



## Request for Qualifications Construction Manager at Risk (CMaR)

# Crown Event Center

January 4, 2023

Cumberland County, NC  
Cumberland County Engineering and Infrastructure Department  
130 Gillespie Street, Suite 214  
Fayetteville, NC 28301  
Phone: 910-321-6602  
E-mail: [jwalker@cumberlandcountync.gov](mailto:jwalker@cumberlandcountync.gov)  
E-mail: [mdesilver@mbpce.com](mailto:mdesilver@mbpce.com)  
Website: <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/crown-event-center-committee>

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## I. Project Overview

The Theater located at the Crown Complex in Fayetteville, North Carolina has serviced the area as a location for live events since 1967. This 2,440-seat venue has hosted a variety of concerts, theater productions, family shows, civic events, and community and special events. Over the past several decades as the theater has been going through capital improvement programs, the ability to meet ADA compliance continues as an issue. Due to this, the Cumberland County Commissioners have announced the Theater will be closing November 1, 2025. This project will be one of the largest by Cumberland County and will be a source of pride and community for the County.

Cumberland County engaged outside support to provide a comprehensive market and financial feasibility study related to the construction of a new Crown Event Center. This center will need the ability to host events similar to the current Theater complex, in addition have the capabilities to host current and future events including concerts, comedy shows, family shows, touring theater / Broadway events, local and regional performances, and local banquet events. The center will require acoustics, stage configurations, rigging capacities, technology, seating availability and configuration changes, concessions, amenities, and back of house requirements and space to attract attendees, vendors, and entertainment to this venue.

Additional supporting documents are available for download at the Cumberland County Crown Event Center website: <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/crown-event-center-committee>

These documents include:

- September 13, 2021 CSL Market & Financial Feasibility Study
- Proposed Multi-Purpose Event Center Market & Financial Feasibility presentation
- Crown Event Center Committee Agenda and Meeting Minutes
- Crown Event Center approved Guiding Principles

Location: The Crown Event Center will be located in downtown Fayetteville on the block bound by E Russell Street to the south, Franklin Street to the north, Dick Street to the east, and Gillespie Street to the west. E Russell Street has an active rail line.

High pedestrian and vehicle traffic will be expected adjacent and near to this site. Construction of this Crown Event Center will need to coordinate with existing County and City operations. On-site public parking is not intended to be part of this project. There may be vehicular access and/or private parking as part of this project.

The types of spaces which may be programmed into the building may include but are not limited to:

- 2,500 to 3,000 seating capacity for events
- 250 to 500 seating capacity for banquets
- VIP Boxes
- Membership seating
- Grand lobby entrance
- Meeting rooms / classrooms
- Ability for food service for banquets and concessions

- Concessions points of service
- Dressing rooms
- Loading dock with multiple truck bays for operations and show loading
- “Back of house” components typical to multi-purpose centers
- MEP, Equipment and Custodial spaces typical to multi-purpose centers
- ADA Accessibility and access similar to a multi-purpose center
- Flexible house performance
- Audio, video, and lighting systems
- Variety of acoustical finishes and acoustical wall construction for room performance and sound isolation
- Multiple seating types – fixed, retractable, and portable
- Thematic interior design and branding reflecting the region

Cumberland County, North Carolina, (“County” or “Owner”) through the Department of Engineering and Infrastructure, intends to contract Construction Manager at Risk (CMaR) services for the new Crown Event Center. Services will be for the Design Phase, and if the Guaranteed Maximum Price (GMP) is approved, for Construction of the project via subcontract.

This Request for Qualifications (RFQ) contains instructions governing the response to be submitted and the material to be included in the submittal response; a description of the service to be provided; selection criteria; and other requirements which must be met by the proposer to be eligible for consideration.

The approved project budget for the Crown Event Center is \$82,500,000. The approximate construction budget is anticipated to be \$65,000,000.

## II. Anticipated Project Schedule

The project needs to be available for use no later than October 31, 2025. This will require the project to be completed and the setup, move-in, and startup of all building and tenant use functions to occur prior to October 31, 2025.

### CMaR Selection Schedule

CMaR/Contractor Info Session – December 6, 2022 10:00am

Mandatory Pre-Proposal Meeting – January 12<sup>th</sup>, 2023, 9:00-11:00 am at the Cumberland County DSS Conference Room A

Proposal due date – February 10, 2023, 5:00 pm

Evaluation Committee Shortlist – February 24, 2023

CMaR Interviews –Early/Mid March 2023

## III. Issuing Office

Cumberland County Engineering and Infrastructure Department  
130 Gillespie St.  
Suite 214  
Fayetteville, NC 28301

**Contacts:**

Jermaine Walker, Director, Engineering and Infrastructure

Phone: 910-321-6602

E-mail: [jwalker@cumberlandcountync.gov](mailto:jwalker@cumberlandcountync.gov)

Matthew DeSilver, PE, CCM, CM-Lean

MBP Carolinas

Phone: 443-896-6833

E-mail: [mdesilver@mbpce.com](mailto:mdesilver@mbpce.com)

**IV. Project Team**

An individual from the County will be assigned to act as the Project Manager and will work with the Professional during all phases of the work. This project will also have a contracted Owner's Representative (MBP Carolinas) for schedule and cost review as well as project progress oversight. A Project Delivery Team including County officials, the facility operator, the Owner's Representative, and the Architect will be an integral part of all phases and will continue as needed during construction. Other members of the County may participate in review of the design and documentation. During construction, the County may assign one or more construction inspectors.

EwingCole of Raleigh, NC was selected by Cumberland County through a qualifications-based process to provide A/E for the project. The selected CMaR firm will coordinate with the A/E for the duration of the design, and construction phases of work.

**V. Scope of Construction Manager at Risk (CMaR) Services**

The scope of services below is meant to provide the proposers an outline of the anticipated services required for this project. The detailed scope of services will be contained in the executed Contract for CMaR Services.

**A. Pre-Construction Services**

1. Schematic Design: Perform constructability review on designer's submittal. Develop cost estimate and reconcile with designer. Identify key project issues and opportunities for early procurement and/or construction packages.
2. Design Development: Perform constructability review on designer's submittal. Develop cost estimate and reconcile with designer's as well as Schematic Design estimate. Update key project issues.
3. Construction Documents: Perform constructability review on designer's submittal. Develop cost estimate and reconcile with designer's as well as Design Development estimate. Update key project issues.
4. Develop a Guaranteed Maximum Price (GMP) document for the Project that includes, at a minimum:
  - a. The Cost of Work
  - b. The Construction Manager's Fee
  - c. The Construction Manager's General Conditions
  - d. The Construction Manager's General Administration Fees
  - e. The Construction Manager's Contingency
5. Regularly attend meetings with the County and Design Team immediately upon

selection and through the remainder of design. Consult with the County and the Design Team regarding all aspects of the project, including site use, site improvements and selection of building materials, systems, and equipment.

6. Develop a provisional and final Critical Path Method (CPM) schedule using computer software reporting indicating methods and sequencing of procurement, permitting, construction and closeout of project. Include time requirements for sequences and durations, milestones dates for receipt and approval of design documents, receipt of regulatory approvals and permits, preparation and processing of shop drawings and samples, delivery schedule of materials or equipment requiring long-lead time procurement, project procurement schedule, and installation and construction completion. This includes the periodic updates of project schedule for Design Team's review and County approval.
7. Develop and implement procedures for schedule adherence.
8. Provide detailed construction cost estimates related to achieving the Owner's budget (to be sorted by trade bid packages).
9. Develop value-engineering options. Value engineering options need to begin during the Schematic Design phase, with any major proposed design changes occurring early in the process. Value engineering should continue throughout the design process.
10. Research different construction materials and report findings. Utilize research during the value engineering process and to identify long lead equipment and materials.

#### **B. Bidding Services**

1. Subdivide the Work into bid packages that encourage bids from qualified local and MWBE companies.
2. Identify and prequalify contractors for all bid packages in consultation with the County.
3. Develop requirements to assure time, cost, and quality control during construction.
4. Provide a provisional construction schedule (CPM) for issuance with bid packages.
5. Schedule and conduct pre-bid conferences in conjunction with the Design Team and County.
6. Coordinate with the County to conduct subcontractor outreach program to encourage participation by local and minority business enterprises.
7. Advertise and distribute bidding documents.
8. Monitor bidder activity.
9. Conduct public bid opening.
10. Review and analyze bids, in conjunction with County and Design Team.
11. Update Project schedule.

#### **C. Construction Services**

1. Maintain on-site staff for construction management.
2. Establish and maintain coordinating procedures.
3. Develop and maintain a detailed schedule (CPM) including delivery, approvals, inspection, testing, construction, and occupancy.
4. Conduct and record weekly job meetings. (Designer will record monthly meetings)
5. Maintain a system for review and approval of shop drawings, samples, and product data.
6. Maintain records and submit weekly reports and formal monthly reports to Design

Team and Owner.

7. Maintain quality control and ensure conformity to plans and specifications.
8. Develop a system and provide cost control through progress payment review and verifications according to the approved schedule and contract amounts.
9. Develop and maintain as-built drawings for the duration of the Project.
10. Coordinate post-completion activities, including the assembly of guarantees, manuals, closeout documents, training, regulatory approvals, and Owner's final acceptance.
11. Coordinate and monitor the resolution of remaining "punch-list" items to the satisfaction of the Owner.
12. Work closely with Designer and County staff to meet local, state, and federal requirements.

#### **D. Project Closeout/Warranty**

1. Submit record drawings for approval of the Designer and the Owner.
2. Assist in transition to occupancy, including deliveries and installation of equipment.
3. Receive record and address all warranty issues.
4. Resolve all warranty issues to the satisfaction of the Owner

## **VI. Proposal Submission Requirements**

Submittals shall be made on 8 1/2" x 11" paper, side bound with Table of Contents and reference tabs for key sections. The total submittal shall not exceed fifty (50) single-sided pages. The cover page, letter of interest, table of contents, dividers/tabs, and blank pages do not count toward the page limit. The Respondent shall provide in the cover page the name, title, address, telephone number and e-mail address of the individual who is responsible for preparing this RFQ and responding to questions concerning the submittal. All pages are to be consecutively numbered. All materials not clearly labeled "Trade Secret" or "Proprietary" shall become property of Cumberland County and will be considered public documents (Reference Section X - Confidentiality of Documents). Submittals should be prepared simply and economically, providing a straightforward, concise description of the Construction Manager's capabilities of satisfying the requirements of this RFQ. Emphasis should be on completeness and clarity of content. Submittals must include, at a minimum, the following:

### **A. Letter of Interest**

The letter of interest shall be concisely presented and include, at a minimum, the following information that shall be clearly delineated and be quickly identified by a reviewer of the Qualifications:

1. **Statement and Understanding of Problem:** State in succinct terms your understanding of the services your team will provide based on this RFQ, as well as your understanding of the County's needs that generated the RFQ, of the County's objectives in asking for the services, and of the nature and scope of the work involved.
2. **Geographical Location:** A statement as to the number of geographical miles from the office that will provide professional services to the County. It is in the best interest of the County to contract with a Firm who can provide timely service and be available for meetings and resolve issues on site, if needed. Include in the statement the team partners that can be available.
3. **Electronic Document Transfer:** A statement as to the capability to send and receive electronic distribution and the compatibility with the County's software (Microsoft Office

365). The firm whose submittal is selected for award will be required to provide their Qualifications in an electronic document version compatible with the current version of Microsoft Word being utilized by the County to enable prompt and accurate transcription of acceptable terms and conditions into a final contract document. The County requires that the awarded professional reviews with the County industry best standards for format of file transport and communications, be it Portable Document Format (PDF) or approved other. The firm(s) whose Qualifications(s) is selected for award will be required at the start of contract to provide File Transfer Protocol (FTP) or similar County approved site (can be web based) for the management and transfer of project files, including but not limited to all drawing files.

4. **Addenda:** Acknowledge receipt of any addenda issued during the solicitation period, including the addenda number and issue date. The Professional agrees that said addenda shall become a part of any contract issued as a result of the RFQ.
5. **Official Signatures:** Submissions must be signed by an official authorized to bind the firm to its provisions.

## B. Qualifications and Experience

Download the SF 330 form from the following link:

<http://www.gsa.gov/portal/forms/download/116486>

1. Profile of CMaR firm:  
Provide the following for each Prime and any Associate Firm(s):
  - a. SF 330 Part II Subsections 2a-10. Indicate (Prime CMaR) providing the bond for the project.
  - b. Corporate Licenses (List all licenses by name and license numbers held in the State of North Carolina, including but not limited to contractor's licenses, business licenses, etc.)
  - c. Identify corporate office (Headquarters or Home Office)
  - d. Location of all offices that will support this project (and number of staff in each office)
  - e. Corporate history:
    - (1) Current organizational structure
    - (2) Corporate officers, partners
    - (3) Years providing construction services
    - (4) Experience Modifier Rate (EMR) with a written explanation if above 1.0.
    - (5) Confirmation of authority to do business in North Carolina
    - (6) State of Incorporation/formation
  - f. Corporate Structure: -LLC, Corporation, etc.
    - (1) Partners, Major Shareholders, provide names and addresses for all
    - (2) Business Origination, provide company name and year when first organized
    - (3) Previous Companies, provide any previous names under which the company has done business
  - g. Subsidiary Companies (provide a list of all subsidiaries of the company)
  - h. Affiliated Companies (provide a list of all affiliated companies in which the principals have a financial interest)
  - i. Provide the number of years the company has provided Construction Management at Risk services.
  - j. Provide a list of projects with construction cost completed within the past 10 years



in which the firm was the CMaR. Indicate which of these were performed with a CM Agent (Owner's Representative) representing the Owner.

2. Key Personnel
  - a. List of key personnel who will be assigned to the project.
  - b. For each person listed above, list what aspects of pre-construction and/or construction the person will handle. For those persons who will divide their time between pre-construction and construction phases, indicate what percentage of their time will be devoted to each phase. Attach sworn statement that the above persons will be available for their proposed roles on this project. Describe your approach to continuity while transitioning from pre-construction to the construction and closeout phases.
  - c. For each person listed in response to A & B above, list his/her experience with firm, other prior and relevant experience with projects of similar size and scope in construction/design, and the person's location. Attach the resumes and references for each person listed.
  - d. Use SF 330 Part I Section E to provide resumes. Note that reference information will not be provided on Section E directly but will be provided with the sample projects. It is expected that the sample projects submitted on the SF 330 Section F were performed by the key personnel whose resumes are being provided on the SF 330 Section E. If key personnel have not worked on sample projects, provide separate references for this person at the end of Attachment D. Provide a separate Section E for each resume. (The resumes will be provided as part of Attachment D at the back of the submittal.) Provide project organizational chart indicating the placement of each of the persons listed in response to A & B above as Attachment E at the back of the submittal.
3. Project Experience:
  - a. List up to ten projects of similar size, scope and complexity performed by the proposer.
  - b. Use SF 330 Part I Section F Sub-Sections 20-24 (omit Sub-Section 25). Projects that were completed within the last 10 years are preferred. Contractors may list projects currently in construction or pre-construction, though completed projects will be given greater consideration. Include a separate Section F from for each project. **Note that Section F, Sub-Section 23 a, b, and c require the name of the project owner, a project owner's contact, and the contact's telephone number. This data will serve as the reference information. Along with the phone number also provide the owner contact's e-mail address. No separate reference section will need to be submitted.**
  - c. For each of the projects, provide the following information on the SF 330 Section F Sub-Section 24. Provide at least two project photos in Sub-Section 24 as well, one each of exterior and interior.
    - (1) Specific details on the extent to which pre-construction & construction phase services were provided.
    - (2) Where CMaR services were provided, list the Guaranteed Maximum Price (if given), or if not given, the estimated cost provided by you, and the total cost of the project construction at completion. Explain any difference between the two numbers provided.
    - (3) Where CMaR services were provided, compare the number of days in the

- original schedule with the number of days taken for actual completion.
- (4) Lead Project Designer contact information (email address and phone number).
  - (5) Your firm's Project Manager and Lead Superintendent
  - (6) MWBE participation goal set compared to the final participation achieved as a percentage of the Total Contract Amount or GMP (as applicable).
- d. Provide one SF 330 Part I Section G Form filling out Sub-Sections 26-29.
4. Financial Stability
- a. Attach an original letter addressed to Cumberland County from a surety company or its agent licensed to do business in North Carolina verifying company's capacity to provide adequate performance and payment bonds for this project. A bid bond will be required for this contract. Performance and Payment Bonds will be required for this contract.
  - b. Statement warranting that the Firm has the financial capacity to perform and to continue to perform its obligations under the contract.
  - c. Insurance: Provide your limit of excess liability umbrella coverage.
5. Legal History for Past Ten (10) Years
- a. Pending Litigation—List case name and case number of all pending litigation in which the proposer is involved as a party or proposer's officers are involved as parties in their official capacity. Include cases pending in any Federal, State or County jurisdiction, court, commission, regulatory body, or other authority having the power to determine the rights of parties appearing before it.
  - b. Construction Manager, CM at Risk Construction Defaults—List all incidents where the proposer has been considered in default, suspended, or terminated for cause. Include all incidents where the proposer abandoned or did not fully complete any project, including any warranty period work. Attach an explanation of each matter, including name and location of the project, the name and address of the owner's representative and all pertinent details of the default, suspension, or termination.
  - c. Owner Completed Contracts—List all incidents where the proposer's contract or any portion of the work connected with the contract has been completed by the Owner or Proposer's Surety. Attach a full explanation of each matter, including name and location of the project, the name and address of the owner's representative and all pertinent details of the matter.
  - d. Debarments/Suspensions—List all incidents where the proposer has been debarred or suspended for any reason by any federal, state, or local government procurement agency or refrained from bidding on a public project due to an agreement with such a procurement agency. Provide a full explanation of each matter where the submitter has been named in any action, administrative proceeding, or arbitration in which it was alleged that the submitter failed to comply with NC General Statutes Chapter 22C—Payments to Subcontractors, or any similar state or federal statute requiring prompt payment of subcontractors. Provide a full explanation of each matter.
  - e. Bid Fraud Convictions—List all incidents where the proposer or any predecessor or related entities, or officers, shareholders, partners, or key personnel of the submitter has been convicted of, or pleaded guilty to, any crime related to the bid process for contracts on public or private projects or involving fraud or misrepresentation. Provide a full explanation of each matter.

NO INFORMATION ABOUT FEES, LABOR RATES, DIRECT COSTS, REIMBURSABLES, OVERHEAD OR PROFIT SHALL BE INCLUDED WITH THIS SUBMITTAL

### **C. Project Approach**

Provide a brief narrative addressing how the proposer will provide:

1. Communication and collaboration with the County, Owner's Representative, Facility Operator, the Design Team, and the other project stakeholders.
2. Cost Estimating and Budget Management
  - a. How would you reconcile differences between your cost estimates and those prepared by the Design Team?
  - b. Describe how the team would provide cost management services on this project using the CM at Risk delivery method.
  - c. Value Engineering
3. Project Schedule:
  - a. Development, maintenance during the design phase, and identification of early procurement and/or construction packages.
  - b. Management tools, techniques, and procedures the firm uses to monitor and maintain the construction phase schedule.
4. Constructability Issues
5. Quality Control
  - a. Coordination of the various trades in the review of design documents and specifications.
  - b. Coordination of trades in the GMP Development and Construction Phase including time and quality aspects of the process of reviewing and approving subcontractor submittals, clarification requests, issuance of bulletin drawings, development of cost proposals, identification and justification of change orders, payment requests, final inspections and assembly of the project close-out documents.
  - c. Construction work completed.
6. Document Tracking and Reporting
7. MWBE Outreach: Describe your approach to encouraging minority participation on this project. Identify your five (5) most successful projects relative to MWBE participation, indicate the percentage achieved and if the MWBE goal was met or exceeded. Describe what strategies were used to make these projects successful. Indicate the minority participation goal that you expect to achieve on this project. Note: "The County policy establishes that the County shall have a verifiable fifteen percent (15%) goal for participation by minority business enterprises (MBEs) in the total value of each building construction contract in the excess of \$100,000 for which a contract or contracts are awarded. The policy states: "It is the intent of these guidelines that the County of Cumberland, as awarding authority for building construction projects, and the contractors and subcontractors performing the building construction contracts awarded shall cooperate and in good faith do all things legal, proper and reasonable to achieve the County goal of fifteen percent (15%) for participation by minority business in each construction project."
8. Local trade contractor and supplier involvement.
9. Construction on an urban site including site safety and protection of adjacent property and pedestrians.
10. Technology to manage and control the project including BIM, and PMIS.
11. Maintenance considerations during the design and construction phases of a project.

12. Review and consideration of product substitutions submittals.
13. Close-out (including punch list and warranty issues).

**D. General** *(these documents do not count toward the 50-page maximum)*

North Carolina law imposes E-Verify requirements on contractors who enter certain contracts with state agencies and local governments. Legislation specifically prohibits governmental units from entering into certain contracts “unless the contractor and the contractor’s subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes.” (Article 2 of Chapter 64 establishes North Carolina’s E-Verify requirements for private employers). It is important to note that the verification requirement applies to subcontractors as well as contractors. The new laws specifically prohibit governmental units from entering into contracts with contractors who have not (or their subs have not) complied with E-Verify requirements. Complete the attached affidavit, and include it with your submittal.

## VII. Due Dates for Submission of Questions and Proposals

**Questions** must be in writing and directed to Matthew DeSilver and Jermaine Walker via e-mail, no later than **5:00 p.m. EST January 18, 2023, per the clock located in the Issuing Office.** All questions received will be answered in writing via a published Addendum to the RFQ by **5:00 p.m. EST January 23, 2023.** If it becomes necessary to revise any part of this RFQ, an Addendum will be published on the Cumberland County Procurement website. It is the responsibility of the proposing firm to check the website for Addenda to the RFQ for the most current information prior to submitting a Qualifications. The professional firm must acknowledge receipt of all published Addenda in its Qualifications.

Five (5) complete packages and one digital copy on a USB must be received at the following address by 5:00 pm, on **February 10, 2023, per the clock located at the Cumberland County Engineering Department** to be considered. Qualification Packets will be submitted to:

“RFQ Cumberland County Construction Manager at Risk (CMaR) Crown Event Center proposal”, Attn: Jermaine Walker, Director, Engineering and Infrastructure

Mailing Address:

Cumberland County Engineering Department  
130 Gillespie Street  
Suite 214  
Fayetteville, NC 28301

**Clearly mark the package with: (1) firm name, (2) the RFQ title, and (3) the due date.**

All risk of late arrival due to unanticipated delay—whether delivered by email, hand, U.S. Postal Service, courier, or other delivery service is entirely on the submitting firm. It is the sole responsibility of the firm to have the proposal to the County department specified by the specified time and date of opening.

**Responses to this RFQ will not be accepted electronically. Any submittal received after the submittal deadline will be rejected.**

## VIII. General Comments or Clarifications

- A. Any cost incurred by respondents in preparing or responding to this RFQ shall be the respondent's sole responsibility.
- B. All responses, inquiries or correspondence relating to this RFQ will become the property of Cumberland County when received (subject to Section X - Confidentiality of Documents).
- C. Cumberland County has sole discretion and reserves the right to reject any and all responses received with respect to this RFQ and to cancel the RFQ process at any time prior to entering into a formal agreement. The County reserves the right to request additional information or clarification of information provided in the response without changing the terms of the RFQ. In the event a contract cannot be negotiated with the best qualified firm the County reserves the right to terminate negotiations with that firm and initiate negotiations with the next best qualified firm.
- D. Each firm submitting a proposal, including its representatives, subcontractors, and suppliers, is prohibited from having any communication with any employees or members of the Board of Commissioners of Cumberland County except those employees of the County's Engineering Department as designated in this RFQ. Any firm who does not comply with this provision may be disqualified from contract award.
- E. News releases pertaining to the selection of the Construction Manager at Risk shall not be made public without prior written permission of the issuing office.

## IX. Selection Process

All submittals are subject to review by the County's Selection Committee. The Selection Committee will be comprised of voting representatives from County management, in addition to non-voting consultants. The County disclaims any liability whatsoever as to their review of the submittals and in formulating their recommendations for selection. All recommendations for selection made by the committee shall be final.

### A. RFQ Response Review

The Selection Committee shall review the qualifications of interested Construction Managers and identify a ranking order based upon the selection criteria established and published by the County in this RFQ. The Selection Committee will determine a shortlist of firms to be interviewed from the ranking order.

#### RFQ Evaluation Criteria

No.	Evaluation Criteria	Weight	Score
1	Project understanding and approach to providing requested scope.	30	
2	Approach to collaboration with Project Delivery Team.	20	
3	Qualifications and relevant experience of personnel, quality of recommendations and capacity to complete this project.	30	
4	Approach to, and experience with, value engineering, and cost management.	30	

5	Approach to schedule management and experience with on-time project completion.	20	
6	Approach to meeting or exceeding MWBE goals.	20	
7	Approach to local subcontractor participation.	20	
8	Local professional services participation.	10	
9	Quality and clarity of proposal.	10	
	Final Criteria Ratings (out of a total of 190 points)		

### **B. Oral Presentation**

An oral presentation may be required by those firms short listed by the Selection Committee. A presentation is intended to provide an opportunity for the firm to clarify their submitted qualifications to ensure a thorough and mutual understanding. The Issuing Office will schedule a presentation after the committee's evaluation process is complete.

Interviewees will be evaluated independently of the RFQ scoring on a separate 20-point scale.

### **C. Negotiation**

The firm that is deemed to be the most highly qualified to provide the services required will be contacted by the Negotiation Committee. The Negotiation Committee shall then negotiate fair and reasonable billable rates for preconstruction services in order of preference, opening negotiations with firms of a lower preference only if fair and reasonable billable rates cannot be established with the firms of higher preference.

### **D. Debriefing on Unsuccessful Qualifications**

If a letter of selection is not received within 120 days of the RFQ closing date (or any written extension thereof), the firm may assume that they were not awarded a contract. Upon written request, the firm will be debriefed (orally) as to the basis for their non-selection. Requests for oral debriefing must be made in writing to the attention of the "point of contact" person within 150 days after the closing date cited for receipt of responses to the RFQ. The County will set the time and location of the debriefing.

## **X. Confidentiality of Documents**

In general, documents that are submitted as part of the response to this RFQ will become public records, and will be subject to public disclosure. North Carolina General Statutes Section 132-1.2 and 66-152 provide a method for protecting some documents from public disclosure. If the CM at Risk follows the procedures prescribed by those statutes and designates a document "proprietary" or "trade secret", the County will withhold the document from public disclosure to the extent that it is entitled or required to do so by applicable law. If the County determines that a document that the CM at Risk has designated "proprietary" or "trade secret" is not entitled to protection from public disclosure, the County will provide notice of that determination to the contact person designated by the CM at Risk, in any reasonable manner that the County can provide such notice, at least five business days prior to its public disclosure of the document.

If the CM at Risk does not designate anyone to receive such notice, or if, within five business days after the designated person receives such notice, the CM at Risk does not initiate judicial proceedings to protect the confidentiality of the document, the County will not have

any obligation to withhold the document from public disclosure. By submitting to the County a document that the CM at Risk designates as “proprietary” or “trade secret”, the CM at Risk agrees that in the event a third party brings any action against the County or any of its officials or employees to obtain disclosure of the document the CM at Risk will indemnify and hold harmless the County and each organization’s affected officials and employees from all costs, including attorney’s fees, incurred by or assessed against any defendant, of defending against such action. The CM at Risk also agrees that at the County’s request the CM at Risk will intervene in any such action and assume all responsibility for defending against it, and that the CM at Risk failure to do so will relieve the County of all further obligations to protect the confidentiality of the document.

## **XI. Terms and Conditions**

### **A. Affirmative Action**

The Construction Manager will take affirmative action in complying with all Federal and County requirements concerning fair employment and employment of people with disabilities and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.

### **B. General Statute 143-64.31 (a1): Procurement of Architectural, Engineering, and Surveying Services**

A resident firm providing architectural, engineering, surveying, construction management at risk services, design-build services, or public-private partnership construction services shall be granted a preference over a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

### **C. Iran Divestment Act**

As provided in N.C.G.S. 147-86.55-69, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the County Treasurer pursuant to G.S. 147-86.57(6) c, is ineligible to contract with the County of North Carolina or any political subdivision of the COUNTY.

### **D. E-Verify**

Professional shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if professional utilizes a subcontractor, the professional shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.”

### **E. Divestment From Companies That Boycott Israel**

The Professional certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. 147-86.81. It is the responsibility of each Professional to monitor compliance with this restriction. Contracts valued at less than \$1,000.00 are exempt from this restriction.

**F. Insurance**

Providing and maintaining adequate insurance coverage is a material obligation of the Professional and is of the essence of this Contract. All such insurance shall meet all laws of the County of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Professional shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Professional shall not be interpreted as limiting the Professionals' liability and obligations under the Contract. During the term of the Contract, the Professional at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract.