

UNIVERSITY OF SOUTH CAROLINA

# Request for Qualifications

Honors College Residence Hall Expansion  
CM @ Risk

**State Project H27-6124-LC**

**02/25/2019**

**Qualifications Due:**

**March 14, 2019;**

**NLT 2:00 PM**

## PROJECT OVERVIEW

### GENERAL

The University of South Carolina ("U of SC" or "the University") is requesting qualified firms to submit their firm's qualifications to serve as a Construction Manager-At Risk (CM-R) for the Honors College Residence Hall Expansion. The successful firm will be asked to provide preconstruction and construction management services in accordance with the terms, conditions, and requirements set forth in the Request for Proposal.

Design and construction for this project must comply with the OSE *Manual for the Execution of State Permanent Improvements* (<https://procurement.sc.gov/manual>) and all applicable codes and regulations (see the Related Resources link on the web page above). The CM-R will join the design team in determining the best order in which to complete the project given site logistics, schedule, and work to be accomplished, etc. The University, with the assistance of Garvin Design Group ("Designer"), is currently developing schematic design documents to define the project scope, budget and schedule for the project. The successful respondent is expected to be a major contributor to the final development, verification and approval of the scope, cost and schedule during preconstruction services. Authorization to proceed with services beyond the preconstruction services is contingent upon the approval by the University and by State agencies of the final Facility Program and its associated cost and schedule.

The successful proposer will provide preconstruction design assistance services including, but not limited to: schedule and constructability reviews; verify the Design Team estimate, value engineering (VE); identification of alternatives in project delivery phasing and early procurement options; prequalification of trade subcontractors; identify and encourage minority participation on all levels; and preliminary pricing of general conditions site services and the general and trade contracts. The CM-R and Design team will also work with University primary stake holders such as but not limited to the Division of Information Technology, Campus Energy Services, USCPD, Carolina Card, University Fire Marshal and Environmental Health & Safety to understand and incorporate campus standards and requirements in the GMP process. These activities will support the development and submission of a Guaranteed Maximum Price (GMP) as the construction documents prepared by the design team reach a point for pricing near the end of the design phase.

At the University's discretion the CM-R will be asked to assume responsibility for project construction cost at an approved GMP and to proceed with execution of the project by bidding and managing the general and trade contracts. If authorized by the University, the negotiated GMP will become a contractual obligation. CM-R will also develop an overall project master schedule, which will also become a contractual obligation. The Master Schedule must reflect and support "Total Project Completion" no later than June 15, 2021 to allow for Student preparation and assignment to the Honors Residence Hall Expansion for the Fall 2021 Academic Semester. The CM-R will also submit a payment draw down schedule to the University after a GMP has been accepted. The CM-R will be responsible for the construction of the entire project, including management and coordination of all construction permit approvals, trade contracts and subcontracts, shop drawings, change orders and punch lists. The CM-R will also be responsible for delivery of record drawings, OEM manuals and warranties. The University and the Designer will routinely inspect construction to protect the University's interests and to validate pay applications. The project will be subject to all third party inspections required by the Office of State Engineer.

In selecting a firm, the University will place great emphasis on the experience of the firm and assigned personnel in providing similar services on projects of similar magnitude and complexity as the proposed project. Selection preference will be toward firms that demonstrate substantial depth of knowledge and resources in the successful application of the principles of CM-R and general contracting, scheduling, subcontractor management, contract coordination and compliance, budget control on projects of similar scope and complexity. The CM-R Firms must also demonstrate familiarity with State, County, and City laws, ordinances, and codes.

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Small and minority business enterprises are encouraged to respond to this request. The successful firm is also encouraged to visit the Directory for Small and Minority Vendors listed on the Purchasing.sc.edu website to identify companies meeting the standards of this section.

Firms seeking CM-R work must be registered both as a construction manager and as a general contractor with the SC Contractor's Licensing Board (see South Carolina Code Ann § 40-11-320 and Regs. 19-445.2145(N)). The construction manager at-risk's General Contractor's license must have a license group designation that will allow the construction manager at-risk to provide 100% Performance and 100% Labor and Material Payment Bonds for the entire project. Moreover, prior to contracting for a Guaranteed Maximum Price (GMP), all construction management services provided by a construction manager at-risk must be paid as a fee based on either a fixed rate, fixed amount, or fixed formula. In addition, construction may not commence for any portion of the construction until after the governmental body and the construction manager at-risk contract for a fixed price or a GMP regarding that portion of the construction.

**PROJECT SCOPE**

This project will expand the Honors College Residence Hall by constructing the third and final academic and residential wing. The expansion will be five stories, matching the existing wings in the design and exterior materials and will provide 136 new beds, academic space for classrooms, lecture room and faculty offices. The new residential units will be suite-style matching the existing units and will include a Residence Life Coordinator apartment and study/living area on each floor. Academic space will include 4 classrooms for 25-30 students, 1 large Lecture Room for approximately 75-100 students and 6 faculty offices. The Total Project Budget including soft costs, construction costs and campus charges is \$18.6 million.

The CM-R, working with the University and the Designer, will be responsible for developing the detailed Project Master Schedule and coordinating all activities to accomplish the full completion of the project in accordance with the Baseline Master Schedule.

## **SUBMITTAL CONDITIONS, REQUIREMENTS AND INSTRUCTIONS**

### **1. Conditions**

- 1.1. The University makes no guarantee that an award will be made as a result of the solicitation, and reserves the right to accept or reject any or all submittals; waive any informalities, irregularities or minor technical inconsistencies; or delete any item or requirement from this solicitation or any resultant contract when deemed to be in the University's best interest. Any and all representations made in response to this solicitation shall be binding on the Respondent.
- 1.2. The University reserves the right to reject any or all responses received. The University is not obligated to request clarifications or additional information but may do so at its discretion. The University reserves the right to extend the deadline for submittals.
- 1.3. All submissions shall become the property of the University without compensation to Respondent for disposition or usage by the University at its discretion. Subject to the provisions of the Open Records Act, the details of the proposal documents will remain confidential until final award.
- 1.4. The University assumes no responsibility or obligation to the Respondents and will make no payment for any costs associated with the preparation or submission of responses to this solicitation.
- 1.5. During the performance of any contract resulting from this solicitation, the CM-R agrees as follows: The CM-R 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. CM-R must have a history of being non-discriminating on the basis of race, creed, color, sex, or national origin in any of its employment practices, or procurement practices with respect to the work force of the firm, or procurement services in connection with this project. An affirmative action plan must be maintained for both work force and procurement practices.
- 1.6. The CM-R will be required to perform criminal background checks on all employees including sub-contractor employees who will be working on site throughout this project due to the proximity and possible interaction with Students during the academic year. The CM-R will also be responsible for ensuring no employee including sub-contractor employees are listed on any sexual predator registers.
- 1.7. Failure to fully comply with all requirements contained in this solicitation may result in rejection of the submission and disqualification from further consideration.

### **2. General Instructions**

- 2.1. It is the University's intent to limit the cost of responding to this solicitation, so you are encouraged to be organized and succinct in your submissions. Page limits are identified below. Thick volumes of background and general marketing material are not desired and will not be evaluated. Respondents shall carefully read the information contained in this solicitation and submit a focused and complete response to all requirements and questions as directed. Incomplete responses will be considered non-responsive and subject to rejection. Submissions should be thoughtful, tightly focused and clearly document your firm's suitability for this Project, your responsiveness to the evaluation criteria, your understanding of the Project requirements and your proven ability to contribute to achieving the goals of the University.
- 2.2. Please indicate, by firm, those certified by the Governor's Office of Small and Minority Business Assistance.

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- 2.3. Only individual firms or formal joint ventures may apply. Two or more firms may not apply as a team unless they have formed a formal joint venture. Any associations will be disqualified. Joint venture entities that have not completed at least two relevant projects as a joint venture, must submit each firm's qualifications separately within the overall page limit.
- 2.4. The evaluation of all submissions will be based primarily upon consideration of the demonstrated qualifications and capabilities of the Respondents such that any award will be in the best interest of the University. Submission of Qualifications indicates the Respondent's acceptance of the evaluation techniques and a recognition that subjective judgments must be made by the University during the evaluation process.
- 2.5. Except for the submission of clarification questions as discussed herein, Respondents shall not contact any members or employees of the University, the Office of State Engineer, or the Designer regarding any aspect of this procurement until after the award of the contract. Contact with the organizations mentioned above shall be grounds for elimination.
- 2.6. Questions relating to the solicitation must be submitted in writing (email is acceptable) to the designated Contact Person, Ms. Michelle Robinson (MAROBIN@mailbox.sc.edu). Answers to all questions will be communicated in writing to all firms without identifying the firm which submitted the question.
- 2.7. It is the responsibility of each Respondent to examine the entire solicitation; to seek clarification in writing; and to review its submittal for accuracy before submitting the document. Once the submission deadline has passed, all submissions will be final. The University may, in its sole discretion, request clarification from any individual Respondent relative to their submission, and reserves the right to ask for additional information from all parties that have submitted responses.
- 2.8. Any clarifications or interpretations of this solicitation that materially affect or change its requirements will be addressed by formal addendum. It is the responsibility of all respondents to obtain this information in a timely manner. All such addenda issued by the University before the proposals are due are part of the solicitation, and respondents shall acknowledge receipt of such addenda and incorporate each addendum in its response.
  - 2.8.1. Respondents shall consider as binding only those clarifications and interpretations that the University issues by addenda at least one hundred twenty (120) hours prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the University and should not be relied on in preparing responses.
- 2.9. The evaluation of the Qualifications shall be based on the requirements described in this solicitation. All properly submitted Qualifications will be reviewed and evaluated by the University. A minimum of the three highest ranked respondents will be asked to provide a formal proposal in accordance with the RFP and participate in a formal interview.
- 2.10. Responses shall not include any information regarding Respondent's fees, pricing, or other compensation in the RFQ submission. Inclusion of such information shall result in disqualification from further consideration.
- 2.11. The University reserves the right to reject any and all responses and re-solicit for new Qualifications; or to reject any and all submissions and to temporarily or permanently abandon the Project. The University makes no representations, written or oral, that it will enter into any form of agreement with any Respondent to this solicitation for any project and no such representation is intended or should be construed by the issuance of this solicitation.

**3. Specific Instructions**

- 3.1. The University will receive Qualification Submissions at the time and location given in the South Carolina Business Opportunities (SCBO) advertisement and in the number of copies specified in the advertisement.
- 3.2. Page Size, Binding, Dividers and Tabs
  - 3.2.1. Qualification submissions shall be printed on letter-size (8-1/2" x 11") paper and assembled with spiral-type bindings. **DO NOT USE METAL-RING HARD COVER BINDERS.**
  - 3.2.2. Submissions shall be a **MAXIMUM OF Forty (40) PRINTED PAGES** if single sided or **Twenty (20) pages** if double-sided which is preferred. Fold-outs up to 11" x 17" are acceptable but will count as two (2) pages. Fonts shall be a minimum of 10 point and margins shall be at least 1".
  - 3.2.3. Number each side of a printed page consecutively, including the Letter of Commitment, brochures, licenses, resumes, supplemental information, etc. The covers, table of contents and divider sheets do not count as printed pages, provided no additional information is included on those pages. Provide the number of copies specified in the advertisement. Any submittals exceeding the 40-page limit will be disqualified from further consideration.
  - 3.2.4. The front cover must clearly identify the Project Name, Project Number, Date of Submission and the Name of Respondent.
  - 3.2.5. Separate and identify each criteria response by use of a divider sheet with an integral tab identified as follows:
    - Letter of Commitment
    - Prerequisite Criteria
    - Financial Information
    - Location
    - Depth of Resources
    - Firm General Project Experience
    - Firm Specific Project Experience
- 3.3. The University desires to contract with those firms whose recent experience clearly and succinctly demonstrate superior abilities of the firm and its personnel to perform the work required by this project. When a criterion defines a specific number of items (e.g., number of projects) to be listed or described, then only that number of items shall be provided. The University reserves the right to consider any and all information available in evaluating the experience of the respondent as a firm and the project team as individuals. References will be checked at the University's discretion. It is the respondent's responsibility to ensure that it has listed current contacts with a correct phone numbers. Incorrect, difficult-to-reach or out-of-date reference contact information may result in the exclusion of that project from consideration of the respondent's qualifications to perform this Project.

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4. **Responses to Evaluation Criteria** - The Selection Committee will evaluate the submittals uniformly based upon the criteria listed in the table below. The services being sought under this RFQ are considered professional in nature. Consequently, the evaluation of submittals will be based upon consideration of the demonstrated qualifications and capabilities of the Offeror. Absent modification by addendum, factors to be considered in the evaluation will be limited to the following:

MAJOR CATEGORY	CRITERIA ELEMENTS
<b>Depth of Resources – Personnel Capacity with Relevant Experience</b>	<ul style="list-style-type: none"> <li>• Experience of proposed Project Superintendent.</li> <li>• Experience of proposed Project Manager.</li> <li>• Experience of proposed Project Executive.</li> </ul>
<b>Firm’s Specific Project Experience and Statement of Why the Firm Should be Selected for this Project</b>	<ul style="list-style-type: none"> <li>• Experience with projects similar in scope to this Project.</li> <li>• Unique ability to provide services for this Project.</li> </ul>
<b>Firm’s General Project Experience</b>	<ul style="list-style-type: none"> <li>• Experience with pre-construction and construction services Utilizing the CMR delivery method.</li> <li>• Experience with public agency projects.</li> <li>• Claims and litigation record and any pending legal actions.</li> </ul>
<b>Financial Information</b>	<ul style="list-style-type: none"> <li>• Financial stability based on its ration of current assets to current liabilities (“current Ratio”) and other evidence given.</li> </ul>
<b>Clarity of Submittal</b>	<ul style="list-style-type: none"> <li>• Extent to which the instructions of the RFQ were followed and information is clearly presented.</li> </ul>
<b>Location of Firm’s proposed office in relation to Project Site</b>	<ul style="list-style-type: none"> <li>• Demonstrate the Firm’s ability to respond quickly when needed to support the needs of their employees on site in accord with section 4.4.1 listed below.</li> </ul>

4.1. Letter of Commitment

4.1.1. Basic company information

- Company name
- Address & Zip code
- Name of primary contact (authority for binding negotiations)
- Telephone number
- Fax number
- Email address
- South Carolina Construction-Manager License Numbers
- South Carolina General Contractor’s License Number

4.1.2. Provide a statement of disclosure, which will allow the University to evaluate possible conflicts of interest. This disclosure requirement is not about giving the University permission regarding our contacting your references, it is about revealing relationships that your company may have with persons not of your company who are directly involved in the decision-making regarding this project. If your company has no conflicts of interest, your statement should affirm that as fact, and you may do so succinctly. The signer of this statement of disclosure should anticipate the following pledge that will be required by the CM Contract: “The CM-R covenants that it currently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or

degree with the performance required under this Contract. The CM-R further covenants that, in the performance of this Contract, it shall not employ or contract with any person whose employment or contracting would create a conflict of interest."

- 4.1.3. Provide the following certification and acknowledgement statement: "The undersigned hereby affirms that regarding information furnished by the applicant herewith, and as may be provided subsequently (including information presented at interview, if a finalist):
- All information of a factual nature is certified to be true and accurate.
  - All statements of intent or proposed future action (including the assignment of personnel and the provision of services) are commitments that will be honored by the applicant if awarded the contract.
  - It is further acknowledged that:
    - If any information provided by the applicant is found to be, in the opinion of the Selection Committee or the State of South Carolina, substantially unreliable, this application may be rejected.
    - The Selection Committee may reject all applicants and may stop the selection process at any time.
    - The award of any contract will be made on the University's evaluation of information provided herein, including the results of the reference checks."
- 4.1.4. Notarized signature of Corporate Executive or equivalent with authority to bind the firm to its submittal.

#### 4.2. Prerequisite Criteria

- 4.2.1. Provide documents, including affidavits from insurance and surety agents, attesting to your firm's compliance with the prerequisite criteria listed below.
- 4.2.1.1. Firm MUST be properly licensed at the time of submission to provide Construction Management at risk services and general contracting in the state of South Carolina. Copies of licenses must be provided. The Firm must maintain the required levels of licensing through the duration of the project.
- 4.2.1.2. Firm MUST demonstrate that appropriate Worker's Compensation and Liability Insurance coverage for this project can be obtained from a firm or firms licensed in the State of South Carolina. The Firm must maintain appropriate Worker's Compensation and Liability insurance coverage through the duration of the project.
- 4.2.1.3. Firm MUST demonstrate that a Builder's Risk Insurance Policy and other insurance as required for this project can be obtained from a firm or firms licensed in the State of South Carolina. The Firm must maintain appropriate Builder's Risk and other insurance coverage through the duration of the project.
- 4.2.1.4. Firm MUST demonstrate that a Payment and Performance bond for the total cost of the work can be obtained from a firm or firms licensed in the state of South Carolina. The bonding firms must have an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability", which company shows a financial strength rating of at least five (5) times that portion of the anticipated Total Construction Cost that does not include operations, maintenance, and finance.
- 4.2.1.5. Firm MUST demonstrate a sustained and superior commitment to workplace safety in all activities. Firm shall provide its OSHA incidence rates for recordable injuries and illnesses for the previous three years and shall relate those rates to current industry



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averages. Firm shall also provide its Experience Modification Rates for the previous five years. Rates which exceed industry averages by more than 10% may be grounds for disqualification from further consideration. The Firm will provide a copy of its current Safety Plan to the University upon award.

- 4.2.1.6. Firm or any component firm of a joint venture **MUST NOT** appear on the Federal Government's Excluded Parties List System or in any debarment list maintained by any State or entity of South Carolina. A notarized affidavit to this effect shall be provided.

**4.3. Financial Information**

If the firm has multiple offices, the qualification statement should include financial information about the parent company and branch office separately. Parent company (or general office) financial information as totals will be acceptable IF "parent" (or "general office") means that it is financially responsible for the liabilities of the branch office. If the parent company is not so responsible, meaning that its financial resources are not available to the office that will perform the contract, it will be misleading to the University to offer the financials of any office other than the one with the prospect of a contract with the University.

- 4.3.1. List your total annual billings for each of the past five (5) calendar years.
- 4.3.2. Has the firm ever failed to complete any work awarded to it or been removed from any project awarded to the firm? If yes, provide an explanation and contact information for the owner's project manager.
- 4.3.3. List the contact persons, addresses, and phone numbers for your insurance carrier and agent.
- 4.3.4. List the contact persons, addresses, and phone numbers for the firm's bonding company and agent.
- 4.3.5. What percentage of your firm's work during the past five (5) years has been negotiated?
- 4.3.6. Supply firm's Current Ratio (Current Assets/Current Liabilities) experience for the last five (5) years, with a signed affidavit.

**4.4. Location**

- 4.4.1. Provide the location of your proposed project office(s) for preconstruction and construction phase services. Describe how any proposed off-site resources will be integrated into the Management Plan to ensure project success.

**4.5. Depth of Resources - Personnel Capability with Relevant Experience**

- 4.5.1. Provide general information about the firm's personnel resources, including skill groups and numbers of employees for the proposed office location and the firm.
- 4.5.2. Name all key personnel which will be part of the construction management team for this project and provide their current cities of residence. Describe in detail the experience and expertise of each team member. The key personnel, at a minimum, are the project superintendent, project manager, project director, estimator or preconstruction manager, MWSBE Outreach Director and the executive in charge. **(Note: Key personnel must be committed to this project for its duration unless excused by the University.)**

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- 4.5.2.1. Identify the proposed team members (including consultants) who worked on the Projects listed in the Relevant Projects section of this solicitation and describe their responsibilities.
  - 4.5.2.2. Provide a matrix of the proposed Team members and the projects listed in the Relevant Projects section, indicating the position(s) performed by the team members on those projects. Compare those responsibilities to those proposed for this project.
  - 4.5.2.3. If the team as a whole provided construction management services for any of the relevant projects listed, so indicate.
  - 4.5.3. Describe, in graphic and written form, the proposed Project assignments and lines of authority and communication for each team member to be directly involved in the Project.
  - 4.5.4. Indicate the estimated percent of time these team members will be involved in the Project for Preconstruction and Construction Services.
  - 4.5.5. Indicate the estimated percent of time the Project Superintendent, Project Manager, Project Director and Firm's Safety Manager will be expected to be on site through the duration of the project.
  - 4.5.6. Name any consultants which are included as part of the proposed team. Describe each consultant's proposed role in the project and its related experience. Identify on which of the relevant projects your firm has worked with the consultant.
- 4.6. Firm's General Project Experience
- 4.6.1. List up to three (3) projects with photos and floor plans for which your firm has provided or is providing construction management services which are most related to this project. In determining which projects are most related, consider the following: similar use, size and complexity; facilities achieving LEED certification or projects where sustainable building strategies were implemented; renovation or expansion of existing structures; how many members of the proposed team (and their roles) worked on the listed project and how recently the project was completed. List the projects in priority order, with the most related project listed first.
  - 4.6.2. For each of the listed projects, provide the following information: construction cost (original GMP and final construction cost), current phase of development, completion date (estimated or past), type of construction services provided (CM at risk with GMP, CM-agency, design/build, general contractor-low bid, negotiated general contract, subcontractor to prime), owner's contact person and telephone number and the name and telephone number of the project architect. List any active or pending legal claims and explain. It is the respondent's responsibility to provide accurate and current contact information.
  - 4.6.3. Describe how your firm's approach to project management establishes clear lines of authority, responsibility and communication to achieve success.
  - 4.6.4. Describe conflicts or potential conflicts with the owner or with trade contractors and describe the methods used to prevent and/or resolve those conflicts.

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- 4.6.5. Describe the types of records, reports, monitoring systems and information management systems which your firm used in the management of those projects.
  - 4.6.6. Describe your cost control methods for the preconstruction and construction phases. How do you develop cost estimates and how often are they updated? Provide examples of how these techniques were used and what degree of accuracy was achieved. Include examples of successful value engineering to maintain project budgets without sacrificing quality. Firms must describe their open book policies and approaches in detail.
  - 4.6.7. Describe the way your firm maintains quality control during the preconstruction and construction phases. Provide specific examples of how these techniques were used.
  - 4.6.8. Describe the way in which your firm develops and maintains project schedules. How often do you update schedules? Provide examples of how these techniques were used. Include specific examples of scheduling challenges, and how your firm helped solve them.
  - 4.6.9. Beyond the work examples submitted, describe your firm's experience with LEED or Green Globes certification, or with projects where sustainable building strategies were implemented. Describe how your firm can bring alternative construction methods proven to be cost-effective and appropriate for this project.
  - 4.6.10. The University, the Designer and the selected CM-R are expected to use Building Information Modeling (BIM) systems in connection with the design, engineering, coordination and construction of the Project, with all design and engineering of the Project being provided in one or more integrated BIM models. Describe your firm's experience in the use of BIM systems during both preconstruction (e.g., systems analysis, cost estimating and scheduling) and construction (e.g., trade coordination and configuration control).
- 4.7 Specific Project Experience
- 4.7.1 Relevant Projects. Identify and describe the firm's past project experience for providing Construction Manager at Risk Services that are MOST RELATED TO THE SCOPE OF THIS PROJECT completed within the last five (5) years. List up to three (3) projects in order of priority, with the most relevant project listed first. Projects listed shall be considered relevant based on the scope of the work relative to this project and the specific project participation and experience of the proposed project team.
  - 4.7.2 Provide the following information for each project listed:
    - Project name, location, contract delivery method, and description
    - Color images (photographic or machine reproductions)
    - The Owner's name and representative who served as the day-to-day liaison during the design and construction phases of the project, including telephone number
    - Architect/Engineer's name and representative who served as the day-to-day liaison during the construction phase of the project, including telephone number.
    - Length of business relationship with the Owner.
    - Final construction cost
    - Final project size in gross square feet
    - Type of construction (new, renovation, or expansion—if a mixture of types, provide

- a percentage of each type of construction)
- Notice To Proceed date for Preconstruction Phase Services
- Notice To Proceed, Initial and Final Substantial Completion, and Final Payment dates for Construction Phase Services
- Name of Project Manager (individual responsible to the Owner for the overall success of the project)
- Name of Project Superintendent (individual responsible for coordinating the day to day work)
- Describe how Punch List and Warranty Issues were resolved for each project listed

4.7.3 Statement of Why Firm Should Be Selected

Provide a summary statement, on three (3) pages or fewer, which differentiates your firm from others offering similar services and which uniquely establishes the firm's capacity and capability to perform this project.

**5. Additional information**

- 5.1. Firm's General Project Experience **SUBMITTING CONFIDENTIAL INFORMATION:** For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged & confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected! If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, & documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, & (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify, & hold harmless the State of South Carolina, its officers & employees, from every claim, demand, loss, expense, cost, damage, or injury, including attorney's fees, arising out of or resulting from the State withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED".

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- 5.2. SOLICITATION INFORMATION FROM SOURCES OTHER THAN OFFICIAL SOURCE: South Carolina Business Opportunities (SCBO) is the official state government publication for State of South Carolina solicitations authorized by the Office of Procurement Services. Any information on State agency solicitations that is obtained from any other source is unofficial & any reliance placed on such information is at the bidder's sole risk & is without recourse under the South Carolina Consolidated Procurement Code.
- 5.3. In accordance with SC Law Section 11-35-3245, no member of the design team selected for this project will be allowed to perform work as a contractor or subcontractor on this project.
- 5.4. Any actual bidder, Offeror, contractor or subcontractor who is aggrieved in connection with the intended award or award of this Contract may protest to the State Engineer in accordance with Section 11-35-4210 of the SC Code of Laws at: CPO, Office of State Engineer, 1201 Main Street, Suite 600, Columbia, SC 29201, EMAIL: [protest-ose@mmo.sc.gov](mailto:protest-ose@mmo.sc.gov).