



SKOKIE
PUBLIC
LIBRARY

5215 Oakton Street / Skokie, IL 60077 / 847-673-7774 / www.skokielibrary.info

REQUEST FOR QUALIFICATIONS FOR CONSTRUCTION MANAGEMENT SERVICES

Interior Renovation to Existing Library Facility

RFO

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Skokie Public Library Board of Trustees

Mark Prosperi, President; Diana Hunter, Vice President/President Emerita;

Karen Parrilli, Secretary; Mira Barbir; Susan Greer; Eugene F Griffin; Jonathan H Maks, MD



RFQ OVERVIEW



The Board of Trustees of Skokie Public Library is soliciting Statements of Qualifications from professional construction firms to provide “construction management at risk” services for the interior renovation of the facility located at 5215 Oakton St., Skokie, IL 60077. Firms with relevant construction management experience are encouraged to apply. Consideration will be limited to firms that have demonstrated successful experience in the provision of “construction management at risk” services of a similar scope for a public library or another public sector owner.

Contact Person: Richard Kong, Director, Skokie Public Library
rkong@skokielibrary.info
847-324-3128

Date of Issue: Monday, September 17, 2018

Due Date: Friday, October 5, 2018, 2:00 pm (CST)

Submittals to: Skokie Public Library
Attn: Richard Kong, Director
Construction Management RFQ
5215 Oakton Street, Skokie, IL 60077

RFQ GENERAL



1. This RFQ and addenda are available on the library's website at <https://skokiellibrary.info/about/rfps/>.
2. Any changes to the RFQ or addenda will be posted no later than Monday, October 1, 2018 by 5:00 p.m. (CST). Firms are responsible for checking the website to ensure that they have the most current information regarding the RFQ.
3. All questions pertaining to the solicitation must be in writing, and can be sent via email to the library director Richard Kong at rkong@skokiellibrary.info.
4. The Library is not liable for any costs incurred by any firm in connection with this RFQ. Expenses incurred by the responding firms are the sole responsibility of the firm and may not be charged to the Library.
5. All proposals submitted shall be binding for 90 calendar days following due dates.
6. Please submit eight (8) copies to the library address listed above.

RFQ BACKGROUND INFORMATION



Skokie Public Library was originally constructed as a single-story library facility in 1960 with a capacity to hold 150,000 books. Architect James W. Hammond of Skidmore Owings & Merrill designed the original 34,200 square foot building. In 1963, the library building was honored by the American Institute of Architects and the American Library Association.

The Library was expanded in 1971 with a 67,000 square foot, 2-story addition abutting the east side of the original building. This addition increased the library's capacity to 350,000 books. The architect was James W. Hammond of Hammond & Roesch (later Hammond, Beeby & Babka).

In 2001, work began on a major expansion and renovation of the building. A third floor was added to the 2-story section and portions of the first floor were expanded to the west during this major rehabilitation project completed in 2003. The third floor includes staff offices and break rooms. The 2003 project also included an extensive remodeling of the interior. Robert D. Hunter of O'Donnell Wicklund Pigozzi & Peterson served as the design architect.

In 2012, aspects of the second floor interior were updated, including a new Business and Career Center, computer commons, and six additional study rooms.

The annual operating budget for FY 2018-2019 is \$12.55 million.

The Library recently completed a capital asset study, which resulted in a clear outline of anticipated capital improvement projects over the next twenty years and the impact on the Reserve Fund for Sites and Buildings.

RFQ PROJECT DESCRIPTION



The purpose of the project is to renovate the existing library facility located at 5215 Oakton St., Skokie, IL 60077. The project will include renovation of approximately 30,000 sq. ft. on the 2nd floor and central staircase, as well as approximately 55,000 sq. ft. on the 1st floor. Working with designs from the Architect, in collaboration with the Library, the goal is to holistically redesign, upgrade, rearrange, and refresh the interior space of the building to meet emerging service patterns, and fulfill the current and future needs of the community. The projected budget for construction management and cost of construction (not including FFE and shelving costs) is \$14 million.

Aspects of the construction will be implemented in phases in order to avoid complete disruption of library services. The Construction Manager will be required to work closely with the owner/Library personnel to develop and maintain a workable phased schedule to minimize public inconvenience including the rearrangement of the collection. The Construction Manager will also be responsible for coordinating the schedules of any required movers and/or furniture installers during the construction phase.

The Library Board of Trustees, director, and staff expect to collaborate actively with the Construction Manager and Architect to create a renovated library that would meet their expectations and the needs of the community.

RFQ SCOPE OF WORK



The Construction Manager selected will work in cooperation with the Architect to realize the goals of the Library in an expeditious and economical manner. Construction management services shall be performed in accordance with the AIA A134 construction management agreement, in the format as amended and attached to this RFQ (the “Agreement”). Construction Manager services are specified in the Agreement, and shall include but are not limited to:

- **Pre-Construction:** Participation in regular meetings with the Library and Architect; development of a preliminary construction schedule; assistance in phasing the project to minimize interruption of library service; preparation of two (2) cost estimates during the design phase, in addition to a final cost estimate when construction documents are finalized and ready for bidding.
- **Bidding:** Preparation and coordination of the bid documents and manuals, public bid announcement and pre-bid walk-through; obtaining and opening bids along with recommendation of award in a manner consistent with requirements for public libraries under applicable statutes; and obtaining all required permits from the Village of Skokie and any other governmental authority with jurisdiction.
- **Construction:** Daily on-site supervision including scheduling, coordination and quality control; scheduling and coordination of bi-weekly construction meetings with Library and Architect; obtaining all required inspections with the Village of Skokie; coordination of all shop drawings and material submittals between Architect and subcontractors; submittal and management of all payment applications including all lien waivers, change orders etc.; final punch list per phase; and project close out including all manuals and documentation. The construction manager at risk, as principal, will furnish payment and performance bonds naming the Library as obligee, with a penal sum equivalent to the cost of the work.

RFQ EXPECTED SCHEDULE



ITEM	DUE DATE
Issue RFQ for construction management services	September 17, 2018
Guided site visit with library director	September 21, 2018 at 10:30 a.m. (CST)
Written proposals due	October 5, 2018
Construction Manager interviews with Board of Trustees; Selection/Award	October 17, 2018 – November 14, 2019
Project construction start date (tentative)	January 2020
Project construction completion date (tentative)	September 2021

RFQ EVALUATION CRITERIA



The selected firm will be chosen based on its apparent ability to meet the overall expectations of the Library. The Library Board of Trustees will be the judge of which Statements of Qualifications offer the greatest benefit. The following criteria will be applied in the selection process.

1. Responsiveness and completeness of the Statement of Qualifications.
2. Experience and qualifications of construction management team.
3. Technical quality and methodology of Construction Manager's approach to organizing and managing the project and ability to document information and recommendations in a clearly written format.
4. Understanding of project objectives and scope.
5. Ability of construction management team to communicate and build consensus with personnel from both the Library and Architect.
6. Experience in public library building projects.
7. Existing projects, workload, and availability.
8. References and examples of completed projects. Satisfaction of former clients with competency of Construction Manager and completed work.
9. Overall project management and ability to accomplish a project of this nature within the proposed time schedule.
10. Competitiveness of fee structure.
11. Other factors deemed relevant by the Library Board of Trustees.

RFQ

REQUIREMENTS FOR SUBMITTING QUALIFICATIONS

Submit eight (8) printed copies **no later than Friday, October 5, 2018 by 2:00 p.m. (CST)** to:

Skokie Public Library

Attn: Richard Kong, Director

Construction Management RFQ

5215 Oakton St., Skokie, IL 60077

- Faxed or emailed proposals will not be accepted.
- Late submissions will not be accepted. Statements of qualifications will be taken under advisement and reviewed by the Library staff following the submittal deadline.

The Statement of Qualifications must include the following information in the stated order.

1. Information about the Firm

- a. Firm name, address and telephone number
- b. Primary contact name with email and telephone number
- c. Brief history of the Firm
- d. Information about workload and availability

2. Qualifications of the individual(s) who will work on the renovation project

- a. Describe the size and composition of your organization.
- b. Identify and provide resumes for the person(s) who will be assigned to this project and describe their respective roles and responsibilities.
- c. Should your firm be shortlisted, these individuals shall be present during the interview process:
 - i. Project Manager
 - ii. On-Site Superintendent

RFO

SUBMISSIONS (continued)

3. Representative Projects

- a. Provide at least three examples of similar projects completed by the assigned personnel (Library projects preferred). Include the following information about each project:
 - i. Name and address of client.
 - ii. Name, telephone number, and email address of contact person.
 - iii. Summary of project or plan, including year completed, size, and total cost.
 - iv. Photographs of the projects.
- b. Discuss your Firm's experience with completing projects on time and within budget as the Construction Manager.

4. Project Approach

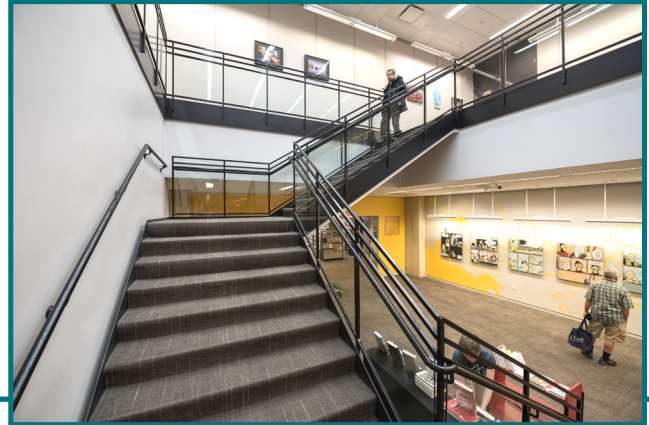
- a. Briefly describe your Firm's experience and knowledge of the Construction Manager's role in a Library project.
- b. Describe your understanding of the Skokie Public Library project and how your services would contribute to it.

SITE VISIT

All construction management firms are encouraged to visit the existing facility to gain an understanding of the project and to familiarize themselves with the facility. While site visits are encouraged, they are not mandatory and will not be a pre-requisite for submitting a response.

The Library director will be available at 10:30 a.m. (CST) on Friday, September 21, 2018 to provide a brief tour of the facility and answer questions about the project. Please email rkong@skokilibrary.info if you plan to attend. Participants should check-in at the Library's third floor Administration Office at the start of the tour.

RFQ SELECTION PROCESS



1. **Submittal Requirements/Statement of Qualifications.** The Library staff will review and evaluate materials submitted prior to the deadline.
2. **Selection.** The Library staff will select 2–3 candidate firms for further evaluation. The staff will consider the responsiveness of the materials submitted, qualifications, ability of professional personnel, past record and experience, performance data, ability to meet time and budgetary requirements, workload, availability, fee structure, and other factors deemed relevant by the Board of Trustees. Candidates selected may be required to make a public presentation regarding their qualifications.
3. **Oral Interview.** Candidates may be asked to meet with the Library Board of Trustees to discuss their materials submitted, assessment of the proposed project, and other subjects deemed relevant by the Board.
4. **Acceptance/Rejection of Proposals.** The Board of Trustees reserves the right, in its sole discretion, to reject any or all submittals, accept all or any portion of a submittal, and to waive any formality, technicality or irregularity in this selection process. The Board of Trustees reserves the right to select a Construction Manager in the best interest of the Library and at the sole discretion of the Board. The Board of Trustees reserves the right to waive or modify any provisions of this request for qualifications.



DRAFT AIA[®] Document A134[™] - 2009

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status and address)

Skokie Public Library
5215 Oakton Street
Skokie, IL 60077

and the Construction Manager:
(Name, legal status and address)

for the following Project:
(Name and address or location)

2018 Library Renovation Project

The Architect:
(Name, legal status and address)

Andrew Berman Architects PLLC
77 Chambers Street, 4th Floor
New York, New York 10007

The Owner's Designated Representative:
(Name, address and other information)

The Construction Manager's Designated Representative:
(Name, address and other information)

The Architect's Designated Representative:
(Name, address and other information)

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA[®] Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information requested by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.2.1 The Construction Manager has been engaged to provide professional construction management services because of its character, expertise, experience, education, depth of experienced personnel, and qualifications in dealing with projects of similar scope, complexity, and magnitude.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, as amended and attached hereto, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in the amended A201-2007, which document is attached hereto and incorporated herein by reference. The term "Contractor" as used in the amended A201-2007 shall mean the Construction Manager. Any reference in this Agreement to the AIA Document A201™-2007, General Conditions of the Contract for Construction, shall mean the A201-2007 in the amended form attached hereto and incorporated herein, or the A201-2017 in the amended form attached or later appended hereto

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.0.2 The Construction Manager shall designate an authorized representative who hereby has express authority to bind the Construction Manager with respect to all matters requiring the Construction Manager's approval or authorization. Construction Manager's representative shall have the authority to make representations and decisions on behalf of the Construction Manager concerning estimates and schedules, construction budgets, coordination of the Work, prosecution of the Work, changes in the Work, and all other matters related to this Agreement.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, if such program exists, as well as the schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

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

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: the components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner. All project schedules (including updates) shall be formatted using Critical Path Method (CPM).

§ 2.1.3.1 The Construction Manager shall assist the Owner and Architect in preparing Construction Contracts and advising the Owner on the acceptability of sub-tier subcontractors and material suppliers proposed by Subcontractors. The Construction Manager shall submit for review and approval to Owner, or its attorneys if designated by Owner, all instructions, terms, conditions, and information prepared for submission to bidders prior to release of the bid package.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

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

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the

Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Construction Manager submits a Control Estimate for the Work, pursuant to Section 2.2. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.5.3 Construction Manager shall furnish written cost estimates to the Owner at the following intervals:

[TBD]

§ 2.1.6 Subcontractors and Suppliers

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

§ 2.1.6.1 Owner is a public library bound by the Illinois Local Library Act, 75 ILCS 5/5-5 to procure the Work through public bidding and award the contract(s) for the Work to the lowest responsive and responsible bidder. When the lowest responsive and responsible multiple prime trade bidders (hereinafter referred to as "Subcontractors") are identified, Owner shall assign those trade contracts (the "Subcontracts") to Construction Manager.

The Construction Manager shall cause the Subcontracts to incorporate substantially the following provisions:

"This Contract has been awarded by the Owner after advertisement for bids. Upon award of the Contract by the Owner, the Owner shall be deemed to have assigned its rights in this Agreement to the Owner's Construction Manager, _____, which is identified herein as the Contractor.

By submitting its bid, the bidder shall be deemed to have consented to the aforesaid assignment, and to have agreed to become an assigned Subcontractor to the Contractor.

Upon assignment, the Subcontractor shall become a subcontractor of the Contractor pursuant to this Agreement, and, except as identified within this Agreement and as provided by law, will no longer have any contractual rights against the Owner, and shall have contractual privity only with the Contractor."

§ 2.1.6.2 Construction Manager shall prepare all bid invitations, instructions to bidders, and general and supplementary conditions. Construction Manager shall ensure that the amended A201-2007 general conditions are incorporated into the bid package in the form attached hereto, and that no other provisions of the bid package conflict with them. Drawings and specifications shall be provided by the Architect. During preparation of the Construction Documents by the Architect, the Construction Manager shall review said Construction Documents to ensure consistency with the bid documents prepared by the Construction Manager.

§ 2.1.6.3 Prior to advertisement for bids, Construction Manager shall provide all contractor or subcontract agreements to the Owner's attorneys for review and comment.

§ 2.1.6.4 Construction Manager shall conduct pre-bid meetings with interested bidders in accordance with publicly announced and scheduled meetings.

§ 2.1.6.5 The Owner shall receive, open, and read aloud all bids as required by the applicable procurement laws. The Construction Manager shall record all bids, prepare bid analyses, and make recommendations to the Owner for the Owner's award of contracts and/or rejection of bids.

§ 2.1.6.6 The Subcontract documents prepared by Construction Manager shall require full compliance with all state and local laws.

§ 2.1.6.7 The Construction Manager shall not self-perform any portion of the Work, except if such self-performance complies with the following requirements:

"Self performance" means: (1) the Work is performed with Construction Manager's own forces; or (2) the Work is performed by another entity in which Construction Manager has a controlling interest; or (3) the Work is performed by another entity when that entity is a subsidiary of a parent corporation or similar entity that also has a controlling

interest in the Construction Manager. "Self-performance" does not relate to the professional construction management services to be provided by Construction Manager under this Agreement.

To be eligible to self-perform any Work for the Project, the Construction Manager shall:

- A. Follow all instructions to bidders, terms, and conditions contained in the respective bid package;
- B. Abstain from any involvement in the pre-bid meeting, other than as an interested, potential bidder;
- C. Abstain from any involvement in the bid opening conducted by the Owner, other than as an observer;
- D. Be identified by the Owner as the lowest, responsive and responsible bidder with respect to the Work to be self-performed; and
- E. Be awarded a contract for the Work by the Owner.

Right to Reject. Notwithstanding any provision of this Agreement to the contrary, the Construction Manager agrees that Owner has the right to prohibit Construction Manager from bidding on all or on any portion of the Work. Notwithstanding any provision of this Agreement to the contrary, the Construction Manager agrees that Owner has the right to reject any bid submitted by Construction Manager, for any reason or no reason in the Owner's sole discretion, and whether or not such bid would otherwise qualify Construction Manager as the lowest, responsive and responsible bidder. The Construction Manager hereby waives and releases the Owner from any and all causes of action related to such bid challenge.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the advertisement for bids, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.1.10 Permits

The Construction Manager shall assist the Owner in obtaining building permits and special permits necessary to carry out and complete the Work, except for permits required to be obtained directly by the various Subcontractors. The Construction Manager shall verify that the Owner has paid all applicable fees. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

§ 2.2 Control Estimate

§ 2.2.1 Upon the completion of the Construction Documents by the Architect, and before advertisement for bids, the Construction Manager shall prepare a Control Estimate for the Owner's review and acceptance. The Control Estimate shall be the sum of the Construction Manager's estimate of the Cost of the Work and the Construction Manager's Fee and shall include those items set forth in Section 2.2.4 below. When the Control Estimate is acceptable to the Owner, the Owner shall, upon request by the Construction Manager, acknowledge it in writing.

§ 2.2.2 The Construction Manager shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Construction Manager's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ 2.2.3 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Control Estimate for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated in a revised Control Estimate by mutual agreement of the parties.

§ 2.2.4 The Control Estimate shall include

- .1 a list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 a list of the clarifications and assumptions made by the Construction Manager in the preparation of the Control Estimate, including assumptions under Section 2.2.3, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, and the Construction Manager's Fee;
- .4 the anticipated date of Substantial Completion upon which the Control Estimate is based, and a schedule for the issuance dates of the Construction Documents upon which the anticipated Substantial Completion date relies; and
- .5 a statement as to whether or not the duration from the stated date of commencement of the Construction Phase to the estimated date of Substantial Completion shall become the Contract Time and be subject to the provisions of Article 8 of A201-2007.

§ 2.2.5 The Owner shall authorize the Architect to incorporate the agreed-upon assumptions and clarifications contained in the Control Estimate. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Drawings and Specifications.

§ 2.2.6 Any portion of the Control Estimate shall be deemed to materially vary from the corresponding portion of the lowest responsive and responsible bid if it is at least 3% greater or 3% less than that portion of the bid. In the event of such material variance, the Construction Manager shall:

- a) If the Owner chooses to accept the bid, compensate the Owner for additional design costs to modify the scope of Work to bring the cost within 3% of the Control Estimate; and
- b) Negotiate respective change orders with the respective Subcontractors to incorporate the aforesaid design changes, at no additional charge to the Owner; or
- c) If the Owner chooses to reject all bids and re-bid, compensate the Owner for additional design costs to modify the scope of work for re-bidding; and
- d) Administrate re-bid of the affected portions of Work at no additional cost to the Owner.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's issuance of a Notice to Proceed.

§ 2.3.2 Administration

§ 2.3.2.1 All trade Work shall be performed by Subcontractors which have been assigned by the Owner to the Construction Manager as provided in this Agreement. If the Construction Manager has a reasonable objection to any Subcontractor identified as the lowest responsive bidder, it shall be the burden of the Construction Manager to present demonstrative evidence to the Owner that the bidder is not responsible, and to present such evidence in a timely manner such that Owner suffers no detriment in procuring another Subcontractor if necessary. The Construction Manager shall not perform any Work with its own forces.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee.

§ 2.3.2.4 If the Construction Manager identifies or recommends a specific bidder that is a "related party" under Section 6.10, the Construction Manager shall promptly notify the Owner as provided in Section 6.10.2.

§ 2.3.2.5 The Construction Manager shall prepare and regularly update no less than once per month a Construction Schedule utilizing a Critical Path Method (CPM), or another Owner pre-approved scheduling method, which incorporates the activities of the Subcontractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of shop drawings, Product Data and Samples and delivery of products requiring long lead time and procurement. Additionally, the schedule shall be in accordance with applicable Sections of A201™–2007, as amended, including the Owner's occupancy requirements.

§ 2.3.2.6 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.10.

§ 2.3.2.7 In collaboration with the Architect, the Construction Manager shall establish and implement procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals. The Construction Manager shall review all Shop Drawings, Product Data, Samples and other submittals from the Subcontractors for apparent compliance with Subcontract requirements. The Construction Manager shall transmit to the Architect those submittals which have been reviewed by the Construction Manager. The Construction Manager's actions shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner or Subcontractors. The Construction Manager shall receive and process all other submittals required by the Construction Documents, including certified payrolls, work plans, safety plans, periodic schedule updates, and the like.

§ 2.3.2.8 The Construction Manager shall create and maintain a log of all submittals showing, at a minimum, the dates of submittal, review, and return, disposition, and description.

§ 2.3.2.9 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.10 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases. Construction Manager shall provide immediate written notice to the Owner and Architect if the Construction Manager discovers the existence of any and all hazardous material, including, but not limited to any lead or lead based material and asbestos, asbestos-related products including the extent and location of same. Construction Manager shall not be responsible for the removal, encapsulation, transportation or disposal of any hazardous material.

§ 2.6 Staffing

Construction Manager shall adequately staff the Project. At all times during the Construction Phase, Construction Manager shall maintain one competent, full-time superintendent at the Project site to supervise the Work and coordinate the progress of the Subcontractors. If any such individual is no longer employed on the Project

pursuant to this paragraph, Construction Manager shall propose to Owner the names of other individuals as substitutes. No person shall be employed on the Project if Owner has a reasonable objection. If Owner notifies Construction Manager that it has reasonable objection to any such individual, Construction Manager shall remove such person from the Project and propose substitutes to Owner for Owner's approval.

§ 2.7 Subcontractors' Insurance and Bonds

Construction Manager shall procure Certificates of Insurance, as well as any required Performance and Payment Bonds, for each of the Subcontractors immediately upon award of the Contract and verify conformance of same with the Contract Documents prior to allowing the Subcontractors onto the Site. Insurance of Subcontractors shall name Owner, Construction Manager, and Architect as "Additional Insureds". Copies of same shall be transmitted to the Owner and Architect before Subcontractors may commence Work on the Project.

§ 2.8 Schedule

§2.8.1 Time is of the essence of this Agreement. Construction Manager shall, with the Owner's approval, establish the Construction Schedule. Construction Manager shall schedule, sequence and coordinate the performance of the Subcontractors on the Project so that completion shall be in accordance with the Construction Schedule.

§2.8.2 The Construction Schedule shall commence with the notice to proceed, and shall schedule the Subcontractors' Work using a Critical Path Method or other scheduling methodology approved by Owner. Construction Manager shall update the Project Construction Schedule on a monthly basis to show current and forecasted progress and completion. A copy of each schedule and schedule update shall be transmitted to the Owner, Architect and each Subcontractor. Additionally, Construction Manager shall develop a look-ahead schedule for discussion at each weekly construction coordination meeting. The weekly look-ahead shall, at a minimum, show the schedule for the past week and upcoming two weeks.

§2.8.3 If a monthly Project Schedule update indicates that the previously-approved Project construction schedule may not be met, the Construction Manager shall recommend corrective action to the Owner.

§ 2.9 Cost Records Construction Manager shall verify and maintain in accordance with generally accepted accounting principles detailed cost accounting records for Work performed on the basis of unit costs, and on the basis of actual costs for labor and materials and other bases showing all costs, and shall maintain and transmit to Owner all receipts, invoices, purchase orders, canceled checks, bills of lading and other documents and evidence of payment or indebtedness to support such records as Owner may request. Construction Manager shall audit, verify and recommend approval or rejection or modification of all Change Orders submitted by Subcontractors. Construction Manager shall afford the Owner access to these records and preserve them for a period of three (3) years after final payment.

§2.10 Requests for Information

§ 2.10.1 The Construction Manager shall transmit to the Architect requests for interpretations, information, or clarification of the meaning and intent of the Drawings and Specifications, and shall timely assist in the resolution of such requests.

§ 2.10.2 The Construction Manager shall create and maintain a log of all requests from all Subcontractors, showing, at a minimum, a description of the request, date of submission, a description of the response, and date of response.

§ 2.11 Subcontractor Change Orders

§2.11.1 Without invalidating this Agreement or any Subcontract, and without notice to any respective surety, Owner may make changes to the Subcontractor contracts. The Construction Manager shall review requests for changes, assist in negotiating Subcontractors' proposals, submit recommendations to the Architect and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives which incorporate the modifications to the Construction Documents. For each change anticipated to be paid by lump sum, Construction Manager shall prepare a detailed estimate for the respective Change Order or Construction Change Directive. Construction Manager shall compare the detailed value estimate with the submittal of the Subcontractor. Construction Manager shall require that each Subcontractor submit such invoices, purchase orders, labor and material records, and schedule analyses as is necessary to verify the accuracy of the Change Order or Construction Change Directive price and/or schedule adjustment. Construction Manager shall submit a detailed recommendation for the Owner's review and approval for each Change Order or Construction Change Directive. Construction Manager shall systematically maintain all

documentation supporting each change and upon completion of the Project turn over such documentation to the Owner.

§ 2.11.2 The Construction Manager shall create and maintain a log of all requests for changes showing, at a minimum, date of submission, description of request, requested change in contract price, requested change in contract time, and disposition.

§ 2.11.3 The Construction Manager shall create and maintain a log of all approved change orders showing, at a minimum, dates of approval, description, reason for change, agreed price of change, and agreed change of contract time.

§ 2.12 Claims

§ 2.12.1 The Construction Manager shall assist the Owner and Architect in the review, evaluation and documentation of Claims. The Owner shall provide a written recommendation to the Owner suggesting the proper disposition of each Claim. Construction Manager shall require that each Subcontractor submit such invoices, purchase orders, labor and material records, and schedule analyses as is necessary to verify the accuracy of the Claim's cost and schedule impact. Construction Manager shall submit a detailed recommendation that reasonably facilitates the Owner's review and consideration of each Claim.

§ 2.12.2 The Construction Manager shall create and maintain a log of all Claims showing, at a minimum, date of submission, description of Claim, demanded change in contract price, demanded change in contract time, and disposition.

§ 2.13 Equitable Extension of Time and No Damages for Delay. To the extent that Construction Manager's services under this Agreement are delayed by the Owner or causes not under control of Construction Manager, the Contract Time shall be equitably extended. Such extension of the Contract Time shall be Construction Manager's sole and exclusive remedy, and Construction Manager shall under no circumstance be entitled to delay damages.

§ 2.14 Site Safety

§ 2.14.1 Construction Manager shall hold regular safety meetings at the site at least weekly with all Subcontractors. Construction Manager shall maintain all required safety records and logs. The Construction Manager shall review, approve and coordinate the safety programs developed by each of the Subcontractors. Neither the Owner, Construction Manager, nor the Architect, are responsible for site safety. The individual Subcontracts shall provide that the Subcontractors are solely responsible for the means and methods of prosecuting their respective Work. The foregoing shall not relieve Subcontractors of their responsibility for site safety for their Work and the Work performed by their personnel.

§ 2.15 Quality Control

§ 2.15.1 Construction Manager shall inspect the Work of Subcontractors for defects and deficiencies in the Work in order to assure compliance with the requirements of the Contract Documents. As appropriate, the Construction Manager shall have authority, upon written authorization from the Owner, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. The Construction Manager, in consultation with the Architect and Owner, may reject Work which does not conform to the requirements of the Contract Documents.

§ 2.15.2 The Construction Manager shall assist the Owner in obtaining from the responsible Subcontractor correction of all portions of the Work which do not comply with the Contract Documents or do not meet good workmanlike standards.

§ 2.16 As-Built Documents. Construction Manager shall obtain data from Subcontractors and maintain a current set of accurate As Built Drawings and Specifications clearly marked to show reported actual changes during construction. Construction Manager shall transmit a copy of all As Built Drawings and Specifications to Architect for the preparation of final As Built Documents. Construction Manager shall periodically (not less than monthly) review Subcontractors' data to verify that they are recording information sufficient to allow preparation of the As Built Documents.

§ 2.17 Submission of Record Documents. Prior to final payment at the completion of the Project, the Construction Manager shall inventory and turn over to the Owner one copy of the following: Record/As Built Drawings and Specifications prepared by the Architect, the daily log, progress reports, project manual, field orders, change orders, requests for changes, requests for information, claims, Subcontractor pay applications, communications, submittals, and all other Construction Documents.

§ 2.18 Operations and Maintenance Training Manuals. Construction Manager shall arrange and schedule operating and maintenance training on mechanical, electrical and other systems for Owner's personnel by factory authorized representatives commencing upon start-up and the commissioning of each system prior to substantial completion. Construction Manager shall receive all operating and maintenance manuals from Subcontractors, and, along with the Architect, shall review for completeness, clarity, and conformance with the respective Contract Documents. After all operations and maintenance manuals are received and approved, but no later than turnover of operations to Owner's personnel, Construction Manager shall transmit all approved operations and maintenance manuals to the Owner.

§ 2.19 Performance and Payment Bonds. Construction Manager as principal shall obtain payment and performance bonds in accordance with Article 11 of the A201 General Conditions, as amended.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 When requested by the Construction Manager, the Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, when requested by the Construction Manager, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, or, at Owner's option, Owner may require Construction Manager or Architect to subcontract directly for geotechnical engineering services, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project, to the extent allowed by law and by Owner's Board Policies. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 3.3 Architect

The Owner shall retain an Architect to provide services as necessary to design and complete the Project.

ARTICLE 4 COMPENSATION AND PAYMENTS

§ 4.1 Compensation

§ 4.1.1

The Construction Manager will be compensated in the following amounts: (1) the Construction Manager's Pre-Construction Fee in the lump sum amount of \$ _____; (2) the Construction Manager's Construction Fee in the amount of _____% of the Direct Cost of the Work; (3) Reimbursable Expenses in an amount of the actual costs incurred by Construction Manager, not to exceed \$ _____, as itemized on the attached _____; and (4) the Direct Cost of the Work; provided, however, that if the Owner permits the payment and performance bonds to be furnished by Subcontractors and not by the Construction Manager, then the Owner shall pay the Direct Cost of the Work directly to the Subcontractors. Subject to Section 7.1.6, payments shall be computed as follows:

1. During the Preconstruction Phase, the Pre-Construction Fee shall be payable monthly in proportion to the percentage of completion of the Preconstruction Phase.
2. During the Construction Phase, the Construction Fee and Reimbursable Expenses shall be payable as follows:
 - A. [Insert fee structure from proposal.]
 - B. The Construction Manager shall on a monthly basis submit invoices to the Owner for Reimbursable Expenses incurred in the immediately preceding month, with supporting documentation, and without markup. The Owner shall pay Reimbursable Expenses, as they are incurred, in an amount not to exceed \$ _____. "Reimbursable Expenses" means the actual cost to the Construction Manager of temporary toilets, temporary power usage, phone and data, surveying and layout, permits and licenses, security, required laboratory testing, periodic clean up, final clean up, dumpsters, temporary enclosures, temporary handrails and ladders, safety, project signs, photographs, snow plowing, temporary heat, plan reproduction, other utility expenses during construction, and any other related items necessary for Construction Manager to fulfill its construction management obligations under the Contract Documents. Reimbursable Expenses do not include the Direct Cost of the Work or any items of labor or materials that are the responsibility of a Subcontractor. Reimbursable Expenses do not include any capital improvements or any construction access, fences, or gates, and such items shall be included in bid packages as a part of the Work.
3. During the Construction Phase, Direct Cost of the Work shall be invoiced monthly. Direct Cost of the Work includes all Work performed by the Subcontractors. The Construction Manager shall not mark up the Direct Cost of the Work. The Direct Cost of the Work shall be paid by the Owner to the Construction Manager, and held in trust by the Construction Manager for payment to the Subcontractors to the extent required by the Contract Documents, unless the Owner permits the payment and performance bonds to be furnished by Subcontractors and not by the Construction

Manager, in which case the Owner shall pay the Direct Cost of the Work directly to the Subcontractors.

§ 4.2 Payments

§ 4.2.2 *Payments are due and payable* in accordance with the Local Government Prompt Payment Act.

§ 5.2 Changes in the Work

§ 5.2.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.2.3 If the Construction Manager receives any Drawings, Specifications, interpretations or instructions from the Owner or Architect which are inconsistent with the Contract Documents, or encounters unanticipated conditions, any of which will result in a significant change in the Cost of the Work or estimated date of Substantial Completion, the Construction Manager shall promptly notify the Owner and Architect in writing and shall not proceed with the affected Work until the Construction Manager receives further written instructions from the Owner and Architect.

ARTICLE 6 DIRECT COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1.1 The terms "Direct Cost of Work" or "Cost of the Work" shall mean the Construction Manager's compensation for the proper performance of trade Subcontracts assigned to Construction Manager after public bid.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost.

§ 6.6 Reimbursable Costs

"Reimbursable Costs" include and are limited to all of the items enumerated and defined in Sections 4.1.1(2)(B) and 6.7.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance by written Change Order executed by the Owner.

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201–2007.

§ 6.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the Reimbursable Costs or Direct Costs of the Work arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, the transaction may proceed. Otherwise, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the Direct Cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 7.1.3 Upon receipt of a properly submitted Application for Payment, payment shall be made as provided in the Local Government Prompt Payment Act.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate each item of Work comprising the entire Direct Cost of the Work, except that the Construction Manager's Fee and Reimbursable Costs shall be shown as single separate items. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule of values, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment. Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the percentage of that portion of the Work which has actually been completed.

§ 7.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Direct Cost of the Work completed during the period covering the Application for Payment, as adjusted by Change Orders applicable to that period, if any, less retention of ten percent (10%);
- .2 Add the Construction Manager's Construction Fee and Insurance Fee for the period covering the Application for Payment, less retainage of «ten » percent («10» %). The Construction Manager's Fee shall be computed as provided in Article 4;
- .3 Add the Reimbursable Expenses incurred during the period covering the Application for Payment;
- .4 Subtract the aggregate of previous payments made by the Owner;

- .5 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Architect has withheld or withdrawn a Certificate for Payment as provided in the Contract Documents.

§ 7.1.7 The Owner and Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors. Construction Manager shall ensure that each Subcontract provides that retention of ten percent (10%) shall be withheld from each Subcontractor Application for Payment and paid as a part of Final Payment.

§ 7.1.8 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.9 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made in accordance with the Local Government Prompt Payment Act.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in this Agreement and in Article 11 of AIA Document A201-2007.

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[] Arbitration pursuant to Section 15.4 of AIA Document A201-2007

[] Litigation in a court of competent

[] Other: *(Specify)*

«As provided in the A201 General Conditions, as amended. »

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination For Convenience

§ 10.1.1 The Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201–2007, as amended.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 In the event of termination of this Agreement pursuant to Section 10.1.1, after the commencement of the Construction Phase, the Owner shall pay to the Construction Manager under Section 10.1.2 an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1** Take the Direct Cost of the Work actually incurred by the Construction Manager to the date of termination;
- .2** Add a monthly installment of the Construction Fee and Insurance payable up to the date of termination, as prorated up to the date of termination, plus the amount of the Construction Fee previously paid under Article 4;
- .3** Add the Reimbursable Costs actually incurred by the Construction Manager up to the date of termination; and
- .4** Subtract the aggregate of previous payments made by the Owner for Construction Phase services, including all payments for the Direct Cost of the Work, the Construction Fee, the Insurance Fee, and the Reimbursable Expenses.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. Owner may in its sole discretion, elect to require Construction Manager to assign all Subcontracts back to Owner. To the extent that the Owner elects to take legal assignment of Subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such Subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such Subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner accepts assignment of Subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the Subcontract, purchase order or rental agreement if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any Subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the Subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 10.2 Termination

§ 10.2.1 The Owner may terminate this Agreement at any time, for convenience or for cause, in accordance with Article 14 of the A201 General Conditions.

§ 10.3 Suspension

The Work may be suspended for a period of thirty (30) days by the Owner as provided in A201™–2007, without any equitable adjustment to the Construction Manager's Fee. If such suspension exceeds thirty (30) days, the Construction Manager's Fee shall be equitably adjusted.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of any third party against either the Owner or the Construction Manager. Owner and Construction Manager acknowledge and agree that the obligations of the Construction Manager are solely for the benefit of the Owner and not intended in any respect to benefit the Architect, Subcontractors, or any other third parties.

§ 11.3 In case of conflict between this Agreement and any other document incorporated or referenced herein, this Agreement shall prevail, followed by the A201 General Conditions as amended, the supplementary conditions, Owner's request for qualifications or proposal, the drawings and specifications, and the Construction Manager's proposal, if such proposal is a part of the Contract Documents.

§11.4 The Construction Manager shall endeavor to keep the Project free from mechanic's liens. If the Owner is required to withhold money pursuant to a notice of lien or lien against public funds, the Construction Manager shall indemnify, defend and hold harmless the Owner for all costs incurred in connection with such lien and any resulting litigation, including attorneys' fees. The Construction Manager shall ensure that a similar provision is incorporated into the Subcontracts.

§ 11.5 Construction Manager acknowledges that this is a public works project governed by the Illinois Prevailing Wage Act. Construction Manager shall pay its laborers, if any, and ensure that all Subcontractors pay their laborers not less than the established prevailing rate of wages. 820 ILCS 130/1 *et seq.* Construction Manager shall comply with all reporting requirements of the Illinois Prevailing Wage Act. Similarly, the Construction Manager shall assure that all Subcontractors and sub-tier subcontractors comply with the reporting requirements of the Illinois Prevailing Wage Act.

§ 11.6 Construction Manager represents that it has in place a Sexual Harassment Policy in accordance with the Illinois Human Rights Act and shall ensure that all Subcontractors have in place a Sexual Harassment Policy prior to commencement of Work on the Project. 775 ILCS 5/1-105.

§ 11.7 Construction Manager represents that it does not discriminate in its hiring practices based upon race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service. Construction Manager shall ensure that no Subcontractor discriminates as set forth in this Section.

§ 11.8 Construction Manager represents that it is in conformance with the Drug Free Workplace Act. 30 ILCS 580/1 *et seq.*

§ 11.9 Construction Manager certifies that it is not barred from contracting as a result of bid rigging or bid rotation. 720 ILCS 5/33 E-11.

§ 11.10 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.11 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.12 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Except for the assignment of Subcontracts to the Construction Manager as provided herein, neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 11.13 Other provisions: None.

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A134–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price, as amended;
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction, as amended and attached.

Other documents: N/A

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

Skokie Public Library
(Printed name and title)

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CONSTRUCTION MANAGER (Signature)

« »
(Printed name and title)