offeror. The City is not liable for any expense incurred by the offeror in the preparation and presentation of their proposal.

**1.3.2 All Timely Submitted Materials Become City Property:** All materials submitted in response to this RFQ become the property of the City and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the City and offeror resulting from this RFQ process.

## SECTION 2: RFQ STANDARD INFORMATION

### 2.1 Receipt of Proposals and Public Inspection

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A “Public Opening” does not apply to a Request for Qualifications (RFQ) and all information packets submitted will be opened and reviewed upon receipt. Submittals received after the expiration date shall not be considered. All submittals must strictly conform to the questions in section 3 (Request for Qualifications). **This document is also available on the City’s website at <https://fayetteville-ga.gov/government/bids-and-rfps/active-solicitations/>.**

### 2.2 City’s Rights Reserved

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The City reserves the right to reject any and all submittals and to waive any and all irregularities. The City’s policy and procedures for this process are available in the Purchasing Department for inspection.

Submittals will not be accepted from any person, firm, or corporation who is in arrears in any debt or obligation to the City of Fayetteville or any other governmental entity.

## SECTION 3: REQUEST FOR QUALIFICATIONS (RFQ)

### 3.1 City's Intent

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It is anticipated that the Agreement between the City and the selected Construction Manager -at-Risk will contain the following scope of work.

#### Scope of Services

The following is a listing of some of the representative services to be provided by the Construction Manager-at-Risk. The GC/CM will be included in design meetings/scoping sessions and will be asked to provide input on items such as project budget, construction cost estimating, and overall schedule as well as providing review of design drawings to identify constructability and maintainability issues and potential cost savings.

The full scope of services will be defined within the contract executed with the City of Fayetteville.

#### *A. Design and Pre-construction Phase*

1. Develop a provisional construction **CPM** schedule indicating methods and sequencing of construction.
2. Develop requirements for safety, quality assurance, and schedule adherence.
3. Perform a "constructability" review of the construction documents.
4. Perform maintainability review of the construction documents.
5. Provide detailed construction cost estimates to achieve Owner's budget.
6. Provide analysis of different construction methods in each major trade group for potential quality, cost, and schedule enhancements.
7. Develop budget to be maintained throughout construction.
8. Develop value-engineering options

#### *B. Bidding and Award Phase*

1. Develop bid packages to include sample contract.
2. Provide (with Team recommendations) Bid Packages for City Council approval.
3. Accept the assignment of all Purchase Orders and Contract from City of Fayetteville with respect to the approved Bid Packages.
4. Develop requirements to assure time, cost and quality control during construction.
5. Provide a provisional construction schedule (CPM) for issuance with bid packages.
6. Identify bidders and generate bidder documents.
7. Schedule and conduct pre-bid conferences in conjunction with the Architect.
8. Advertise and distribute bidding documents.
9. Monitor bidder activity.
10. Review and analyze bids.

11. Update schedule.

***C. Construction Phase***

1. Maintain staff for construction management. Facility is not equipped for construction Trailer but could be modified if CM intends to have on-site staff.
2. Establish and maintain coordinating procedures.
3. Develop and maintain a detailed schedule (CPM) including delivery, approvals, inspection, testing, construction, and occupancy. Conduct and record job meetings.
4. Prepare and submit change order documentation for approval of the Architect and the City.
5. Maintain a system for review and approval of shop drawings.
6. Maintain records and submit bi-weekly reports and formal monthly reports to Architect and the City.
7. Maintain quality control and ensure conformity to plans.
8. Provide cost control through progress payment review and verifications according to the approved schedule and contract amounts.
9. Develop as-built drawings and deliver to Architect for inclusion into a CADD file to be submitted to the City of Fayetteville for maintenance and operations use.
10. Coordinate post-completion activities, including the assembly of guarantees, manuals, close-out documents, training, and the Owner's final acceptance.
11. Utilize clean construction methodologies to improve quality and speed delivery of the project.
12. Provide As-Built drawings at the end of the project.

***D. Warranty Phase***

1. Coordinate and monitor the resolution of remaining "punch-list" items.
2. Coordinate, monitor and resolve all warranty issues to the satisfaction of the City during the one-year general warranty period and as extended.

## 3.2 Required Information

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### Proposal Format

Proposals must be organized according to the sections listed below. Proposals that do not address all the mandatory sections listed below may be considered non-responsive and may not be evaluated. Proposals should be of sufficient length and detail to demonstrate the proposer has a thorough understanding of the skills necessary to deliver the services requested.

#### A. General Information

Provide a company profile including principal areas of expertise and experience providing owner's representative services. Include an organizational chart depicting the management of the firm's organization and its relationship to any other business entity. Proposals must include the following information:

1. Firm name, address, and telephone number.
2. Primary contact person(s) and telephone number(s). This person will be the point of contact for the Team throughout the entire Project.
3. Provide a listing and description of all current litigation involving the Firm.
4. Provide a copy of the firm's liability insurance certificate.
5. Fee Proposal enclosed in a sealed envelope – only the selected firms fee proposal will be opened

#### B. Experience

1. Provide no more than 3-5 examples of your experience as prime contractor in renovating municipal facilities like this project (OR other public and private projects that indicate similar experience). Project examples should demonstrate your firm's ability to respond to the needs of the City of Fayetteville.
2. For each of these projects:
  - a. Provide an owner reference familiar with your performance on the project. It is the Proposer's responsibility to ensure that the listed contact and phone number are current.
  - b. Provide an architect reference (with current phone number) familiar with your performance on each project.
  - c. Provide a Program Manager reference (if applicable).
  - d. List the individual who served as the Project Executive/Director, Project Manager, Superintendent, and Cost Estimator. Please note whether or not this individual is still employed with your firm.
3. Provide the two most recent projects your firm has completed. Include the total % change orders and performance relative to the initial project schedule. For each project, provide the name of an owner's representative (with a current phone number) who is familiar with your performance on the project.

C. Statement of Firm's capability to absorb additional workload, availability of personnel, and commitment to provide services on a timely basis.

D. Staffing Management

1. Provide a proposed Owner/Program Manager, Architect/ Engineer Organizational Chart, which identifies individual names and areas of responsibility.
2. Please designate the specific individuals to fill the following key roles on your team:
  - a) Project Executive
  - b) Project Manager
  - c) Superintendent
  - d) Preconstruction Manager / Cost Estimator
  - e) Other (please describe, if applicable.)
3. Please provide for each of the above personnel:
  - a) Current resumes listing relevant project experience.
  - b) Percent of time to be committed to this Project.
  - c) Demonstrate how the team has worked together in the past
4. Please identify the individual who, from project start to finish, will be the leader of your construction team and the principal point of contact between your firm and the Owner, Program Manager, Architect, and other consultants. This individual's competence, leadership, and ability to achieve customer satisfaction will be heavily considered in the selection of a CM.

E. Approach

Provide a comprehensive outline of the steps you propose to meet the services required in this RFQ. Include specific details about your preconstruction and construction processes. This detail should indicate what is to be done, who individually, and by name is responsible to do it, and when it is to be completed.

F. Schedule

- a. Timeline for this project will be from November 2020 to May 2021. Work to be completed before the beginning of the Concert season starting in May 2021. Provide a preliminary design/construction schedule to ensure to City that you can meet dates mentioned.
- b. Provide at least one example of how your project team has met a similar project deadline.

G. Value Engineering

- a) Evaluate current design documents and recommend cost-saving/value-engineering measures as long as they do not interfere with the integrity of the project.

## SECTION 4: EVALUATION & SELECTION CRITERIA

### 4.1 Evaluation & Selection Criteria

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The City will evaluate Proposals based on the criteria below and using a process consistent with Georgia's Qualifications-Based Selection law. The City reserves the right to reject any and all submittals for any reason as well as to waive any minor irregularities in any Proposal. The City reserves the right to request clarification of irregularities and to request additional information from any Firm. The City reserves the right to eliminate any Firm if it is determined that the Firm cannot perform services specified in their response. The RFQ should be prepared per the following Sections as well as a one-page letter of transmittal signed by an owner, officer, or authorized agent of the firm, acknowledging and accepting the terms and conditions of this RFQ:

1. Staffing – Evaluation of the list of personnel specifically assigned to the proposed project, including their qualifications, overall experience and recent experience on projects of similar nature and complexity to the proposed project. (30 points)
2. Experience/Performance – Review of past performance on City of Fayetteville projects or other projects of similar nature and complexity as the proposed project; evaluation of client references whether included in the proposal response or not; overall responsiveness to Owner's needs. (30 points)
3. Approach – Evaluation of the overall understanding of the scope of the proposed project; completeness, adequacy and responsiveness to the required information of the request for proposals. This should include a preliminary Project schedule by task and milestones that will be used to administer the Project. Provide in detail the services your firm will be providing. (30 points)
4. Availability – Evaluation of the work load of the proposing firm and the staffing to be assigned to the proposed project; time schedule of the proposer in relation to that of the proposed project location of the offices or facilities from which the services are to be provided to the Owner. (10 points)

Construction Managers-at-Risk submitting shall have experience on facilities of equal size, equal cost, and equal complexity.

#### **Selection Process**

Firms submitting responses to this RFQ will be evaluated based on the above criteria and point scale system employed by the City. The Firms will be ranked and selected by the City's evaluation committee. After completion of the evaluation process, the City's evaluation committee may ask the top - ranked Firms to provide a short, in-person presentation. Firms not invited to make a presentation will be notified that they are no longer being considered for the project. After viewing any presentations, the selection committee will again rank the presenting Firms and begin negotiations with the top - ranked Firm to enter into a contract.

All Firms that have made presentations to the City will be notified of the City's final selection results. If negotiations with the top - ranked Firm fail to result in a contract, then negotiations shall begin with the second highest ranked firm and so on until an agreement can be reached. Once terms are agreed upon, a contract shall be presented to the City Council for approval.

The City Selection Committee members will each review the responses to the RFQ's and provide a score for each based on the Selection Criteria contained in Section IV. The Selection Committee will convene and summarize the points earned by each Firm, then establish a list of Firms found by the selection committee to have submitted proposals reasonably susceptible of being selected for award. Firms not selected to provide presentations to the Selection Committee shall have the right to direct inquiries to the Program Manager as to their non-selection as provided below. The Selection Committee shall select Firms to be invited to provide a presentation of their proposal(s) to the Selection Committee at which time a sealed envelope containing the Firm's following costs for this Project should be provided:

1. General Conditions Costs for all personnel that will work on this Project. These costs should be detailed by either the specific personnel proposed for this project (i.e. Project Executive) or by the position (i.e. Field Engineer). At no time will the CM-at-Risk personnel costs be included within the subcontractor cost of the work.
2. Contractor's Fee for Construction

**Bid Security:** Each bid must be accompanied by cash, certified check of the bidder, or a bid bond prepared on the form of bid bond attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the Owner, in the amount of 5% of the bid.

The successful Proposer will be required to furnish a satisfactory performance bond, labor and materials payment bond, and maintenance bond as provided herein. The performance bond (PB) and labor and materials bond (LMB) shall each be in the amount of one hundred (100%) percent of the Guaranteed Maximum Price (GMAX) upon approval of the GMAX by the City of Fayetteville. Prior to approval of GMAX by the City Council, the PB and LMB shall be in the amount set by the Program Manager with concurrence from the City, which shall be no less than one-hundred (100%) percent of the City of Fayetteville's exposure under the contract; and thereafter, in an amount increased to cover GMAX as provided above. Said bonds shall be written by a surety company with a Best rating of A- (Excellent) or better, and is listed on the U.S. Treasury Circular 570, and also which is licensed to do business in the State of Georgia. Said bond (policies) shall contractually require the surety and guarantor to submit to jurisdiction and venue in the City of Fayetteville for resolution of any disputes. No Proposer may withdraw its proposal and must honor its proposal within 90 days after the actual date of the opening thereof.

NOTE: The firm selected shall provide full policy documentation, as well as updated continuation certificates for all bonds, certificates of liability naming the City of Fayetteville as the obligee and copies of all bond and policies on an annual basis through maturity of the project. Said documentation shall be delivered to and maintained by the City.

## SECTION 5: GENERAL ITEMS

1. The City of Fayetteville reserves the right to accept or reject any or all Statement of Qualifications.
2. No participants will be accepted after the time set for receipt of the Statement of Qualifications. Statement of Qualifications submitted via facsimile, telegraph or mailgram shall be rejected.
3. It is the responsibility of each proposer to examine the entire RFQ, seek clarification in writing, and review its proposal for accuracy before submitting the proposal. Once the submission deadline has passed, all proposal submissions will be final. The City will not request clarification from any proposer relative to their proposal submission.
4. Any submitted proposal shall remain a valid proposal for six months after the proposal due date or until the City executes a contract, whichever is sooner. The City may, in the event the selected proposer fails to perform, and/or the contract is terminated within forty-five days of its initiation, request the proposer submitting the next acceptable proposal to honor its proposal.
5. It is the Owner's intent to minimize the cost to proposers in responding to this solicitation, so you are encouraged to be brief and succinct. You should limit your response to 26 pages. Therefore, the proposals should address project specific issues. Thick volumes of background and general marketing material will not be appreciated and will not carry favor with the reviewers. We are seeking thoughtful, tightly focused proposals that document your firm's suitability for this Project and understanding of the Project and Owner. Each firm must describe experience, if there are multiple firms proposed as one team.
6. The successful proposer shall be required to sign as part of the terms and conditions of being engaged by the City the following statements (**these certifications, which are attached at the end of this RFQ, will not be counted within the 26-page limit**).
7. Also the below statements should be included within the submitted proposal:
  - A. **CONFLICT OF INTEREST** -The Consultant certifies that, to the best of the Consultant's knowledge, no circumstances exist which will cause a Conflict of Interest in performing the services required by this contract, that no employee of the City, nor any member thereof, nor any public agency or official affected by this Agreement, has any pecuniary interest in the business of the Consultant and that no person associated with the Consultant has any interest that would conflict in any manner or degree with the performance of the Agreement.

Should the Consultant become aware of any circumstances which may cause a Conflict of Interest during the term of this contract, the Consultant shall immediately notify the City. If the City determines that a Conflict of Interest exists, the City may require that the Consultant take action to remedy the Conflict of Interest or terminate the agreement without liability. The City shall have the right to recover any fees paid for services rendered by the Consultant which were performed while a Conflict of Interest existed if the Consultant had knowledge of the Conflict of Interest and did not notify the City within one (1) week of

becoming aware of the existence of the Conflict of Interest.

- B. **PROHIBITION AGAINST CONTINGENT FEES** – The Consultant warrants that the Consultant has not employed or retained any company or person other than a bona fide employee working solely for the consultant to solicit or secure this Agreement and that the Consultant has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award of this Agreement. For any breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment, or consideration.

**Notice of Award of Contract:**

As soon as possible, and within 60 days after receipt of proposals, the City shall notify the successful Proposer of its intent to enter into a contract agreement. Should the City require additional time to award a contract, the time may be extended by mutual agreement between the City and the successful Proposer. If an Award of Contract has not been made within 60 days from the proposal opening date or within the extension mutually agreed upon, the Proposer may withdraw the bid without further liability on the part of either party.

**Execution of Contract Documents:**

- a. Within fifteen (15) days subsequent to successful contract negotiations, the City shall furnish the successful Proposer the conformed copies of Contract Documents for execution by him/her.
- b. Within fifteen (15) days after receipt of the Contract Documents, the successful Proposer shall return all the documents properly executed by him/her. Attached to each document shall be the certificate of insurance and proper licenses required by Federal, State, or Local authorities.
- c. Within thirty (30) days after receipt of the Contract Documents, executed by the successful Proposer, certificates of insurance, and licenses the City shall complete the execution of the documents. Distribution of the completed documents will be made upon completion.
- d. Should either party require an extension of any of the time limits stated above, this shall be done only by mutual agreement between both parties.

**Notice to Proceed:**

The Notice to Proceed shall be issued within ten (10) days of the execution of the Contract Agreement by the City. If there are reasons why the Notice to Proceed should not be issued within this period, the time may be extended by mutual agreement between the City and successful Proposer. If the Notice to Proceed has not been issued within the ten (10) day period or within the period mutually agreed upon, the successful Proposer may terminate the Contract Agreement without further liability on the part of either party.

**Insurance:**

The successful Proposer shall not commence work under this contract until all insurance described below has been obtained and such insurance has been approved by the City. The Proposer shall

maintain insurance coverage with insurance companies reasonably acceptable to the City and authorized to do business in Georgia. The insurance shall cover as deemed appropriate by the City:

- a. claims under workers' compensation, disability benefit, and other similar employee benefit acts;
- b. claims for damages because of bodily injury, occupational sickness, disease, or death of any employee of the firm;
- c. claims for damages because of bodily injury, sickness, disease, or death of any person other than an employee of the firm;
- d. claims for damages insured by usual personal injury liability coverage which are sustained by any other person;
- e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from;
- f. claims for damages because of professional errors and omissions; and
- g. Claims for contractually assumed liability under this Agreement.

The aforementioned insurance required to be maintained by the Proposer may be written under an umbrella policy or policies but shall not be written for less than the limits of liability specified herein below or less than any limits required by law, whichever is greater. The Proposer shall, during such time as the Proposer is performing hereunder the services maintain, subject to a policy or policies having a deductible not greater than \$25,000 on account of any one occurrence, Workers' Compensation insurance in an amount not less than the greater of that required by law or \$1,000,000 for injuries, including accidental death to any one person, commercial general liability insurance of not less than \$3,000,000 for each occurrence, automobile liability insurance in an amount not less than a combined single limit of \$3,000,000 for injuries, including accidental death, and property damage liability insurance in an amount not less than \$1,000,000 on account of any one occurrence with a \$6,000,000 aggregate. Further, the Proposer shall, during the period beginning with the commencement of the performance by the Proposer of the services and ending one year after the Project shall be substantially completed, maintain, subject to a policy or policies having a deductible not greater than \$25,000 on account of any one claim, professional errors and omissions insurance in an amount not less than \$1,000,000 per claim and annual aggregate with a \$25,000 deductible. Certificates of insurance indicating that the Proposer has obtained such coverage, and if a copy of the Certificate of insurance is requested by the Owner, then a copy of the policies showing evidence of such coverage, shall be filed with the Owner prior to the commencement by the Proposer of the services. Such certificates shall be in form and substance reasonably acceptable to the Owner, shall indicate that, except in respect to workers' compensation insurance coverage and professional errors and omissions, Owner is an additional named insured with respect to such coverage, shall indicate that such coverage is primary and is not contributory with any similar insurance purchased by the Owner, and shall contain a provision that such coverage shall not be canceled until at least thirty (30) days' prior written notice has been given to the Owner.

### **Suspension or Termination of Services:**

The anticipated contract between the successful Proposer and the City can be terminated based on:

- a. City electing, in writing, not to exercise any components of the contract.
- b. Failure of the Proposer to perform based on the Proposer's bankruptcy, lack or loss of skilled personnel, or disregarding laws, ordinances, rules, regulations or orders of any public body having jurisdiction. Should any single, multiple or all of the above conditions occur, the City shall have the authority to terminate the contract with written notice to the

successful Proposer. The successful Proposer shall be liable for any losses occurring as a result of not abiding by the terms of the agreement.

- c. The successful proposer shall have the right to voluntarily terminate this agreement at any time upon thirty (30) days advance written notice to the City of its intention to terminate.
- d. Any termination of the successful Proposer's services shall not affect any right of the City against the successful Proposer than existing or which may thereafter occur. Any retention of payment of monies by the City due the successful Proposer will not release the successful Proposer from compliance with the Contract Documents.

**Indemnification:**

The successful Proposer will indemnify and hold harmless the City and their agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the services, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from; and is caused in whole or in part by any negligent or willful act or omission of the successful Proposer and anyone directly or indirectly employed by him or anyone for whose acts any of them may be liable. In any and all claims against the City or any of their agents or employees, by any employee of the successful Proposer, directly or indirectly employed by him, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the successful Proposer or under the Worker's Compensation Acts, Disability Benefits Acts or other employee benefits acts.

**Assignments:**

The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the City. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.

**Laws and Regulations:**

The successful Proposer's attention is directed to the fact that all applicable Federal, State and City laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself fully informed of all laws, ordinances and regulations of the Federal, State, City and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, he shall herewith report the same in writing to the City. He shall at all times observe and comply with all such existing and future laws, ordinances and regulations, and shall protect and indemnify the City and its agents against the violation of any such law, ordinance, regulation, order or decree, whether by himself or by his employees. Licenses of a temporary nature, necessary for the prosecution of the services shall be secured and paid for by the successful Proposer.

**Notice and Service Thereof:**

- a. All Notices, demands, requests, instructions, approvals, and claims shall be in writing.
- b. Any notice to or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor specified in his proposal (or at such other office as the Contractor may from time to time designate to the City in writing), or if deposited in the United States Mail in a sealed, postage-prepaid envelope, or delivered, with charges prepaid, to any telegraph company for transmission, in each case addressed to such office.
- c. All papers required to be delivered to the City shall, unless otherwise specified in writing to the Contractor, be delivered to the Contract Administrator. Any notice to or demand upon the City shall be sufficiently given if delivered to the Office of said Contract Administrator or if deposited in the United States Mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to said Contract Administrator or to such other representative of the City or to such other address as the City may subsequently specify in writing to the Contractor for such purposes.

**Changes in the Contract:****a. *Changes in the Service.***

The City may at any time, as the need arises, order changes within the scope of the services without invalidating the Contract Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the services, an equitable adjustment shall be negotiated by the issuance of a Contract Amendment. The Contract Administrator, also, may at any time, by issuing a Contract Amendment, make changes in the details of the services. The Contractor shall proceed with the performance of any changes in the services so ordered by the Contract Administrator unless the Contractor believes that such order entitles him to a change in the fee or time or both, in which event he shall give the Contract Administrator written notice thereof within fifteen (15) days after the receipt of the Contract Amendment, and the Contractor shall not execute such amendments pending the receipt of an executed Notice to Proceed instruction from the City. The City may, when changes are minor or when changes would result in relatively small changes in the Fee or Contract Time, elect to postpone the issuance of a Contract Amendment until such time that a single amendment of substantial importance can be issued incorporating several changes. In such cases, the City shall indicate this intent in a written notice to the Contractor.

**b. *Changes in Fee.***

The Fee shall be changed only by a mutual agreement by the Contractor and the City transmitted as a Contract Amendment. The Contractor shall, when required by the City, furnish to the City the method and justification used in computing the change in fee as related to the services ordered.

**c. *Changes in Contract Period***

The Contract Periods shall be changed only by a Contract Amendment. Changes in the services described in above and any other claim made by the Contractor for a change in the Contract Period shall be evaluated by the City and if the conditions warrant, an appropriate adjustment of the Contract Periods will be made.

**Payments and Completion:****a. *Application for Payment***

The Contractor shall submit an application for payment (invoice) for services rendered during the preceding calendar month. This application shall be sent to the Program Manager for approval.

**b. Certificate for Payments**

If the Contractor has made application for payment as above, the Contract Technical Representative will issue a Certificate for Payment to the Finance Department for such amount as is determined to be properly due, or state in writing the itemized and specific reasons for withholding a Certificate. After the Certificate for Payment has been issued, the Finance Department shall pay to the Contractor, within thirty (30) days, the amount covering services completed. No certificate for payment, nor any payment, shall constitute an acceptance of any services not in accordance with the Contract Documents.

**c. Failure of Payment**

If the Contract Technical Representative should fail to approve an application for payment, through no fault of the Contractor, within seven (7) days after receipt from the Contractor, or if the Finance Department should fail to pay the Contractor within thirty (30) days after receipt of a Certificate for Payment, then the Contractor shall receive interest on the balance due with the interest being one percent (1%) per month not to exceed three (3) months (3%). The City reserves the right to reject the Contract Technical Representative's certification of any request for payment by the Contractor without the accrual of interest.

**d. Governing Document**

All parties expressly agree that the provisions of the Georgia Prompt Pay Act, Title 13, Chapter 11, of the Official Code of Georgia Annotated, are superseded by the terms and conditions of this agreement.

**e. Final Payment**

Upon receipt of written notice from the Contractor that all contracted services are complete, the Contract Administrator will, within a reasonable time, review all services and reports. If the Contract Administrator finds the services and reports of the Contractor complete and acceptable in accordance with the provisions of the Contract Documents, he shall, within a reasonable time, direct the Finance Department that final payment be made. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and still unsettled.

**Contractor's Claim:**

No claim for additional or other compensation beyond the Fees shall be allowable unless the Contractor makes and continuously maintains written demand therefore within thirty (30) days of the occurrence of any event, which gives rise to such claim.

**Contract Agreement Jurisdiction:**

Contractor irrevocably consents that any legal action or proceeding against it under, arising out of or in any manner relating to this Agreement shall be brought in any court in the City of Fayetteville, Georgia. Contractor designates the Secretary of the State of Georgia as its agent for service of process, provided no such agent located in Georgia is on file with the said Secretary. Contractor, by the execution and delivery of this Agreement, expressly and irrevocably assents to and submits to the personal jurisdiction of any court in the City of Fayetteville, Georgia, and in any said action or

proceeding. Contractor hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction, improper venue or forum non-convenient or any similar basis.

**Additional Conditions:**

1. The Owner reserves the right to reject any or all Proposals received, to request additional information, or to extend the deadline for submittals.
2. Confidentiality of Documents: Upon receipt of a proposal by the Owner, the proposal shall become the property of the Owner without compensation to the proponent, for disposition or usage by the Owner at its discretion. The details of the proposal documents will remain confidential until final award.
3. Costs to Prepare Responses: The Owner assumes no responsibility or obligation to the respondents and will make no payment for any costs associated with the preparation or submission of the proposal.
4. Equal Employment Opportunity: During the performance of this Contract, the Program Manager agrees as follows: The Program Manager will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, place of birth or physical handicap.

**Attachment “A”**  
**General Certifications**

I, \_\_\_\_\_, as the proposer or authorized agent for proposer, for the purposes of making a submission in response to the RFQ for the Construction Manager – at – Risk of the City of Fayetteville Southern Ground Amphitheater , Proposal No. -----, hereby swear, affirm, and acknowledge under penalty of law as follows:

- No circumstances exist which cause a conflict of interest in performing the services required by this RFQ.
- That no employee of the City of Fayetteville, nor any official thereof, nor any public agency or official affected by this RFQ, has any pecuniary interest in the business of the responding proposer or sub-consultant(s) thereof, nor has any interest that would conflict in any manner or degree with the performance related to this RFQ. The proposer also warrants that proposer and its sub-consultant(s) have not employed or retained any company or person other than a bona fide employee working solely for the responding firm or sub-consultant(s) to solicit or secure a contract agreement with the City, as related to this RFQ, and that proposer and its sub-consultant(s) have not paid or agreed to work solely for the responding firm or his sub-consultant(s) in exchange for any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award of this Agreement.
- For any breach or violation of this provision, the City shall have the right to terminate any related contract or agreement without liability and at its discretion to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment or consideration.
- That in the event proposer is also the successful proposer, proposer shall require each of its sub-consultant(s) to sign a statement certifying to and agreeing to comply with the terms herein stated.
- The prices in the proposal have been arrived at independently without collusion, consultation, communications, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other vendor or with any competitor.
- Unless otherwise required by law, the prices, which have been quoted in the proposal, have not been knowingly disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor.
- No attempt has been made, or will be made, by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

So sworn, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Printed Name of  
Proposer

B  
y  
:

\_\_\_\_\_  
Signature of Authorized Agent of Proposer

Printed Name of Authorized Agent: \_\_\_\_\_

Sworn to and subscribed before me  
This the \_\_\_\_ day of \_\_\_\_\_, 20 .

\_\_\_\_\_  
Notary Public

**Attachment “B”**  
**Southern Ground Amphitheater Renovations – Schematic Design Link**

To gain access to the schematic design, please click on the link below or copy and paste in your browser:

[https://cpsatlanta-my.sharepoint.com/:b:/g/personal/admin\\_cpsatlanta\\_onmicrosoft\\_com/ESeMkHNnpsRGmmEyNjKXkUjUB7NFjdW9mQnOHho76nRwQ4w?e=NkbC3V](https://cpsatlanta-my.sharepoint.com/:b:/g/personal/admin_cpsatlanta_onmicrosoft_com/ESeMkHNnpsRGmmEyNjKXkUjUB7NFjdW9mQnOHho76nRwQ4w?e=NkbC3V)