



## **AGREEMENT BETWEEN OWNER AND DESIGN/BUILDER FOR THE DEMOLITION OF BUILDING 189 IN THE RICE CREEK REGIONAL TRAIL CORRIDOR.**

### **PART 1 AGREEMENT**

- 1. DESIGN/BUILDER**
- 2. OWNER**
- 3. OWNERSHIP AND USE OF DOCUMENTS AND ELECTRONIC DATA**
- 4. TIME**
- 5. PAYMENTS**
- 6. DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION**
- 7. BASIS OF COMPENSATION**
- 8. OTHER CONDITIONS AND SERVICES**

AGREEMENT is made

BETWEEN the Owner:  
Ramsey County  
220 City Hall/Court House  
15 West Kellogg Boulevard  
Saint Paul, MN 55101

and the Design/Builder:  
Carl Bolander & Sons  
251 Starky Street  
Saint Paul, MN 55107

For the following Project:  
BUILDING 189 DEMOLITION PROJECT, as described in the Owner's Request for Proposals ("RFP") # 0000020520 - RFP - Design/Build, Bldg. 189 Demolition and Site Restoration including addenda.

The Design/Builder will provide services in two (2) phases:

Part 1: Programming, schematic design, design development and cost estimating leading to a Guaranteed Maximum Price. Part 1 services shall be as described in the Owner's RFP #0000020520, Design/Build, Bldg. 189 Demolition and Site Restoration, hereby incorporated herein by reference and Design/Builder's Proposal submitted in response to the RFP, dated June 23, 2022, ("Proposal") also hereby incorporated herein by reference.

Part 2: Balance of design, construction documents, bidding, construction services, and Project closeout. See **RFP and Proposal** for descriptions of Part 2 services. Part 2 services will be provided using the Design/Build delivery method.

The, landscape architectural, civil, and environmental services for the Services described in Article 1 of this Part 1 Agreement will be provided by the following persons or entities lawfully licensed to practice architecture or engineering in the State of Minnesota, both of which shall be referred to as the "Architect" in this Part 1 Agreement and the Part 2 Agreement with respect to their respective scopes.

Name and address	Registration Number	Relationship to Design/Builder
Luis Barba, 251 Starky St., Saint Paul, MN 55107	60248	Bolander, Civil Engineer
Erik Sundbo, 1800 Pioneer Creek Center, Maple Plain, MN 55359	AD2264	Stantec, Environmental Scientist
Chantell Bazwicz, 1800 Pioneer Creek Center, Maple Plain, MN 55359	AD9822	Stantec, Environmental Scientist
Nathan Gillett, 261 Commerce Cir. S., Fridley, MN 55432	AI4835	Rock Leaf Water Environmental, Asbestos Inspector
Samuel Binsfeid, 261 Commerce Cir. S., Fridley, MN 55432	LR5815	Rock Leaf Water Environmental, Risk Assessor

The Owner and the Design/Builder agree as set forth below.

## TERMS AND CONDITIONS -- PART 1 AGREEMENT

### ARTICLE 1 DESIGN/BUILDER

#### § 1.1 SERVICES

§ 1.1.1 Programming, schematic design, design development, project scheduling and cost estimating leading to a Guaranteed Maximum Price for Part 2 of the Project.

#### § 1.2 RESPONSIBILITIES

§ 1.2.1 Design services required by this Part 1 Agreement shall be performed by qualified architects and other design professionals. The contractual obligations of such professional persons or entities are undertaken and performed in the interest of the Design/Builder. Prior to the termination of the services of the Architect or any other design professional designated in this Part 1 Agreement, the Design/Builder shall identify to the Owner in writing another architect or design professional with respect to whom the Owner has no reasonable objection, who will provide the services originally to have been provided by the Architect or other design professional whose services are being terminated. The Design/Builder shall be responsible for any additional costs associated with the other architectural or design professionals.

§ 1.2.2 The agreements between the Design/Builder and the persons or entities identified in this Part 1 Agreement, and any subsequent modifications, shall be in writing. These agreements, including financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon request.

§ 1.2.3 Construction budgets shall be prepared by qualified professionals, cost estimators or contractors retained by and acting in the interest of the Design/Builder.

§ 1.2.4 The Design/Builder shall be responsible to the Owner for acts and omissions of the Design/Builder's employees, subcontractors and their agents and employees, including the Architect and other design professionals, performing any portion of the Design/Builder's obligations under this Part 1 Agreement.

§ 1.2.5 If the Design/Builder believes or is advised by the Architect or by another design professional retained to provide services on the Project that implementation of any instruction received from the Owner would cause a violation of any applicable law, the Design/Builder shall notify the Owner in writing. Neither the Design/Builder nor the Architect shall be obligated to perform any act which either believes will violate any applicable law.

§ 1.2.6 Nothing contained in this Part 1 Agreement shall create a contractual relationship between the Owner and any person or entity other than the Design/Builder.

§ 1.2.7 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design professional practicing under similar conditions at the same time and locality of the Project.

### § 1.3 BASIC SERVICES

§ 1.3.1 The Design/Builder shall provide a preliminary evaluation of the Owner's program and Project budget requirements, each in terms of the other, as described in the RFP and Proposal.

§ 1.3.2 The Design/Builder shall visit the site, become familiar with the local conditions, and correlate observable conditions with the requirements of the Owner's program, schedule, and budget.

§ 1.3.3 The Design/Builder shall review laws applicable to design and construction of the Project, correlate such laws with the Owner's program requirements, and if the Design/Builder is aware of any violations, advise the Owner if any program requirement may cause a violation of such laws. Necessary changes to the Owner's program shall be accomplished by appropriate written modification or disclosed as described in Section 1.2.2.

§ 1.3.4 The Design/Builder shall support the Owner's efforts to submit, file, and obtain on behalf of the Owner: all easements, zoning variances and legal authorizations regarding site utilization where essential to the execution of the Owner's program; and support the Owner's efforts to obtain the appropriate permits, reviews by authorities having jurisdiction, historic district reviews, and licensures needed for the Project.

§ 1.3.5 Not Used.

§ 1.3.6 At the conclusion of the Part 1 services, the Design/Builder shall submit to the Owner a proposal, including the Design Development Documents; a statement of the proposed Guaranteed Maximum Price based on the Design Development Documents; a statement of the Small Business Enterprises ("SBE") utilization and labor goals for Part 2 services that have been approved by the Owner; and a proposed schedule for Part 2 Project Services that shows Substantial Completion of the Project no later than the agreed upon date in Part 2. The Design Development Documents shall consist of drawings, outline specifications or other documents to a percentage completion that is adequate for the Design/Builder to submit a Guaranteed Maximum Price for Part 2 of the Project. The Owner reserves the right to enter into a Part 2 Agreement with the Design/Builder; or to enter into a Part 2 Agreement with a third party if the Owner and the Design/Builder are unable to reach agreement on a Part 2 Agreement within a reasonable period of time after submission of the above-identified documents by the Design/Builder, as determined by the Owner.

### § 1.4 ADDITIONAL SERVICES

§ 1.4.1 The Additional Services described under this Section 1.4 shall be provided by the Design/Builder and paid for by the Owner only if authorized or confirmed in writing by the Owner.

§ 1.4.2 Making revisions in the final, Owner-approved Design Development Documents, budget or other documents when such revisions are:

- 1.4.2.1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program, Project schedule or Project budget;
- 1.4.2.2 due to material changes required as a result of the Owner's failure to render decisions within the time periods specified in this Part 1 Agreement.

## ARTICLE 2 OWNER

### § 2.1 RESPONSIBILITIES

§ 2.1.1 The Owner shall provide supplemental information in a timely manner regarding changes in the requirements for the Project as described in **the RFP**.

§ 2.1.2 The Owner designates Scott Yonke or designee as its representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Design/Builder in order to avoid unreasonable delay in the orderly and sequential progress of the Design/Builder's services. The Owner may obtain independent review of the documents by a separate architect, engineer, contractor, or cost estimator under contract to or employed by the Owner. Such independent review shall be undertaken at the Owner's expense in a timely manner and shall not delay the orderly progress of the Design/Builder's services.

§ 2.1.3 The Owner shall disclose, to the extent known to the Owner, the results and reports of prior tests, inspections or investigations conducted for the Project involving: structural or mechanical systems; chemical, air and water pollution; hazardous materials; or other environmental and subsurface conditions. The Owner shall disclose all information known to the Owner regarding the presence of pollutants at the Project's site.

§ 2.1.4 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including such auditing services as the Owner may require to verify the Design/Builder's Applications for Payment, except in relation to any dispute between the parties.

§ 2.1.5 The Owner shall communicate with persons or entities employed or retained by the Design/Builder through the Design/Builder, unless otherwise directed by the Design/Builder.

§ 2.1.6 The Owner shall promptly obtain easements, zoning variances and legal authorizations regarding site utilization where essential to the execution of the Owner's program. Owner shall obtain Conditional Use Permit as needed for the Project.

§ 2.1.7 The Owner shall provide all necessary access to the project site, including any easements, land rights, or other land agreements.

### **ARTICLE 3 OWNERSHIP AND USE OF ELECTRONIC DATA AND DOCUMENTS**

#### **§ 3.1**

§ 3.1.1 The Owner owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works created under this Part 1 Agreement and for which the Design/Builder has received Final Payment. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire".

§ 3.1.2 "Electronic Data" means any and all items resulting from the use of any software program stored in digital format on hard disks, floppy disks, zip drives, CD-ROM discs, magnetic tapes of all types and kinds, microfiche, punched cards, punched tape, computer chips (including but not limited to EPROM, PROM, ROM and RAM of any kind) or in any other vehicle for digital data storage or transmittal, including labels appended to or associated with any physical storage device associated with each original and each copy.

§ 3.1.3 "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, created or originated by the Design/Builder, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract that are actually provided to the Owner as deliverables, that are deliverables in draft form or still "in-progress", or that are expected to become part of the deliverables. "Works" includes "Documents". "Documents" are comprised of written and electronic forms of deliverables created under the terms of this Part 1 Agreement, and of Electronic Data including the originals of any data or databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks,

or other materials, whether in tangible or electronic forms, prepared by the Design/Builder, its employees, agents or subcontractors, in the performance of services under the terms of this Part 1 Agreement.

§ 3.1.4 The Documents actually provided to the Owner as Deliverables, that are Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables will be the exclusive property of the Owner upon payment in accordance with the provisions of this Part 1 Agreement, and all such Documents must be immediately provided to the Owner by the Design/Builder upon termination of this Part 1 Agreement or upon request. For Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables, "Final Payment" means payment of the cost for the services provided to create the Documents to the then-current stage of completion. The Design/Builder assigns all right, title, and interest it may have in the Work to the Owner for which it has received Final Payment.

§ 3.1.5 The Design/Builder must, at the request of the Owner, execute all reasonable papers and perform all other reasonable acts necessary to transfer or record the Owner's ownership interest in the Documents. The Documents shall be submitted to the Owner, upon request, prior to the Owner making Final Payment to the Design/Builder.

§ 3.1.6 Documents in electronic form shall be provided to the Owner in both native format and PDF. The Design/Builder may retain copies of the Documents only for purposes of performance under the terms of this Part 1 Agreement and for its records as part of the Project file and may not use any such Documents for any other purposes without the prior written consent of the Owner except that the Architect may reuse details and specifications contained in the Works and Documents which have been developed by the Architect as the Architect's standards for similar public projects.

§ 3.2 Whether or not the Part 2 Agreement is executed, the Owner shall have the right to use the drawings, specifications, and other documents and electronic data furnished by the Design/Builder without the written permission of the Design/Builder. Such use shall be at the Owner's risk.

#### **ARTICLE 4 TIME**

§ 4.1 Within ten (10) business days of execution of this Part 1 Agreement, the Design/Builder shall prepare a Project Schedule for the performance of the Basic Services, which shall not exceed the time limits contained in this Part 1 Agreement; which allows for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project; and which shows completion of all services under this Part 1 Agreement no later than two months after execution of the Part 1 Agreement, as provided in the Owner's Preliminary Project Schedule.

§ 4.2 If, as a result of Force Majeure, the Design/Builder's services under this Part 1 Agreement have not been completed by two months after execution of the Part 1 Agreement, the parties shall mutually agree to either terminate this Part 1 Agreement or to execute a Change Order regarding changes in scope, schedule, and compensation, if any. Failure of the parties to execute a Change Order within ten (10) business days of the above-identified date shall result in automatic termination of this Part 1 Agreement.

§ 4.3 The Design/Builder shall immediately notify the Owner if it determines that it may not meet the two months after execution of the Part 1 Agreement, completion date, and advise the Owner of actions it is and will undertake to complete the services within the project schedule so as to meet the two months after execution of the Part 1 Agreement, deadline.

#### **ARTICLE 5 PAYMENTS**

§ 5.1 There will be no initial payment upon execution of this Part 1 Agreement.

§ 5.2 Not used.

§ 5.3 Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount

§ 5.4 Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges.

§ 5.5 Interest accrual and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

§ 5.6 Invoices shall show applicable Minnesota sales tax of 6.875% separately. Each invoice must include a progress report on achievement of project SBE and Workforce goals. No payment will be made until the invoice and progress report have been approved by the County.

§ 5.7 The Design/Builder may not submit invoices more than once a month.

§ 5.8 Invoices for any goods or services not identified in this Agreement will be disallowed.

§ 5.9 Surety Deposit Requirement for Non-Minnesota Construction Contractors

For any one contract where the anticipated contract value of the construction portion of the contract exceeds \$50,000, the department must withhold 8 percent from payments and send the money to the Minnesota Department of Revenue. The department will hold the funds as surety for the payment of state taxes owed as a result of the contract. For more information about this law, including exceptions to the withholding requirement, visit the [MN Department of Revenue](#) or [Withholding Tax Fact Sheet 12 -- Surety Deposits for Non-Minnesota Construction Contractors](#).

§ 5.10 Not Used.

## **ARTICLE 6 DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION**

§ 6.1 Claims, disputes or other matters in question between the parties to this Part 1 Agreement arising out of or relating to this Part 1 Agreement or breach thereof may be subject to and decided by mediation or arbitration only if agreed to in writing by both parties.

## **ARTICLE 7 BASIS OF COMPENSATION**

The Owner shall compensate the Design/Builder in accordance with Article 5, Payments, and the other provisions of this Part 1 Agreement as described below.

### **§7.1 COMPENSATION FOR BASIC SERVICES**

§7.1.1 FOR PART 1 BASIC SERVICES, compensation shall be as follows:

The Owner shall pay the Design/Builder for Basic Services on a lump sum basis, inclusive of expenses, up to a maximum not to exceed sum of \$138,200 (One Hundred Thirty-eight Thousand and Two Hundred Dollars) for Part 1 services. Part 2 fees for the Design/Builder will be included in the GMP accepted by the Owner at the end of Part 1.

### **§ 7.2 COMPENSATION FOR ADDITIONAL SERVICES**

§ 7.2.1 FOR ADDITIONAL SERVICES, compensation shall be as follows:

For Additional Services performed by the Design/Builder and its subcontractors, cost shall be calculated using the hourly rates listed in **Exhibit B**, excluding reimbursable expenses. The Design/Builder shall not perform Additional Services until the parties have executed a Change Order, including scope, schedule and compensation terms. Payment for Additional Services shall be made pursuant to Article 5 above.

## ARTICLE 8 OTHER CONDITIONS AND SERVICES

§ 8.1 The Basic Services to be performed under this Part 1 Agreement shall be commenced within ten (10) business days of final execution of this Part 1 Agreement, and, subject to authorized adjustments and to delays not caused by the Design/Builder, shall be completed in accordance with the provisions of § 4.1 of this Part 1 Agreement. If the Design/Builder believes that a delay by the Owner in making a timely decision will result in an extension to the Design/Builder's completion date, then the Design/Builder shall notify the Owner and the parties shall agree on the impact, if any, to the Design/Builder's completion date.

§ 8.2 See **RFP** for the Owner's Scope of Work.

§ 8.3 The Owner's General Terms and Conditions are attached hereto and made a part of this Part 1 Agreement as **Exhibit A**.

§ 8.4 It is the intention of the parties to execute a Part 2 Agreement for Part 2 of this Project. However, if the parties are unable to agree on the Project scope and/or the Guaranteed Maximum Price for Part 2, the Owner reserves the right to terminate its relationship with the Design/Builder and seek an alternate relationship and/or seek alternate methods of construction. All documents, drawings, and specifications created under this Part 1 Agreement shall be the property of the Owner subject to the provisions of Article 3 of this Part 1 Agreement.

§ 8.5 The Owner and the Design/Builder will incorporate into the Part 2 Agreement activities regarding utilization of certified Small Business Enterprises and workforce diversity that build on the inclusiveness in contracting models developed and used on prior Owner projects, as a means of making a good faith effort towards achievement of the SBE utilization and labor goals determined pursuant to the provisions of paragraph 1.3.5 of this Part 1 Agreement.

§ 8.6 The Design/Builder will develop and incorporate into its services under this Part 1 Agreement sustainable architecture guidelines and specifications for Part 2 of the Project, subject to approval by the Owner.

§ 8.7 This Part 1 Agreement includes the following:

1. Owner's RFP #0000020520, Design/Build, Bldg. 189 Demolition and Site Restoration, incorporated herein by reference.
2. Design/Builder's Proposal, dated June 23, 2022, incorporated herein by reference.
3. **Exhibit A** -- General Terms and Conditions (below).
4. **Exhibit B** -- Additional Services Billing Rate Schedule, attached hereto and incorporated herein.

§ 8.8 All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

Owner: Scott Yonke  
Ramsey County Parks and Recreation,  
2015 Van Dyke St.,  
Maplewood, MN 55109

Design/Builder: Luis Barba  
Carl Bolander & Sons,  
251 Starky St.,  
Saint Paul, MN 55107

If the name and/or address of the above-identified representatives changes, notice of such change shall be given to the other party in accordance with the provisions of this section.

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## Exhibit A to the Part 1 Agreement

### General Terms and Conditions

*Note: For Purposes of this Exhibit A, the term "Contractor" shall mean "Design/Builder" and the term "County" shall mean "Owner" as those terms are defined in the Part 1 Agreement.*

#### 1. Independent Contractor

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners between the parties or as constituting the Contractor as an employee of the Owner.

#### 2. Successors, Subcontracting and Assignment

##### 2.1.

The Contractor binds itself, its partners, successors, assigns and legal representatives to the Owner in respect to all covenants, contracts and obligations contained in this Agreement.

##### 2.2.

The Contractor shall not enter into any subcontract for performance of any services under this Agreement nor assign or transfer any interest in this Agreement without the prior written approval of the Owner and subject to such conditions and provisions as the Owner may deem necessary. The Contractor shall be responsible for the performance of all subcontractors.

#### 3. Compliance with Legal Requirements

##### 3.1.

The Contractor shall comply with all applicable federal, state and local laws, local ordinances, and the rules and regulations of any regulatory body acting thereunder and with the provisions of all licenses, certifications and other requirements necessary for the execution and completion of the contract.

##### 3.2.

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

##### 3.3.

Prior to entering into a contract with Ramsey County, a domestic corporation must submit a Certificate of Good Standing issued by the Minnesota Secretary of State's office pursuant to Minn. Stat. §5.12, and a foreign corporation must submit a Certificate of Authority issued by the Minnesota Secretary of State's Office pursuant to Minn. Stat. §303.03. The Contractor shall maintain a Certificate of Good Standing or a Certificate of Authority, as applicable, and shall submit the Certificate upon request by the Owner, throughout the term of the agreement and including amendments to renew as and if allowed by the contract.

#### 4. Data Practices

##### 4.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

##### 4.2.

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which Owner data is contained or which are used to access Owner data in the course of providing services under this Agreement. Access to Owner data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services are provided, at the end of the Project all Owner data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the Owner written verification that the data has been purged.

## 5. Security

### 5.1.

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

### 5.2.

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the Owner not more than 7 business days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non -permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the Owner may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

### 5.3.

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

### 5.4.

The Owner retains the right to inspect and review the Contractor's operations for potential risks to Owner operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

### 5.5.

All Owner data and intellectual property stored in the Contractor's system is the exclusive property of the Owner.

## 6. Indemnification

The Contractor shall indemnify, hold harmless and defend the Owner, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the Owner, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors,

and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

## 7. Contractor's Insurance

### 7.1.

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

### 7.2.

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the Owner contracting department evidencing such coverage to the Owner throughout the term of this Agreement.

#### 7.2.1

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability

#### 7.2.2.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent.

#### 7.2.3

Ramsey County, its officials, employees, and agents, shall be added to the policy as additional insured on a primary basis with respect to ongoing and completed operations of the Contractor, using ISO endorsement form CG 20 10 and 20 37 or the equivalent.

#### 7.2.4

Professional liability of no less than \$1,000,000 per claim and \$2,000,000 aggregate limit.

#### 7.2.5

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

### 7.3.

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

### 7.4.

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts.

### 7.5.

If the Contractor is driving on behalf of the Owner as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

### 7.6.

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement.

**7.7.**

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

**7.8.**

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the Owner.

**7.9.**

All Certificates of Insurance shall provide that the insurer give the Owner prior written notice of cancellation or non-renewal of the policy as required by the provisions of Minn. Stat. Ch. 60A, as applicable.

**7.10.**

Nothing in the Agreement shall constitute a waiver by the Owner of any statutory or common law immunities, defenses, limits, or exceptions on liability.

**8. Audit**

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon written request, shall make available to the Owner, the State Auditor, or the Owner's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

**9. Non-Conforming Services**

The acceptance by the Owner of any non-conforming goods/services under the terms of this Agreement or the foregoing by the Owner of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the Owner's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the Owner provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

**10. Setoff**

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor. The Owner may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Owner from the Contractor is determined.

**11. Conflict of Interest**

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the Owner. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

**12. Respectful Workplace and Violence Prevention**

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence,

as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

### **13. Force Majeure**

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

### **14. Unavailability of Funding - Termination**

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The Owner may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the Owner's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the Owner.

## **15. Termination**

### **15.1. Termination by the Owner**

#### **15.1.1.**

The Owner may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the Owner upon the commencement of such proceedings or other action.

#### **15.1.2.**

The Owner may terminate this Part 1 Agreement if the Contractor violates any material term or condition of this Part 1 Agreement or does not fulfill in a timely and proper manner its obligations under this Part 1 Agreement. In the event that the Owner exercises its right of termination under this Paragraph, it shall submit written notice to the Contractor and its surety, if any, specifying the reasons therefore. Termination shall be immediately effective upon the failure of the Contractor to cure the default within ten (10) business days of receipt of the notice of default. Upon termination, the Contractor shall take all actions necessary to discontinue further commitments of funds, and the Owner shall take possession of the site and of all materials and finish the Part 1 Services by whatever method the Owner may deem expedient.

#### **15.1.3.**

The Owner may terminate this Part 1 Agreement without cause upon giving at least thirty (30) business days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in accordance with this Agreement up to and including the effective date of termination.

#### **15.1.4.**

This Part 1 Agreement may be terminated by the Owner upon immediate written notice to the Contractor in the event that the Project is abandoned. If such termination occurs, the Owner shall pay the Contractor for services completed and for proven loss sustained upon materials, equipment, tools, construction equipment and machinery.

**15.1.5.**

Any termination by the Owner shall be without prejudice to the rights of the Owner to pursue other remedies against the Contractor.

**15.2. Termination by the Contractor**

**15.2.1.**

If the Owner fails to make payment of undisputed amounts or otherwise violates any material term or condition of this Part 1 Agreement the Contractor may give written notice that the Contractor intends to terminate this Part 1 Agreement, giving the specific reasons therefore. Termination shall be immediately effective upon the failure of the Owner to cure the default within ten (10) business days of receipt of the notice of default. A good faith dispute by the Owner regarding the amount of payment and failure to pay disputed amounts, which is subject to the provisions of the Minnesota Prompt Payment Act, does not constitute grounds for termination by the Contractor under this paragraph.

**16. Interpretation of Agreement; Venue**

**16.1.**

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

**16.2.**

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

**17. Warranty**

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

**18. Alteration**

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

**19. Title - Risk of Loss**

**19.1**

Title to goods and/or all associated documentation shall pass to the County upon payment by the County for goods and/or associated documentation; or for construction projects, upon incorporation of the goods into the Project.

**19.2**

The County shall be relieved from all risks of loss or damage to goods, and/or all documentation prior to the time title passes to the County as described above. The Contractor shall not be responsible for loss or damage to goods and/or documentation occasioned by negligence of the County or its employees.

**20. Submittals**

No portion of the work requiring submission of a shop drawing, drawing, manufacturer's literature, test data or other information, or a sample shall be commenced until the submittal has been approved by the County.

**21. Clean Up**

The Contractor shall at all times keep County premises free from accumulation of waste materials or rubbish caused by its operations.

**22. Lobbying**

For all contracts involving over \$150,000 in federal funds, the Contractor must sign the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, attached to this RFP, and submit it as part of the proposal contents.

**23. Safety Compliance**

**23.1**

The Contractor and all subcontractors shall at all times during the performance of the Work under this Part 2 Agreement be and remain in compliance with and responsible for any conditions imposed upon the County by OSHA requirements.

**23.2**

A risk control program must be implemented on site during this project.

**24. Entire Agreement**

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the Owner and the Contractor to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.

**25. Sustainable Architecture Guidelines and Specifications**

**25.1**

The Contractor will develop and incorporate sustainable architecture guidelines and specifications under the Part 1 Agreement, subject to approval by the Owner.

**25.2**

The Project will be required to follow the State of Minnesota Sustainable Building Guidelines and meet the Minnesota SB 2030 Energy Standard (<http://www.b3mn.org>). Energy modeling shall be included at each design phase to model the energy use for the building and evaluate various options for reducing energy use in order to meet the sustainable building requirements.

Tuesday, June 7, 2022

Task	Description	Todd P. President (QA/QC)	Luis B. Senior Project Manager	Andy R. Senior Project Manager and VP	Evan M. Demo VP	Jordan H. Project Manager	Josh B. Surveyor	Joey R. Marketing and Comm. Coord.	Carisa J. Accountant	Karly G. Project Coordinator	Total Hours	Total Labor Budget by Task	% Labor Budget by Task
<b>1.1</b>	<b>Project Start-up, Management and Base Information Services</b>										<b>69.5</b>	<b>\$9,207</b>	<b>10.6%</b>
	Facilitate and attend Project Kickoff meeting	1.5	3.0	1.5	1.5			2.0		6.0	15.5	\$2,044	2.4%
	Receive, setup and review County provided topographic survey and surface model		4.0				10.0				14.0	\$1,557	1.8%
	Review survey base maps in field		3.0		3.0	3.0					9.0	\$1,391	1.6%
	Review County-provided as-builts, plans, reports, utility records, etc.	1.0	3.0			3.0				2.0	9.0	\$1,215	1.4%
	Notify the County of any additional information or clarification required		5.0							2.0	7.0	\$903	1.0%
	Review requirements of additional stakeholders	1.0	2.0	2.0							5.0	\$923	1.1%
	Prepare and submit monthly invoices		2.0						4.0	2.0	8.0	\$874	1.0%
	Identify possible wetland impacts		2.0								2.0	\$301	0.3%
<b>2.1</b>	<b>Meetings</b>										<b>23.0</b>	<b>\$7,254</b>	<b>8.4%</b>
	Attend (2) project coordination meetings 30% design stage	1.5	3.0	3.0	3.0					1.0		\$2,037	2.4%
	Attend (2) plan/document reviews (30%, 100%)	1.5	3.0	3.0	3.0							\$1,961	2.3%
	Prepare meeting agendas and notes (4 meetings)		4.0			4.0				1.0	4.0	\$1,160	1.3%
	Facilitate, attend, and document 1 project over-the-shoulder review meeting		1.0	1.0		1.0					3.0	\$457	0.5%
	Graphics support for public meetings (10 staff hours)		2.0					12.0		2.0	16.0	\$1,638	1.9%
<b>3.1</b>	<b>Community Notification Plan</b>										<b>38.0</b>	<b>\$3,896</b>	<b>4.5%</b>
	Develop Community Notification Plan		8.0					8.0		8.0	24.0	\$2,597	3.0%
	Maintain Community Notification Plan		2.0					4.0		8.0	14.0	\$1,299	1.5%
<b>4.1</b>	<b>Topographic Services</b>										<b>12.0</b>	<b>\$1,256</b>	<b>1.4%</b>
	Submit Survey request to obtain additional information for basemap		2.0				10.0				12.0	\$1,256	1.4%
<b>5.1</b>	<b>Project Design Activities</b>												
a.	<b>Design PS&amp;E (30%)</b>										<b>181.0</b>	<b>\$27,063</b>	<b>31.2%</b>
	Prepare 30% Build Demo Plans	1.0	2.0	6.0	8.0	8.0				2.0	27.0	\$4,322	5.0%
	Prepare 30% Site Demo Plans (Fencing, Asphalt, Clearing and Grubbing, Rail Road)	4.0	4.0	4.0	4.0	4.0				2.0	22.0	\$3,750	4.3%
	Prepare 30% Site Grading Plans	1.0	8.0	4.0			10.0	2.0		2.0	27.0	\$3,746	4.3%
	Prepare 30% Erosion Control Plans (TESC)	1.0	4.0			4.0				2.0	11.0	\$1,486	1.7%
	Prepare 30% Utility Removal Plans (Electric, Storm, Water, Sewer, Steam Condensation, Fuel)	5.0	14.0	5.0	8.0	14.0				2.0	48.0	\$7,669	8.8%
	Prepare 30% Site Restoration Plan	1.0	4.0	1.0		4.0				2.0	12.0	\$1,672	1.9%
	Prepare Specifications and Special Provisions	1.0	8.0	1.0	4.0	10.0		2.0	8.0	34.0		\$4,418	5.1%
	<b>Design PS&amp;E (100%)</b>										<b>103.5</b>	<b>\$15,237</b>	<b>17.6%</b>
	Prepare 100% Build Demo Plans	1.0	2.0	2.0	2.0	4.0				1.0	12.0	\$1,866	2.2%
	Prepare 100% Site Demo Plans (Fencing, Asphalt, Clearing and Grubbing, Rail Road)	2.0	4.0	2.0	2.0	4.0				1.0	15.0	\$2,418	2.8%
	Prepare 100% Site Grading Plans	0.5	4.0	2.0			8.0	2.0		1.0	17.5	\$2,331	2.7%
	Prepare 100% Erosion Control Plans (TESC)	0.5	2.0			2.0				1.0	5.5	\$743	0.9%
	Prepare 100% Utility Removal Plans (Electric, Storm, Water, Sewer, Steam Condensation, Fuel)	3.0	8.0	3.0	4.0	8.0				1.0	27.0	\$4,324	5.0%
	Prepare 100% Site Restoration Plan	0.5	2.0	1.0		1.0				1.0	5.5	\$808	0.9%
	Update Specifications and Special Provisions	1.0	8.0	1.0	2.0	1.0			8.0	21.0		\$2,748	3.2%
b.	<b>Environmental Reporting Documents</b>										<b>48.0</b>	<b>\$8,458</b>	<b>9.8%</b>
	Coordination Meeting with Stantec		8.0	8.0	8.0						24.0	\$4,229	4.9%
	Review of Demo and Site Assessment Report			8.0	8.0	8.0					24.0	\$4,229	4.9%
c.	<b>Cost Estimate for GMP</b>										<b>72.0</b>	<b>\$11,848</b>	<b>13.7%</b>
	GMP estimate at 30%	5.0	8.0	6.0	6.0	16.0					41.0	\$6,658	7.7%
	GMP estimate at 100%	3.0	8.0	6.0	6.0	8.0					31.0	\$5,190	6.0%
d.	<b>CPM Schedule</b>										<b>15.0</b>	<b>\$1,779</b>	<b>2.1%</b>
	Prepare and present CPM Schedule to the County	1.0	4.0	2.0	2.0		1.0			1.0	11.0	\$1,779	2.1%
e.	<b>Jurisdiction Coordination</b>										<b>4.0</b>	<b>\$672</b>	<b>0.8%</b>
	Attend (2) project coordination meetings			2.0	2.0						4.0		\$672
	<b>Total Hours</b>	<b>38.0</b>	<b>161.0</b>	<b>74.5</b>	<b>74.5</b>	<b>117.0</b>	<b>25.0</b>	<b>28.0</b>	<b>4.0</b>	<b>67.0</b>	<b>589.0</b>		
	<b>Billing Rate</b>	<b>\$250.45</b>	<b>\$150.45</b>	<b>\$185.65</b>	<b>\$192.50</b>	<b>\$120.80</b>	<b>\$95.50</b>	<b>\$98.90</b>	<b>\$105.50</b>	<b>\$75.30</b>			
	<b>Total Prime Labor Cost</b>	<b>\$9,517</b>	<b>\$24,222</b>	<b>\$13,831</b>	<b>\$14,341</b>	<b>\$14,134</b>	<b>\$2,388</b>	<b>\$2,769</b>	<b>\$422</b>	<b>\$5,045</b>		<b>\$86,669</b>	
	<b>% Prime Labor Cost</b>	<b>11.0%</b>	<b>27.9%</b>	<b>16.0%</b>	<b>16.5%</b>	<b>16.3%</b>	<b>2.8%</b>	<b>3.2%</b>	<b>0.5%</b>	<b>5.8%</b>			
	<b>Stantec Subconsultant - Environmental Engineering (See Attached LOE)</b>											<b>\$41,580</b>	
	<b>Rock Leaf Water Environmental Subconsultant (See Attached Quote)</b>											<b>\$9,950</b>	
	<b>Overall Project Total-Part 1 - Including Management Reserve</b>											<b>\$138,199</b>	
													<b>Avg. Team</b>
													<b>Billing Rate / Hr.</b>
													<b>\$147.15</b>

Cost Estimate  
9-Jun-22

Design - Task 3  
Ramsey County - TCAAP Building #189  
Environmental Design Documents

DETAILED COSTS - UNIT RATE APPLIED T&M - 2022 STANTEC 0-USD RATE TABLE								
Staff Rates:	Sr. Eng. E. Sundbo	Sr. Mgr. C. Bazewicz	Proj. Mgr. E. Sundbo	Sr. Tech (level 9)	Soil Tech (level 8)	Drafting P. Daniels		
Per Hour:	\$225	\$175	\$141	\$135	\$124	\$124		
<b>PROJECT TASKS &amp; LABOR</b>						<b>Hour/Task</b>		
Project Prep & Meetings	6	10	10			26		
ECP-NPCES Prep	40					16		
Spec Develop & CC Plan	10	60	20			16		
Final Design Documents	2	8	20			30		
<b>TOTAL HOURS</b>	<b>58</b>	<b>78</b>	<b>50</b>	<b>0</b>	<b>0</b>	<b>32</b>		
<b>SUB-TOTAL OF STAFF FEES</b>	<b>\$13,050</b>	<b>\$13,650</b>	<b>\$7,050</b>	<b>\$0</b>	<b>\$0</b>	<b>\$37,718</b>		
Travel Expenses	Amount	Unit Cost	Unit	Notes		Extension		
Mileage - RT - Crew	155	\$0.585	per mile	standard mileage rate		\$91		
Meals Per Diem	0	\$40	per day	n/a		\$0		
Lodging	0	\$140	per day	n/a		\$0		
<b>SUB-TOTAL MISCELLANEOUS EXPENSES</b>						<b>\$91</b>		
<b>EQUIPMENT</b>								
PID	0	\$100	per day	standard equipment		\$0		
Safety Equipment & PPE	0	\$20	per day	standard PPE		\$0		
XRF - Lead-in-Soils	0	\$250	per day	standard XRF		\$0		
Specialty Equipment	0	\$0	per day	n/a		\$0		
<b>SUB-TOTAL EQUIPMENT EXPENSES</b>						<b>\$0</b>		
<b>LABORATORY</b>								
DRO - Soil	0	\$40	sample	5-7 day turnaround time		\$0		
GRO - Soil	0	\$35	sample	5-7 day turnaround time		\$0		
VOCs - Soil	0	\$70	sample	5-7 day turnaround time		\$0		
PAHs - Soil	0	\$95	sample	5-7 day turnaround time		\$0		
Priority Pollutant Metals - Soil	0	\$120	sample	5-7 day turnaround time		\$0		
Cyanide - Soil	0	\$35	sample	5-7 day turnaround time		\$0		
PCB - Soil	0	\$70	sample	5-7 day turnaround time		\$0		
Pesticide - Soil	0	\$225	sample	5-7 day turnaround time		\$0		
Water - total matrix	0	\$650	sample	5-7 day turnaround time		\$0		
<b>SUB-TOTAL LABORATORY EXPENSES</b>						<b>\$0</b>		
<b>GENERAL CONDITIONS</b>								
Applicable	10%	\$37,718	total	general conditions		\$3,772		
<b>SUB-TOTAL GENERAL CONDITION EXPENSES</b>						<b>\$3,772</b>		
<b>SUB-CONTRACTOR/S</b>								
Excavation Contractor	0	\$0	total	n/a		\$0.00		
Administration & Oversight	0	\$0	total	n/a		\$0.00		
<b>SUB-CONTRACTOR/S SUB-TOTAL</b>						<b>\$0.00</b>		
<b>SUB-TOTAL OF STAFF FEES</b>						<b>\$37,718</b>		
<b>SUB-TOTAL OF DIRECT EXPENSES</b>						<b>\$3,862</b>		
<b>SUB-TOTAL OF SUB-CONTRACTOR/S</b>						<b>\$0</b>		
<b>TOTAL COST</b>						<b>\$41,580</b>		



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June 3, 2022

Todd Planting  
Bolander/ RE:Building 189  
251 Starkey Street  
St. Paul, MN 55107

Dear Mr. Planting,

As requested, Rock Leaf is pleased to provide Bolander (Client) a comprehensive Hazardous Materials Inspection and Report for the referenced Subject Property (bldgs 188/189). Enclosed is a detailed scope of work and project cost estimate. We welcome the opportunity to perform these services and are available to begin the proposed work upon your authorization. Please call Sarah Hornig at 612-812-1218. should you have any questions or require additional information.

#### **HAZARDOUS MATERIALS ASSESSMENT SCOPE OF WORK**

Rock Leaf shall investigate the properties owned by Ramsey County Parks, located at 45.103220, -93.179795, otherwise known as Bldg 188 & 189 in order to identify asbestos-containing materials, lead-containing materials and other hazardous materials that may be present in the current structures according to the deliverables in this RFP. The actual removal and disposal of said materials is not a part of this Contract and shall be undertaken by one or more Abatement/ Demolition Contractors.

**Survey Report:** Rock Leaf shall conduct a thorough inspection of the affected property for the presence of asbestos-containing materials and lead-containing materials as requested by Ramsey County/Bolander. The survey shall include inspection, identification, and quantification of all friable and Class I and II non-friable asbestos and lead-containing material and of suspected hazardous waste, and any physical or mechanical sampling of materials. The survey shall be documented with the following information and be provided in printed format with the following information:

- The address of property investigated
- The name, address, and telephone of the person (s) who conducted the survey
- Copy of the license of the qualified inspector (s) who conducted the survey
- The dates the inspection was conducted

**RockLeafWaterEnvironmental.com**

**OFFICE:** 13230 Island View Dr NW, Elk River, MN 55330

**SHOP:** 261 Commerce Circle, Fridley, MN 55432

**PHONE:** 833-762-5532



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- A listing of all suspected materials containing lead or asbestos along with samples taken.
- Listing to include a sample identification number, the sample location, the sample description, the friability of the sample (asbestos), the sample condition, and other comments regarding each sample collected.
- The name, address, telephone number of any laboratory used to conduct analyses of materials for asbestos and hazardous waste content.
- A list of the test methods or protocol used, including sampling protocols and laboratory methods of analysis, test data, and any other information used to identify or quantify any material containing asbestos lead and/or hazardous waste.
- Photographs of the property, sampling locations, and suspected asbestos-containing material, lead-containing material, and/or hazardous waste.
- Completion of a chain-of-custody form documenting the sample transport process, and submittal of the samples to the laboratory.
- Laboratory results of the samples collected.
- Recommendations for notification required by NESHAP, 40 CFR 61, Subpart M and the Minnesota state requirements.
- All XRF readings, including calibration check readings along with instrument manufacturer, model, serial number, mode(s) of operation, and age of the radioactive source.
- A summary that states if lead paint based was discovered in the building and if present, where it is located.

### **Fee Schedule**

The lump sum for the Hazardous Material Inspection is \$9950.00.

This proposal is valid for 30 days.

As Authorization and Notice to Proceed, please sign in the spaces provided below and return an executed copy for our files. We will consider this a legal contract and Client agreement to pay for services provided by Rock Leaf. Rock Leaf will invoice after completion of the scope of work. The client agrees to pay each invoice within thirty days of its receipt. Please note that in addition to cash, check, ACH. Rock Leaf accepts Visa and MasterCard as payment alternatives with a credit card fee of 3%.

Prepared By:  
Sarah Hornig

6/3/2022

Accepted By:  
Bolander



251 STARKEY ST. - P.O. BOX 7216  
SAINT PAUL, MINNESOTA 55107  
PHONE: (651) 224-6299 FAX: (651) 223-8197

To: Ramsey County Bid Date: June 23, 2022  
Attn: Scott Yonke

Project: Design/Build, BLDG 189  
Demolition and Site Restoration

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Pricing as follows: Part 1 Services-Lump Sum \$ 138,200.00

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Sections: None  
Drawings: RFP Exhibits  
Addenda Acknowledged: Three Total

**Inclusions:**

1. Scope Exhibit A-Part 1 Services

**Clarifications:**

1. As discussed in the interview, we can provide close to complete working drawings and specifications using the information we currently have of the site, in Part 1. Our approach minimizes overall design costs, will develop a detailed GMP sooner, allowing the project to be constructed in 2022.
2. Environmental survey/inspection specific for demolition and environmental documentation required for permitting is included in Part 1 Services lump sum costs.
3. Part 2 Services, which will include minimal design and specification development, construction management and administration and bidding services, is not part of the lump sum costs. Part 2 Services will be negotiated as part of the Part 1 Services Agreement.

**Exclusions:**

1. Permits, Bond
2. Shoring, bracing, earth retention, underpinning
3. Dust / weather / safety / protection - barriers
4. Utility disconnects / relocates / re-routes
5. Restoration of any kind
6. Traffic and pedestrian control

Thank you for the opportunity and please contact me with any questions or to discuss pricing.

A handwritten signature in blue ink, appearing to read 'Luis Barba'.

Luis Barba, P.E.  
Senior Project Manager  
651.251.6137

PROPOSAL FOR:

**RFP #: PRK0000020520  
DESIGN/BUILD, BLDG 189  
DEMOLITION AND SITE  
RESTORATION**

**2022 / 2023**

**WARNING**

YOU ARE NOW ENTERING A MILITARY  
RESERVATION

**ITEMS**

Prepared By:

**BOLANDER**



**Stantec**



**RAMSEY COUNTY**

Prepared For:

# COVER LETTER

---

Ms. Kyle Dean & Review Panel  
Ramsey County Procurement Specialist  
220 City Hall/Court House Bldg.  
15 West Kellogg Blvd.  
St. Paul, MN 55101

Re: Request for Proposal #RFP: PRK0000020520

Dear Ms. Kyle Dean and Evaluation Team:

On behalf of the Bolander-Stantec Team, we are pleased to submit this proposal for hazardous material abatement and demolition for Building 189 of the former Twin Cities Army Ammunition Plant (TCAAP). We are excited to partner with Ramsey County Parks to address the elevated safety concerns and assist in your vision of restoring public space for recreational facilities.

When our team first started on the 430 acre TCAAP site in 2011, we were excited to bring the project full-circle. This was the first time in the continental US history that a heavy civil contractor carried the responsibility for the design and implementation of the required demolition, abatement, remediation, and certification of completion from all regulatory agencies. Starting as farmland with small homesteads to a munitions plant supporting the war effort in WWII, TCAAP transformed once again into a remediated and buildable site. It is gratifying to see the plans for Rice Creek Commons, a large multi-use residential and commercial development. Regardless of the development plans, our goal was to create a blank slate. A site that could be restored to a standard that supports the community's vision.

We are excited to make a blank slate once again, this time supporting your vision for a safer, environmentally cleaner, and more accessible public space.

We believe you will find our proposal fully compliant with Request for Proposal #RFP: PRK0000020520, and subsequent addendums. You will find that our proposal demonstrates why our team is the best choice for the requested work. Our extensive site history and knowledge, experienced project management team, and commitment to SBE participation will contribute to our completion of the project within budget and schedule constraints.

If there is ever any information you need, or help that we can provide, please do not hesitate to call us. We look forward to hearing from you about our partnership on this exciting project!

Sincerely,

Luis Barba, P.E.



Carl Bolander & Sons  
Senior Project Manager  
251 Starkey | Saint Paul, MN | 55107

# PROJECT UNDERSTANDING AND APPROACH

BOLANDER

## Our Team's history with the site

We have worked on the former Twin Cities Army Ammunition Plant (TCAAP) since 2011; we have significant experience inside our organization. In partnership with Stantec (previously Wenck) we successfully completed demolition and remediation work at the 430-acre TCAAP site and the 105-acre trail corridor owned by Parks. We possess the Army CAD file for this area, which history has shown is very accurate.

## Our Team's approach to design

We believe that with our extensive site knowledge and experience, we can fast track a reliable design for bidding purposes. We have gathered accurate existing condition documentation that will be essential to the design/build process. For any remaining information required to develop contract documents, Bolander will perform GPS mapping and topographic surveying.

## Our Team knows what's in the building

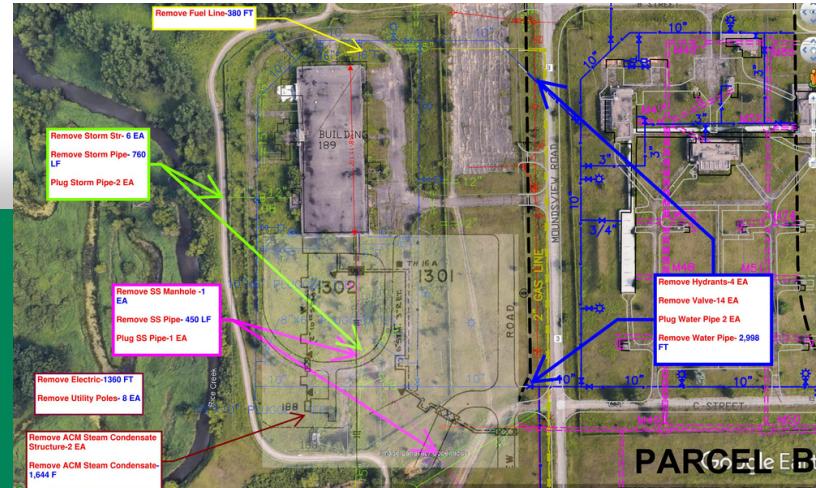
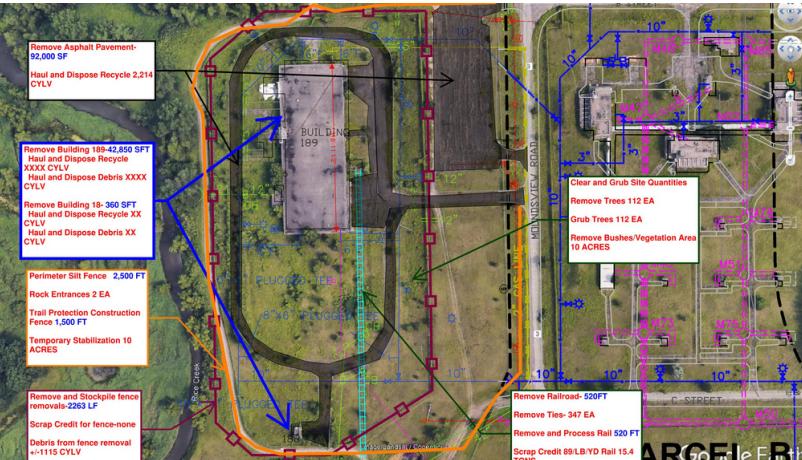
Since Bolander performed demolition for all buildings on the TCAAP site and the trail corridor, we are familiar with the materials used in their construction. For instance, we know that the windows on these buildings will contain Asbestos Containing Material (ACM) glazing. Since most of the windows have been shattered, we will have to remediate ACM containing soils adjacent to the building. We will remove any remaining windows prior to demolition to avoid further contamination of debris.

## Our Team knows what is in the ground

Bolander developed the plan set required for the proper demolition and cleanup of TCAAP. We possess the original Army CAD file, which includes building 189 and surrounding areas.

Using the CAD file provided by the Army, we will develop plan sets to show the following work:

- Clearing and Grubbing
- Erosion Control (Based on what was done at TCAAP and the trail corridor)
- Pavement removal
- Building Removal
- Railroad Track Removal (Ties will require Subtitle D Landfill disposal)
- Site Fence Removal
- Site Electrical Removals (Poles are treated, requiring proper disposal)
- Gas line Removals (Which will most likely be Asbestos coated)
- Site Steam Condensate Removals (Which will contain Asbestos insulation)
- Sanitary Sewer Removals (Some of these could be transite asbestos)
- Storm Sewer Removals (Some of this could be transite asbestos)
- Water Distribution Removals (Believe it or not, some could also be transite ACM)
- Grading plan will be developed once the County's Topo is received
- We know that the TGRS (water treatment) system does not run through this site



FIGURES CONTAIN ACCURATE UTILITY INFORMATION FROM ARMY CAD FILES

# PROJECT UNDERSTANDING

## AND APPROACH CONT.

### How has the experience with TCAAP helped Bolander in this process

Using our plan set, our knowledge of onsite materials, and our experience in the safe demolition and removal of former industrial sites, we were able to verify the \$1,210,500 budget for both Part 1 and Part 2. We have a high degree of confidence that this budget will be met. We have begun laying the groundwork to move forward which will enable an expedited schedule.

### Execution of the work - critical activities

- Determine drainage areas for NPDES permitting.
- Procure NPDES permits and Rice Creek Watershed permits.
- Bid out and award asbestos abatement in a timely manner
- Hold public openings and award contracts in a timely manner
- Our goal is to finish this construction season 2022.

## SBE WORKFORCE UTILIZATION

### Bidding our scopes of work

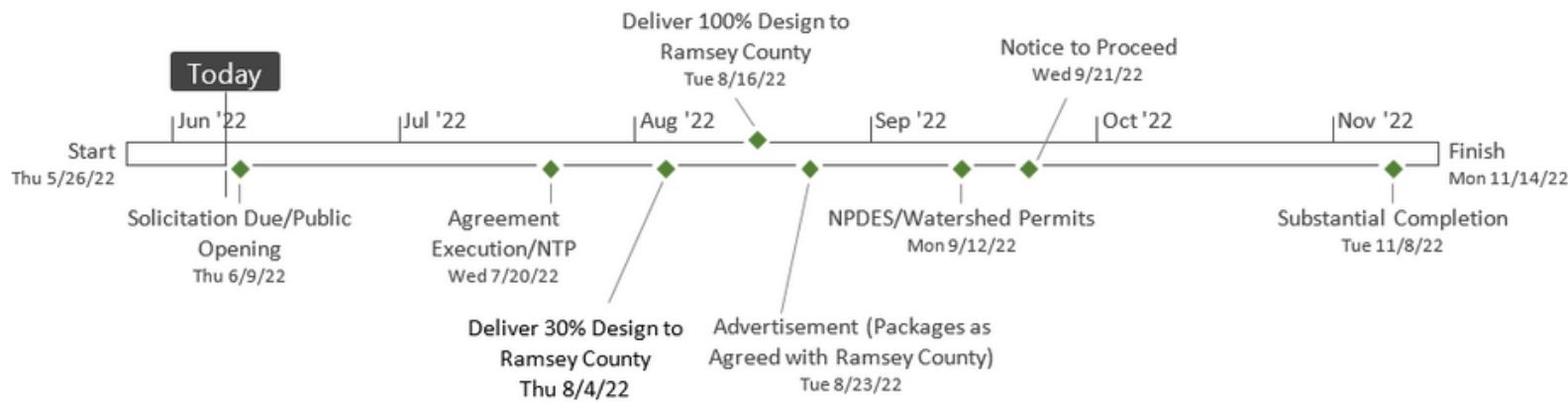
The Bolander-Stantec Team is committed to increasing the participation of small, minority, and/or women-owned businesses. We have brought on board Rock Leaf Water Environmental, and Woman-owned business, to perform a portion of the environmental services. We have a longstanding working relationship with other DBE contractors and anticipate bidding scopes of work and executing contracts quickly. We anticipate DBE/Cert participation out of the following scopes of work:

- Erosion Control BID - DBE
- Street Sweeping BID - DBE
- Clearing and Grubbing BID - DBE
- Building Survey/Reg Waste Survey BID - DBE
- Recycled Material Hauling/Disposal BID - DBE
- Debris Material Hauling/Disposal BID - DBE

### Our Schedule

Our process to bid the work is detailed on our schedule, but to summarize:

- Step 1** – Complete a bid package plan and spec – 1 DAY
- Step 2** – Advertise and allow period for bid development – 10 DAYS
- Step 3** – Receive Bids and Review (Apples to Apples) – 5 DAYS
- Step 4** – Issue AIA subcontract – 2 DAYS
- Step 5** – Ready for work – 1 DAY



# PROJECT TEAM QUALIFICATIONS



## LUIS BARBA, PE

Senior Project Manager | Bolander

**EXPERIENCE: 16 YEARS | EDUCATION: BS, CIVIL & ENVIRONMENTAL ENGINEERING, ARIZONA STATE UNIVERSITY**

**REGISTRATION: CIVIL/ENVIRONMENTAL ENGINEER, STATE OF MINNESOTA #60248**

Luis joins Team Bolander after spending the past 16 years providing services in the private and the public sectors. Most recently, he was a Project Manager with the City of Auburn, where he has recent and relevant experience managing and leading capital improvement public works projects. He has a proven record for planning, organizing, scheduling, developing, and overseeing design and construction phases. He is an ideal partner who will deliver high-quality PS&E essential for developing the Guaranteed Maximum Price. His proactive approach to project management results in projects that are well executed, meeting schedule, and budget expectations.

**ROLE/RESPONSIBILITY: PRIMARY POINT OF CONTACT FOR RAMSEY COUNTY; MONITORING AND CONTROLLING SCHEDULE, BUDGET, AND TECHNICAL ACTIVITIES; COORDINATE QA/QC**

**Key Project Experience:** Arts and Culture-Demo and Renovation Project-Parks, City of Auburn, WA; Project Manager for Design and Construction Services | AWN Preservation Project (Underground Utility Removals), City of Auburn, WA; Project Manager for Design and Construction Services | Toronto Olympic Campus Environmental Cleanup, Toronto, CA; Field Project Engineer



## EVAN MACKEY

Vice President - Demolition | Bolander

**EXPERIENCE: 39 YEARS | EDUCATION: CONSTRUCTION MANAGEMENT, ETC-EVELETH, MN**

With over 39 years in the construction industry, Evan has extensive knowledge how to efficiently and effectively handle all project demands and ensure high project performance by monitoring budgetary costs, adhering to all project schedules, examining all safety precautions, facilitating open communication with the Owner and the project team, and developing and implementing new construction techniques for the advancement of the project. As Demolition Division Manager, Evan has worked on a broad range of projects; from single residential house demolitions to large commercial building demolitions including hospitals, hotels, university campus buildings and government facilities. Additionally, Evan has worked on numerous remediation and asbestos removal projects from bridges and roads to the 420-acre TCAAP site in Arden Hills.

**ROLE/RESPONSIBILITY: DESIGN AND CONSTRUCTION SERVICES SUPPORT, MONITORING AND CONTROLLING SCHEDULE, BUDGET, AND TECHNICAL ACTIVITIES; QA/QC**

**Key Project Experience:** TCAAP – Demolition and Environmental Remediation, Arden Hills, MN; Project Manager | U of M Tate Hall and Tate Tunnel, Minneapolis, MN; Project Manager | U of M RROC Swine Barn Demolition, Minneapolis, MN; Project Manager | Seven Corners Parking Ramp Demolition – Downtown Minneapolis, MN; Project Manager



## TODD PLANTING

President | Bolander

**EXPERIENCE: 23 YEARS | EDUCATION: BS, CIVIL ENGINEERING, UNIVERSITY OF MINNESOTA INSTITUTE OF TECHNOLOGY**

As President of Carl Bolander and Sons, LLC, Todd is responsible for the organizational effectiveness of the entire Project Management department. He helps direct the bidding process, assigns and oversees bidding activities, reviews and approves bid estimates, directs and participates in project monitoring for production and deadlines, and takes corrective action to ensure timely project completion. In addition to being President, Todd continues to participate as an Estimator and Project Manager on selected projects. In his 23 years of experience, Todd has extensive knowledge of the construction industry and is well equipped to handle all project demands. He has experience managing commercial, public, and private projects ranging from \$50,000 to \$70,000,000.

**ROLE/RESPONSIBILITY: QA/QC, MONITORING AND CONTROLLING SCHEDULE, SUPPORT FOR DESIGN AND CONSTRUCTION SERVICES.**

**Key Project Experience:** TCAAP – Demolition and Environmental Remediation, Arden Hills, MN; Project Manager | U of M Tate Hall and Tate Tunnel, Minneapolis, MN; Project Manager | Ford TCAP- Demolition and Environmental Remediation, St Paul, MN; Project Manager | Mayo Kellen Research Building, Rochester, MN; Project Manager

# PROJECT TEAM QUALIFICATIONS



**ANDY RISTROM** Vice President | Bolander

**EXPERIENCE: 22 YEARS | EDUCATION: BS OF BUSINESS MANAGEMENT, UNIVERSITY OF WISCONSIN – EAU CLAIRE**

Andy has spent the last 22 years estimating and managing projects specializing in demolition, earthwork, and environmental remediation. He communicates the needs of the Owner with the project team, coordinates project schedules with the Operations Manager, Dispatcher, and Superintendents, oversees on-site safety procedures, and tracks work progress and cost efficiencies to ensure projects are completed on time and within the project budget. Having worked with Bolander the past 19 years, Andy has worked on a broad range of projects including small residential soil cleanups to large commercial building demolition and remediation projects including refineries, hospitals, automobile plants, industrial plants and government facilities. His experience also includes treatment and remediation of hazardous soils including asbestos, heavy metals & lead.

**ROLE/RESPONSIBILITY: DESIGN AND CONSTRUCTION SERVICES SUPPORT, MONITORING AND CONTROLLING SCHEDULE, BUDGET, AND TECHNICAL ACTIVITIES; QA/QC**

**Key Project Experience:** TCAAP – Demolition and Environmental Remediation, Arden Hills, MN; Project Manager | Ford TCAP – Demolition and Environmental Remediation, St Paul, MN; Project Manager | Saint Paul Park refinery Lagoons 3 & 4 cleanup and remediation



**ERIC SUNDBO** Senior Manager | Stantec

**EXPERIENCE: 30 YEARS | EDUCATION: BS, BIOLOGY, LUTHER COLLEGE, DECORAH, IOWA**

**CERTIFICATIONS:** EPA/MN/ND/WI INSPECTOR, NIOSH 582-E, OSHA HAZWOPER, OSHA 10 (AWAIR), OSHA 40, RADIATION SAFETY, EPA-RRP

Mr. Sundbo has over 30 years of experience in Environmental Construction Services, including the inspection, abatement design, and management of asbestos and other regulated materials as they relate to building demolition, renovation, and maintenance. He has worked on high-profile projects within public and private sectors throughout the lower 48 states, Alaska, Puerto Rico, and the U.S. Virgin Islands.

**ROLE/RESPONSIBILITY: ENVIRONMENTAL DESIGN DOCUMENTATION**

**Key Project Experience:** Twin Cities Army Ammunition Plant (TCAAP) – Asbestos and Regulated Material Management Services, Twin Cities, Minnesota | 3M – Inspection and Abatement Management at Facilities throughout the United States | John Deere Waterloo Works, Waterloo, Minnesota | Demolition Project Inspection, Decommission, and Demo Management of 57 Heavy Industrial Buildings



**NATHAN GILLET** Environmental Scientist/Crew Supervisor | Rock Leaf Water

**EDUCATION: B.S. IN WATER RESOURCES UNIVERSITY OF WISCONSIN - STEVENS POINT, WI**

**CERTIFICATIONS:** 40 HOUR HAZWOPER, RESPIRATOR FIT, CONFINED SPACE HAZARDS, HAZMAT ER, HAZWOPER ER, SPILL RESPONSE CONTROL, E-RAIL SAFE SYSTEM BADGE, BNSF CONTRACTOR, ICS-100, ICS-200, ICS-700, EROSION AND STORMWATER MANAGEMENT, ASBESTOS INSPECTOR LICENSE, MINNESOTA PESTICIDE APPLICATOR LICENSE, CONSTRUCTION MANAGEMENT CERTIFICATE.

Nathan has a background in water resources and experience as a crew supervisor and field technician with Rock Leaf Water Environmental. His education and experience include field techniques for natural resource management, wetlands, and watershed management. His experience within the industrial and commercial sector range from hazardous materials spill cleanups to large scale site remediation projects. He has degrees in Water Resources, Watershed Science, and a Wetland Professional in Training Certificate. He also has a Field A Minnesota Pesticide Applicator License.

**ROLE/RESPONSIBILITY: ENVIRONMENTAL TESTING**

**Field Experience:** Field techniques in forest, soil, water, and wildlife resources with an emphasis on teamwork and independence, reporting, computer mapping, vegetation identification, and land surveying.

# CONTRACTOR QUALIFICATIONS



## TWIN CITIES ARMY AMMUNITIONS PLANT (TCAAP)

### Scope of work:

- ACM Surveys and Abatement
- Demolition
- Site Removals
- Utility Removals
- ACM Steam Condensate Removals
- Soil Remediation

### Description & Similarities to Bldg.

#### 189:

- Worked as the prime contractor in partnership with Wenck (Stantec) to perform the soil remediation and demolition of the former TCAAP
- Remediated 140,000 tons of environmentally impacted soil
- Demolished 22 Buildings and removed over 100 structures
- Removed 29,000 Ft of asbestos piping
- In addition to the removal and safe disposal of contaminated materials, Bolander went to great length to salvage and recycle materials,
- Bolander was recognized for this effort by the National Demolition Association in 2015, winning the Environmental Excellence Award.

**Value of work:** \$31,349,060

## RICE CREEK TRAIL CORRIDOR PARCELS A, B, AND D

### Scope of work:

- ACM Surveys and Abatement
- Demolition
- Site Removals
- Utility Removals
- ACM Steam Condensate Removals
- Restoration

### Description & Similarities to Bldg.

#### 189:

- Design of demolition, abatement, restoration, NPDES, etc.
- NPDES Erosion control
- ACM abatement of 16 buildings and walkways
- Demolition of 24 buildings and walkways
- Expanded and improved the lead soil cover system at site
- We designed, implemented, and executed the RAP
- Removed underground utilities and steam condensate line
- Railroad removal and disposal
- Clearing and grubbing
- Fencing removal
- Power pole removal

**Value of Work:** \$2,324,008.00 (As change order to TCAAP Base contract)

## FORD TWIN CITIES ASSEMBLY PLANT (TCAP)

### Scope of work:

- Final Abatement including steam plant
- Demolition and Site Removals
- Utility Removals
- ACM Steam Condensate Removals
- Restoration

### Description & Similarities to Bldg.

#### 189:

- Carl Bolander and Sons was hired by Devon Industrial Group (DIG) to perform soil remediation and demolition for the Ford TCAP site
- Demolition activities on the 122-acre site included the removal of the main assembly building slabs, foundations, pits, paint building foundations, sludge pits, fan farm, air shaft plenums, and even a 110' deep vehicle elevator
- Completely removed steam tunnels and oil tunnels
- Safely disposed of over 750,000 tons of various impacted materials to receive MPCA's Certificate of Completion in 2019

**Value of Work:** \$ 30,317,716.00

Tuesday, June 7, 2022

Task	Description	Todd P. President (QA/QC)	Luis B. Senior Project Manager	Andy R. Senior Project Manager and VP	Evan M. Demo VP	Jordan H. Project Manager	Josh B. Surveyor	Joey R. Marketing and Comm. Coord.	Carisa J. Accountant	Karly G. Project Coordinator	Total Hours	Total Labor Budget by Task	% Labor Budget by Task	
1.1	Project Start-up, Management and Base Information Services										69.5	\$9,207	10.6%	
	Facilitate and attend Project Kickoff meeting	1.5	3.0	1.5	1.5			2.0		6.0	15.5	\$2,044	2.4%	
	Receive, setup and review County provided topographic survey and surface model		4.0				10.0				14.0	\$1,557	1.8%	
	Review survey base maps in field		3.0		3.0	3.0					9.0	\$1,391	1.6%	
	Review County-provided as-builts, plans, reports, utility records, etc.	1.0	3.0			3.0				2.0	9.0	\$1,215	1.4%	
	Notify the County of any additional information or clarification required		5.0							2.0	7.0	\$903	1.0%	
	Review requirements of additional stakeholders	1.0	2.0	2.0							5.0	\$923	1.1%	
	Prepare and submit monthly invoices		2.0						4.0	2.0	8.0	\$874	1.0%	
	Identify possible wetland impacts		2.0								2.0	\$301	0.3%	
2.1	Meetings										23.0	\$7,254	8.4%	
	Attend (2) project coordination meetings 30% design stage	1.5	3.0	3.0	3.0					1.0		\$2,037	2.4%	
	Attend (2) plan/document reviews (30%, 100%)	1.5	3.0	3.0	3.0							\$1,961	2.3%	
	Prepare meeting agendas and notes (4 meetings)		4.0			4.0				1.0	4.0	\$1,160	1.3%	
	Facilitate, attend, and document 1 project over-the-shoulder review meeting	1.0	1.0		1.0	1.0					3.0	\$457	0.5%	
	Graphics support for public meetings (10 staff hours)		2.0					12.0		2.0	16.0	\$1,638	1.9%	
3.1	Community Notification Plan										38.0	\$3,896	4.5%	
	Develop Community Notification Plan		8.0				8.0		8.0	24.0		\$2,597	3.0%	
	Maintain Community Notification Plan		2.0				4.0		8.0	14.0		\$1,299	1.5%	
4.1	Topographic Services										12.0	\$1,256	1.4%	
	Submit Survey request to obtain additional information for basemap		2.0				10.0				12.0	\$1,256	1.4%	
5.1	Project Design Activities										181.0	\$27,063	31.2%	
a.	Design PS&E (30%)									2.0	27.0	\$4,322	5.0%	
	Prepare 30% Build Demo Plans	1.0	2.0	6.0	8.0	8.0				2.0	22.0	\$3,750	4.3%	
	Prepare 30% Site Demo Plans (Fencing, Asphalt, Clearing and Grubbing, Rail Road)	4.0	4.0	4.0	4.0	4.0				2.0	27.0	\$3,746	4.3%	
	Prepare 30% Site Grading Plans	1.0	8.0	4.0		10.0	2.0			2.0	11.0	\$1,486	1.7%	
	Prepare 30% Erosion Control Plans (TESC)	1.0	4.0			4.0				2.0	48.0	\$7,669	8.8%	
	Prepare 30% Utility Removal Plans (Electric, Storm, Water, Sewer, Steam Condensation, Fuel)	5.0	14.0	5.0	8.0	14.0				2.0	12.0	\$1,672	1.9%	
	Prepare 30% Site Restoration Plan	1.0	4.0	1.0		4.0				2.0	34.0	\$4,418	5.1%	
	Prepare Specifications and Special Provisions	1.0	8.0	1.0	4.0	10.0		2.0		8.0		103.5	\$15,237	17.6%
	Design PS&E (100%)									1.0	12.0	\$1,866	2.2%	
	Prepare 100% Build Demo Plans	1.0	2.0	2.0	2.0	4.0				1.0	15.0	\$2,418	2.8%	
	Prepare 100% Site Demo Plans (Fencing, Asphalt, Clearing and Grubbing, Rail Road)	2.0	4.0	2.0	2.0	4.0				1.0	17.5	\$2,331	2.7%	
	Prepare 100% Site Grading Plans	0.5	4.0	2.0		8.0	2.0			1.0	5.5	\$743	0.9%	
	Prepare 100% Erosion Control Plans (TESC)	0.5	2.0			2.0				1.0	27.0	\$4,324	5.0%	
	Prepare 100% Utility Removal Plans (Electric, Storm, Water, Sewer, Steam Condensation, Fuel)	3.0	8.0	3.0	4.0	8.0				1.0	5.5	\$808	0.9%	
	Prepare 100% Site Restoration Plan	0.5	2.0	1.0		1.0				8.0	21.0	\$2,748	3.2%	
	Update Specifications and Special Provisions	1.0	8.0	1.0	2.0	1.0								
b.	Environmental Reporting Documents										48.0	\$8,458	9.8%	
	Coordination Meeting with Stantec		8.0	8.0	8.0						24.0	\$4,229	4.9%	
	Review of Demo and Site Assessment Report		8.0	8.0	8.0						24.0	\$4,229	4.9%	
c.	Cost Estimate for GMP										72.0	\$11,848	13.7%	
	GMP estimate at 30%	5.0	8.0	6.0	6.0	16.0					41.0	\$6,658	7.7%	
	GMP estimate at 100%	3.0	8.0	6.0	6.0	8.0					31.0	\$5,190	6.0%	
d.	CPM Schedule										15.0	\$1,779	2.1%	
	Prepare and present CPM Schedule to the County	1.0	4.0	2.0	2.0		1.0			1.0	11.0	\$1,779	2.1%	
e.	Jurisdiction Coordination										4.0	\$672	0.8%	
	Attend (2) project coordination meetings			2.0	2.0						4.0	\$672	0.8%	
	<b>Total Hours</b>	38.0	161.0	74.5	74.5	117.0	25.0	28.0	4.0	67.0	589.0			
	<b>Billing Rate</b>	\$250.45	\$150.45	\$185.65	\$192.50	\$120.80	\$95.50	\$98.90	\$105.50	\$75.30			Avg. Team Billing Rate / Hr.	
	<b>Total Prime Labor Cost</b>	<b>\$9,517</b>	<b>\$24,222</b>	<b>\$13,831</b>	<b>\$14,341</b>	<b>\$14,134</b>	<b>\$2,388</b>	<b>\$2,769</b>	<b>\$422</b>	<b>\$5,045</b>		<b>\$86,669</b>	<b>\$147.15</b>	
	<b>% Prime Labor Cost</b>	<b>11.0%</b>	<b>27.9%</b>	<b>16.0%</b>	<b>16.5%</b>	<b>16.3%</b>	<b>2.8%</b>	<b>3.2%</b>	<b>0.5%</b>	<b>5.8%</b>				
	<i>Stantec Subconsultant - Environmental Engineering (See Attached LOE)</i>												\$41,580	
	<i>Rock Leaf Water Environmental Subconsultant (See Attached Quote)</i>												\$9,950	
	Management Reserve												\$10,000	
	Overall Project Total-Part 1 - Including Management Reserve												\$148,199	

Design - Task 3  
Ramsey County - TCAAP Building #189  
Environmental Design Documents

DETAILED COSTS - UNIT RATE APPLIED T&M - 2022 STANTEC 0-USD RATE TABLE								
Staff Rates:	Sr. Eng. (level 17)	Sr. Mgr. (level 14)	Proj. Mgr. (level 10)	Sr. Tech (level 9)	Soil Tech (level 8)	Drafting (level 8)		
Per Hour:	\$225	\$175	\$141	\$135	\$124	\$124		
<b>PROJECT TASKS &amp; LABOR</b>						<b>Hour/Task</b>		
Project Prep & Meetings	6	10	10			26		
ECP-NPCES Prep	40					16		
Spec Develop & CC Plan	10	60	20			16		
Final Design Documents	2	8	20			30		
<b>TOTAL HOURS</b>	<b>58</b>	<b>78</b>	<b>50</b>	<b>0</b>	<b>0</b>	<b>32</b>		
<b>SUB-TOTAL OF STAFF FEES</b>	<b>\$13,050</b>	<b>\$13,650</b>	<b>\$7,050</b>	<b>\$0</b>	<b>\$0</b>	<b>\$37,718</b>		
Travel Expenses	Amount	Unit Cost	Unit	Notes		Extension		
Mileage - RT - Crew	155	\$0.585	per mile	standard mileage rate		\$91		
Meals Per Diem	0	\$40	per day	n/a		\$0		
Lodging	0	\$140	per day	n/a		\$0		
<b>SUB-TOTAL MISCELLANEOUS EXPENSES</b>						<b>\$91</b>		
<b>EQUIPMENT</b>								
PID	0	\$100	per day	standard equipment		\$0		
Safety Equipment & PPE	0	\$20	per day	standard PPE		\$0		
XRF - Lead-in-Soils	0	\$250	per day	standard XRF		\$0		
Specialty Equipment	0	\$0	per day	n/a		\$0		
<b>SUB-TOTAL EQUIPMENT EXPENSES</b>						<b>\$0</b>		
<b>LABORATORY</b>								
DRO - Soil	0	\$40	sample	5-7 day turnaround time		\$0		
GRO - Soil	0	\$35	sample	5-7 day turnaround time		\$0		
VOCs - Soil	0	\$70	sample	5-7 day turnaround time		\$0		
PAHs - Soil	0	\$95	sample	5-7 day turnaround time		\$0		
Priority Pollutant Metals - Soil	0	\$120	sample	5-7 day turnaround time		\$0		
Cyanide - Soil	0	\$35	sample	5-7 day turnaround time		\$0		
PCB - Soil	0	\$70	sample	5-7 day turnaround time		\$0		
Pesticide - Soil	0	\$225	sample	5-7 day turnaround time		\$0		
Water - total matrix	0	\$650	sample	5-7 day turnaround time		\$0		
<b>SUB-TOTAL LABORATORY EXPENSES</b>						<b>\$0</b>		
<b>GENERAL CONDITIONS</b>								
Applicable	10%	\$37,718	total	general conditions		\$3,772		
<b>SUB-TOTAL GENERAL CONDITION EXPENSES</b>						<b>\$3,772</b>		
<b>SUB-CONTRACTOR/S</b>								
Excavation Contractor	0	\$0	total	n/a		\$0.00		
Administration & Oversight	0	\$0	total	n/a		\$0.00		
<b>SUB-CONTRACTOR/S SUB-TOTAL</b>						<b>\$0.00</b>		
<b>SUB-TOTAL OF STAFF FEES</b>						<b>\$37,718</b>		
<b>SUB-TOTAL OF DIRECT EXPENSES</b>						<b>\$3,862</b>		
<b>SUB-TOTAL OF SUB-CONTRACTOR/S</b>						<b>\$0</b>		
<b>TOTAL COST</b>						<b>\$41,580</b>		



*"Driven to Excellence"*



June 3, 2022

Todd Planting  
Bolander/ RE:Building 189  
251 Starkey Street  
St. Paul, MN 55107

Dear Mr. Planting,

As requested, Rock Leaf is pleased to provide Bolander (Client) a comprehensive Hazardous Materials Inspection and Report for the referenced Subject Property (bldgs 188/189). Enclosed is a detailed scope of work and project cost estimate. We welcome the opportunity to perform these services and are available to begin the proposed work upon your authorization. Please call Sarah Hornig at 612-812-1218. should you have any questions or require additional information.

#### **HAZARDOUS MATERIALS ASSESSMENT SCOPE OF WORK**

Rock Leaf shall investigate the properties owned by Ramsey County Parks, located at 45.103220, -93.179795, otherwise known as Bldg 188 & 189 in order to identify asbestos-containing materials, lead-containing materials and other hazardous materials that may be present in the current structures according to the deliverables in this RFP. The actual removal and disposal of said materials is not a part of this Contract and shall be undertaken by one or more Abatement/ Demolition Contractors.

**Survey Report:** Rock Leaf shall conduct a thorough inspection of the affected property for the presence of asbestos-containing materials and lead-containing materials as requested by Ramsey County/Bolander. The survey shall include inspection, identification, and quantification of all friable and Class I and II non-friable asbestos and lead-containing material and of suspected hazardous waste, and any physical or mechanical sampling of materials. The survey shall be documented with the following information and be provided in printed format with the following information:

- The address of property investigated
- The name, address, and telephone of the person (s) who conducted the survey
- Copy of the license of the qualified inspector (s) who conducted the survey
- The dates the inspection was conducted

**RockLeafWaterEnvironmental.com**

**OFFICE:** 13230 Island View Dr NW, Elk River, MN 55330

**SHOP:** 261 Commerce Circle, Fridley, MN 55432

**PHONE:** 833-762-5532



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- A listing of all suspected materials containing lead or asbestos along with samples taken.
- Listing to include a sample identification number, the sample location, the sample description, the friability of the sample (asbestos), the sample condition, and other comments regarding each sample collected.
- The name, address, telephone number of any laboratory used to conduct analyses of materials for asbestos and hazardous waste content.
- A list of the test methods or protocol used, including sampling protocols and laboratory methods of analysis, test data, and any other information used to identify or quantify any material containing asbestos lead and/or hazardous waste.
- Photographs of the property, sampling locations, and suspected asbestos-containing material, lead-containing material, and/or hazardous waste.
- Completion of a chain-of-custody form documenting the sample transport process, and submittal of the samples to the laboratory.
- Laboratory results of the samples collected.
- Recommendations for notification required by NESHAP, 40 CFR 61, Subpart M and the Minnesota state requirements.
- All XRF readings, including calibration check readings along with instrument manufacturer, model, serial number, mode(s) of operation, and age of the radioactive source.
- A summary that states if lead paint based was discovered in the building and if present, where it is located.

### **Fee Schedule**

The lump sum for the Hazardous Material Inspection is \$9950.00.

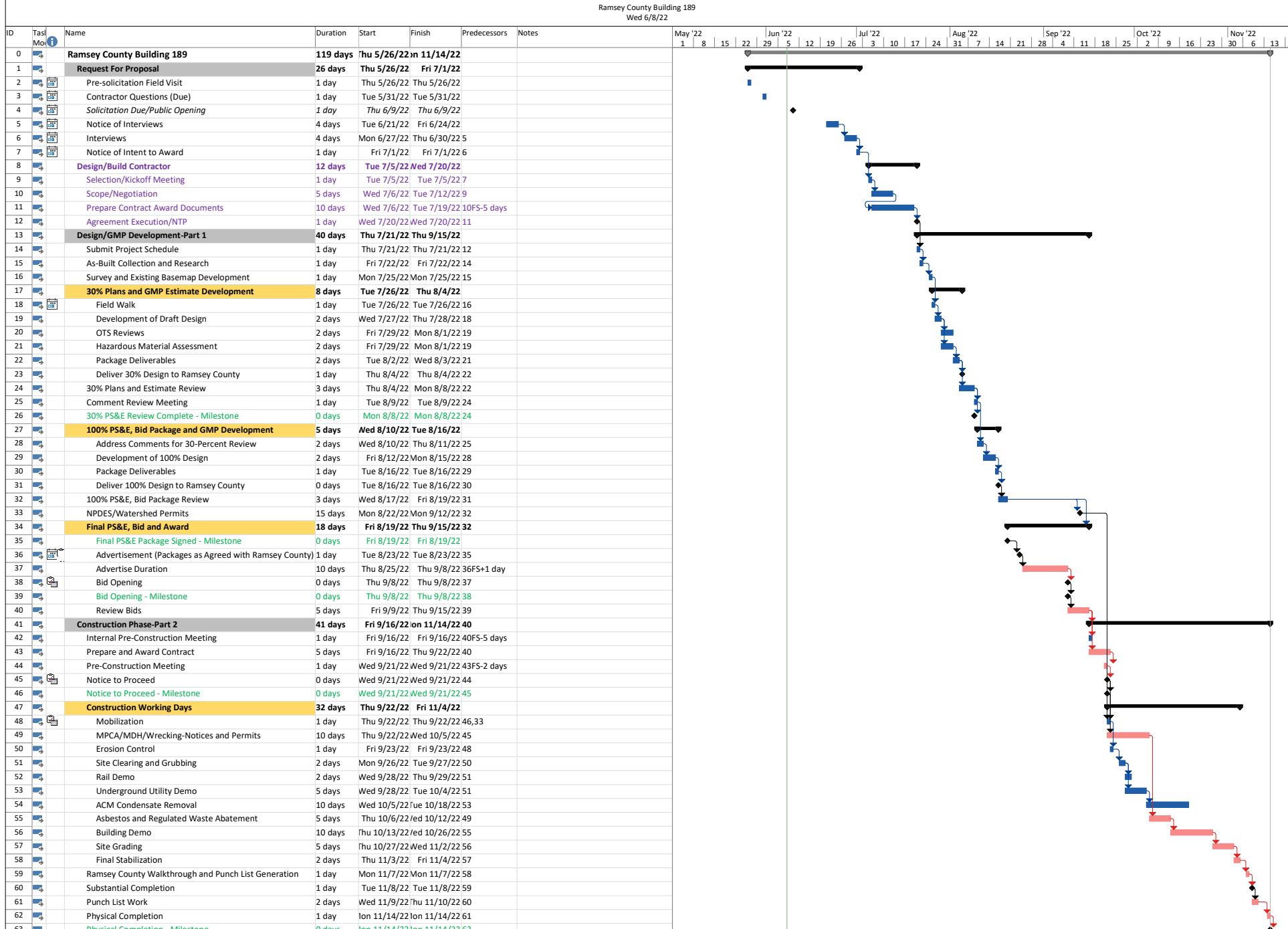
This proposal is valid for 30 days.

As Authorization and Notice to Proceed, please sign in the spaces provided below and return an executed copy for our files. We will consider this a legal contract and Client agreement to pay for services provided by Rock Leaf. Rock Leaf will invoice after completion of the scope of work. The client agrees to pay each invoice within thirty days of its receipt. Please note that in addition to cash, check, ACH. Rock Leaf accepts Visa and MasterCard as payment alternatives with a credit card fee of 3%.

Prepared By:  
Sarah Hornig

6/3/2022

Accepted By:  
Bolander





**RAMSEY COUNTY**  
**SOLICITATION RESPONSE FORM**

**Solicitation Number:** PRK0000020520

**Solicitation Title:** RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION

**The following shall be completed by the Contractor:**

Contractor Company Name: **Carl Bolander and Sons, LLC**

State the number of solicitation addenda received: **3**

**PLEASE READ THE FOLLOWING BEFORE COMPLETING THIS SOLICITATION RESPONSE FORM**

The provisions of the solicitation document should be reviewed and understood before preparing a solicitation response. Unless the solicitation document provides otherwise, the solicitation response shall be the best price for all labor, equipment, materials and services for the project described in the solicitation document.

**Maximum Not To Exceed Part 1 Cost (inclusive of all fees and expenses):** **\$148,199.00**

or

**Maximum Not To Exceed Part 1 Fees:**

**Maximum Not To Exceed Part 1 Expenses:**

**Hourly Rates:**

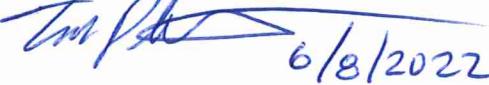
**ACKNOWLEDGEMENT**

By signing below, I certify that I understand, agree, and bind the Contractor to the provisions contained in the solicitation document for the above Solicitation Number, including the General Solicitation Terms and Conditions, the General Contract/Agreement Terms and Conditions, and the Part 1 and Part 2 Agreements and that I am authorized to submit this solicitation response on behalf of the Contractor.

**COLLUSION**

By signing below, I certify that this solicitation response has been prepared without any collusion with other contractors, competitors, County employees or County Board members and without taking any other action which will restrict competition or constitute fraud or collusion.

Name and Title of Authorized Contractor Representative: **Todd Planting, President**

Signature: 

Date: **6/8/2022**

Solicitation Number: PRK0000020520

Solicitation Title: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION



## RAMSEY COUNTY

### COUNTY CONTRACTOR INFORMATION AND REFERENCE FORM

Ramsey County requires completion of this form for this solicitation. Failure to submit this completed form with the solicitation response may result in rejection of the Contractor's solicitation response.

#### Company Information:

1. Contractor Name: Carl Bolander & Sons, LLC
2. Name of CEO or Company President: Todd Planting
3. Telephone Number: 651.224.6299
4. Email Address:
5. Address: 251 Starkey Street
6. City: Saint Paul
7. State: Minnesota
8. Zip Code: 55107
9. Is your company a Certified Small Business Enterprise? No
10. If yes, what is your certification number?
11. Is your company a Veteran Small Business Enterprise? No
12. If yes, what is your certification number?

#### Solicitation Response Contact:

1. Name: Luis Barba, P.E.
2. Telephone Number: 206-501-0572
3. Email Address: luis@bolander.com
4. Address: 251 Starkey Street
5. City: Saint Paul
6. State: Minnesota
7. Zip Code: 55107

Reference Requirements: Provide a minimum of three (3) references for work completed within the last five (5) years that is similar to what is requested in this solicitation.

1. First Reference

- Company Name: Ramsey County
- Contact Name and Title: Beth Engum, Senior Transportation Project Manager
- Telephone Number: 651-341-0847
- Email Address: beth.engum@bolton-menk.com
- Address: 3507 High Point Dr N, Bldg 1-Suite E130
- City: Oakdale
- State: MN
- Zip Code: 55128
- Description of Work Completed: TCAPP- Design and perform demolition and remediation to commercial and residential SRV's of the 427 acre site formerly owned and occupied by the U.S. Army for munitions manufacture.

2. Second Reference

- Company Name: Ramsey County Parks Division
- Contact Name and Title: Scott Yonke, Director of Planning
- Telephone Number: 651-266-0370
- Email Address: scott.yonke@co.ramsey.mn.us
- Address: 121 Seventh Place East
- City:Saint Paul
- State:MN
- Zip Code:55101
- Description of Work Completed: Rice Creek Trail Corridor Parcels A, B, and D. Design of demolition, abatement, restoration, NPDES. Bolander performed the ACM abatement of and demolition of multiple buildings.

3. Third Reference

- Company Name: Ford Motor Company, Devon Industrial
- Contact Name and Title: Jim Exline, Project Manager
- Telephone Number: 937-209-9379
- Email Address: jexline@devonindustrial.com
- Address:535 Griswold St.
- City: Detroit
- State:MI
- Zip Code:48226
- Description of Work Completed: Final phase of demolition for the Ford Twin City Assembly Plant (122 acre site) including remediation of various contaminated items and site restoration. Over 750,000 tons of various materials disposed of at a MPCA Licensed Subtitle D lined industrial waste facility.



## **RAMSEY COUNTY DIVERSE WORKFORCE DEVELOPMENT INITIATIVE POLICY REPORTING FORM**

Complete and submit this form as part of your solicitation response. Failure to include this form in the response may result in the County's rejection of your submission as incomplete and therefore non-responsive. Indicate if additional documentation is attached to this form and list the documents.

Provide a brief narrative statement that describes past and current efforts made by the contractor to increase the participation of women and minorities in its construction workforce, including its participation in, and sponsorship of, apprenticeships for minorities and women. As appropriate, include supporting documentation such as charts, graphs, statistics, and background information. If you do not have employees who perform construction work indicate "DOES NOT APPLY".

### Narrative response:

Throughout the years, Bolanders efforts to ensure the participation of women and minorities in construction is a top priority. We participate in hiring fairs every year while partnering with CareerForce, metro-area Community Based Organizations, trade schools and unions. Bolander has numerous seats on Boards & Committees across the state with diverse workforce and W/MBE Small Business as the focus. Bolander is currently sponsoring both minority and female apprentices.

We are heavily involved in the Construct Tomorrow program exposing high schoolers to the trades and the Association of Women Contractors, who's focus is Women-owned businesses and females in the trades.

DATE	CONTACT	ORGANIZATION	TYPE	DESCRIPTION OF EFFORT
January	Diane D	KA	W	Met to discuss practices, share information
	Carisa J	Construct Tomorrow	W	Planning Meeting for event, talked with Duluth unions
	Barb	AWC	TGB	Spoke about touching base with DBE's that we could use for Merchandise purchases
	AWC/City of St.Paul	Construction Summit	TGB	Presented at event, spoke with various DBE companies
	Carisa J	Construct Tomorrow	W	St. Cloud Student Event
	Carisa J	Construct Tomorrow	W	Board Meeting
	Mark Ryan	Urban League	W	Board Meeting
	Pat W	CCF	W	Met about outreach efforts and programs
	Carisa J	Construct Tomorrow	W	Board Meeting
	Steven B	Urban League	W	Met with Stephen Belton to discuss upcoming ventures
February	Carisa J	Construct Tomorrow	W	Hinckley Student Event
	Carisa J	Construct Tomorrow	W	Duluth Student Event
	Carisa J	Construct Tomorrow	W	Board Meeting
March	Carisa J	Construct Tomorrow	W	Board Meeting
April	Norm	Central Lakes College	W	Mock Interviews
	Carisa J	Construct Tomorrow	W	Board Meeting
	Carisa J	Construct Tomorrow	W	St. Paul Event Planning Meeting with SPPS
May	Carisa J	MN Construct Crew	W	Job Fair
	Carisa J	Girl Scouts	TGB	Women of Distinction Event, met business owners
	Mark Ryan	Rochester Builders Exchange	TGB	Met Rochester business owners

\_\_\_\_\_ DOES NOT APPLY

Name of Contractor Carl Bolander & Sons, LLC

Signature  Title President

6/8/2022  
Date \_\_\_\_\_



## RESPONSIBLE CONTRACTOR VERIFICATION

## AND CERTIFICATION OF COMPLIANCE

### **PROJECT TITLE: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

Minn. Stat. § 16C.285, Subd. 7. **IMPLEMENTATION.** ...any prime contractor or subcontractor or motor carrier that does not meet the minimum criteria in subdivision 3 or fails to verify that it meets those criteria is not a responsible contractor and is not eligible to be awarded a construction contract for the project or to perform work on the project...

Minn. Stat. § 16C.285, Subd. 3. **RESPONSIBLE CONTRACTOR, MINIMUM CRITERIA.** "Responsible contractor" means a contractor that conforms to the responsibility requirements in the solicitation document for its portion of the work on the project and verifies that it meets the following minimum criteria:

(1)	The Contractor: <ul style="list-style-type: none"><li>(i) is in compliance with workers' compensation and unemployment insurance requirements;</li><li>(ii) is in compliance with Department of Revenue and Department of Employment and Economic Development registration requirements if it has employees;</li><li>(iii) has a valid federal tax identification number or a valid Social Security number if an individual; and</li><li>(iv) has filed a certificate of authority to transact business in Minnesota with the Secretary of State if a foreign corporation or cooperative.</li></ul>
(2)	The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44, 181.13, 181.14, or 181.722, and has not violated United States Code, title 29, sections 201 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes of this clause, a violation occurs when a contractor or related entity: <ul style="list-style-type: none"><li>(i) repeatedly fails to pay statutorily required wages or penalties on one or more separate projects for a total underpayment of \$25,000 or more within the three-year period, provided that a failure to pay is "repeated" only if it involves two or more separate and distinct occurrences of underpayment during the three-year period;</li><li>(ii) has been issued an order to comply by the commissioner of Labor and Industry that has become final;</li><li>(iii) has been issued at least two determination letters within the three-year period by the Department of Transportation finding an underpayment by the contractor or related entity to its own employees;</li><li>(iv) has been found by the commissioner of Labor and Industry to have repeatedly or willfully violated any of the sections referenced in this clause pursuant to section 177.27;</li><li>(v) has been issued a ruling or findings of underpayment by the administrator of the Wage and Hour Division of the United States Department of Labor that have become final or have been upheld by an administrative law judge or the Administrative Review Board; or</li><li>(vi) has been found liable for underpayment of wages or penalties or misrepresenting a construction worker as an independent contractor in an action brought in a court having jurisdiction. Provided that, if the contractor or related entity contests a determination of underpayment by the Department of Transportation in a contested case proceeding, a violation does not occur until the contested case proceeding has concluded with a determination that the contractor or related entity underpaid wages or penalties;*</li></ul>

(3)	The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 181.723 or chapter 326B. For purposes of this clause, a violation occurs when a contractor or related entity has been issued a final administrative or licensing order;*
(4)	The contractor or related entity has not, more than twice during the three-year period before submitting the verification, had a certificate of compliance under section 363A.36 revoked or suspended based on the provisions of section 363A.36, with the revocation or suspension becoming final because it was upheld by the Office of Administrative Hearings or was not appealed to the office;*
(5)	The contractor or related entity has not received a final determination assessing a monetary sanction from the Department of Administration or Transportation for failure to meet targeted group business, disadvantaged business enterprise, or veteran-owned business goals, due to a lack of good faith effort, more than once during the three-year period before submitting the verification;*
	* Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5), occurring prior to July 1, 2014, shall not be considered in determining whether a contractor or related entity meets the minimum criteria.
(6)	The contractor or related entity is not currently suspended or debarred by the federal government or the state of Minnesota or any of its departments, commissions, agencies, or political subdivisions that have authority to debar a contractor; and
(7)	All subcontractors and motor carriers that the contractor intends to use to perform project work have verified to the contractor through a signed statement under oath by an owner or officer that they meet the minimum criteria listed in clauses (1) to (6).

Minn. Stat. § 16C.285, Subd. 5. **SUBCONTRACTOR VERIFICATION.**

A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project. Prior to execution of a construction contract, and as a condition precedent to the execution of a construction contract, the apparent successful prime contractor shall submit to the contracting authority a supplemental verification under oath confirming compliance with subdivision 3, clause (7). Each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each subcontractor.

If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors.

A prime contractor shall submit to the contracting authority upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to subdivision 3, clause (7). A prime contractor and subcontractors shall not be responsible for the false statements of any subcontractor with which they do not have a direct contractual relationship. A prime contractor and subcontractors shall be responsible for false statements by their first-tier subcontractors with which they have a direct contractual relationship only if they accept the verification of compliance with actual knowledge that it contains a false statement.

Minn. Stat. § 16C.285, Subd. 4. **VERIFICATION OF COMPLIANCE.**

A contractor responding to a solicitation document of a contracting authority shall submit to the contracting authority a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria in subdivision 3, with the exception of clause (7), at the time that it responds to the solicitation document.

A contracting authority may accept a signed statement under oath as sufficient to demonstrate that a contractor is a responsible contractor and shall not be held liable for awarding a contract in reasonable reliance on that statement. A prime contractor, subcontractor, or motor carrier that fails to verify compliance with any one of the required minimum criteria or makes a false statement under oath in a verification of compliance shall be ineligible to be awarded a construction contract on the project for which the verification was submitted.

A false statement under oath verifying compliance with any of the minimum criteria may result in termination of a construction contract that has already been awarded to a prime contractor or subcontractor or motor carrier that submits a false statement. A contracting authority shall not be liable for declining to award a contract or terminating a contract based on a reasonable determination that the contractor failed to verify compliance with the minimum criteria or falsely stated that it meets the minimum criteria. A verification of compliance need not be notarized. An electronic verification of compliance made and submitted as part of an electronic bid shall be an acceptable verification of compliance under this section provided that it contains an electronic signature as defined in section 325L.02, paragraph (h).

**CERTIFICATION**

**By signing this document I certify that I am an owner or officer of the company, and I swear under oath that:**

- 1) My company meets each of the Minimum Criteria to be a responsible contractor as defined herein and is in compliance with Minn. Stat. § 16C.285,**
- 2) I have included the FIRST-TIER SUBCONTRACTORS LIST with my company's solicitation response, and**
- 3) If my company is awarded a contract, I will also submit ADDITIONAL SUBCONTRACTORS LIST as required.**

**Authorized Signature of Owner or Officer:**



**Printed Name:**

Todd Planting

**Title:**

President

**Date:**

6/6/22

**Company Name:**

Carl Bolander & Sons, LLC

**NOTE:** Minn. Stat. § 16C.285, Subd. 2, (c) If only one prime contractor responds to a solicitation document, a contracting authority may award a construction contract to the responding prime contractor even if the minimum criteria in subdivision 3 are not met.

**FIRST-TIER SUBCONTRACTORS LIST****SUBMIT WITH PRIME CONTRACTOR RESPONSE****PROJECT TITLE: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

Minn. Stat. § 16C.285, Subd. 5. A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project...

<b>FIRST TIER SUBCONTRACTOR NAMES (Legal name of company as registered with the Secretary of State)</b>	<b>Name of city where company home office is located</b>
To be established under Part 2	



## Ramsey County Request for Proposals ("RFP")

**RFP #: PRK0000020520**

### **RFP Title: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

**Procurement Specialist Name:** Ms. Kyle Dean  
**Procurement Specialist Email:** [Kyle.Dean@co.ramsey.mn.us](mailto:Kyle.Dean@co.ramsey.mn.us)  
**Procurement Specialist Telephone:** 651-266-8078  
**Procurement Specialist Fax:** N/A

Responses must be received by 2:00 p.m. Central time on June 09, 2022.

#### **THIS IS A PRICE INQUIRY. THIS IS NOT AN ORDER.**

General Contract/Agreement Terms and Conditions governing this solicitation, including applicable insurance requirements, are included as a part of this document in Section 3. Ramsey County has no obligation to place an order as a result of this inquiry.

#### **Solicitation Schedule**

Listed below is the solicitation schedule. Actions with specific dates and/or times must be completed as indicated. If Ramsey County needs to change any of the dates and/or times, an addendum will be issued.

RFP Released: May 11, 2022

Pre Solicitation Response Conference: Central time, 12:00 p.m. on May 26, 2022

Pre Solicitation Response Conference Location: Project site in the Rice Creek North Regional Trail corridor south of County Road I.

Contractor Questions Due: May 31, 2022

Addendum with Answers to Questions Issued: June 02, 2022

Solicitation Responses Due: June 09, 2022

Solicitation Public Opening: June 09, 2022

Notice of Interviews: Week of June 20, 2022

Interviews: Week of June 27, 2022

Notice of Intent to Award: July 01, 2022

Anticipated Contract Start Date: August 10, 2022

#### **Solicitation Description**

Demolition of Building 189, existing structures, and site restoration improvements within the Rice Creek North Regional Trail corridor.

#### **Pre Solicitation Response Conference**

A mandatory pre solicitation response conference will be held at 12:00 p.m. Central time, on May 26, 2022, at the Project site in the Rice Creek North Regional Trail corridor south of County Road I. The purpose of the conference is to discuss the work to be performed, answer questions, clarify ambiguities and respond to general issues in order to establish a common basis for understanding all of the solicitation requirements. Individuals needing an interpreter or individuals with a disability needing accommodation should contact the Procurement Specialist identified above prior to the date set for the pre solicitation response conference so that a reasonable accommodation can be made.

## 1. Project Information

### 1.1. Purpose

Ramsey County (the "County"), through the Parks & Recreation Department, seeks design-build services for the demolition of Building 189, existing structures, and site restoration in the Rice Creek North Regional Trail Corridor.

### 1.2. Background Information

Project services will be provided through a two phase approach. Each phase will be the subject of a separate agreement.

Part 1 will result in a design of sufficient detail to permit the successful proposer to arrive at a Guaranteed Maximum Price ("GMP") for the Project.

Part 2 will include development of construction documents, bidding multiple packages and providing complete construction phase services, including construction management. The successful proposer to this RFP may be allowed to self-perform construction services with approval of the Owner for those portions of the work for which it is the low bidder.

Building 189 is located on Ramsey County Park property within the Rice Creek Regional Trail corridor and was once part of the Twin Cities Army Ammunitions Plant (TCAAP) site. In 2006, a 112-acre parcel, which included Building 189, was transferred to Ramsey County from the United States to create the middle section of the Rice Creek Regional Trail corridor for expanded recreation opportunities between County Road I and I-35W. The 112-acre parcel was previously used for military operations in conjunction with the other remaining TCAAP parcels. Prior to the 112-acre property transfer in 2006, the United States completed hazardous material remediation activities for Building 189, small storage structure, and removal of other hazardous material located at the site. After the property was transferred in 2006, the Park Department investigated potential reuse of Building 189 with the Minnesota Amateur Sports Commission (MASC) as a large regional destination trailhead for expanded outdoor recreational opportunities. After further investigation with MASC, it was determined Building 189 was not viable for MASC operations and the building has been vacant since.

In 2019, the Park Department initiated a pre-building study to investigate the structural capability of Building 189 and potential reuse scenarios as part of the Rice Creek Regional Trail Master Plan amendment. Five development scenarios were identified for potential reuse. Due to funding availability, none of the scenarios moved forward for Building 189.

Since the transfer of the 112-acre parcel in 2006, the Park Department has struggled with vandalism, homeless, facility destruction, security, and safety issues regarding Building 189. More recently, from 2020 to present, these issues have drastically amplified and there has been an increase of unwanted activity at Building 189. At this point, there has not been any mitigation measures that has resulted in minimizing unwanted activity at Building 189.

The county's overarching goal for this Project is to provide safe park and recreation facilities for users. The only way to completely resolve safety issues and unwanted activity; demolition of Building 189 and site cleanup is required.

The combined budgets for Part 1 and Part 2 are \$1,210,500.

See attached samples of the Part 1 and Part 2 Agreements.

### 1.3. Scope of Services

The successful proposer shall provide design-build services for project activities/task as defined in the attached Scope of Service (Exhibit A), Site Context Map (Exhibit B), Conceptual

Building and Site Plan (Exhibit C), and Building 189 Structural Pre-Assessment & Programming (Exhibit D)

#### **1.4. Contractor Qualifications**

There are no unique contractor qualifications required for this solicitation.

### **1.5. Contract Term and Schedule**

#### **1.5.1.**

The term of the Part 1 Agreement shall begin on the date of final execution.

#### **1.5.2.**

The Contractor shall complete all Part 1 services within 2 months from the date of final execution of the Part 1 Agreement.

#### **1.5.3.**

The completion date for Part 2 services shall be subject to negotiations under the Part 1 Agreement.

#### **1.5.4.**

Upon completion of all other Part 1 services, the successful proposer shall submit a GMP to the County based on the approved design documents, budget, and schedule.

#### **1.5.5.**

If the County and the successful proposer are unable to agree on the scope and cost for Part 2, the County reserves the right to terminate its relationship with the successful proposer and seek an alternate relationship and/or seek alternate methods of construction.

#### **1.5.6.**

The Contractor may begin phased construction as construction documents are completed with approval by the County.

### **1.6. Costs**

#### **1.6.1.**

The resulting contracts shall be: 1) a fixed price contract for partial design (Part 1); and 2) a guaranteed maximum price contract for the balance of the work (Part 2).

#### **1.6.2.**

The solicitation response shall include a fixed price for all costs for supplies, materials, equipment, labor, and expenses necessary to perform the partial design work included in the Part 1 Agreement. The guaranteed maximum price for the balance of the work shall be negotiated as part of Part 1 services upon completion of the partial design work.

#### **1.6.3.**

The contractor is understood to have included in its response price any *applicable* State or Federal sales, excise or other tax on all materials, supplies and equipment that are to be utilized. Do not itemize tax separately.

### **1.7. Subcontractors**

Subcontractors may be used to perform work under the resulting contract.

## **1.8. Special Project Conditions**

### **1.8.1.**

The contractor shall complete all Part 1 Agreement scope of services activities and establish a Guarantee Maximum Price (GMP) within two months from the date of execution.

## **2. General Solicitation Standard Terms and Conditions**

### **2.1. Solicitation Process**

#### **2.1.1.**

The County will not provide compensation to the Contractor for any expenses incurred for solicitation response preparation.

#### **2.1.2.**

All communications during the solicitation process shall be directed to the Procurement Specialist as identified on the first page of this solicitation. Contractors shall not have contact with any other County employees, elected officials, community representatives, County consultants and/or other contractors associated with the solicitation at any time during the procurement process. Violation of this provision may disqualify the contractor from consideration.

#### **2.1.3.**

The County expressly reserves the right to amend or withdraw this solicitation at any time and to reject any or all responses, and to waive any informalities or irregularities in the responses as may be deemed in the best interest of the County.

### **2.2. Solicitation Questions**

All questions concerning this solicitation shall be submitted in writing to the Procurement Specialist at the email address listed on the first page of this solicitation document.

### **2.3. Solicitation Addenda**

Any solicitation changes, additions, alterations, corrections, or revisions shall be made in writing via an addendum within a reasonable time to allow prospective contractors to consider them in preparing their solicitation responses.

### **2.4. Collusion**

Contractors shall not enter into an agreement, participate in any collusion, or otherwise take any action in restraint of free competition in connection with this solicitation or any contract which may result from its acceptance, including actions involving other contractors, competitors, County employees, County consultants or County Board members. Evidence of such activity will result in rejection of the solicitation response.

### **2.5. Solicitation Response Content Checklist**

Contractors shall include the following forms and information in their solicitation responses. Responses should be a maximum of 20 pages, including attachments.

#### **2.5.1.**

Completed Solicitation Response Form, attached.

**2.5.2.**

Completed Contractor Information and Reference Form, attached.

**2.5.3.**

Completed Responsible Contractor Verification and Certificate of Compliance Form, attached.

**2.5.4.**

Contractor's cost.

**2.5.5.**

Contractor's overall approach or solution.

**2.5.6.**

Resumes of key Project participants, including prior projects of similar size and scope for which the participants played the same or a similar role as proposed for the County's project.

**2.5.7.**

Breakdown of Project services by phases or tasks. For each phase or task listed, identify:

Key Project staff to be involved and their roles and responsibilities

Time commitment for each person

Timeline

Deliverables

County responsibilities, if different from the description contained in the solicitation

**2.5.8.**

Any exceptions to the General Contract/Agreement Terms and Conditions must appear in the Contractor's proposal under a separate section titled "Exceptions", with proposed alternate language or deletions. The County has no obligation to accept or agree to any such exceptions requested by a Contractor. Even if there are no exceptions, a statement must be provided.

**2.5.9.**

As part of the solicitation response, the contractor must provide information on the contractor's past and current utilization of, and efforts to increase the participation of, women and minorities in its construction workforce, including, but not limited to its participation in, and sponsorships of, apprenticeships for minorities and women. If the contractor does not have employees or is not self performing construction work, the contractor must submit a statement to that effect. The contractor must use the Diverse Workforce Development Initiative Policy Reporting Form and include the form as part of the solicitation response. Failure to include the requested Workforce Diversity information may result in rejection of the solicitation response.

**2.6. Response Submission**

Contractors must submit the solicitation response electronically on Demandstar.com. Proposal responses must be uploaded no later than 2:00 P.M., Central time, on June 09, 2022. Faxed, delivered, emailed, and oral solicitation responses will not be considered. The Contractors' names will be read at public opening. If you wish to hear the names, please join the zoom meeting at 2:01 P.M., Central time, on June 09, 2022, using the following link:

<https://zoom.us/j/102575333?pwd=dDA2Rnk4MEtlVW9DS3k4cUpLRDJQT09>

## **2.7. Solicitation Response**

### **2.7.1.**

Upon submission, a solicitation response becomes the property of the County and will not be returned. The County retains the right to use any concept or idea presented in any solicitation response, whether or not that solicitation response is accepted. All information included in the submitted solicitation response will be classified in accordance with Minn. Stat. §13.591 governing data practices.

### **2.7.2.**

The solicitation response shall remain valid for 120 days starting on the solicitation response due date.

## **2.8. Conditioning Solicitation Responses Upon Other Awards Not Acceptable**

Solicitation responses conditioned upon receiving award of both this particular contract being solicited and another County contract shall be rejected.

## **2.9. Solicitation Response Mistakes**

### **2.9.1.**

A solicitation response may be withdrawn on written request of the Contractor prior to the solicitation due date and time. Negligence of the Contractor in preparing its response confers no right to withdraw the solicitation response after the solicitation due date and time. Prior to the due date and time, changes may be made, provided the change is initiated by the Contractor's agent. If the intent of the Contractor is not clearly identifiable, the interpretation most advantageous to the County will prevail.

### **2.9.2.**

Any solicitation response, withdrawal, or modification received after the solicitation due date and time shall be considered late and the solicitation response, withdrawal, or modification shall be rejected.

### **2.9.3.**

If the solicitation response includes a unit price calculation and the Contractor has made an error when calculating the extended price, the unit price shall be used for contract award.

## **2.10. Evaluation and Selection Process**

### **2.10.1. Creation of Evaluation Team**

The County shall create an Evaluation Team composed of scorers and contributors. The Evaluation Team scorers will consist of County employees, or community representatives who represent different backgrounds, experience, subject matter, and departments. The Evaluation Team contributors may consist of County employees, community representatives and County consultants. Contractors can only communicate with the County Procurement Specialist. Exceptions include interviews/demonstrations, site visits/e-visits or upon Notice of Intent to Award. Violation of this provision may disqualify the contractor from further consideration.

### **2.10.2.**

The Evaluation Team shall evaluate the written solicitation responses using the following Evaluation Criteria, with the identified maximum points values:

## **Evaluation Criteria and Maximum Points Value**

- 25 Contractor Qualifications (experience, training, technical and professional ability)
- 15 Key Personnel Qualifications (experience, training, technical and professional ability)
- 30 Project Understanding and Approach
- 20 Cost
- 10 SBE/Workforce Utilization Approach

**100 Total Possible Points**

### **2.10.3. Optional Contractor Interviews/Demonstrations**

#### **2.10.3.1.**

The County reserves the right to interview any or all proposers, or to require a demonstration at its discretion. The County is not responsible for any costs incurred by the proposer in preparing for or participating in an interview or demonstration.

#### **2.10.3.2.**

If interviews or demonstrations are required, Contractors selected shall be given enough time to make necessary preparations and travel arrangements. All Contractors interviewed shall be given the same amount of time for the interview.

#### **2.10.3.3.**

An additional 100 points are allocated to interviews and/or demonstrations. The department determines how the points are to be split between interview and demonstration, if both are conducted.

### **2.10.4. Optional Site Visits/E-Site Visits**

#### **2.10.4.1.**

The County reserves the right to conduct site visits or e-site visits with any or all proposers. The County is not responsible for any costs incurred by the proposer in relation to a site visit or e-site visit.

#### **2.10.4.2.**

If site visits or e-site visits are required, Contractors selected shall be given enough time to make necessary preparations and arrangements. All Contractors selected shall be given the same amount of time for the site visit or e-site visit.

#### **2.10.4.3.**

An additional 100 points are allocated to site/e-site visits if conducted.

#### **2.10.4.4.**

Departments may choose to conduct a site visit at the proposers' premises or an e-site visit using video conferencing as long as the same type of visit is used for all proposers.

## **2.11. Selection of Contractor**

The responsible and responsive contractor that scores the highest combined score for the evaluation response, interview/demonstration (if requested by the County), and the site visit/e-site visit (if requested by the County) will be issued a Notice of Intent to Award Letter.

### **2.11.1.**

The County is not bound to accept the lowest cost.

## **2.11.2.**

The County reserves the right to negotiate contract terms contemporaneously and /or subsequently with any number of Contractors as the County deems to be in its best interests.

## **2.11.3.**

The County reserves the right to request any additional information at any stage of the solicitation process. Compliance shall be at the contractor's expense.

## **2.12. Notice of Intent to Award**

The following must be submitted in response to a Notice of Intent to Award Letter within 10 business days:

### **2.12.1.**

Taxpayer Identification Number and Certification, I.R.S. Form W-9

### **2.12.2.**

All Contractors, with the exception of sole proprietors, shall be properly registered with the State of Minnesota prior to contract award. A Contractor whose main office is not in the State of Minnesota must register with the State of Minnesota as a foreign vendor.

### **2.12.3.**

Certificate of Insurance (COI)

### **2.12.4.**

Copies of Apprenticeship Agreements currently in effect for the successful Contractor and of all Subcontractors whose portion of the work is \$100,000 or more; or certificates of registration for the Contractor and Subcontractors whose portion of the work is \$100,000 or more, whichever is applicable. To the extent a Contractor and/or Subcontractor whose portion of the work is \$100,000 do not participate in an Apprenticeship program, the Contractor and each such Subcontractor MUST submit statements to that effect.

## **2.13. Public Notice**

The County uses DemandStar to release competitive solicitations and associated addenda. Subscription to DemandStar is free by following the [DemandStar Registration Instructions](#).

Contractors may contact DemandStar directly by calling 206-940-0305 or email at [demandstar@demandstar.com](mailto:demandstar@demandstar.com). Solicitations shall be published in the County's official newspaper as required by state statute.

## **2.14. Trade Secret Information**

### **2.14.1. Trade Secret Information Caution**

Solicitation response data marked as, for example, "confidential" or "proprietary" or other similar designation, will not be considered by the County to be Trade Secret Information within the meaning of Minnesota Statutes Chapter 13 unless the data meet the criteria set forth in Section 13.37, subd. 1(b)

### **2.14.2. No Contingency**

The solicitation response shall not be contingent on the County accepting the contractor's claim that certain data is Trade Secret Information within the meaning of Minnesota Statute Section 13.37, subd. 1(b)

### **2.14.3. Trade Secret Information Review**

County review of data identified as Trade Secret Information will not occur unless and until such time as an appropriate request for the data is made by a third party

### **2.14.4. Notice of Request for Trade Secret Information**

At such time as an appropriate request for data identified in a response as Trade Secret Information is made, the County will provide the responder with notice of the request for the Trade Secret Information

### **2.15. Only One Solicitation Response Received**

If only one solicitation response is received, an award may be made to the single Contractor if the County finds that the price submitted is fair and reasonable, and that either other Contractors had reasonable opportunity to respond, or there is not adequate time for re-solicitation.

## **3. Contracting for Equity**

### **3.1. Commitment to Advancing Racial Equity**

The county is committed to advancing racial equity for its residents. The commitment is captured in the county's Advancing Racial Equity policy which states that "Racial equity is achieved when race can no longer be used to predict life outcomes, and outcomes for all are improved."

Consistent with the Advancing Racial Equity policy, contractors will take all reasonable measures to advance racial equity during contract performance. Contractors will recognize and acknowledge this requires deconstructing barriers and changing systems, structures, policies and procedures. Contractors will be equitable, inclusive, transparent, respectful and impactful in serving and engaging residents. Contractors will have meaningful and authentic engagement with community and employees to strengthen the administration, development and implementation of policies and procedures to advance racial equity and ensure that all residents in need have awareness of and access to contracted services.

Please review Ramsey County's [Advancing Racial Equity policy](#) to learn more about Ramsey County's commitment to racial equity.

### **3.2. Non-Discrimination (In accordance with Minn. Stat. § 181.59)**

Contractors will comply with the provisions of Minn. Stat. § 181.59 which require:

*"Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:*

*(1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;*

*(2) that no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;*

(3) that a violation of this section is a misdemeanor; and

(4) that this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract."

### **3.3. Equal Employment Opportunity and Civil Rights**

#### **3.3.1.**

Contractors agree that no person shall, on the grounds of race, color, religion, age, sex, sexual orientation, disability, marital status, public assistance status, criminal record (subject to the exceptions contained in Minn. Stat. §§299C.67 to 299C.71 and Minn. Stat. §144.057), creed or national origin, be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable federal and state laws against discrimination, including the Civil Rights Act of 1964. Contractors will furnish all information and reports required by the county or by Executive Order No. 11246 as amended, and by the rules and regulations and orders of the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

#### **3.3.2.**

Contractors shall comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

#### **3.3.3.**

Contractors shall agree that no qualified individual with a disability as defined by the Americans with Disabilities Act, 42 U.S.C. §§12101-12213 or qualified handicapped person, as defined by United States Department of Health and Human Services regulations, Title 45 Part 84.3 (j) and (k) which implements Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, under Executive Order No. 11914 (41FR17871, April 28, 1976) shall be:

##### **3.3.3.1.**

Denied access to or opportunity to participate in or receive benefits from any service offered by contractors under the terms and provisions of this agreement; nor

##### **3.3.3.2.**

Subject to discrimination in employment under any program or activity related to the services provided by contractors.

##### **3.3.3.3.**

If it is discovered that a contractor is not in compliance with applicable regulations as warranted, or if the contractor engages in any discriminatory practices, as described above, then the county may cancel said agreement as provided by the cancellation clause of this agreement.

### **3.4. Utilization of Certified Vendors**

The county has adopted the Principles for Inclusiveness in Contracting Program ("IICP") in order to increase the participation of small businesses ("SBEs") in the county's purchasing activities. The contracting inclusion goal for this Project is: 32%.

### **3.5. Diverse Workforce Initiative**

The county has a goal of continuing to increase participation of qualified minorities and women in each county construction project. The county has established a goal of 20% women and 32% minority goal for site workforce utilization for the project.

### **3.6. Workforce and Contracting Inclusion Reporting**

#### **3.6.1. Contracting Inclusion**

Contractors shall complete and submit Attachment E -- Contracting Inclusion Reporting Forms with monthly applications for payment or as otherwise directed by the county project manager.

The report shall specify the project and contract number and include:

Ownership: Including but not limited to CERT small business enterprises (SBEs), minority owned enterprises (SMBEs), women owned enterprises (SWBEs), minority women owned enterprises (SWMBEs) and veteran enterprises (SVBEs).

- a. All certifications of the prime contractor.
- b. Name of sub-contractor and all certifications of each sub-contractor along with amounts paid to each sub-contractor to date.

#### **3.6.2. Workforce Inclusion**

Contractor (and all appropriate subcontractors) shall utilize County's LCP Tracker software system for submission of completed certified payroll reports and the LCP Tracker workforce inclusion 'Goal Report' with monthly applications for payment or as otherwise directed by the county project manager. County shall provide LCP Tracker training to Contractor if requested.

### **3.7. Diverse Workforce Inclusion Resources**

For information and assistance in increasing the participation of women and minorities, contractors are encouraged to access the websites below:

1. <http://www.ramseycounty.us/jobconnect>
2. <http://www.ramseycounty.us/constructionconnect>

Job Connect and the Construction Connect provide a recruiting source for employers and contractors to post job openings and source diverse candidates.

Ramsey County's Job Connect links job seekers, employers and workforce professionals together through our website, networking events and community outreach. The network includes over 10,000 subscribed job seekers ranging from entry-level to highly skilled and experienced professionals across a broad spectrum of industries.

Employers participate in the network by posting open jobs, meeting with workforce professionals and attending hiring events. Over 200 Twin Cities community agencies, all working with job seekers, participate in the network.

Ramsey County's Construction Connect is an online and in-person network dedicated to the construction industry. Construction Connect connects contractors and job seekers with employment opportunities, community resources and skills training related to the construction industry. Construction Connect is a tool for contractors to help meet diversity hiring goals. Additional assistance is available through [askworkforcesolutions@ramseycounty.us](mailto:askworkforcesolutions@ramseycounty.us) or by calling 651-266-9890.

## **4. General Contract/Agreement Terms and Conditions**

### **4.1. Contract Term and Schedule**

Services may not begin until the contract has been fully executed. An expired contract cannot be extended or renewed.

### **4.2. Form of Contract**

Note: The term "Contractor" shall mean "Design/Builder" and the term "County" shall mean "Owner" where used in the resulting Agreements.

#### **4.2.1.**

The initial agreement will be for Part 1 services only. The Agreement for Part 1 services will use the attached Part 1 Agreement and the Agreement for Part 2 services will use the attached Part 2 Agreement.

#### **4.2.2.**

The County and the contractor will enter into a Part 2 Agreement if the parties can agree on the scope of services and the Guaranteed Maximum Price, and the goals for using Small Business Enterprises and women and minorities on the Project workforce.

#### **4.2.3.**

Unless otherwise modified, all of the provisions of the Part 1 Agreement for Part 1 services shall remain in effect for Part 2 services and shall become a part of the Part 2 Agreement.

#### **4.2.4.**

Prior to execution of the Part 2 Agreement, the contractor shall submit: a) a performance bond and a payment bond, each in the full amount of the Construction Cost, using forms provided by the County; and b) a certificate of insurance for any additional insurance to be provided by the successful Proposer for Part 2 services. "Construction Cost" means the GMP less design costs and the Design/Builder's project management fees.

## **4.3. Payment**

### **4.3.1.**

If this is a lump sum contract for supplies, equipment, materials and labor, or construction, invoices shall include any applicable State or Federal sales, excise or other tax. Do not itemize tax separately.

### **4.3.2.**

If this is a contract for supplies, equipment or materials purchased for a golf course or solid waste hauling and recycling, the contractor shall itemize any applicable State or Federal sales, excise or other tax separately on the invoice.

### **4.3.3.**

Each invoice must include a progress report on achievement of project SBE and Workforce goals. No payment will be made until the invoice and progress report have been approved by the County.

### **4.3.4.**

Payments shall be made when the materials/services have been received in accordance with the provisions of the resulting contract.

## **4.4. Application for Payments**

### **4.4.1.**

The Contractor shall submit an invoice once a month.

### **4.4.2.**

Invoices for any goods or services not identified in this Agreement will be disallowed.

### **4.4.3. Surety Deposit Requirement for Non-Minnesota Construction Contractors**

For **any one contract** where the anticipated contract value of the construction portion of the contract exceeds \$50,000, the department must withhold 8 percent from payments and send the money to the Minnesota Department of Revenue. The department will hold the funds as surety for the payment of state taxes owed as a result of the contract. For more information about this law, including exceptions to the withholding requirement, visit the [MN Department of Revenue](#) or [Withholding Tax Fact Sheet 12 -- Surety Deposits for Non-Minnesota Construction Contractors](#).

### **4.4.4.**

Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount.

### **4.4.5.**

Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges. At no time will cumulative payments to the Contractor exceed the percentage of project completion, as determined by the County.

### **4.4.6.**

Payment of interest and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

### **4.4.7.**

The Contractor shall pay any subcontractor within ten days of the Contractor's receipt of payment from the County for undisputed services provided by the subcontractor. The Contractor shall pay interest of 1 1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

## **4.5. Independent Contractor**

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners or joint ventures between the parties or as constituting the Contractor as an employee of the County.

## **4.6. Successors, Subcontracting and Assignment**

### **4.6.1.**

The Contractor binds itself, its partners, successors, assigns and legal representatives to the County in respect to all covenants and obligations contained in this Agreement.

#### **4.6.2.**

The Contractor shall not assign or transfer any interest in this Agreement without prior written approval of the County and subject to such conditions and provisions as the County may deem necessary.

#### **4.6.3.**

The Contractor shall not enter into any subcontract for performance of any services under this Agreement without the prior written approval of the County. The Contractor shall be responsible for the performance of all subcontractors.

### **4.7. Compliance With Legal Requirements**

#### **4.7.1.**

The Contractor shall comply with all applicable federal, state and local laws and the rules and regulations of any regulatory body acting thereunder and all licenses, certifications and other requirements necessary for the execution and completion of the contract.

#### **4.7.2.**

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

### **4.8. Data Practices**

#### **4.8.1.**

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

#### **4.8.2.**

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which County data is contained or which are used to access County data in the course of providing services under this Agreement. Access to County data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services or construction are provided, at the end of the Project all County data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the County written verification that the data has been purged.

### **4.9. Security**

#### **4.9.1.**

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

#### **4.9.2.**

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the County not more than 7 days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the County may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

#### **4.9.3.**

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

#### **4.9.4.**

The County retains the right to inspect and review the Contractor's operations for potential risks to County operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

#### **4.9.5.**

All County data and intellectual property stored in the Contractor's system is the exclusive property of the County.

### **4.10. Indemnification**

The Contractor shall indemnify, hold harmless and defend the County, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the County, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors, and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

### **4.11. Contractor's Insurance**

#### **4.11.1.**

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by

anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

**4.11.2.**

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the County contracting department evidencing such coverage to the County throughout the term of this Agreement.

**4.11.3.**

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability.

**4.11.3.1.**

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. Coverage shall include contractual liability and XCU. Contractor will be required to provide proof of completed operations coverage for 3 years after substantial completion.

**4.11.3.2.**

The Contractor is required to add Ramsey County, its officials, employees, volunteers and agents as Additional Insured to the Contractor's Commercial General Liability, Auto Liability, Pollution and Umbrella policies with respect to liabilities caused in whole or part by Contractor's acts or omissions, or the acts or omissions of those acting on Contractor's behalf in the performance of the ongoing operations, services and completed operations of the Contractor under this Agreement. The coverage shall be primary and non-contributory.

**4.11.4.**

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. Coverage shall include contractual liability and XCU. Contractor will be required to provide proof of completed operations coverage for 3 years after substantial completion.

**4.11.5.**

The Contractor is required to add Ramsey County, its officials, employees, volunteers and agents as Additional Insured to the Contractor's Commercial General Liability, Auto Liability, Pollution and Umbrella policies with respect to liabilities caused in whole or part by Contractor's acts or omissions, or the acts or omissions of those acting on Contractor's behalf in the performance of the ongoing operations, services and completed operations of the Contractor under this Agreement. The coverage shall be primary and non-contributory.

**4.11.6.**

Professional liability of no less than \$1,000,000 per claim and \$2,000,000 aggregate limit.

**4.11.6.1.**

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

**4.11.7.**

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

**4.11.8.**

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

**4.11.9.**

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts. If provided to meet coverage requirements, the umbrella or excess liability policy must follow form of underlying coverages and be so noted on the required Certificate(s) of Insurance.

**4.11.10.**

If the Contractor is driving on behalf of the County as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

**4.11.11.**

The Contractor waives all rights against Ramsey County, its officials, employees, volunteers or agents for recovery of damages to the extent these damages are covered by the general liability, worker's compensation, and employers liability, automobile liability and umbrella liability insurance required of the Contractor under this Agreement.

**4.11.12.**

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Copies of policies shall be submitted to the County upon written request.

**4.11.13.**

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

**4.11.14.**

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the County.

**4.11.15.**

All Certificates of Insurance shall provide that the insurer give the County prior written notice of cancellation or non-renewal of the policy as required by the policy provisions of Minn. Stat. Ch. 60A, as applicable. Further, all Certificates of Insurance to evidence that insurer will provide at least ten (10) days written notice to County for cancellation due to non-payment of premium.

#### **4.11.16.**

Nothing in this Agreement shall constitute a waiver by the County of any statutory or common law immunities, defenses, limits, or exceptions on liability.

#### **4.12. Audit**

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon request, shall make available to the County, the State Auditor, or the County's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

#### **4.13. Notices**

All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

**County:** TBD

**Contractor:** TBD

#### **4.14. Non-Conforming Services**

The acceptance by the County of any non-conforming goods/services under the terms of this Agreement or the foregoing by the County of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the County's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the County provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

#### **4.15. Setoff**

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the Contractor. The County may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

#### **4.16. Conflict of Interest**

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

#### **4.17. Respectful Workplace and Violence Prevention**

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it

is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

#### **4.18. Force Majeure**

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

#### **4.19. Unavailability of Funding - Termination**

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The County may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the County's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the County.

### **4.20. Termination**

#### **4.20.1. Termination by the County**

##### **4.20.1.1.**

The County may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the County upon the commencement of such proceedings or other action.

##### **4.20.1.2.**

The County may terminate this Agreement if the Contractor violates any material term or condition of this Agreement or does not fulfill in a timely and proper manner its obligations under this Agreement. In the event that the County exercises its right of termination under this Paragraph, it shall submit written notice to the Contractor and its surety, if any, specifying the reasons therefore. Termination shall be immediately effective upon the failure of the Contractor to cure the default within ten (10) business days of receipt of the notice of default. Upon termination, the Contractor shall take all actions necessary to discontinue further commitments of funds, and the County shall take possession of the site and of all materials and finish the services by whatever method the County may deem expedient.

##### **4.20.1.3.**

The County may terminate this Agreement without cause upon giving at least thirty (30) calendar days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in accordance with this Agreement up to and including the effective date of termination.

##### **4.20.1.4.**

This Agreement may be terminated by the County upon immediate written notice to the Contractor in the event that the Project is abandoned. If such termination

occurs, the County shall pay the Contractor for services completed and for proven loss sustained upon materials, equipment, tools, construction equipment and machinery.

#### **4.20.1.5.**

Any termination by the County shall be without prejudice to the rights of the County to pursue other remedies against the Contractor.

### **4.20.2. Termination by the Contractor**

#### **4.20.2.1.**

If the County fails to make payment of undisputed amounts or otherwise violates any material term or condition of this Agreement the Contractor may give written notice that the Contractor intends to terminate this Agreement, giving the specific reasons therefore. Termination shall be immediately effective upon the failure of the County to cure the default within ten (10) business days of receipt of the notice of default. A good faith dispute by the County regarding the amount of payment and failure to pay disputed amounts, which is subject to the provisions of the Minnesota Prompt Payment Act, does not constitute grounds for termination by the Contractor under this paragraph.

## **4.21. Interpretation of Agreement; Venue**

### **4.21.1.**

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

### **4.21.2.**

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

## **4.22. Protection of Persons and Property**

### **4.22.1.**

The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to, County employees and other persons who may be affected; the Contractor's work and materials and equipment which are under the care, custody and control of the Contractor or any of the Contractor's subcontractors; and other property at the project site or adjacent thereto.

### **4.22.2.**

Unless otherwise directed by the County's Authorized Representative, the Contractor shall promptly remedy damage or loss to property caused in whole or in part by the Contractor, its employees, officers, or subcontractor(s), or anyone directly employed by any of them, or by anyone for whose acts any of them may be liable.

## **4.23. Warranty**

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

## **4.24. Title - Risk of Loss**

### **4.24.1.**

Title to goods and/or all associated documentation shall pass to the County upon payment by the County for goods and/or associated documentation; or for construction projects, upon incorporation of the goods into the Project.

### **4.24.2.**

The County shall be relieved from all risks of loss or damage to goods, and/or all documentation prior to the time title passes to the County as described above. The Contractor shall not be responsible for loss or damage to goods and/or documentation occasioned by negligence of the County or its employees.

## **4.25. Submittals**

### **4.25.1. Submittals**

No portion of the work requiring submission of a shop drawing, drawing, manufacturer's literature, test data or other information, or a sample shall be commenced until the submittal has been approved by the County.

## **4.26. Clean Up**

The Contractor shall at all times keep County premises free from accumulation of waste materials or rubbish caused by its operations.

## **4.27. Debarment and Suspension**

Ramsey County has enacted Ordinance 2013-330 [Ramsey County Debarment Ordinance](#) that prohibits the County from contracting with contractors who have been debarred or suspended by the State of Minnesota and/or Ramsey County.

## **4.28. Project Labor Agreement**

The County has not yet determined whether a Project Labor Agreement (PLA) will or will not be required for this project. The County's decision regarding the need for a PLA will be included in an addendum to the solicitation document prior to the submission due date.

## **4.29. Alteration**

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

## **4.30. Entire Agreement**

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the County and the Contractor to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.

## **5. Special Contract Terms and Conditions: Design/Build**

### **5.1. The Part 1 Agreement will have the following provisions:**

### **5.2. The Part 2 Agreement will have the following provisions:**

#### **5.2.1. Part 2 Performance and Payment Bond Requirements**

##### **5.2.1.1.**

The Contractor shall furnish a Performance and Payment bond, both meeting the following conditions:

###### **5.2.1.1.1.**

Issued by a bonding company licensed to do business in Minnesota.

###### **5.2.1.1.2.**

On the current list of Companies Holding Certificates of Authority as acceptable Sureties on Federal Bonds and as acceptable reinsuring companies as published in Circular 570 (Amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

###### **5.2.1.1.3.**

All bonds signed by an agent must be accompanied by a certified copy of the authority to act.

###### **5.2.1.1.4.**

Duly executed, notarized and updated Acknowledgment of both the Principal and Surety and the Surety's Power of Attorney must be attached to each of the two required bonds.

###### **5.2.1.1.5.**

Bond amounts shall not exceed the single bond limit for the Contractor's bonding company as set forth in the Federal Register current as of the bid date.

###### **5.2.1.1.6.**

Checks are not accepted in lieu of a Bond.

##### **5.2.1.2.**

The bonds shall each be in the amount of 100% of the Construction Cost. The term "contract", as used herein, shall include the original agreement plus all subsequent change orders and/or amendments. The contract price to which the principal is bound shall be the amount of the Construction Cost as reflected by the terms of the contract.

##### **5.2.1.3.**

The bonds shall cover the faithful performance of the Contract and the payments of all obligations arising thereunder. The Part 2 Agreement will not be signed until the County has received the proper bonds specified under this clause.

#### **5.2.1.4.**

Bonds shall indemnify the County for any loss sustained by the County on account of or by reason of the acts of the Contractor or the acts of anyone else directly or indirectly employed by the Contractor in the performance of the Work for the Project.

#### **5.2.2. Part 2 Insurance**

The Part 2 Agreement will include the following language regarding insurance:

##### **5.2.2.1.**

During Part 2, the Contractor shall continue to maintain the insurance coverage required for Part 1 services, except that Section 3.10.3 of the Part 1 Agreement is revised to read as follows:

"3.10.3. Commercial general liability of no less than \$500,000 per claim, \$5,000,000 per occurrence, \$5,000,000 project aggregate, \$5,000,000 products/completed operations total limit, \$5,000,000 personal injury and advertising liability. Coverage shall include contractual liability and XCU (explosion, collapse and underground). Contractor will be required to provide proof of completed operations coverage for 3 years after substantial completion."

##### **5.2.2.2.**

In addition, the Contractor may be required to maintain additional coverage as appropriate for the Project, including Builder's Risk Coverage.

##### **5.2.2.3.**

If the Contractor is required to carry Builder's Risk, the following language will be included in the Part 2 Agreement:

###### **5.2.2.3.1.**

The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount of the Construction Cost under the Contract on a replacement cost basis without optional deductibles.

###### **5.2.2.3.2.**

Property insurance shall cover risks of direct physical loss unless the loss is limited by coverage from or caused by a peril excluded, and shall include insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Contractor's services and expenses required as a result of such insured loss.

###### **5.2.2.3.3.**

The Contractor shall include the County as an additional insured as their interests may appear on the property insurance required by this subparagraph and shall furnish to the County one copy of the Certificate of Insurance which shall specifically set forth evidence of coverage required by this subparagraph. If the County is damaged by the failure of the Contractor to procure or maintain such insurance, then the Contractor shall

be liable for all damages, injury, costs and expenses, including attorneys' fees, arising out of or resulting from the Contractor's failure to procure or maintain such insurance.

#### **5.2.2.3.4.**

The Contractor as fiduciary shall have the power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Contractor's exercise of this power; if such objection is made, the dispute shall be resolved by arbitration if agreed to by both parties. The Contractor as fiduciary shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

#### **5.2.2.3.5.**

A loss insured under the insurance required by this section shall, at the discretion of the County, be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require subcontractors to make payments to their sub-subcontractors in similar manner.

#### **5.2.2.4.**

If the Owner will provide property insurance, the following language will be included in the Part 2 Agreement:

##### **5.2.2.4.1. Property Insurance**

The Owner shall purchase and maintain, in a company or companies authorized to do business in the jurisdiction in which the Project is located, property insurance upon the Work to the fullest insurable value thereof on a replacement cost basis, subject to a deductible of \$100,000 per occurrence. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required by this Section 2) to be insured, whichever is earlier. This insurance shall include interests of the Owner, the Design/Builder, and their respective contractors and subcontractors in the Work. The Design/Builder, its subcontractors and sub-subcontractors are responsible for the deductible of \$100,000 per occurrence under the Owner's property coverage and all other costs and losses related to the Project Work not covered by the Owner's property insurance.

##### **5.2.2.4.2.**

Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, falsework, rigging & hoisting, terrorism, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the services and expenses of the Contractor's Architect and other professionals required as a result of such insured loss.

Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.

#### **5.2.2.4.3.**

Unless otherwise provided, the Owner shall purchase and maintain such boiler and machinery insurance required by this Part 2 Agreement or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner. This insurance shall include interests of the Owner, the Design/Builder, the Design/Builder's contractors and subcontractors in the Work, and the Design/Builder's Architect and other design professionals.

#### **5.2.2.4.4.**

Before an exposure to loss may occur, the Owner shall file with the Design/Builder a copy of a Certificate of Insurance for each policy that includes insurance coverages required by this Section 2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Design/Builder.

#### **5.2.2.4.5.**

The Owner and the Design/Builder waive all rights against each other and the Architect and other design professionals, contractors, subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Section xxx or other property insurance applicable to the Work, except such rights as they may have to proceeds of such insurance held by the Owner as trustee. The Owner or Design/Builder, as appropriate, shall require from contractors and subcontractors by appropriate agreements, written where legally required for validity, similar waivers each in favor of the parties enumerated in this Section 2. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

#### **5.2.2.4.6.**

The Owner as trustee shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing, within five (5) days after such notification of the Owner's intent to exercise this power; if such objection be made, the parties shall enter into dispute resolution under procedures provided in this Part 2 Agreement. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

#### **5.2.2.4.7.**

A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section xxx.6. The Design/Builder shall pay contractors their shares of insurance proceeds received by the Design/Builder, and by appropriate agreement, written where legally required for validity, shall require contractors to make payment to their subcontractors in similar manner.

#### **5.2.2.4.8.**

Partial occupancy or use prior to Substantial Completion shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design/Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall not, without mutual written consent, take any action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of coverage.

### **5.2.3. Diverse Workforce Initiative**

#### **5.2.3.1. Diverse Workforce Initiative**

The County has a goal of continuing to increase participation of qualified minorities and women in each County construction project. The County has established a goal of %RC\_B\_DIV\_WRKFRC\_W% % women and %RC\_B\_DIV\_WRKFRC\_M% % minority goal for site workforce utilization for the Project.

### **5.2.4. Prevailing Wage (Construction and Labor)**

#### **5.2.4.1.**

Contractors and all subcontractors of the Contractor shall conform to the labor laws of the State of Minnesota, [Ramsey County Prevailing Wage Ordinance No. 2013-329](#), and all other laws, ordinances, and legal requirements affecting the work in Ramsey County and Minnesota. The minimum wage rate per hour to be paid for each classification of work shall be the union wage rate in the locality of the project for those classifications over which unions have jurisdiction and the local prevailing rate for those classifications of work in the localities over which unions do not have jurisdiction.

The terms "prevailing wage", "minimum wage rate per hour", and "prevailing rate" as used in the contract, shall mean "prevailing wage rate" as defined in Minnesota Statutes §177.42.

Pursuant to Minnesota Statutes §§177.41 to 177.44 and corresponding Rules 5200.1000 to 5200.1120, all construction contracts funded in whole or in part by state funds are subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all Contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.

#### **5.2.4.2.**

Pursuant to the Ramsey County Prevailing Wage Ordinance No. 2013-329, the Prevailing Wage Rate must be paid under any contract with Ramsey County or under a subcontract to that contract with Ramsey County with an anticipated Project completion cost or anticipated Services contract value of over \$25,000.

#### **5.2.4.3.**

Throughout the term of this Agreement, the Contractor shall submit Certified Payroll Records within 14 days of the end of a pay period and in accordance with the requirements of Ramsey County Prevailing Wage Ordinance No. 2013-329. Failure of the Contractor to submit the Certified Payroll Records in accordance with the Ordinance may result in criminal or civil enforcement by the County, including, but not limited to termination of the agreement for cause, withholding of payments, and assessment of liquidated damages.

#### **5.2.4.4.**

For the purposes of this section, prevailing wage rates and basic hourly rates in the same or more similar trade or occupation in the area, and prevailing hours of labor, shall be as contained in the Certified Prevailing Wages for *Commercial Construction* or the Certified Prevailing Wages for *Highway and Heavy Construction* established by the State of Minnesota, Department of Labor and

Industry, as set forth in Attachment A. Prevailing wage rates shall mean the Total Rate, consisting of Basic Hourly Rates plus Fringe Benefits. State of Minnesota Prevailing Wage Rates, current as of the date of the project's bid release, shall apply for the entire term of the Agreement.

**5.2.4.5.**

The Contractor shall post the applicable prevailing wage rates, hourly basic rates, and prevailing hours of labor, at a conspicuous location accessible by workers at the location of the Work. The Contractor shall physically include the requirements of the article and the schedules set forth in Attachment A in applicable agreements and contracts with Subcontractors, agents, or other persons doing or contracting to do all or any part of the Work under the Agreement. Incorporation of prevailing wage rates by reference in such agreements and contracts is not acceptable.

**5.2.4.6.**

In the event of any violation of the requirement that the Contractor or Subcontractor pay not less than 1-1/2 times the basic hourly rate to each laborer or mechanic employed directly on the job site when such employee is permitted or required to work in excess of the prevailing hours of labor, the Contractor or Subcontractor shall be liable for the unpaid wages.

**5.2.5. Utilization of Certified Vendors**

The County has adopted the Principles for Inclusiveness in Contracting Program ("IICP") in order to increase the participation of small businesses ("SBEs") in the County's purchasing activities. The SBE utilization goal for this Project is: **XXXX**.

## **AGREEMENT BETWEEN OWNER AND DESIGN/BUILDER FOR THE XXXX**

### **PART 1 AGREEMENT**

- 1. DESIGN/BUILDER**
- 2. OWNER**
- 3. OWNERSHIP AND USE OF DOCUMENTS AND ELECTRONIC DATA**
- 4. TIME**
- 5. PAYMENTS**
- 6. DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION**
- 7. BASIS OF COMPENSATION**
- 8. OTHER CONDITIONS AND SERVICES**

AGREEMENT is made

BETWEEN the Owner:

Ramsey County  
220 City Hall/Court House  
15 West Kellogg Boulevard  
Saint Paul, MN 55101

and the Design/Builder:

XXX

For the following Project:

XXXX, as described in the Owner's Request for Proposals ("RFP") # xxxxxxxxxxxx - RFP NAME including addenda.

The Design/Builder will provide services in two (2) phases:

Part 1: Programming, schematic design, design development and cost estimating leading to a Guaranteed Maximum Price. See attached **Exhibit A** --Scope of Work, from the Owner's RFP # xxxxxxxxxxxx - RFP NAME, attached hereto and made a part of this Part 1 Agreement; and attached **Exhibit B** -- Design/Builder Services Proposal, attached hereto and made part of this Part 1 Agreement, for a description of Part 1 services.

Part 2: Balance of design, construction documents, bidding, construction services, and Project closeout. See **Exhibits A and B** for descriptions of Part 2 services. Part 2 services will be provided using the Design/Build delivery method.

The architectural, landscape architectural, civil, structural, mechanical, and electrical engineering services for the Services described in Article 1 of this Part 1 Agreement will be provided by the following persons or entities lawfully licensed to practice architecture or engineering in the State of Minnesota, both of which shall be referred to as the "Architect" in this Part 1 Agreement and the Part 2 Agreement with respect to their respective scopes.

Name and address	Registration Number	Relationship to Design/Builder

The Owner and the Design/Builder agree as set forth below.

#### **TERMS AND CONDITIONS -- PART 1 AGREEMENT**

## **ARTICLE 1 DESIGN/BUILDER**

### **§ 1.1 SERVICES**

§ 1.1.1 Programming, schematic design, design development, project scheduling and cost estimating leading to a Guaranteed Maximum Price for Part 2 of the Project.

### **§ 1.2 RESPONSIBILITIES**

§ 1.2.1 Design services required by this Part 1 Agreement shall be performed by qualified architects and other design professionals. The contractual obligations of such professional persons or entities are undertaken and performed in the interest of the Design/Builder. Prior to the termination of the services of the Architect or any other design professional designated in this Part 1 Agreement, the Design/Builder shall identify to the Owner in writing another architect or design professional with respect to whom the Owner has no reasonable objection, who will provide the services originally to have been provided by the Architect or other design professional whose services are being terminated. The Design/Builder shall be responsible for any additional costs associated with the other architectural or design professionals.

§ 1.2.2 The agreements between the Design/Builder and the persons or entities identified in this Part 1 Agreement, and any subsequent modifications, shall be in writing. These agreements, including financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon request.

§ 1.2.3 Construction budgets shall be prepared by qualified professionals, cost estimators or contractors retained by and acting in the interest of the Design/Builder.

§ 1.2.4 The Design/Builder shall be responsible to the Owner for acts and omissions of the Design/Builder's employees, subcontractors and their agents and employees, including the Architect and other design professionals, performing any portion of the Design/Builder's obligations under this Part 1 Agreement.

§ 1.2.5 If the Design/Builder believes or is advised by the Architect or by another design professional retained to provide services on the Project that implementation of any instruction received from the Owner would cause a violation of any applicable law, the Design/Builder shall notify the Owner in writing. Neither the Design/Builder nor the Architect shall be obligated to perform any act which either believes will violate any applicable law.

§ 1.2.6 Nothing contained in this Part 1 Agreement shall create a contractual relationship between the Owner and any person or entity other than the Design/Builder.

§ 1.2.7 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design professional practicing under similar conditions at the same time and locality of the Project.

### **§ 1.3 BASIC SERVICES**

§ 1.3.1 The Design/Builder shall provide a preliminary evaluation of the Owner's program and Project budget requirements, each in terms of the other, as described in Exhibits A and B and as identified herein.

§ 1.3.2 The Design/Builder shall visit the site, become familiar with the local conditions, and correlate observable conditions with the requirements of the Owner's program, schedule, and budget.

§ 1.3.3 The Design/Builder shall review laws applicable to design and construction of the Project, correlate such laws with the Owner's program requirements, and if the Design/Builder is aware of any violations, advise the Owner if any program requirement may cause a violation of such laws. Necessary changes to the Owner's program shall be accomplished by appropriate written modification or disclosed as described in Section 1.2.2.

§ 1.3.4 The Design/Builder shall support the Owner's efforts to submit, file, and obtain on behalf of the Owner: all easements, zoning variances and legal authorizations regarding site utilization where essential to the execution of the Owner's program; and support the Owner's efforts to obtain the **Conditional Use Permit, historic district reviews, and licensures** needed for the Project.

§ 1.3.5 The Design/Builder will manage a "Participatory Planning Process" that is centered around a Core Planning Group ("CPG") of key decision makers from the Design/Builder's Team, Property Management, and the tenant department, who will work to evaluate design options using criteria established by the CPG. The following tasks and activities are included in these services, which will be rendered in a series of meetings which include at a minimum: **xxxxx**

§ 1.3.6 At the conclusion of the Part 1 services, the Design/Builder shall submit to the Owner a Proposal, including the Design Development Documents; a statement of the proposed Guaranteed Maximum Price based on the Design Development Documents; a statement of the Small Business Enterprises ("SBE") utilization and labor goals for Part 2 services that have been approved by the Owner; and a proposed schedule for Part 2 Project Services that shows Substantial Completion of the Project no later than **XXX**. The Design Development Documents shall consist of drawings, outline specifications or other documents to a percentage completion that is adequate for the Design/Builder to submit a Guaranteed Maximum Price for Part 2 of the Project. The Owner reserves the right to enter into a Part 2 Agreement with the Design/Builder; or to enter into a Part 2 Agreement with a third party if the Owner and the Design/Builder are unable to reach agreement on a Part 2 Agreement within a reasonable period of time after submission of the above-identified documents by the Design/Builder, as determined by the Owner.

#### § 1.4 ADDITIONAL SERVICES

§ 1.4.1 The Additional Services described under this Section 1.4 shall be provided by the Design/Builder and paid for by the Owner only if authorized or confirmed in writing by the Owner.

§ 1.4.2 Making revisions in the final, Owner-approved Design Development Documents, budget or other documents when such revisions are:

- 1.4.2.1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program, Project schedule or Project budget;
- 1.4.2.2 due to material changes required as a result of the Owner's failure to render decisions within the time periods specified in this Part 1 Agreement.

### ARTICLE 2 OWNER

#### § 2.1 RESPONSIBILITIES

§ 2.1.1 The Owner shall provide supplemental information in a timely manner regarding changes in the requirements for the Project as described in **Exhibit A**.

§ 2.1.2 The Owner designates **XXXX** or designee as its representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Design/Builder in order to avoid unreasonable delay in the orderly and sequential progress of the Design/Builder's services. The Owner may obtain independent review of the documents by a separate architect, engineer, contractor, or cost estimator under contract to or employed by the Owner. Such independent review shall be undertaken at the Owner's expense in a timely manner and shall not delay the orderly progress of the Design/Builder's services.

§ 2.1.3 The Owner shall disclose, to the extent known to the Owner, the results and reports of prior tests, inspections or investigations conducted for the Project involving: structural or mechanical systems; chemical, air and water pollution; hazardous materials; or other environmental and subsurface conditions. The Owner shall disclose all information known to the Owner regarding the presence of pollutants at the Project's site.

§ 2.1.4 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including such auditing services as the Owner may require to verify the Design/Builder's Applications for Payment, except in relation to any dispute between the parties.

§ 2.1.5 The Owner shall communicate with persons or entities employed or retained by the Design/Builder through the Design/Builder, unless otherwise directed by the Design/Builder.

§ 2.1.6 The Owner shall promptly obtain easements, zoning variances and legal authorizations regarding site utilization where essential to the execution of the Owner's program. Owner shall obtain Conditional Use Permit as needed for the Project.

§ 2.1.7 The Owner shall provide all necessary access to the project site, including any easements, land rights, or other land agreements.

### **ARTICLE 3 OWNERSHIP AND USE OF ELECTRONIC DATA AND DOCUMENTS**

§ 3.1

§ 3.1.1 The Owner owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works created under this Part 1 Agreement and for which the Design/Builder has received Final Payment. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire".

§ 3.1.2 "Electronic Data" means any and all items resulting from the use of any software program stored in digital format on hard disks, floppy disks, zip drives, CD-ROM discs, magnetic tapes of all types and kinds, microfiche, punched cards, punched tape, computer chips (including but not limited to EPROM, PROM, ROM and RAM of any kind) or in any other vehicle for digital data storage or transmittal, including labels appended to or associated with any physical storage device associated with each original and each copy.

§ 3.1.3 "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, created or originated by the Design/Builder, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract that are actually provided to the Owner as deliverables, that are deliverables in draft form or still "in-progress", or that are expected to become part of the deliverables. "Works" includes "Documents". "Documents" are comprised of written and electronic forms of deliverables created under the terms of this Part 1 Agreement, and of Electronic Data including the originals of any data or databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Design/Builder, its employees, agents or subcontractors, in the performance of services under the terms of this Part 1 Agreement.

§ 3.1.4 The Documents actually provided to the Owner as Deliverables, that are Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables will be the exclusive property of the Owner upon payment in accordance with the provisions of this Part 1 Agreement, and all such Documents must be immediately provided to the Owner by the Design/Builder upon termination of this Part 1 Agreement or upon request. For Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables, "Final Payment" means payment of the cost for the services provided to create the Documents to the then-current stage of completion. The Design/Builder assigns all right, title, and interest it may have in the Work to the Owner for which it has received Final Payment.

§ 3.1.5 The Design/Builder must, at the request of the Owner, execute all reasonable papers and perform all other reasonable acts necessary to transfer or record the Owner's ownership interest in the Documents.

The Documents shall be submitted to the Owner, upon request, prior to the Owner making Final Payment to the Design/Builder.

§ 3.1.6 Documents in electronic form shall be provided to the Owner in both native format and PDF. The Design/Builder may retain copies of the Documents only for purposes of performance under the terms of this Part 1 Agreement and for its records as part of the Project file and may not use any such Documents for any other purposes without the prior written consent of the Owner except that the Architect may reuse details and specifications contained in the Works and Documents which have been developed by the Architect as the Architect's standards for similar public projects.

§ 3.2 Whether or not the Part 2 Agreement is executed, the Owner shall have the right to use the drawings, specifications, and other documents and electronic data furnished by the Design/Builder without the written permission of the Design/Builder. Such use shall be at the Owner's risk.

#### **ARTICLE 4 TIME**

§ 4.1 Within ten (10) business days of execution of this Part 1 Agreement, the Design/Builder shall prepare a Project Schedule for the performance of the Basic Services, which shall not exceed the time limits contained in Exhibit A of this Part 1 Agreement; which allows for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project; and which shows completion of all services under this Part 1 Agreement no later than **XXXX**, as provided in the Owner's Preliminary Project Schedule.

§ 4.2 If, as a result of Force Majeure, the Design/Builder's services under this Part 1 Agreement have not been completed by **XXX**, the parties shall mutually agree to either terminate this Part 1 Agreement or to execute a Change Order regarding changes in scope, schedule, and compensation, if any. Failure of the parties to execute a Change Order within ten (10) business days of the above-identified date shall result in automatic termination of this Part 1 Agreement.

§ 4.3 The Design/Builder shall immediately notify the Owner if it determines that it may not meet the **XXX**, completion date, and advise the Owner of actions it is and will undertake to complete the services within the project schedule so as to meet the **XXX**, deadline.

#### **ARTICLE 5 PAYMENTS**

§ 5.1 There will be no initial payment upon execution of this Part 1 Agreement.

§ 5.2 Payments for Basic Services, Additional Services, and Reimbursable Expenses provided for in this Part 1 Agreement shall be made monthly on the basis set forth in Article 7.

§ 5.3 Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount

§ 5.4 Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges. At no time will cumulative payments to the Design/Builder exceed the percentage of project completion, as determined by the Owner.

§ 5.5 Interest accrual and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

§ 5.6 Invoices shall show applicable Minnesota sales tax of 6.875% separately. Each invoice must include a progress report on achievement of project SBE and Workforce goals. No payment will be made until the invoice and progress report have been approved by the County.

§ 5.7 The Design/Builder may not submit invoices more than once a month.

§ 5.8 Invoices for any goods or services not identified in this Agreement will be disallowed.

§ 5.9 Surety Deposit Requirement for Non-Minnesota Construction Contractors

For any one contract where the anticipated contract value of the construction portion of the contract exceeds \$50,000, the department must withhold 8 percent from payments and send the money to the Minnesota Department of Revenue. The department will hold the funds as surety for the payment of state taxes owed as a result of the contract. For more information about this law, including exceptions to the withholding requirement, visit the [MN Department of Revenue](#) or [Withholding Tax Fact Sheet 12 -- Surety Deposits for Non-Minnesota Construction Contractors](#).

§ 5.10 Reimbursement of expenses will be made consistent with Owner policies. The Owner will reimburse only the actual cost of out of pocket expenses incurred for completion of the project. If reimbursement for travel is permitted, all airfare will first be authorized by the Owner and will be reimbursed at the lowest cost fare available. Lodging, meals, ground transportation and incidentals necessitated by the resulting contract will be reimbursed according to the Internal Revenue Service ("IRS") Regular Per Diem Rate Method or actual cost, whichever is less. Mileage will be reimbursed at the IRS rate in effect at the time of travel.

**ARTICLE 6 DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION**

§ 6.1 Claims, disputes or other matters in question between the parties to this Part 1 Agreement arising out of or relating to this Part 1 Agreement or breach thereof may be subject to and decided by mediation or arbitration only if agreed to in writing by both parties.

**ARTICLE 7 BASIS OF COMPENSATION**

The Owner shall compensate the Design/Builder in accordance with Article 5, Payments, and the other provisions of this Part 1 Agreement as described below.

**§7.1 COMPENSATION FOR BASIC SERVICES**

§7.1.1 FOR PART 1 BASIC SERVICES, compensation shall be as follows:

The Owner shall pay the Design/Builder for services actually rendered on a time and materials basis, at the hourly rates set forth in **Exhibit C**, attached hereto and made a part of this Agreement, which are inclusive of expenses, at actual cost up to a maximum not to exceed sum of \$XXX for Part 1 services with an assumed construction cost of \$XXX. Part 2 fees for the Design/Builder will be included in the GMP accepted by the Owner at the end of Part 1.

§ 7.1.2 PAYMENTS shall be as follows:

Invoices will be forwarded to the Owner by the 10<sup>th</sup> day of each month for services performed in the previous month. The Owner shall pay invoices (with no retainage), within thirty-five (35) calendar days of receipt of the invoice, provided, however, that the Owner's cumulative payments to the Design/Builder shall at no time exceed the percentage Project completion as determined by the Owner.

**§ 7.2 COMPENSATION FOR ADDITIONAL SERVICES**

§ 7.2.1 FOR ADDITIONAL SERVICES, compensation shall be as follows:

For Additional Services performed by the Design/Builder and its subcontractors, cost shall be calculated using the hourly rates listed in **Exhibit C**, plus reimbursable expenses at actual cost. The Design/Builder shall not perform Additional Services until the parties have executed a Change Order, including scope, schedule and compensation terms.

**§ 7.3 REIMBURSABLE EXPENSES**

§ 7.3.1 Part 1 fees shall include all reimbursable expenses.

§ 7.3.2 FOR REIMBURSABLE EXPENSES, compensation shall be a multiple of ONE (1.0) times the amounts expended.

§ 7.4 DIRECT PERSONNEL EXPENSE is defined as the direct salaries of personnel engaged on the Project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, to include the following: employment taxes and other statutory employee benefits, employee specific insurance, pensions, and similar contributions and benefits. They shall be billed per the billing rates in Exhibit C. The parties acknowledge that the method by which the Design/Builder has established its billing rates for the listed job classifications is not subject to audit.

## **ARTICLE 8 OTHER CONDITIONS AND SERVICES**

§ 8.1 The Basic Services to be performed under this Part 1 Agreement shall be commenced within ten (10) business days of final execution of this Part 1 Agreement, and, subject to authorized adjustments and to delays not caused by the Design/Builder, shall be completed in accordance with the provisions of § 4.1 of this Part 1 Agreement. If the Design/Builder believes that a delay by the Owner in making a timely decision will result in an extension to the Design/Builder's completion date, then the Design/Builder shall notify the Owner and the parties shall agree on the impact, if any, to the Design/Builder's completion date.

§ 8.2 See **Exhibit A** for the Owner's Scope of Work.

§ 8.3 The Owner's General Terms and Conditions are attached hereto and made a part of this Part 1 Agreement as **Exhibit D**.

§ 8.4 It is the intention of the parties to execute a Part 2 Agreement for Part 2 of this Project. However, if the parties are unable to agree on the Project scope and/or the Guaranteed Maximum Price for Part 2, the Owner reserves the right to terminate its relationship with the Design/Builder and seek an alternate relationship and/or seek alternate methods of construction. All documents, drawings, and specifications created under this Part 1 Agreement shall be the property of the Owner subject to the provisions of Article 3 of this Part 1 Agreement.

§ 8.5 The Owner and the Design/Builder will incorporate into the Part 2 Agreement activities regarding utilization of certified Small Business Enterprises and workforce diversity that build on the inclusiveness in contracting models developed and used on prior Owner projects, as a means of making a good faith effort towards achievement of the SBE utilization and labor goals determined pursuant to the provisions of paragraph 1.3.5 of this Part 1 Agreement.

§ 8.6 The Design/Builder will develop and incorporate into its services under this Part 1 Agreement sustainable architecture guidelines and specifications for Part 2 of the Project, subject to approval by the Owner.

§ 8.7 This Part 1 Agreement includes the following:

**Exhibit A** --Scope of Work (Excerpt from the Owner's Request for Proposals # **XXXXX** - RFP Design Build)

**Exhibit B** -- Design/Builder/Design Team Services (Excerpt from Design/Builder's proposal)

**Exhibit C** -- Billing Rate Schedule

**Exhibit D** -- General Terms and Conditions

§ 8.8 All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

Owner: **xxx**

Design/Builder: **xxx**

If the name and/or address of the above-identified representatives changes, notice of such change shall be given to the other party in accordance with the provisions of this section.

**Exhibit A to the Part 1 Agreement**

**Scope of Work**

(Excerpt from the Owner's RFP # **XXXXXX- RFP NAME**)

**Exhibit B to the Part 1 Agreement**

**Design/Builder Services**  
**(Excerpt from Design/Builder's proposal to Owner's RFP # XXXXXXXXXX - RFP NAME)**

**Exhibit C to the Part 1 Agreement**

**Billing Rate Schedule**

## **Exhibit D to the Part 1 Agreement**

### **General Terms and Conditions**

*Note: For Purposes of this Exhibit D, the term "Contractor" shall mean "Design/Builder" and the term "County" shall mean "Owner" as those terms are defined in the Part 1 Agreement.*

#### **1. Independent Contractor**

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners between the parties or as constituting the Contractor as an employee of the Owner.

#### **2. Successors, Subcontracting and Assignment**

##### **2.1.**

The Contractor binds itself, its partners, successors, assigns and legal representatives to the Owner in respect to all covenants, contracts and obligations contained in this Agreement.

##### **2.2.**

The Contractor shall not enter into any subcontract for performance of any services under this Agreement nor assign or transfer any interest in this Agreement without the prior written approval of the Owner and subject to such conditions and provisions as the Owner may deem necessary. The Contractor shall be responsible for the performance of all subcontractors.

#### **3. Compliance with Legal Requirements**

##### **3.1.**

The Contractor shall comply with all applicable federal, state and local laws, local ordinances, and the rules and regulations of any regulatory body acting thereunder and with the provisions of all licenses, certifications and other requirements necessary for the execution and completion of the contract.

##### **3.2.**

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

##### **3.3.**

Prior to entering into a contract with Ramsey County, a domestic corporation must submit a Certificate of Good Standing issued by the Minnesota Secretary of State's office pursuant to Minn. Stat. §5.12, and a foreign corporation must submit a Certificate of Authority issued by the Minnesota Secretary of State's Office pursuant to Minn. Stat. §303.03. The Contractor shall maintain a Certificate of Good Standing or a Certificate of Authority, as applicable, and shall submit the Certificate upon request by the Owner, throughout the term of the agreement and including amendments to renew as and if allowed by the contract.

#### **4. Data Practices**

##### **4.1.**

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

##### **4.2.**

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which Owner data is contained or which are used to access Owner data in the course of providing services under this Agreement. Access to Owner data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services are provided, at the end of the Project all Owner data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the Owner written verification that the data has been purged.

## **5. Security**

### **5.1.**

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

### **5.2.**

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the Owner not more than 7 business days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non -permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the Owner may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

### **5.3.**

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

### **5.4.**

The Owner retains the right to inspect and review the Contractor's operations for potential risks to Owner operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

### **5.5.**

All Owner data and intellectual property stored in the Contractor's system is the exclusive property of the Owner.

## **6. Indemnification**

The Contractor shall indemnify, hold harmless and defend the Owner, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the Owner, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors,

and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

## **7. Contractor's Insurance**

### **7.1.**

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

### **7.2.**

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the Owner contracting department evidencing such coverage to the Owner throughout the term of this Agreement.

#### **7.2.1**

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability

#### **7.2.2.**

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent.

#### **7.2.3**

Ramsey County, its officials, employees, and agents, shall be added to the policy as additional insured on a primary basis with respect to ongoing and completed operations of the Contractor, using ISO endorsement form CG 20 10 and 20 37 or the equivalent.

#### **7.2.4**

Professional liability of no less than \$1,000,000 per claim and \$2,000,000 aggregate limit.

#### **7.2.5**

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

### **7.3.**

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

### **7.4.**

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts.

### **7.5.**

If the Contractor is driving on behalf of the Owner as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

### **7.6.**

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement.

**7.7.**

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

**7.8.**

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the Owner.

**7.9.**

All Certificates of Insurance shall provide that the insurer give the Owner prior written notice of cancellation or non-renewal of the policy as required by the provisions of Minn. Stat. Ch. 60A, as applicable.

**7.10.**

Nothing in the Agreement shall constitute a waiver by the Owner of any statutory or common law immunities, defenses, limits, or exceptions on liability.

**8. Audit**

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon written request, shall make available to the Owner, the State Auditor, or the Owner's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

**9. Non-Conforming Services**

The acceptance by the Owner of any non-conforming goods/services under the terms of this Agreement or the foregoing by the Owner of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the Owner's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the Owner provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

**10. Setoff**

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor. The Owner may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Owner from the Contractor is determined.

**11. Conflict of Interest**

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the Owner. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

**12. Respectful Workplace and Violence Prevention**

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence,

as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

### **13. Force Majeure**

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

### **14. Unavailability of Funding - Termination**

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The Owner may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the Owner's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the Owner.

## **15. Termination**

### **15.1. Termination by the Owner**

#### **15.1.1.**

The Owner may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the Owner upon the commencement of such proceedings or other action.

#### **15.1.2.**

The Owner may terminate this Part 1 Agreement if the Contractor violates any material term or condition of this Part 1 Agreement or does not fulfill in a timely and proper manner its obligations under this Part 1 Agreement. In the event that the Owner exercises its right of termination under this Paragraph, it shall submit written notice to the Contractor and its surety, if any, specifying the reasons therefore. Termination shall be immediately effective upon the failure of the Contractor to cure the default within ten (10) business days of receipt of the notice of default. Upon termination, the Contractor shall take all actions necessary to discontinue further commitments of funds, and the Owner shall take possession of the site and of all materials and finish the Part 1 Services by whatever method the Owner may deem expedient.

#### **15.1.3.**

The Owner may terminate this Part 1 Agreement without cause upon giving at least thirty (30) business days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in accordance with this Agreement up to and including the effective date of termination.

#### **15.1.4.**

This Part 1 Agreement may be terminated by the Owner upon immediate written notice to the Contractor in the event that the Project is abandoned. If such termination occurs, the Owner shall pay the Contractor for services completed and for proven loss sustained upon materials, equipment, tools, construction equipment and machinery.

### **15.1.5.**

Any termination by the Owner shall be without prejudice to the rights of the Owner to pursue other remedies against the Contractor.

## **15.2. Termination by the Contractor**

### **15.2.1.**

If the Owner fails to make payment of undisputed amounts or otherwise violates any material term or condition of this Part 1 Agreement the Contractor may give written notice that the Contractor intends to terminate this Part 1 Agreement, giving the specific reasons therefore. Termination shall be immediately effective upon the failure of the Owner to cure the default within ten (10) business days of receipt of the notice of default. A good faith dispute by the Owner regarding the amount of payment and failure to pay disputed amounts, which is subject to the provisions of the Minnesota Prompt Payment Act, does not constitute grounds for termination by the Contractor under this paragraph.

## **16. Interpretation of Agreement; Venue**

### **16.1.**

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

### **16.2.**

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

## **17. Warranty**

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

## **18. Alteration**

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

## **19. Title - Risk of Loss**

### **19.1**

Title to goods and/or all associated documentation shall pass to the County upon payment by the County for goods and/or associated documentation; or for construction projects, upon incorporation of the goods into the Project.

### **19.2**

The County shall be relieved from all risks of loss or damage to goods, and/or all documentation prior to the time title passes to the County as described above. The Contractor shall not be responsible for loss or damage to goods and/or documentation occasioned by negligence of the County or its employees.

## **20. Submittals**

No portion of the work requiring submission of a shop drawing, drawing, manufacturer's literature, test data or other information, or a sample shall be commenced until the submittal has been approved by the County.

## **21. Clean Up**

The Contractor shall at all times keep County premises free from accumulation of waste materials or rubbish caused by its operations.

**22. Lobbying**

For all contracts involving over \$150,000 in federal funds, the Contractor must sign the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, attached to this RFP, and submit it as part of the proposal contents.

**23. Safety Compliance**

**23.1**

The Contractor and all subcontractors shall at all times during the performance of the Work under this Part 2 Agreement be and remain in compliance with and responsible for any conditions imposed upon the County by OSHA requirements.

**23.2**

A risk control program must be implemented on site during this project.

**24. Entire Agreement**

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the Owner and the Contractor to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.

**25. Sustainable Architecture Guidelines and Specifications**

**25.1**

The Contractor will develop and incorporate sustainable architecture guidelines and specifications under the Part 1 Agreement, subject to approval by the Owner.

**25.2**

The Project will be required to follow the State of Minnesota Sustainable Building Guidelines and meet the Minnesota SB 2030 Energy Standard (<http://www.b3mn.org>). Energy modeling shall be included at each design phase to model the energy use for the building and evaluate various options for reducing energy use in order to meet the sustainable building requirements.

**AGREEMENT BETWEEN OWNER AND DESIGN/BUILDER FOR THE XXXX**  
**PART 2 AGREEMENT**

- 1. GENERAL PROVISIONS**
- 2. OWNER**
- 3. DESIGN/BUILDER**
- 4. TIME**
- 5. PAYMENTS**
- 6. PROTECTION OF PERSONS AND PROPERTY**
- 7. INSURANCE AND BONDS**
- 8. CHANGES IN THE WORK**
- 9. CORRECTION OF WORK**
- 10. DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION**
- 11. MISCELLANEOUS PROVISIONS**
- 12. BASIS OF COMPENSATION**
- 13. OTHER CONDITIONS AND SERVICES**

AGREEMENT made

BETWEEN the Owner:

Ramsey County  
220 City Hall/ County Court House  
15 West Kellogg Boulevard  
St. Paul, MN 55101

and the Design/Builder:

XXXX

For the following Project:

XXX, as described in the Owner's Request for Proposals ("RFP") # XXXXX - RFP NAME, including addenda.

This Project is made up of two (2) phases. See the Part 1 Agreement for the description of the Part 1 services provided by the Design/Builder.

This Part 2 Agreement includes the balance of design, construction documents, bidding, and construction services for the Project. See **Exhibit A** - Scope of Work, attached hereto and made a part of this Part 2 Agreement, for a description of Parts 2 services. Part 2 services will be provided using the Design/Build delivery method.

The architectural, landscape architectural, civil, structural, mechanical, and electrical engineering services for the services described in Article 3 of this Part 2 Agreement will be provided by the following persons or entities, lawfully licensed to practice architecture or engineering in the State of Minnesota, both of which shall be referred to as the "Architect" in this Part 2 Agreement with respect to their respective scopes.

Name and address	Registration Number	Relationship to Design/Builder

The Owner and the Design/Builder agree as set forth below.

**TERMS AND CONDITIONS -- PART 2 AGREEMENT**

## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 BASIC DEFINITIONS**

§ 1.1.1 The Contract Documents consist of the Part 1 Agreement, including the Exhibits, to the extent not modified by this Part 2 Agreement; the Design/Builder's Design Documents approved by the Owner under the Part 1 Agreement; this Part 2 Agreement; the Construction Documents approved by the Owner in accordance with Section 3.2.3 of this Part 2 Agreement; and Modifications issued after execution of this Part 2 Agreement. A Modification is a Change Order to this Part 2 Agreement signed by both parties, or a Construction Change Directive issued by the Owner in accordance with Section 8.3 of this Part 2 Agreement. If there are inconsistencies among the Contract Documents or among the attachments to this Part 2 Agreement, the more detailed shall prevail over the general and the inconsistencies shall be interpreted in favor of the Owner.

§ 1.1.2 The term "Work" means all design, bidding, and construction services provided by the Design/Builder to fulfill the Design/Builder's obligations.

### **§ 1.2 EXECUTION, CORRELATION AND INTENT**

§ 1.2.1 It is the intent of the Owner and the Design/Builder that the Contract Documents include all items necessary for proper execution and completion of the Work. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Design/Builder shall be required only to the extent consistent with and reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.2 If the Design/Builder believes or is advised by the Architect or by another design professional retained to provide services on the Project that implementation of any instruction received from the Owner would cause a violation of any applicable law, the Design/Builder shall notify the Owner in writing. Neither the Design/Builder nor the Architect shall be obligated to perform any act which either believes will violate any applicable law.

§ 1.2.3 Nothing contained in this Part 2 Agreement shall create a contractual relationship between the Owner and any person or entity other than the Design/Builder.

### **§ 1.3 OWNERSHIP AND USE OF ELECTRONIC DATA AND DOCUMENTS**

§ 1.3.1 The Owner owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works created under this Part 2 Agreement and for which the Design/Builder has received Final Payment. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire".

§ 1.3.2 "Electronic Data" means any and all items resulting from the use of any software program stored in digital format on hard disks, floppy disks, zip drives, CD-ROM discs, magnetic tapes of all types and kinds, microfiche, punched cards, punched tape, computer chips (including but not limited to EPROM, PROM, ROM and RAM of any kind) or in any other vehicle for digital data storage or transmittal, including labels appended to or associated with any physical storage device associated with each original and each copy.

§ 1.3.3 "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, created or originated by the Design/Builder, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract that are actually provided to the Owner as deliverables, that are deliverables in draft form or still "in-progress", or that are expected to become part of the deliverables. "Works" includes "Documents". "Documents" are comprised of written and electronic forms of deliverables created under the terms of this Part 2 Agreement, and of Electronic Data including the originals of any data or databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks,

or other materials, whether in tangible or electronic forms, prepared by the Design/Builder, its employees, agents or subcontractors, in the performance of services under the terms of this Part 2 Agreement.

§ 1.3.4 The Documents actually provided to the Owner as Deliverables, that are Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables will be the exclusive property of the Owner upon payment in accordance with the provisions of this Part 2 Agreement, and all such Documents must be immediately provided to the Owner by the Design/Builder upon termination of this Part 2 Agreement or upon request. For Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables, "Final Payment" means payment of the cost for the services provided to create the Documents to the then-current stage of completion. The Design/Builder assigns all right, title, and interest it may have in the Work to the Owner for which it has received Final Payment.

§ 1.3.5 The Design/Builder must, at the request of the Owner, execute all reasonable papers and perform all other reasonable acts necessary to transfer or record the Owner's ownership interest in the Documents. The Documents shall be submitted to the Owner, upon request, prior to the Owner making Final Payment to the Design/Builder.

§ 1.3.6 Documents in electronic form shall be provided to the Owner in both native format and PDF. The Design/Builder may retain copies of the Documents only for purposes of performance under the terms of this Part 2 Agreement and for its records as part of the Project file and may not use any such Documents for any other purposes without the prior written consent of the Owner except that the Architect may reuse details and specifications contained in the Works and Documents which have been developed by the Architect as the Architect's standards for similar public projects.

§ 1.3.7 The Owner shall have the right to use the drawings, specifications, and other documents and electronic data furnished by the Design/Builder without the written permission of the Design/Builder. Such use shall be at the Owner's risk.

## **ARTICLE 2 OWNER**

§ 2.1 The Owner designates **XXX** as its representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall examine documents submitted by the Design/Builder and shall render decisions in a timely manner and in accordance with the schedule accepted by the Owner. The Owner may obtain independent review of the Contract Documents by a separate architect, engineer, contractor or cost estimator under contract to or employed by the Owner. Such independent review shall be undertaken at the Owner's expense in a timely manner and shall not delay the orderly progress of the Work.

§ 2.2 The Owner may appoint an on-site project representative to observe the Work and to have such other responsibilities as the Owner and the Design/Builder agree to in writing.

§ 2.3 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including such auditing services as the Owner may require to verify the Design/Builder's Applications for Payment, except in relation to any dispute between the parties.

§ 2.4 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or nonconformity with the Construction Documents, the Owner shall give prompt written notice thereof to the Design/Builder.

§ 2.5 The Owner shall communicate with persons or entities employed or retained by the Design/Builder through the Design/Builder, unless otherwise directed by the Design/Builder.

## **ARTICLE 3 DESIGN/BUILDER**

### **§ 3.1 SERVICES AND RESPONSIBILITIES**

§ 3.1.1 Design services required by this Part 2 Agreement shall be performed by qualified architects and other design professionals. The contractual obligations of such professional persons or entities are undertaken and performed in the interest of the Design/Builder. . Prior to the termination of the services of the Architect or any other design professional designated in this Part 1 Agreement, the Design/Builder shall identify to the Owner in writing another architect or design professional with respect to whom the Owner has no reasonable objection, who will provide the services originally to have been provided by the Architect or other design professional whose services are being terminated. The Design/Builder shall be responsible for any additional costs associated with the other architectural or design professionals.

§ 3.1.2 The agreements between the Design/Builder and the persons or entities identified in this Part 2 Agreement, and any subsequent modifications, shall be in writing. These agreements, including financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon request.

§ 3.1.3 The Design/Builder shall be responsible to the Owner for acts and omissions of the Design/Builder's employees, subcontractors and their agents and employees, and other persons, including the Architect and other design professionals, performing any portion of the Design/Builder's obligations under this Part 2 Agreement.

### **§ 3.2 BASIC SERVICES**

§ 3.2.1 The Design/Builder's Basic Services are described below and in Article 14.

§ 3.2.2 The Design/Builder designates **XXXX** as its representative authorized to act on the Design/Builder's behalf with respect to the Project.

§ 3.2.3 The Design/Builder shall submit Construction Documents for review and approval by the Owner in accordance with the Project Schedule, attached hereto and made a part of this Part 2 Agreement as **Exhibit B**. Construction Documents may include drawings, specifications, and other documents and electronic data setting forth in detail the requirements for construction of the Work, and shall:

- 3.2.3.1 Develop in greater detail the intent of the Design Documents approved by the Owner under the Part 1 Agreement and as outlined in **Exhibit C-GMP** Calculations/Schedule of Values, attached hereto and made a part of this Part 2 Agreement;
- 3.2.3.2 Provide information for use by those in the building trades; and
- 3.2.3.3 Include documents customarily required for regulatory agency approvals.

§ 3.2.4 The Design/Builder shall provide or cause to be provided and shall pay for design services, labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.2.5 The Design/Builder shall be responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under this Part 2 Agreement.

§ 3.2.6 The Design/Builder shall keep the Owner informed of the progress and quality of the Work by submission of monthly progress reports including narratives of Inclusiveness In Contracting results/Small Business Enterprise utilization and workforce results, change log narratives, schedule, budget updates, and major issues resolution.

§ 3.2.7 The Design/Builder shall be responsible for correcting Work which does not conform to the Contract Documents.

§ 3.2.8 The Design/Builder warrants to the Owner that materials and equipment furnished under this Part 2 Agreement will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the construction will be free from faults and defects, and that the construction will conform with the requirements of the Contract Documents. Construction not conforming to these

requirements, including substitutions not properly approved by the Owner, shall be corrected in accordance with Article 9 of this Part 2 Agreement.

§ 3.2.9 Except as otherwise provided herein, the Design/Builder shall pay all sales, consumer, use and similar taxes which had been legally enacted as of the date of execution of this Part 2 Agreement, and shall secure and pay for the building, mechanical, electrical, pollution control and watershed permits; and other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of a contract for construction and/or are legally required as of the date of execution of this Part 2 Agreement.

§ 3.2.10 The Design/Builder shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project.

§ 3.2.11 The Design/Builder shall pay royalties and license fees for patented designs, processes or products. The Design/Builder shall defend suits or claims for infringement of patent rights and shall hold the Owner harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer is required by the Owner. However, if the Design/Builder has reason to believe the use of a required design, process or product is an infringement of a patent, the Design/Builder shall be responsible for such loss unless such information is promptly furnished to the Owner.

§ 3.2.12 The Design/Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Part 2 Agreement. At the completion of the Work, the Design/Builder shall remove from the site waste materials, rubbish, the Design/Builder's tools, construction equipment, machinery, and surplus materials.

§ 3.2.13 The Design/Builder shall notify the Owner when the Design/Builder believes that the Work or an agreed upon portion thereof is substantially completed. If the Owner concurs, the Design/Builder shall issue a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibility of each party for security, maintenance, heat, utilities, damage to the Work and insurance, shall include a list of items to be completed or corrected and shall fix the time within which the Design/Builder shall complete items listed therein. Disputes between the Owner and the Design/Builder regarding the Certificate of Substantial Completion shall be resolved in accordance with the provisions of Article 10.

§ 3.2.14 The Design/Builder shall maintain at the site for the Owner one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other modifications, in good order and regularly updated to record the completed construction. These shall be delivered to the Owner upon completion of construction and prior to final payment.

§ 3.2.15 The Design/Builder shall provide the following commissioning services on Project equipment and systems including: preparation of operation and maintenance manuals; training of personnel for operation and maintenance; confirmation of conformance to contract documents; and consultation during initial occupancy and operation.

### **§ 3.3 ADDITIONAL SERVICES**

§ 3.3.1 The services described in this Section 3.3 are not included in Basic Services unless so identified in Article 14, and they shall be paid for by the Owner as provided in this Part 2 Agreement in addition to the compensation for Basic Services. The services described in this Section 3.3 shall be provided only if authorized or confirmed in writing by the Owner in accordance with the provisions of this Part 2 Agreement.

§ 3.3.2 Making revisions in the drawings, specifications, and other documents or electronic data when such revisions are required by Building Code officials after approval by the Building Code officials.

§ 3.3.3 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work, unless such damage is due to the acts or omissions of the Design/Builder and/or its consultants and subcontractors, employees, or agents of any of them.

§ 3.3.4 Providing services in connection with an arbitration proceeding or legal proceeding, except where the Design/Builder is a party thereto.

§ 3.3.5 Providing coordination of construction performed by the Owner's own forces or separate contractors employed by the Owner, and coordination of services required in connection with construction performed and equipment supplied by the Owner.

#### **ARTICLE 4 TIME**

§ 4.1 Unless otherwise indicated, the Owner and the Design/Builder shall perform their respective obligations as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Project.

§ 4.2 Time limits stated in the Contract Documents are of the essence. The Work to be performed under this Part 2 Agreement shall commence upon execution of this Part 2 Agreement unless otherwise agreed and, subject to authorized Modifications, Substantial Completion shall be achieved on or before the date established in Article 14 and **Exhibit B**.

§ 4.3 Substantial Completion is the stage in the progress of the Work when the Work or a designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use as evidenced by a final Certificate of Occupancy obtained by the Design/Builder.

§ 4.4 The Project Schedule is set forth in **Exhibit B**.

§ 4.5 If the Design/Builder is materially delayed at any time in the progress of the Work by a negligent or willful act or omission of the Owner, the Owner's employees, or separate contractors employed by the Owner; or by labor disputes, fire, unusual delay in deliveries, adverse weather conditions not reasonably anticipatable, unavoidable casualties or changes in laws, codes or other regulations or other causes beyond the Design/Builder's control, or by delay authorized by the Owner pending arbitration, or by other causes which the Owner and the Design/Builder agree may justify delay, then the Project Schedule shall be reasonably extended by Change Order. If the Design/Builder identifies a negligent or willful act or omission of the Owner that may cause a material delay in the progress of the Work such that the Design/Builder will request a change in the Project Schedule, the Design/Builder shall notify the Owner in writing upon identification. The Owner and the Design/Builder shall work together in good faith to bring the Project back within the Project Schedule. The Design/Builder shall not be entitled to an increase in the Project Schedule for any negligent or willful act or omission which the Design/Builder identifies but does not notify the Owner of upon identification.

#### **ARTICLE 5 PAYMENTS**

##### **§ 5.1 PROGRESS PAYMENTS**

§ 5.1.1 The Owner shall pay the Design/Builder for self-performed services actually rendered, on a time and material basis, at hourly rates as stated in **Exhibit D** - Hourly Personnel Rates, attached hereto and made a part of this Part 2 Agreement; for rented equipment at the rates stated in **Exhibit E** -- Design/Builder -- Provided Equipment Rental Rates, attached hereto and made a part of this Part 2 Agreement; together with approved invoices from its subcontractors, material suppliers, consultants and others, up to the GMP.

§ 5.1.2. Based on the Applications for Payment submitted by the Design/Builder, the Owner shall make progress payments to the Design/Builder as described in this Article 5, and elsewhere in this Part 2 Agreement.

§ 5.1.3 The Owner will make payment to the Design/Builder no later than thirty-five (35) calendar days after receipt of a properly submitted and correct Application for Payment. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows: The Design/Builder may request bi-weekly payment for work performed by a subcontractor or supplier, provided the subcontractor or supplier is a certified Small Business Enterprise for Ramsey County and has established a significant business need to receive payments on a bi-weekly basis. The Owner retains the right to grant or deny the request for bi-weekly payments.

§ 5.1.4 The Application for Payment shall show the percentage of the Work for each portion of the Work and the percentage that each portion of the Work bears to the entire Cost of the Work for which payment is requested.

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

5.1.5.1 take the portion of the Cost of Work completed up through and including the invoiced period using the provisions of **Exhibit C**, based on the percentage of Work completed. Changes in the Cost of the Work may not be included in an invoice until the Change Order for the changes has been signed by the parties;

5.1.5.2 add the Cost of the Work for materials and equipment furnished by the Design/Builder and actually incorporated into the Project or delivered and stored at the site for use in the Work, or, if agreed to in advance in writing by the Owner, for materials and equipment suitably stored off site;

5.1.5.3 add the amount of the Design/Builder's Construction Management Fee that equals the percentage of the Cost of the Work that the invoiced amount for the Work bears to the whole Cost of the Work; and

5.1.5.4 subtract the aggregate of previous payments made by the Owner and applicable retainage.

§ 5.1.6 Except with the Owner's prior approval, payments for the Cost of the Work for the Design/Builder's subcontractors shall be subject to retainage of 5%. There shall be no retainage on Work performed by the Design/Builder's own labor forces or the Design/Builder's Fee.

§ 5.1.7 Neither progress payment nor partial or entire use or occupancy of the Project by the Owner shall constitute an acceptance of Work not in accordance with the Contract Documents.

§ 5.1.8 The Design/Builder warrants that title to all construction covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design/Builder further warrants that upon submittal of an Application for Payment all construction for which payments have been received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Design/Builder or any other person or entity performing construction at the site or furnishing materials or equipment relating to the construction.

§ 5.1.9 At the time of substantial completion, the Owner shall pay the Design/Builder the retainage, if any, less the reasonable cost to correct or complete incorrect or incomplete Work. Final payment of such withheld sum shall be made upon correction or completion of such Work.

## § 5.2 FINAL PAYMENTS

§ 5.2.1 Final Payment, constituting the entire unpaid balance of the Design/Builder's Fee and the unpaid balance of substantiated and documented Cost of the Work shall be payable by the Owner to the Design/Builder when:

5.2.1.1 the Design/Builder has fully performed as provided in this Part 2 Agreement except for the Design/Builder's responsibility to correct Work under this Part 2 Agreement and to satisfy other requirements, if any, which extend beyond final payment; and

5.2.1.2 a final Certificate for Payment has been received from the Design/Builder; and

5.2.1.3 the Design/Builder has received consent of surety, if any, to final payment; and

5.2.1.4 as documentation of the final Cost of the Work, the Design/Builder provides the Owner with a detailed final accounting of all costs applicable to the GMP. In addition, the

Design/Builder shall maintain and, upon request open for inspection by the Owner, its representatives, and the State and other auditors, all accounting records as per this Part 2 Agreement necessary to substantiate all costs applicable to the GMP; and

5.2.1.5 the Design/Builder has submitted a copy of the completed State of Minnesota Form IC-134, signed by the State Commissioner of Taxation; and

5.2.1.6 a complete report describing efforts and outcomes of those efforts towards achievement of Project SBE and labor utilization goals; and sustainability goals.

## **ARTICLE 6 PROTECTION OF PERSONS AND PROPERTY**

§ 6.1 The Design/Builder shall be responsible for initiating, maintaining and providing supervision of all safety precautions and programs in connection with the performance of this Part 2 Agreement.

§ 6.2 The Design/Builder shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (1) employees on the Work and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Design/Builder or the Design/Builder's contractors; and (3) other property at or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 6.3 The Design/Builder shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on the safety of persons or property or their protection from damage, injury or loss.

§ 6.4 The Design/Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance provided or required by the Contract Documents) to property at the site caused in whole or in part by the Design/Builder, a contractor of the Design/Builder or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

## **ARTICLE 7 INSURANCE AND BONDS**

See **Exhibit F**, attached hereto and made a part of this Part 2 Agreement.

## **ARTICLE 8 CHANGES IN THE WORK**

### **§ 8.1 CHANGES**

§ 8.1.1 Changes in the Work may be accomplished after execution of this Part 2 Agreement, without invalidating this Part 2 Agreement, by Change Order, Construction Change Directive, or order for a minor change in the Work, subject to the limitations stated in the Contract Documents. A change in the Work that affects the GMP or the Project Schedule may be made only by Change Order.

§ 8.1.2 A Change Order shall be based upon agreement between the Owner and the Design/Builder; a Construction Change Directive may be issued by the Owner without the agreement of the Design/Builder; an order for a minor change in the Work may be issued by the Design/Builder alone.

§ 8.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Design/Builder shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 8.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or the Design/Builder, the applicable unit prices shall be equitably adjusted.

### **§ 8.2 CHANGE ORDERS**

§ 8.2.1 A Change Order is a written instrument prepared by the Design/Builder and signed by the Owner and the Design/Builder, stating their agreement upon all of the following:

- 8.2.1.1 a change in the Work
- 8.2.1.2 the amount of the adjustment, if any, in the GMP; and
- 8.2.1.3 the extent of the adjustment, if any, in the Project Schedule.

§ 8.2.2 No work consistent with the changes in the Change Order shall commence until the Change Order has been reduced to writing and signed by both parties.

§ 8.2.3 Except as otherwise agreed by the Owner and the Design/Builder, any adjustment to the GMP shall be determined on the basis of reasonable expenditures and savings of those performing the Work

attributable to the change, including the expenditures for design services and revisions to the Contract Documents. In case of an increase in the GMP, the cost of the increase shall include a Design/Builder Fee of five percent (5%). In such case, the Design/Builder shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. The Design/Builder shall submit such Change Order requests on a monthly basis. Unless otherwise provided in the Contract Documents, costs for these purposes shall be limited to the following:

- 8.2.3.1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- 8.2.3.2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- 8.2.3.3 rental costs of machinery and equipment exclusive of hand tools, whether rented from the Design/Builder or others;
- 8.2.3.4 costs of premiums for all bonds and insurance permit fees, and sales, use or similar taxes;
- 8.2.3.5 additional costs of supervision and field office personnel directly attributable to the change; and
- 8.2.3.6 fees paid to the Architect, engineers and other professionals.

§ 8.2.4 Pending final determination of cost to the Owner, amounts not in dispute may be included in Applications for Payment. To the extent the amount of credit to be allowed by the Design/Builder to the Owner for deletion or change which results in a net decrease in the GMP includes fees, the credit will be limited to the Design/Builder's Fee. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

### **§ 8.3 CONSTRUCTION CHANGE DIRECTIVES**

§ 8.3.1 A Construction Change Directive is a written order prepared and signed by the Owner, directing a change in the Work prior to agreement on adjustment, if any, in the GMP or Project Schedule, or both.

§ 8.3.2 Any adjustment to the GMP and/or Project Schedule shall be made using a Change Order in accordance with the provisions of 8.2 of this Part 2 Agreement.

### **§ 8.4 MINOR CHANGES IN THE WORK**

§ 8.4.1 The Design/Builder shall have authority to make minor changes in the Construction Documents and construction consistent with the intent of the Contract Documents when such minor changes do not involve adjustment in the GMP or extension of the Project Schedule. The Design/Builder shall promptly inform the Owner, in writing, of minor changes in the Construction Documents and construction.

### **§ 8.5 CONCEALED CONDITIONS**

§ 8.5.1 If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then written notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than seven (7) business days after first observance of the conditions. Upon timely notice in writing by the observing party to the other party, the Owner and the Design/Builder will value engineer the Project to stay within the GMP and to address the concealed conditions; the actions to be taken; and the responsibility for costs of such actions shall be mutually agreed to by the parties. Alternatively, the parties may agree to modify the GMP, in which case the parties shall execute a Change Order. If the Design/Builder is the observing party and fails to give notice within the 21 day time period, the Owner reserves the right to demand and receive services from the Design/Builder to address and correct such concealed conditions without additional cost to the Owner.

### **§ 8.6 REGULATORY CHANGES**

§ 8.6.1 The Design/Builder shall be compensated for changes in the Work necessitated by the enactment or revisions of codes, laws or regulations that are made applicable to the Project subsequent to execution

of this Agreement, and its time for performance shall be extended if the change(s) result in delay to the Project Schedule. Such changes shall be made by Change Order pursuant to this Article 8.

## **ARTICLE 9 CORRECTION OF WORK**

§ 9.1 The Design/Builder shall promptly correct Work rejected by the Owner or known by the Design/Builder to be defective or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. All defective and/or non-complying Work observed after Substantial Completion shall be completed in a timely manner agreed to by both parties. Subject to such costs qualifying as a Cost of the Work, the Design/Builder shall bear the costs of correcting such rejected, defective, or non-conforming Work, including additional testing and inspections.

§ 9.2 If the Design/Builder defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven (7) business days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may give a second written notice to the Design/Builder and, seven (7) business days following receipt by the Design/Builder of that second written notice and without prejudice to other remedies the Owner may have, correct such deficiencies. The Owner shall deduct from payments then or thereafter due the Design/Builder, the costs of correcting such deficiencies. If the payments then or thereafter due the Design/Builder are not sufficient to cover the amount of the deduction, the Design/Builder shall pay the difference to the Owner. Such action by the Owner shall be subject to dispute resolution procedures as provided in Article 10.

§ 9.3 If, within one (1) year after the date of Substantial Completion of the Work of this Part 2 Agreement, or after the date for commencement of warranties established in a written agreement between the Owner and the Design/Builder, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Design/Builder shall correct it promptly at its own cost after receipt of a written notice from the Owner to do so unless the Owner has previously given the Design/Builder a written acceptance of such condition. Manufacturers' and/or extended warranties shall be assigned to the Owner, and the Owner will be responsible for administration of same beyond this one (1) year period.

§ 9.4 Nothing contained in this Article 9 shall be construed to establish a period of limitation with respect to other obligations which the Design/Builder might have under the Contract Documents. Establishment of the time period of one (1) year as described in Section 9.1 relates only to the specific obligation of the Design/Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design/Builder's liability with respect to the Design/Builder's obligations other than specifically to correct the Work.

§ 9.5 If the Design/Builder fails to correct nonconforming Work as required or fails to carry out Work in accordance with the Contract Documents, the Owner may order the Design/Builder to stop the Work, or any portion thereof, until the cause for such stop order has been eliminated; however, the Owner's right to stop the Work shall not give rise to a duty on the part of the Owner to exercise the right for benefit of the Design/Builder or other persons or entities.

## **ARTICLE 10 DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION**

§ 10.1 Claims, disputes or other matters in question between the parties to this Part 2 Agreement arising out of or relating to this Part 2 Agreement may be subject to mediation or arbitration only if agreed to in writing by both parties.

## **ARTICLE 11 MISCELLANEOUS PROVISIONS**

### **§ 11.1 SUBCONTRACTS**

§ 11.1.1 The Design/Builder shall bid out the Work in multiple bid packages, as agreed to by the parties. The Design/Builder shall use a competitive solicitation process following Ramsey County Procurement requirements. The Design/Builder may self-perform without bidding: administration, clean-up, safety,

and general conditions work. If the Design/Builder desires to self perform other work, the Design/Builder may do so only if determined to be the lowest responsible bidder for the work through the Design/Builder's participation in a bid package solicitation process. The Design/Builder will not self-perform any other Work with its own forces.

§ 11.1.2 As bids are received for the Project, the Design/Builder will review the bids with the Owner.

§ 11.1.3 The Design/Builder shall meet the Project goals set forth in **Exhibit G** -- SBE Utilization and Labor Goals, attached hereto and make a part of this Part 2 Agreement

§ 11.1.4 The Design/Builder shall not enter into a subcontract agreement or utilize as a subcontractor a vendor to which the Owner has reasonable objection. In the event that the cost of the replacement subcontractor or vendor is higher than the vendor objected to by the Owner, the Owner shall be obligated to pay the Design/Builder by Change Order, in accordance with Article 8, for any additional cost incurred as a result of the change, provided the original subcontractor selected by the Design/Builder was the lowest, qualified, responsible bidder.

§ 11.1.5 Prior to execution of this Agreement, the Design/Builder will secure a Project Labor Agreement directly with the St. Paul Building & Construction Trades Council.

## **§ 11.2 WORK BY OWNER OR OWNER'S CONTRACTORS**

§ 11.2.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site. If the Design/Builder claims that delay or additional cost is involved because of such action by the Owner, the Design/Builder shall assert such claims as provided in Section 11.4.

§ 11.2.2 The Design/Builder shall afford the Owner's separate contractors, reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Design/Builder's construction and operation with the Owner's contractors as required by the Contract Documents.

§ 11.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefore.

## **§ 11.3 CLAIMS FOR DAMAGES**

§ 11.3.1 If either party to this Part 2 Agreement suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a claim of additional cost or time related to this claim is to be asserted, it shall be made in writing in the form of a Request for Change Order.

## **§ 11.4 HAZARDOUS MATERIALS**

§ 11.4.1. "Hazardous Material" means any materials, waste, substance, or chemicals which are deemed to be hazardous under applicable Legal Requirements, or for which handling, storage, remediation, or disposal are regulated by applicable Legal Requirements. "Legal Requirements" mean all applicable federal, state, and local laws, codes, ordinances, rules, regulations, orders and decrees of any governmental or quasi-governmental entity having jurisdiction over the Project or site, the practices involved in the Project, or any Work.

§ 11.4.2. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design/Builder, its Subcontractors, consultants and agents and employees of any of them from and against claims, damages, losses and expenses including, but not limited to judgments, fines, penalties, civil sanctions, and attorney's fees, arising out of or resulting from the Hazardous Material or

performance of the Work in the affected area if in fact the material or substance is a Hazardous Material, except to the extent that such damage, loss, or expense is due to the sole negligence of a party seeking indemnity.

§ 11.4.3 The Owner shall not be responsible under paragraph 11.4.4.3 for materials and substances brought to the site by the Design/Builder unless such materials were required by the Contract Documents.

§ 11.4.4 If, without negligence on the part of the Design/Builder, its subcontractors, consultants, and agents and the employees of any of them, the Design/Builder is held liable for the cost of remediation of a Hazardous Material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Design/Builder for all cost and expense thereby incurred including, but not limited to judgments, fines, penalties, civil sanctions and attorney's fees. The Design/Builder shall be obligated to notify the Owner of claims filed within a reasonable time after the Design/Builder's first knowledge of such claims.

## **§ 11.5 CLAIMS FOR CONSEQUENTIAL DAMAGES**

§ 11.5.1 The Design/Builder and the Owner waive claims against each other for consequential damages arising out of or relating to this Part 2 Agreement. This mutual waiver includes:

11.5.1.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons;

11.5.1.2 damages incurred by the Design/Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from Work performed; and

11.5.1.3 damages incurred by the Design/Builder as a result of the Owner's loss of Project funding.

The mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with **Exhibit F**. Nothing contained in this Subparagraph 11.5 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of this Part 2 Agreement.

## **ARTICLE 12 BASIS OF COMPENSATION**

### **§ 12.1 COMPENSATION**

§ 12.1.1 The Design/Builder's Fee for Basic Services under the Part 1 Agreement, the Cost of Work, and the Design/Builder's fee for Basic Services under this Part 2 Agreement are guaranteed not to exceed \$**XXX**, subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price ("GMP"). See **Exhibit C**, Attachments #, #, and # for the Design/Builder's GMP documents. However, the Design/Builder shall be bound only by the GMP and not by cost estimates for various categories or line items of work comprising the GMP. Except as otherwise provided in this Part 2 Agreement, costs which would cause the GMP to be exceeded that are not the result of a change in scope, shall be paid by the Design/Builder without reimbursement by the Owner. At Project completion one hundred percent (100%) of savings in the Cost of the Work will accrue to the Owner.

§ 12.1.2 The Design/Builder's Fee is **XXX** Dollars, to be prorated to the value of the Work completed and paid with each monthly Application for Payment.

### **§ 12.2 COST OF THE WORK**

§ 12.2.1 The term Cost of the Work shall mean the actual costs necessarily incurred by the Design/Builder in the proper performance of the Work. Unless specifically excluded from the Work of the Design/Builder under the terms of this Part 2 Agreement, the Cost of the Work shall include only the items set forth in this Article 12.

### **§ 12.3 LABOR COSTS**

§ 12.3.1 Wages of construction workers directly employed by the Design/Builder to perform the construction of the Work at the site or, with the Owner's approval, at off-site workshops. Rates for this Cost of the Work are as established in **Exhibit D**.

§ 12.3.2 Wages or salaries of the Design/Builder's supervisory and administrative personnel when stationed at the site with the Owner's approval. Salaries and other compensation of the Design/Builder's personnel when stationed at the field office, in whatever capacity employed. Other personnel stationed off-site shall be reimbursed for time spent performing services at the Project rates listed in **Exhibit D**.

§ 12.3.3 Labor Burden: The rate to be charged for the cost of WORKERS COMPENSATION, FICA, STATE UNEMPLOYMENT and FEDERAL UNEMPLOYMENT shall be **XXX** Percent of all Wages and benefits. The rates and labor burden will be adjusted annually on May 1<sup>st</sup>.

§ 12.3.4 Costs paid or incurred by the Design/Builder for taxes, insurance, contributions, assessments and benefits required by laws or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work as described herein.

#### **§ 12.4 SUBCONTRACT AND DESIGN PROFESSIONAL COSTS**

§ 12.4.1 Payments made by the Design/Builder to Subcontractors and Design Professionals in accordance with the requirements of their agreements with the Design/Builder.

#### **§ 12.5 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION**

§ 12.5.1 Costs, including transportation and storage, of materials and equipment provided by the Design/Builder that are incorporated or to be incorporated in the completed construction.

§ 12.5.2 Costs of materials described in the preceding subparagraph in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work, or, at the Owner's option shall be sold by the Design/Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

#### **§ 12.6 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES, AND RELATED ITEMS**

§ 12.6.1 Costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Design/Builder at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Design/Builder. Cost for items previously used by the Design/Builder shall mean fair market value.

§ 12.6.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Design/Builder at the site, whether rented from the Design/Builder or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. The Design/Builder's equipment shall be charged at rates as listed in Attachment 1-Equipment Rental Rates to **Exhibit E**, to a maximum of 80% of replacement value. Expendable tools and minor equipment, defined as any tool or equipment of a value of less than \$500, shall be purchased as a Cost of the Work by the Design/Builder and turned over to the Owner at Project completion. Notwithstanding anything in the Contract Documents to the contrary, the Owner and the Design/Builder agree that the rates set forth on attached **Exhibit E** - Equipment Rental Rates, are, or will be, negotiated rates and, therefore, the calculation of those individual rates is not subject to audit by the Owner; however, the amount of hours at those rates included in the calculation of the Cost of the Work remains subject to the Owner's audit rights. Consumable Materials shall be charged at the rates listed in

Attachment **xx**-Consumables to **Exhibit E**. Use of equipment not owned by the Design/Builder shall be charged at actual invoice amount.

§ 12.6.3 Costs of removal of debris from the site.

§ 12.6.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, messengers, postage and parcel delivery charges, office supplies and telephone service at the site, and reasonable petty cash expenses at the site office.

§ 12.6.5 That portion of the reasonable expenses of the Design/Builder's primary personnel incurred while traveling in discharge of duties connected with the Work. Mileage and vehicle lease cost shall be limited to one key site staff members.

§ 12.6.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, if approved in advance by the Owner.

§ 12.6.7 Airfare and hotel expenditures for travel while in discharge of duties connected with the Work, provided the Owner approves of such expenditures in advance.

## **§ 12.7 MISCELLANEOUS COSTS**

§ 12.7.1 Sales, use or similar taxes imposed by governmental authority that are related to the Work.

§ 12.7.2 Fees and assessments for the building permit and for other permits, licenses and inspections which the Design/Builder is required by the Contract Documents to pay.

§ 12.7.3 Deposits lost for causes other than for the Design/Builder's negligence or failure to fulfill a specific responsibility to the Owner as set forth in the Contract Documents.

§ 12.7.4 Legal, mediation and arbitration costs, including attorney's fees, other than those arising from disputes between the Owner and the Design/Builder, reasonably incurred by the Design/Builder in the performance of the Work, with the Owner's prior written approval, which shall not be unreasonably withheld.

§ 12.7.5 Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the Owner. The cost of the Work includes contingencies as stated in **Exhibit C**. The contingency is not a part of the Cost of the Work until it is accessed. A change in the contingency must be made only by written agreement of both the Design/Builder and the Owner.

§ 12.7.6 Costs for repairing or correcting damaged or nonconforming Work executed by the Design/Builder, its Subcontractors or Suppliers, provided that such damage or nonconforming Work was not caused by negligence, failure to fulfill a specific responsibility, or failure to perform Work in accordance with industry standards of the Design/Builder, its Subcontractors or Suppliers, and only to the extent that the cost of repair or correction is not recovered by the Design/Builder from insurance, sureties, Subcontractors or Suppliers.

§ 12.7.7 Costs of premiums for bonds and insurance which the Design/Builder is required by this Part 2 Agreement to purchase and maintain, except for worker's compensation, or which the Design/Builder deems necessary for the prosecution of the Work, and the cost of Subcontractor's payment and performance bonds, required under the Subcontracts with the Design/Builder if specifically requested by the Owner. Errors & Omissions, primary comprehensive general and automobile liability insurance and umbrella/excess liability insurance shall be reimbursed at a fixed percentage billed each month per thousand of each monthly project billing. The rate to be charged for the cost of premiums, except for Builder's Risk, shall be **XXXX** Percent of the Cost of the Work. Rates shall be subject to annual adjustments if required by the Design/Builder's carrier. Insurance deductibles or the cost of the Design/Builder's insurance for the deductibles are included in the Cost of the Work.

§ 12.7.8 Costs due to emergencies incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

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

§ 12.7.10 Amounts that accrue to the Owner in accordance with the provisions of the previous paragraph shall be credited to the Owner as a deduction from the Cost of the Work.

### **ARTICLE 13 OTHER CONDITIONS AND SERVICES**

§ 13.1 A Schedule of Alternates is attached hereto and made a part of this Part 2 Agreement as **Exhibit H**. The parties shall execute a Change Order pursuant to Section 8.2 of this Part 2 Agreement to incorporate any Alternate into the Project.

§ 13.2 The Design/Builder shall commence providing services upon final execution of this Part 2 Agreement. The date of Substantial Completion for the Project is as shown in **Exhibit B**.

§ 13.3 This Part 2 Agreement includes the following:

**Exhibit A** -- Scope of Work

**Exhibit B** -- Project Schedule

**Exhibit C** -- GMP Calculations/Schedule of Values

**Exhibit D** -- Hourly Personnel Rates

**Exhibit E** - Design/Builder-Provided Equipment Rental Rates

**Exhibit F** -- General Terms and Conditions

**Exhibit G** - SBE Utilization and Labor Goals

**Exhibit H** -- Schedule of Alternates (the inclusion of Exhibit H will be determined during the negotiation of the Part 2 Agreement)

§ 13.4 All notices and other communications under this Part 2 Agreement, and any amendments to this Part 2 Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid; by personal delivery; or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

Owner's Representative:

XXX, Project Manager

XXX

Design/Builder's Representative:

XXX

If the name and/or address of the above-identified representatives changes, notice of such change shall be given to the other party in accordance with the provisions of this section.



**Exhibit A to the Part 2 Agreement**

**Scope of Work**

**Exhibit B to the Part 2 Agreement**

**Project Schedule**

**Exhibit C to the Part 2 Agreement**

**GMP Calculations/Schedule of Values**

**Exhibit D to the Part 2 Agreement**

**Hourly Personnel Rates**

**Labor Rates**

**Other Personnel Rates**

**Exhibit E to the Part 2 Agreement**

**Design/Builder -- Provided Equipment Rental Rates**

## **Exhibit F to the Part 2 Agreement**

### **General Terms and Conditions**

*Note: For Purposes of this Exhibit F, the term "Contractor" shall mean "Design/Builder" and the term "County" shall mean "Owner" as those terms are defined in the Part 2 Agreement.*

**1.** The provisions of **Exhibit D** -General Terms and Conditions to the Part 1 Agreement are incorporated herein and made a part of this Exhibit F as if specifically set forth herein. To the extent the provisions of this **Exhibit F** to the Part 2 Agreement are inconsistent with the provisions of **Exhibit D** to the Part 1 Agreement, the provisions of this **Exhibit F** to the Part 2 Agreement shall prevail.

#### **2. Prevailing Wage**

##### **2.1.**

Contractors and all subcontractors of the Contractor shall conform to the labor laws of the State of Minnesota, [Ramsey County Prevailing Wage Ordinance No. 2013-329](#), and all other laws, ordinances, and legal requirements affecting the work in Ramsey County and Minnesota. The minimum wage rate per hour to be paid for each classification of work shall be the union wage rate in the locality of the project for those classifications over which the unions have jurisdiction and the local prevailing rate for those classifications of work in the localities over which unions do not have jurisdiction.

The terms "prevailing wage", "minimum wage rate per hour", and "prevailing rate" as used in the contract, shall mean "prevailing wage rate" as defined in Minnesota Statutes §177.42.

Pursuant to Minnesota Statutes §§177.41 to 177.44 and corresponding Rules 5200.1000 to 5200.1120, all construction contracts funded in whole or in part by state funds are subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all Contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.

##### **2.2.**

Pursuant to the Ramsey County Prevailing Wage Ordinance No. 2013-329, the Prevailing Wage Rate must be paid under any contract with Ramsey County or under a subcontract to that contract with Ramsey County with an anticipated Project Completion Cost or anticipated Services contract value over \$25,000.

##### **2.3.**

Throughout the term of this Agreement, the Contractor shall submit Certified Payroll Records within 14 days of the end of a pay period and in accordance with the requirements of Ramsey County Prevailing Wage Ordinance No. 2013-329. Failure of the Contractor to submit the Certified Payroll Records in accordance with the Ordinance may result in criminal or civil enforcement by the County, including, but not limited to termination of the agreement for cause, withholding of payments, and assessment of liquidated damages.

#### **3. Part 2 Bond Requirements**

##### **3.1.**

The Contractor shall furnish bonds as described below, covering the faithful performance of the Contract and the payments of all obligations arising thereunder. The Part 2 Agreement will not be signed until the County has received the proper bonds specified under this clause, issued by a bonding company licensed to do business in Minnesota, and on the current list of Companies Holding Certificates of Authority as acceptable Sureties on Federal Bonds and as acceptable reinsuring companies as published in Circular 570

(Amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the authority to act.

**3.2.**

The bonds shall each be in the amount of 100% of the Construction Cost. The term "contract", as used herein, shall include the original agreement plus all subsequent change orders and/or amendments. The contract price to which the principal is bound shall be the amount of the Construction Cost as reflected by the terms of the contract.

**3.3.**

Duly executed, notarized and updated Acknowledgments of both the Principal and Surety and the Surety's Power of Attorney must be attached to each of the two required bonds.

**3.4.**

Bond amounts shall not exceed the single bond limit for the Contractor's bonding company as set forth in the Federal Register current as of the bid date.

**3.5.**

Bonds shall indemnify the County for any loss sustained by the County on account of or by reason of the acts of the Contractor or the acts of anyone else directly or indirectly employed by the Contractor in the performance of the Work for the Project.

## **4. Part 2 Insurance Requirements**

**4.1.**

During Part 2, the Contractor shall continue to maintain the insurance coverage required for Part 1 services, except that Section 3.10.3 is revised to read as follows:

"3.10.3. Commercial general liability of no less than \$500,000 per claim, \$5,000,000 per occurrence, \$5,000,000 project aggregate, \$5,000,000 products/completed operations total limit, \$5,000,000 personal injury and advertising liability."

*The following is language that will be included if it is determined that the Contractor will carry the Builder's Risk.*

**4.2.      Builder's Risk**

**4.2.1**

The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount of the Construction Cost under the Contract, on a replacement cost basis without optional deductibles.

**4.2.2**

The Contractor shall include the County as an additional insured on the property insurance required by this subparagraph and shall furnish to the County one copy of the Certificate of Insurance which shall specifically set forth evidence of coverage required by this subparagraph. If the County is damaged by the failure of the Contractor to procure or maintain such insurance, then the Contractor shall be liable for all damages, injury, costs and expenses, including attorneys' fees, arising out of or resulting from the Contractor's failure to procure or maintain such insurance.

**4.2.3.**

Property insurance shall cover risks of direct physical loss unless the loss is limited by coverage from or caused by a peril excluded, and shall include insurance against the perils of fire (with extended coverage) and physical loss or

damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Contractor's services and expenses required as a result of such insured loss.

**4.2.4.**

The Contractor, its subcontractors and sub-subcontractors are responsible for the deductible provided for under the property coverage and all other costs not covered by the property insurance.

**4.2.5.**

A loss insured under the insurance required by this section shall, at the discretion of the County, be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require subcontractors to make payments to their sub-subcontractors in similar manner.

**4.2.6.**

The Contractor as fiduciary shall have the power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Contractor's exercise of this power; if such objection is made, the dispute shall be resolved by arbitration if agreed to by both parties. The Contractor as fiduciary shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

*The following is language that will be included if it is determined that the County will carry the Property Insurance instead of the Design/Builder carrying the Builder's Risk.*

**4.2. Property Insurance**

**4.2.1.**

The County shall purchase and maintain, in a company or companies authorized to do business in the jurisdiction in which the Project is located, property insurance upon the Work to the fullest insurable value thereof on a replacement cost basis, subject to a deductible of \$xx per occurrence. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the County has an insurable interest in the property required by this Section 2) to be insured, whichever is earlier. This insurance shall include interests of the County, the Contractor, and their respective contractors and subcontractors in the Work. The Contractor shall be responsible for the deductible of \$xxx per occurrence under this policy, and all other costs not covered by property insurance up to the date of Substantial Completion, and all such costs shall be considered as a Cost of the Work.

**4.2.2.**

Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, falsework, rigging & hoisting, terrorism, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal

requirements, and shall cover reasonable compensation for the services and expenses of the Contractor's Architect and other professionals required as a result of such insured loss. Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.

**4.2.3.**

Unless otherwise provided, the County shall purchase and maintain such boiler and machinery insurance required by this Part 2 Agreement or by law, which shall specifically cover such insured objects during installation and until final acceptance by the County. This insurance shall include interests of the County, the Contractor, the Contractor's contractors and subcontractors in the Work, and the Contractor's Architect and other design professionals. The County and the Contractor shall be named insureds.

**4.2.4.**

A loss insured under the County's property insurance shall be adjusted by the County as fiduciary and made payable to the County as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 2.6). The Contractor shall pay contractors their shares of insurance proceeds received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require contractors to make payment to their subcontractors in similar manner.

**4.2.5.**

Before an exposure to loss may occur, the County shall file with the Contractor a copy of a Certificate of Insurance for each policy that includes insurance coverages required by this Section 2). Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least thirty (30) business days' prior written notice has been given to the Contractor.

**4.2.6.**

The County and the Contractor waive all rights against each other and the Architect and other design professionals, contractors, subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Section 2) or other property insurance applicable to the Work, except such rights as they may have to proceeds of such insurance held by the County as trustee. The County or Contractor, as appropriate, shall require from contractors and subcontractors by appropriate agreements, written where legally required for validity, similar waivers each in favor of the parties enumerated in this Section 2). The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**4.2.7.**

The County as trustee shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing, within five (5) business days after such notification of the County's intent to exercise this power; if such objection be made, the parties shall enter into dispute resolution under procedures provided in this Part 2 Agreement. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

#### **4.2.8.**

Partial occupancy or use prior to Substantial Completion shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The County and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall not, without mutual written consent, take any action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of coverage.

#### **4.3.**

The County shall be responsible for purchasing and maintaining the County's usual liability insurance and/or self-insurance program.

*Note: Sections 4.4 and 4.5 are optional and will be determined during negotiations for the Part 2 Agreement.*

#### **4.4.**

Pollution/Environment impact coverage to cover any remedial and/or cleanups, suits, judgments, claims, and/or actions of any type that may arise out of or result from the Work contemplated by this Part 2 Agreement. Such coverage shall include the Work performed on behalf of the Contractor by the subcontractors. The County, its officials, employees, and agents will be an insured under the policy for covered operations performed by the Contractor under the terms of this Part 2 Agreement. Policy will be written on a project basis per occurrence.

#### **4.5.      Umbrella Liability**

##### **4.5.1.**

\$10,000,000 per occurrence  
\$10,000,000 general aggregate

##### **4.5.2.**

The County, its officials, employees, and agents, shall be an additional insured as required under the Commercial General Liability policy.

##### **4.5.3.**

The policy will provide excess coverage over the commercial general liability and automobile liability policies.

### **5. Termination**

#### **5.1      Termination by the County**

##### **5.1.1**

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents or fails to perform the provisions of this Part 2 Agreement, the County may give written notice that the County intends to terminate this Part 2 Agreement. If the Contractor fails to correct the defaults within seven (7) business days after being given notice, the County may then give a second written notice and, after an additional seven (7) business days, the County may without prejudice to any other remedy terminate the agreement with the Contractor and take possession of the site and of all materials and finish the Work by whatever method the County may deem expedient. If the unpaid balance of the Contract Sum exceeds the expense of finishing the Work and all damages incurred by the County, such excess shall be paid to the Contractor. If the expense of completing the Work and all damages incurred by the County exceeds the unpaid balance, the Design/Builder shall pay the difference to the County. This obligation for payment shall survive termination of this Part 2 Agreement.

##### **5.1.2**

If the unpaid balance of the GMP exceeds the expense of finishing the Work and all damages incurred by the County, such excess shall be paid to the Contractor. If the expense of completing the Work and all damages incurred by the County exceeds the unpaid balance, the Contractor shall pay the difference to the County. This obligation for payment shall survive termination of this Part 2 Agreement.

**5.1.3**

The County may terminate this Part 2 Agreement without cause and for any reason whatsoever effective upon written notice to the Contractor. In such event, the Contractor shall be entitled to receive compensation for the services provided in a satisfactory manner up to and including the effective date of termination.

**5.1.4**

Any termination by the County shall be without prejudice to the rights of the County to pursue other remedies against the Contractor.

**5.2.**

**Termination by the Contractor**

**5.2.1**

If the County fails to make payment of undisputed amounts, the Contractor may give written notice of the Contractor's intention to terminate this Part 2 Agreement. If the Contractor fails to receive payment of the undisputed amounts within seven (7) business days after receipt of such notice by the County, the Contractor may give a second written notice and, seven (7) business days after receipt of such second written notice by the County, may terminate this Part 2 Agreement. If such termination occurs, the County shall pay the Contractor for Work completed in a satisfactory manner up to and including the effective date of termination. A good faith dispute by the County regarding the amount of payment and failure to pay disputed amounts, which is subject to the provisions of the Minnesota Prompt Pay Act, does not constitute grounds for termination by the Contractor under this paragraph.

**6. Safety Compliance**

**6.1**

The Contractor and all subcontractors shall at all times during the performance of the Work under this Part 2 Agreement be and remain in compliance with and responsible for any conditions imposed upon the County by OSHA requirements.

**6.2**

A risk control program must be implemented on site during this project.

**Exhibit G to the Part 2 Agreement**

**SBE Utilization and Labor Goals**

**Exhibit H to the Part 2 Agreement**

**Schedule of Alternates**



**RAMSEY COUNTY**  
**SOLICITATION RESPONSE FORM**

**Solicitation Number: PRK0000020520**

**Solicitation Title: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

**The following shall be completed by the Contractor:**

Contractor Company Name:

State the number of solicitation addenda received:

**PLEASE READ THE FOLLOWING BEFORE COMPLETING THIS SOLICITATION RESPONSE FORM**

The provisions of the solicitation document should be reviewed and understood before preparing a solicitation response. Unless the solicitation document provides otherwise, the solicitation response shall be the best price for all labor, equipment, materials and services for the project described in the solicitation document.

**Maximum Not To Exceed Part 1 Cost (inclusive of all fees and expenses):**

**or**

**Maximum Not To Exceed Part 1 Fees:**

**Maximum Not To Exceed Part 1 Expenses:**

**Hourly Rates:**

**ACKNOWLEDGEMENT**

By signing below, I certify that I understand, agree, and bind the Contractor to the provisions contained in the solicitation document for the above Solicitation Number, including the General Solicitation Terms and Conditions, the General Contract/Agreement Terms and Conditions, and the Part 1 and Part 2 Agreements and that I am authorized to submit this solicitation response on behalf of the Contractor.

**COLLUSION**

By signing below, I certify that this solicitation response has been prepared without any collusion with other contractors, competitors, County employees or County Board members and without taking any other action which will restrict competition or constitute fraud or collusion.

Name and Title of Authorized Contractor Representative:

Signature:

Date:

Solicitation Number: PRK0000020520

Solicitation Title: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION



## RAMSEY COUNTY

### COUNTY CONTRACTOR INFORMATION AND REFERENCE FORM

Ramsey County requires completion of this form for this solicitation. Failure to submit this completed form with the solicitation response may result in rejection of the Contractor's solicitation response.

#### Company Information:

1. Contractor Name:
2. Name of CEO or Company President:
3. Telephone Number:
4. Email Address:
5. Address:
6. City:
7. State:
8. Zip Code:
9. Is your company a Certified Small Business Enterprise?
10. If yes, what is your certification number?
11. Is your company a Veteran Small Business Enterprise?
12. If yes, what is your certification number?

#### Solicitation Response Contact:

1. Name:
2. Telephone Number:
3. Email Address:
4. Address:
5. City:
6. State:
7. Zip Code:

Reference Requirements: Provide a minimum of three (3) references for work completed within the last five (5) years that is similar to what is requested in this solicitation.

1. First Reference

- Company Name:
- Contact Name and Title:
- Telephone Number:
- Email Address:
- Address:
- City:
- State:
- Zip Code:
- Description of Work Completed:

2. Second Reference

- Company Name:
- Contact Name and Title:
- Telephone Number:
- Email Address:
- Address:
- City:
- State:
- Zip Code:
- Description of Work Completed:

3. Third Reference

- Company Name:
- Contact Name and Title:
- Telephone Number:
- Email Address:
- Address:
- City:
- State:
- Zip Code:
- Description of Work Completed:



## RAMSEY COUNTY

### CONTRACTOR APPLICATION FOR DESIGNATION OF

#### TRADE SECRET INFORMATION FORM

**Solicitation #****Solicitation Title**

The submitted solicitation response data includes Trade Secret Information that we, the contractor, believe to be classified as nonpublic (relating to a non-person) or private (relating to a person) information under §13.37 of the Minnesota Government Data Practices Act.

As such, we are requesting that certain provisions of our submitted solicitation response data as indicated below, be treated as Trade Secret Information data and that any request for access to the data be handled in accordance with state law and the provisions of Ramsey County Policies and Procedures. We agree to indemnify and hold Ramsey County harmless from any damages arising out of the release of any materials or data unless they are specifically identified on this Trade Secret Information Form.

**Section****Page #****Topic****Classification Justification**

We understand that a decision regarding this request will be made by Ramsey County. We agree to indemnify and hold Ramsey County, its agents and employees, harmless from any claims or causes of action relating to the County's withholding of data based upon reliance on the above representations including payment of all costs and attorney fees incurred by the County in defending such action.

We further understand that solicitation response data marked as, for example, "confidential" or "proprietary" or other similar designation, will not be considered by Ramsey County to be Trade Secret Information within the meaning of Minnesota Statutes Chapter 13 unless the data meet the criteria set forth in Section 13.37, subd. 1(b).

Company Name

Name and Title of Authorized Preparer

Signature

Date



## **RAMSEY COUNTY DIVERSE WORKFORCE DEVELOPMENT** **INITIATIVE POLICY REPORTING FORM**

Complete and submit this form as part of your solicitation response. Failure to include this form in the response may result in the County's rejection of your submission as incomplete and therefore non-responsive. Indicate if additional documentation is attached to this form and list the documents.

Provide a brief narrative statement that describes past and current efforts made by the contractor to increase the participation of women and minorities in its construction workforce, including its participation in, and sponsorship of, apprenticeships for minorities and women. As appropriate, include supporting documentation such as charts, graphs, statistics, and background information. If you do not have employees who perform construction work indicate "DOES NOT APPLY".

Narrative response:

OR

\_\_\_\_\_ DOES NOT APPLY

Name of Contractor \_\_\_\_\_

Signature \_\_\_\_\_ Title \_\_\_\_\_

Date \_\_\_\_\_



## RESPONSIBLE CONTRACTOR VERIFICATION

## AND CERTIFICATION OF COMPLIANCE

### **PROJECT TITLE: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

Minn. Stat. § 16C.285, Subd. 7. **IMPLEMENTATION.** ...any prime contractor or subcontractor or motor carrier that does not meet the minimum criteria in subdivision 3 or fails to verify that it meets those criteria is not a responsible contractor and is not eligible to be awarded a construction contract for the project or to perform work on the project...

Minn. Stat. § 16C.285, Subd. 3. **RESPONSIBLE CONTRACTOR, MINIMUM CRITERIA.** "Responsible contractor" means a contractor that conforms to the responsibility requirements in the solicitation document for its portion of the work on the project and verifies that it meets the following minimum criteria:

(1)	<p>The Contractor:</p> <ul style="list-style-type: none"><li>(i) is in compliance with workers' compensation and unemployment insurance requirements;</li><li>(ii) is in compliance with Department of Revenue and Department of Employment and Economic Development registration requirements if it has employees;</li><li>(iii) has a valid federal tax identification number or a valid Social Security number if an individual; and</li><li>(iv) has filed a certificate of authority to transact business in Minnesota with the Secretary of State if a foreign corporation or cooperative.</li></ul>
(2)	<p>The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44, 181.13, 181.14, or 181.722, and has not violated United States Code, title 29, sections 201 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes of this clause, a violation occurs when a contractor or related entity:</p> <ul style="list-style-type: none"><li>(i) repeatedly fails to pay statutorily required wages or penalties on one or more separate projects for a total underpayment of \$25,000 or more within the three-year period, provided that a failure to pay is "repeated" only if it involves two or more separate and distinct occurrences of underpayment during the three-year period;</li><li>(ii) has been issued an order to comply by the commissioner of Labor and Industry that has become final;</li><li>(iii) has been issued at least two determination letters within the three-year period by the Department of Transportation finding an underpayment by the contractor or related entity to its own employees;</li><li>(iv) has been found by the commissioner of Labor and Industry to have repeatedly or willfully violated any of the sections referenced in this clause pursuant to section 177.27;</li><li>(v) has been issued a ruling or findings of underpayment by the administrator of the Wage and Hour Division of the United States Department of Labor that have become final or have been upheld by an administrative law judge or the Administrative Review Board; or</li><li>(vi) has been found liable for underpayment of wages or penalties or misrepresenting a construction worker as an independent contractor in an action brought in a court having jurisdiction. Provided that, if the contractor or related entity contests a determination of underpayment by the Department of Transportation in a contested case proceeding, a violation does not occur until the contested case proceeding has concluded with a determination that the contractor or related entity underpaid wages or penalties;*</li></ul>

(3)	The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 181.723 or chapter 326B. For purposes of this clause, a violation occurs when a contractor or related entity has been issued a final administrative or licensing order;*
(4)	The contractor or related entity has not, more than twice during the three-year period before submitting the verification, had a certificate of compliance under section 363A.36 revoked or suspended based on the provisions of section 363A.36, with the revocation or suspension becoming final because it was upheld by the Office of Administrative Hearings or was not appealed to the office;*
(5)	The contractor or related entity has not received a final determination assessing a monetary sanction from the Department of Administration or Transportation for failure to meet targeted group business, disadvantaged business enterprise, or veteran-owned business goals, due to a lack of good faith effort, more than once during the three-year period before submitting the verification;*
	* Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5), occurring prior to July 1, 2014, shall not be considered in determining whether a contractor or related entity meets the minimum criteria.
(6)	The contractor or related entity is not currently suspended or debarred by the federal government or the state of Minnesota or any of its departments, commissions, agencies, or political subdivisions that have authority to debar a contractor; and
(7)	All subcontractors and motor carriers that the contractor intends to use to perform project work have verified to the contractor through a signed statement under oath by an owner or officer that they meet the minimum criteria listed in clauses (1) to (6).

**Minn. Stat. § 16C.285, Subd. 5. **SUBCONTRACTOR VERIFICATION.****

A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project. Prior to execution of a construction contract, and as a condition precedent to the execution of a construction contract, the apparent successful prime contractor shall submit to the contracting authority a supplemental verification under oath confirming compliance with subdivision 3, clause (7). Each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each subcontractor.

If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors.

A prime contractor shall submit to the contracting authority upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to subdivision 3, clause (7). A prime contractor and subcontractors shall not be responsible for the false statements of any subcontractor with which they do not have a direct contractual relationship. A prime contractor and subcontractors shall be responsible for false statements by their first-tier subcontractors with which they have a direct contractual relationship only if they accept the verification of compliance with actual knowledge that it contains a false statement.

Minn. Stat. § 16C.285, Subd. 4. **VERIFICATION OF COMPLIANCE.**

A contractor responding to a solicitation document of a contracting authority shall submit to the contracting authority a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria in subdivision 3, with the exception of clause (7), at the time that it responds to the solicitation document.

A contracting authority may accept a signed statement under oath as sufficient to demonstrate that a contractor is a responsible contractor and shall not be held liable for awarding a contract in reasonable reliance on that statement. A prime contractor, subcontractor, or motor carrier that fails to verify compliance with any one of the required minimum criteria or makes a false statement under oath in a verification of compliance shall be ineligible to be awarded a construction contract on the project for which the verification was submitted.

A false statement under oath verifying compliance with any of the minimum criteria may result in termination of a construction contract that has already been awarded to a prime contractor or subcontractor or motor carrier that submits a false statement. A contracting authority shall not be liable for declining to award a contract or terminating a contract based on a reasonable determination that the contractor failed to verify compliance with the minimum criteria or falsely stated that it meets the minimum criteria. A verification of compliance need not be notarized. An electronic verification of compliance made and submitted as part of an electronic bid shall be an acceptable verification of compliance under this section provided that it contains an electronic signature as defined in section 325L.02, paragraph (h).

**CERTIFICATION**

**By signing this document I certify that I am an owner or officer of the company, and I swear under oath that:**

- 1) My company meets each of the Minimum Criteria to be a responsible contractor as defined herein and is in compliance with Minn. Stat. § 16C.285,**
- 2) I have included the FIRST-TIER SUBCONTRACTORS LIST with my company's solicitation response, and**
- 3) If my company is awarded a contract, I will also submit ADDITIONAL SUBCONTRACTORS LIST as required.**

<b>Authorized Signature of Owner or Officer:</b>	<b>Printed Name:</b>
<b>Title:</b>	<b>Date:</b>
<b>Company Name:</b>	

**NOTE: Minn. Stat. § 16C.285, Subd. 2, (c) If only one prime contractor responds to a solicitation document, a contracting authority may award a construction contract to the responding prime contractor even if the minimum criteria in subdivision 3 are not met.**

**FIRST-TIER SUBCONTRACTORS LIST****SUBMIT WITH PRIME CONTRACTOR RESPONSE****PROJECT TITLE: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

Minn. Stat. § 16C.285, Subd. 5. A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project...

<b>FIRST TIER SUBCONTRACTOR NAMES (Legal name of company as registered with the Secretary of State)</b>	<b>Name of city where company home office is located</b>

**ADDITIONAL SUBCONTRACTORS LIST**

**PRIME CONTRACTOR TO SUBMIT AS SUBCONTRACTORS ARE ADDED TO THE  
PROJECT**

**PROJECT TITLE: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

This form must be submitted to the Project Manager or individual as identified in the solicitation document.



**RAMSEY COUNTY**  
**NO SOLICITATION RESPONSE FORM**

**Ramsey County strives to conduct all solicitations in an open, fair, and transparent manner. If you have selected to not participate in this solicitation, the Procurement Office is asking you to complete this form and return it via e-mail to the appropriate Procurement Specialist.**

- 1. We did not feel we could be competitive.
- 2. Insufficient time to respond.
- 3. We did not have sufficient staffing to complete the solicitation response.
- 4. Other (350 character limit):

Contractor Name:

Contact Name:

Telephone Number:

Email Address:

Address:

City:

State:

Zip Code:

Name and Title of Authorized Contractor Representative:

Signature:

Date:

Solicitation Number: PRK0000020520

Solicitation Title: RFP - DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION

## Addendum One

**Issued Date: May 16, 2022**

**Solicitation #: RFP-PRK20520-KD**

**Solicitation Title: DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

**Addition(s)/Change(s)/Clarification(s):**

- Change in Solicitation Response Due Date
- Change in Terms and Conditions
- Other

**Please Note the Following Addition(s)/Change(s)/Clarification(s):**

1. There are two different dates for the Pre-Solicitation Conference at the Project location; May 19<sup>th</sup> (on Exhibit B) & May 26<sup>th</sup> (in the RFP). Which is the correct date?

Answer: The date stated in the RFP, May 26, 2022, is correct. A revised version of Exhibit B is attached.

2. I wanted to verify if there was a Bid Bond required. I see Payment & Performance Bonds are required.

Answer: Because this is a Request for Proposals, a bid bond is not required. In addition, payment and performance bonds are only required for the Part 2 construction contract when and if it is awarded. The GMP is not yet known.

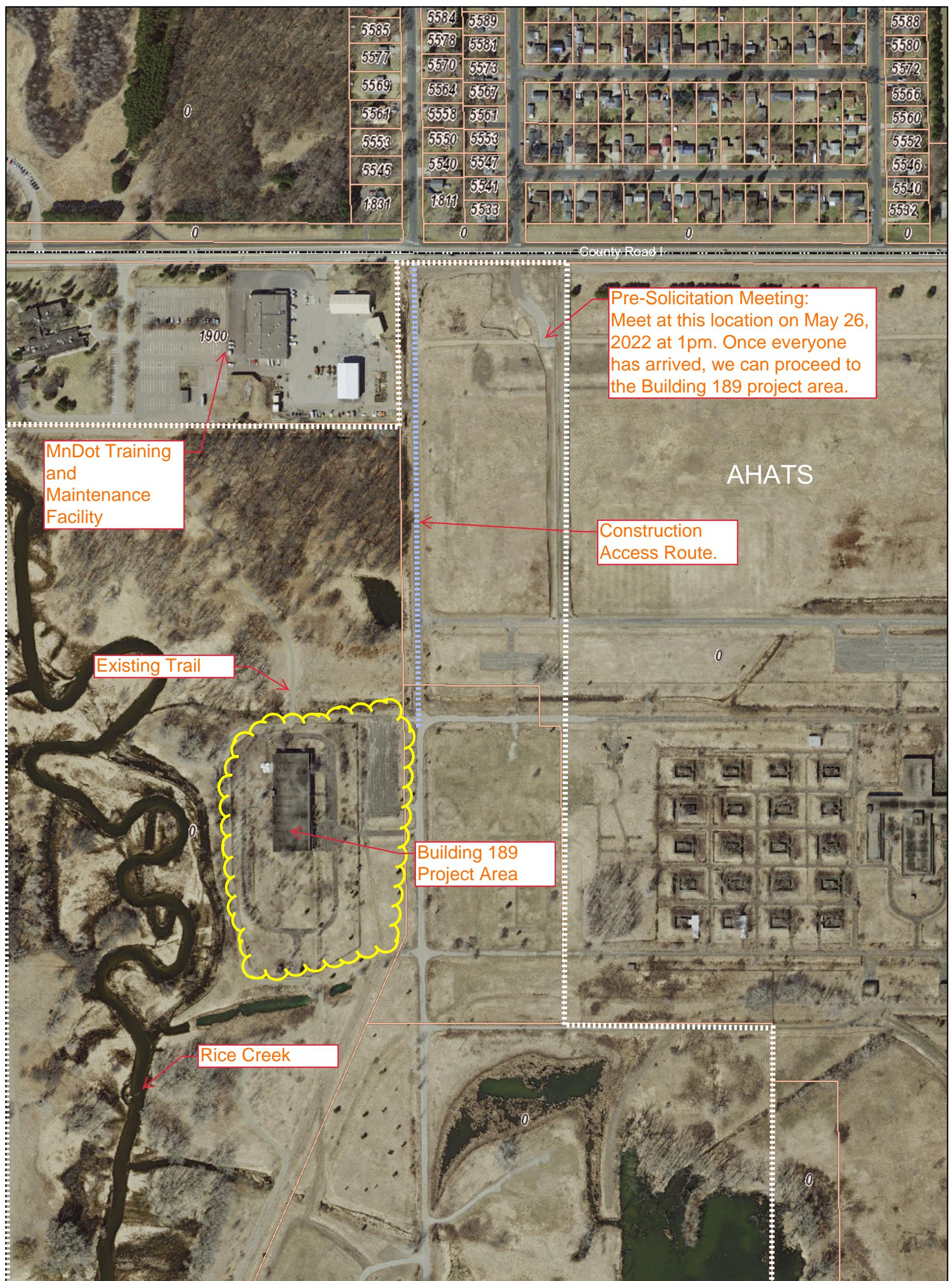
**All Addendum(s) are to be acknowledged on the Solicitation Cover Page to be included with your submission. FAILURE TO DO SO MAY RESULT IN REJECTION OF THE SOLICITATION RESPONSE. Unless otherwise specified above, the Solicitation Response due date and time all other Terms and Conditions remain the same.**

Sincerely,

Kyle Dean  
Principal Procurement Specialist

*Ramsey County representatives recommending this Addendum acknowledge that all Ramsey County solicitation policies and procedures have been followed.*

# Map Ramsey



4/14/2022, 2:07:09 PM

- Personal Property
- Tax Parcels
- Cities
- 2020 Aerial
- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3

Exhibit B - Site Context Map

## Addendum Three

**Issued Date: June 2, 2022**

**Solicitation #: RFP-PRK20520-KD**

**Solicitation Title: DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

**Addition(s)/Change(s)/Clarification(s):**

- Change in Solicitation Response Due Date
- Change in Terms and Conditions
- Other

**Please Note the Following Addition(s)/Change(s)/Clarification(s):**

1. Question: Article 11 (Page 56 of 86 of the RFP) states the following: *"The Design/Builder shall bid out the Work in multiple bid packages, as agreed to by the parties. The Design/Builder shall use a competitive solicitation process following Ramsey County Procurement requirements. The Design/Builder may self-perform without bidding: administration, clean-up, safety, and general conditions work. If the Design/Builder desires to self perform other work, the Design/Builder may do so only if determined to be the lowest responsible bidder for the work through the Design/Builder's participation in a bid package solicitation process. The Design/Builder will not self-perform any other Work with its own forces."*

Given this information, please confirm that if the awarded design/builder would like to perform all of the scope of work, or even a portion of it, during Part 2 of the contract after the GMP has been established, the Design/Builder would need to publicly advertise (following the Ramsey county procedures) these multiple bid packages and then submit a sealed bid of its own to compete for the work. And the only way the Design/Builder can actually perform the work if they are the lowest bidder among all of the bids received? And if they are not the lowest bidder, they would be required to contract out the work to the lowest bidders and potentially not perform any of the work. Is this correct?

Answer: That is correct. During Part 2, the design-builder may competitively bid out scopes it wishes to self-perform. The design-builder will be required to follow all competitive bid requirements and any scopes of work the design-builder proposes on will be subject to a public opening to ensure a competitive bid process.

2. The attendance sheet from the pre-solicitation response conference is attached.

**All Addendum(s) are to be acknowledged on the Solicitation Cover Page to be included with your submission. FAILURE TO DO SO MAY RESULT IN REJECTION OF THE SOLICITATION RESPONSE. Unless otherwise specified above, the Solicitation Response due date and time all other Terms and Conditions remain the same.**

Sincerely,

Kyle Dean  
Principal Procurement Specialist

*Ramsey County representatives recommending this Addendum acknowledge that all Ramsey County solicitation policies and procedures have been followed.*



Ramsey County Procurement  
Suite 4000, Metro Square  
121 7th Place East  
Saint Paul, Minnesota 55101

Solicitation #: RFP-PRK20520-KD

Solicitation Title: Design/Build Building 189 Demolition and Site Restoration

Pre Solicitation Response Conference Date: May 26, 2022

Procurement Specialist: Kyle Dean

PRE SOLICITATION RESPONSE CONFERENCE SIGN-IN

Company Name	Name	Telephone Number	Email Address
Bolander	Evan Mackey	651-366-4537	evan@bolander.com
Stantec	Erik Sundbo	952-270-9795	erik.sundbo@stantec.com
Bolander	Andy Ristrom	612-242-4118	andy@bolander.com
Mike Flahive Vert	Mike Flahive	612-290-1487	mflahive@vertusa.com
Urban Companies	Joe Ryan	320-291-4465	jryan@urbancompaniesusa.com
Frattalone Cos.	Chris Niemand	651-484-0448	chrisn@frattaloneco.com
• " Scott Spivak	FOO [Contact Chris]	"	scott@frattaloneco.com
TERRA Construction	Ben Newlin	763-463-0243	bnewlin@terrage.com
CDG	Craig Miller	612-889-7986	cmiller@CDG-mn.com
Rockleaf Watch	Sarah Hornig	(612-812-7218	satoh.hornig@rlwenvironmental.com
J&J Contracting	Josh Wossidlo	(612) -840-8417	Josh@JJCContracting.com
Eric Lembke, Stantec	Eric Lembke	651-775-5156	eric.embke@stantec.com

Please write legibly.

## Addendum Two

**Issued Date: May 18, 2022**

**Solicitation #: RFP-PRK20520-KD**

**Solicitation Title: DESIGN/BUILD, BLDG 189 DEMOLITION AND SITE RESTORATION**

**Addition(s)/Change(s)/Clarification(s):**

- Change in Solicitation Response Due Date
- Change in Terms and Conditions
- Other

**Please Note the Following Addition(s)/Change(s)/Clarification(s):**

1. The date and time for the pre-solicitation response conference stated in the RFP, **May 26, 2022, at 12:00 p.m.** is correct. A revised version of Exhibit B is attached.

**All Addendum(s) are to be acknowledged on the Solicitation Cover Page to be included with your submission. FAILURE TO DO SO MAY RESULT IN REJECTION OF THE SOLICITATION RESPONSE. Unless otherwise specified above, the Solicitation Response due date and time all other Terms and Conditions remain the same.**

Sincerely,

Kyle Dean  
Principal Procurement Specialist

*Ramsey County representatives recommending this Addendum acknowledge that all Ramsey County solicitation policies and procedures have been followed.*

# Map Ramsey

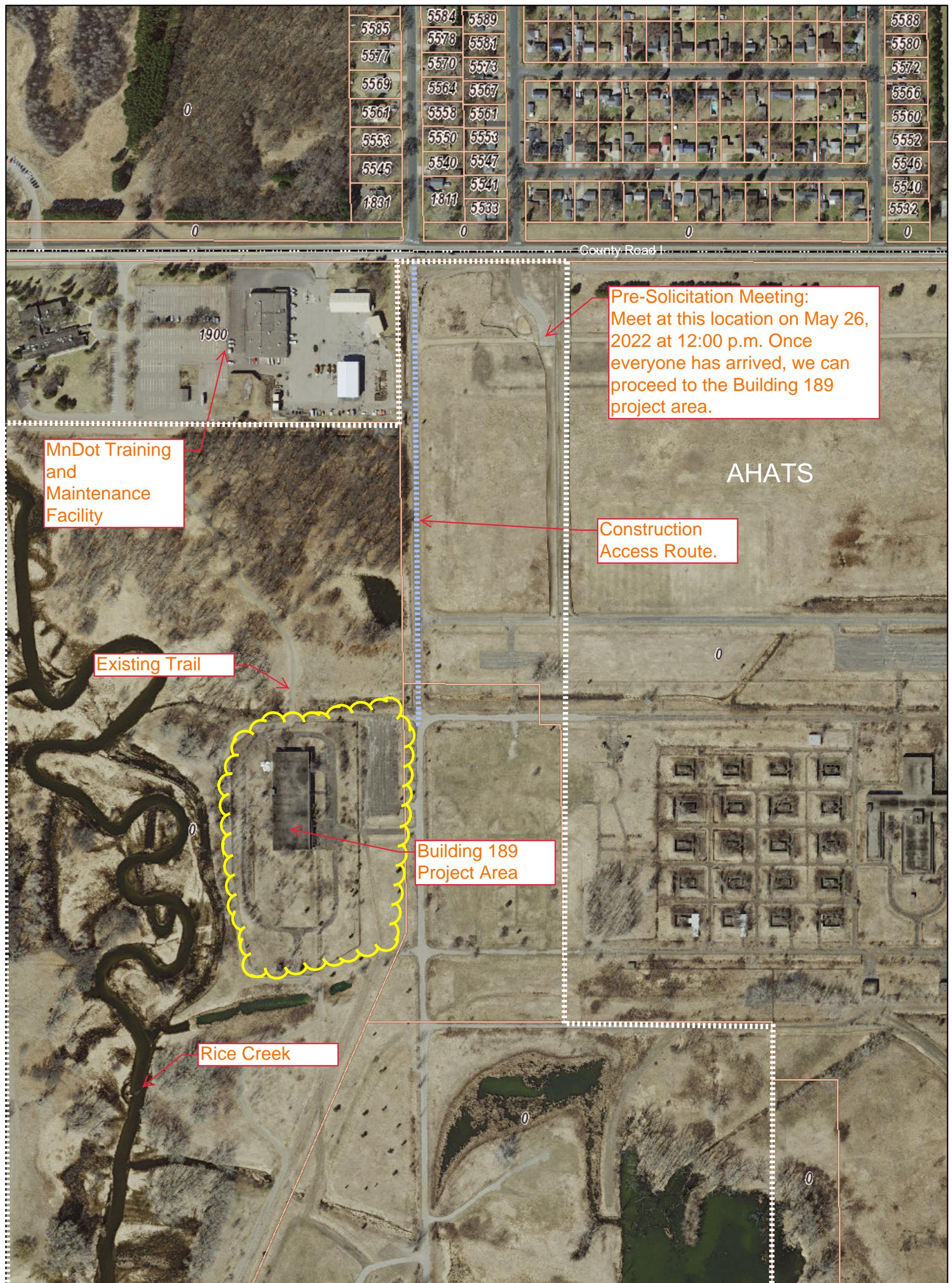


Exhibit B - Site Context Map

**EXHIBIT A – SCOPE OF SERVICES**  
**DEMOLITION OF BUILDING 189,**  
**SITE STRUCTURES & UTILITIES,**  
**SITE RESTORATION**

**Scope of Service Request:**

Ramsey County Parks and Recreation seeks design-build services for the demolition of Building 189, existing structures/utilities, and site restoration for the project area in the Rice Creek North Regional Trail Corridor.

The Contractor shall provide complete design, engineering, estimating, environmental reporting, scheduling, and construction management to arrive upon a Guaranteed Maximum Price (GMP), and associated deliverables, for incorporation into a Part 2 Agreement as defined in Scope of Service sections.

The County will evaluate proposals based on matrix scoring information provided in Section C. The County has a maximum budget of \$1,210,500 for Part 1 and Part 2 Agreements.

**Scope of Service Reference Exhibits:**

- Exhibit B – Site Context Map
- Exhibit C – Conceptual Building and Site Plan
- Exhibit D – Building 189 Structural Pre-Assessment & Programming

**Project Goal and Priority:**

*Project Goal:*

The county's overarching goal for this Project is to provide safe park and recreation facilities for users. The only way to completely resolve safety issues and unwanted activity; demolition of Building 189 and site cleanup is required.

*Project Priority:*

The County's priority for Part 1 is developing a scope of work, schedule, and detailed GMP for Part 2. As such, accurate estimating and budgeting is the primary focus for Part 1. Design and environmental reporting work in this phase shall be completed as necessary to provide accurate levels of project estimating for development of a GMP and as supported by the Project schedule.

**Scope of Services:**

Please base your scope of services on the following listed below, referenced items and attached context graphics.

**A. PART 1 SERVICES** - Please see below for the requested Project Services. Please provide a detailed project schedule identifying phase, task, and staff title with cost/ task hour breakdown within your proposal. These items should be construed as a minimum baseline for Part 1 services and may be refined throughout the Part 1 process.

**1. Project Start-up, Management and Base Information Services:**

- a. Meet with County representatives to finalize Project limits, Project scope, and Project schedule.
- b. Ramsey County will provide existing topographic survey and survey point file (AutoCAD format). The existing topographic survey includes, but is not limited to existing

**EXHIBIT A – SCOPE OF SERVICES**  
**DEMOLITION OF BUILDING 189,**  
**SITE STRUCTURES & UTILITIES,**  
**SITE RESTORATION**

topographic information, existing structures, pavements, utilities, above ground structures, and point data-base file.

- c. Review available Project information and determine potential project impacts related to design outcomes based on general high-level analysis of items below, but not limited to.
  - i. Existing private (if available) and public utilities within project limits.
  - ii. Review site impacts with above ground structures including but not limited to existing site building and structures, existing features, pavements, fences, gates, powerlines, tree/vegetation, hydrants, culverts, manholes, swales, ditches, storm sewer, culverts, and existing trail adjacent to project area.
- d. Review requirements of additional stakeholders, including but not limited to, Ramsey County Public Works, Ramsey County Environmental Health, the City of Arden Hills, and Rice Creek Watershed District (RCWD). Other stakeholders may be added to the project dependent on project impacts.
- e. Identify possible wetland impacts for the Project area. Ramsey County staff will delineate wetlands and prepare necessary reports if required.

2. **Meetings:** Attend, coordinate and lead anticipated meetings with the county, municipalities, regulatory agencies, and other defined stakeholders. These meetings may be a combination of virtual or in-person.

- a. Project Management Team (PMT) - The contractor shall attend necessary PMT meetings to advise the stakeholder groups as it relates to project activities. The contractor shall be responsible for preparing and providing project information, graphics, reports, improvement plans (plans, sections, details) and related electronic project presentations for decision making. The contractor should prepare a meeting schedule based on a project schedule and activities for time and efficiency. At a minimum, there should be a regular PMT meeting at least once a month, but in some cases the PMT meeting schedule may be adjusted dependent on project activities. Approximate time length of each PMT meeting is 1.5 hours. Team members may include but are not limited to:
  - i. County staff
  - ii. City staff
  - iii. Other local, regulatory, state as it relates to the project activities.
  - iv. Other stakeholders may be added dependent on project improvements
- b. County Staff Meetings - The contractor shall be responsible and coordinate all components for meetings with County staff to oversee specific project details and activities. These meetings may be a combination of virtual or in-person.
  - i. Project Kick-off meeting - Meet with County representatives for project start-up, finalize project limits, review project scope/schedule, and base information services.
  - ii. Regular meetings with County staff to review all project components such as, but not limited to preparation for PMT meetings, scheduling, budgets, project

**EXHIBIT A – SCOPE OF SERVICES**  
**DEMOLITION OF BUILDING 189,**  
**SITE STRUCTURES & UTILITIES,**  
**SITE RESTORATION**

components, and engagement activities. The contractor should prepare a meeting schedule based on a project schedule and activities for time and efficiency. At a minimum, there should be a regular meeting at least once a month, but in some cases, there may be a need to have bi-weekly meetings dependent on project activities.

3. **Community Notification Plan:** The contractor will develop and prepare a Community Notification Plan (CNP) in cooperation with county staff and other project stakeholders. The contractor is responsible to identify public notification goals and expectations, project decision making, milestones, key messages, supporting notification materials, plans, and graphics needed to inform the public.
4. **Topographic Services:** The contractor shall incorporate existing topographic survey and determine additional survey/topographic needs for preparation of Part 1 activities. The contractor is responsible for verification of information provided by the County and will be used as a basis for project activities.
5. **Project Design Activities:**

- a. Provide design development plans and bid documents of sufficient detail to arrive upon a Guaranteed Maximum Price for Part 2 services. Design approach should be reviewed and approved by County prior to commencing work so that the Project team mutually understands the expectations and requirements. This GMP design shall include a narrative of scope assumptions and exclusions as well. Project design activities must be performed by registered architect, engineers, or other required associated design professional that is licensed in the State of Minnesota. Project design component includes, but not limited to:
  - i. Project removal plans
    1. Building demolition plans – Removal of Building 189, building utility components, existing out building structures, structural foundations in its entirety. All building demolition debris will be sorted onsite and hauled to appropriate facility (landfill or recycling).
    2. Site demolition and clearing plans – Removal of existing site pavements and asphalts, site debris/trash, clear/grub trees and other site surface vegetation, topsoil stripping, fencing/post/post footings, railroad tracks and other site related components in its entirety. All site demolition debris shall be hauled to an appropriate facility for disposal or recycling.
  - ii. Site Grading Plans– Preparation of necessary grading plans to include but not limited to rough grading, clean fill import, finish grading to ensure surface stormwater sheds to drainage ditches/swales, tie and match into adjacent grades throughout site.
  - iii. Erosion Control Plans – Preparation of necessary plans for proper erosion control in accordance with NPDES, SWPPP, and regulatory agencies.
  - iv. Site Restoration Plans – Preparation of necessary restoration plans to

**EXHIBIT A – SCOPE OF SERVICES**  
**DEMOLITION OF BUILDING 189,**  
**SITE STRUCTURES & UTILITIES,**  
**SITE RESTORATION**

include but not limited to site seeding, site restoration, restoration of all impacted areas as a result of project activities.

v. Bid documents and Specifications – Preparation of necessary bid document and project specification for all project activities in its entirety.

b. Environmental Reporting Documents – Provide necessary environmental reporting documents including but not limited to:

- i. Pre-Demolition Building & Site Assessment with report.
  1. Contract with a hazardous material specialist to provide a pre-demolition building and site assessment.
  2. The report will be used as a supplemental instrument to secure necessary permits, and guide project design & removal activities.

c. Provide a detailed cost estimate for the Part 2 services, which, if accepted by the County, will become the basis of the Part 2 Agreement Guaranteed Maximum Price. Cost estimate components include but not limited to:

- i. All labor and material to complete project activities in its entirety.
- ii. Contractors General Conditions
- iii. Project permitting (*Note: cost of permits shall be included in the GMP*)
- iv. Project management
- v. Contractors Insurance and Bonds
- vi. Contractors Fee
- vii. Contingencies

d. Provide a baseline Critical Path Method (CPM) construction schedule for incorporation into Part 2 Agreement.

e. Coordinate with Authorities Having Jurisdiction to ensure design meets all applicable laws, codes, ordinances, statutes, and regulations. Incorporate all such requirements into design plans, bid documents.

**B. PART 2 SERVICES** – Please see below for the requested Project Services. Please provide a detailed project schedule identifying phase, task, and staff title with cost/ task hour breakdown within your proposal.

1. Prepare design based on approved Part 1 design services and consistent with the provisions of this RFP, including but not limited to, working drawings and specifications setting forth and describing the construction work to be done, the materials to be used and the work and equipment required. The design work shall be completed in support of the project schedule, and at a minimum level that allows for proper permitting and approvals, subcontracting, and construction. Given the project budget, the County wishes to minimize design related expenses in the execution of the Project.
2. Conduct construction bidding services for subcontracted work, including but not limited to:

**EXHIBIT A – SCOPE OF SERVICES**  
**DEMOLITION OF BUILDING 189,**  
**SITE STRUCTURES & UTILITIES,**  
**SITE RESTORATION**

- a. Soliciting bids from multiple contractors, with a specific outreach focus on CERT Small Business Enterprises, utilizing a bid packaging strategy in alignment with the Project schedule.
- b. Conducting a public bid opening which shall be observed by a representative of the County.
- c. Reviewing and comparing all bids.
- d. Normalizing bids to ensure an “apples-to-apples” comparison.
- e. Compiling normalized bids into a Bid Tabulation for review by County, depicting SBE vendors as well as a recommendation for award.
- f. Awarding subcontracts to the responsive and responsible bidders submitting the lowest price

3. Work with County and awarded subcontractors to conduct a value analysis on the design, to identify cost savings or performance-improvement opportunities.
4. Provide construction management services, including but not limited to:
  - a. Development of initial Critical Path Method (CPM) construction schedule for County approval and updating the schedule as appropriate throughout the duration of the Project.
  - b. Development of Site Utilization Plan, identifying any work done, safety precautions enacted to protect park and trail users, temporary barricades, rerouting of pedestrian or vehicle traffic, temporary signage locations, staging and delivery locations, worker parking locations, and other project-specific considerations for minimizing disruption, providing safe working conditions for project workers, ensuring safety of the public, and coordinating the execution of the Work. This plan shall be reviewed and approved by County prior to commencing construction.
  - c. Overall management and supervision of all subcontractors and consultants utilized to complete the Project.
  - d. Maintain clean record copies of drawings and specifications on site for viewing by County as requested.
  - e. Preparation of Project submittals according to industry standards. Submittals shall include product data for all equipment and materials; shop drawings; others as appropriate. Shop drawings and other supplemental information shall be stamped by the appropriate design professional (architect, engineer, etc.) licensed in the State of Minnesota.
  - f. Track utilization of Small Business Enterprises and submit monthly report on County's form with pay applications.
  - g. Track workforce utilization against Project goals and submit monthly report on County's form with pay applications.
5. Provide construction services as necessary to complete the Work safely, with highest levels of quality, and within approved budget and schedule.
  - a. Secure all permits necessary to complete the work. Cost of permits shall be included in GMP.
6. Provide construction administration services, utilizing qualified personnel who participated in Part 1 services, including but not limited to:
  - a. Review construction submittals.

**EXHIBIT A – SCOPE OF SERVICES**  
**DEMOLITION OF BUILDING 189,**  
**SITE STRUCTURES & UTILITIES,**  
**SITE RESTORATION**

- b. Respond to RFIs and issue ASIs as appropriate.
- c. Coordinate and participate in periodic progress meetings with County and appropriate Project personnel.
- d. Perform punch-list prior to Substantial Completion to identify incomplete work.
- e. Services described in this paragraph 6 may not be performed by Part 2 subcontractors.

7. Provide project close-out services, including but not limited to:

- a. Obtain final approvals from authorities having jurisdiction.
- b. Verify completion of punch-list.
- c. Provide complete Turnover Documents to the County in hard copy (1) and electronic copy.
- d. Electronic documents should be organized in an intuitive folder/file structure. Files should be in cad and pdf format. Turnover Documents include but are not limited to:
  - i. As-built drawings and specifications. Record documents shall be scanned and submitted electronically, as well as original “red-lines.” CAD version of all drawings should also be submitted.
  - ii. Operations and maintenance instructions for all Project materials and equipment.
  - iii. Warranties (one-year product and labor) from all subcontractors on the Project, effective from the date of Substantial Completion.
  - iv. Extended manufacturer’s warranties on all applicable products and materials, effective from the date of Substantial Completion.
  - v. Contact information for all appropriate contractors, vendors, suppliers, and manufacturers on the Project.

8. Repair or replace project components that fail in materials or workmanship within warranty period of one year, commencing from date of Substantial Completion. Failures shall be adjusted, repaired, or replaced at no additional cost or reduction in service to Owner. Warranty service shall occur during normal business hours and commence within four hours of County’s warranty service request. Provide standard manufacturer’s extended warranties on all equipment.

9. Time is of the essence. Phase 2 services shall be completed in accordance with the CPM schedule developed in Phase 1.

**C. Special Notes**

1. Proposals will be based on the provided Evaluation Criteria and Maximum Points Value.
  - a. (30%) - *Project Understanding and Approach* (understanding of project goals, objectives, tasks/activities identified within the scope of services for design and techniques used to develop design/development plans).
  - b. (15%) - *Key Personnel Qualifications* (experience, training, technical and professional ability, experience with preparation of all documentation) – **Note: Contractor must use staff proposed for project activities.**
  - c. (20%) – *Cost/Value* (Overall cost of providing the services identified within the Scope of Services)

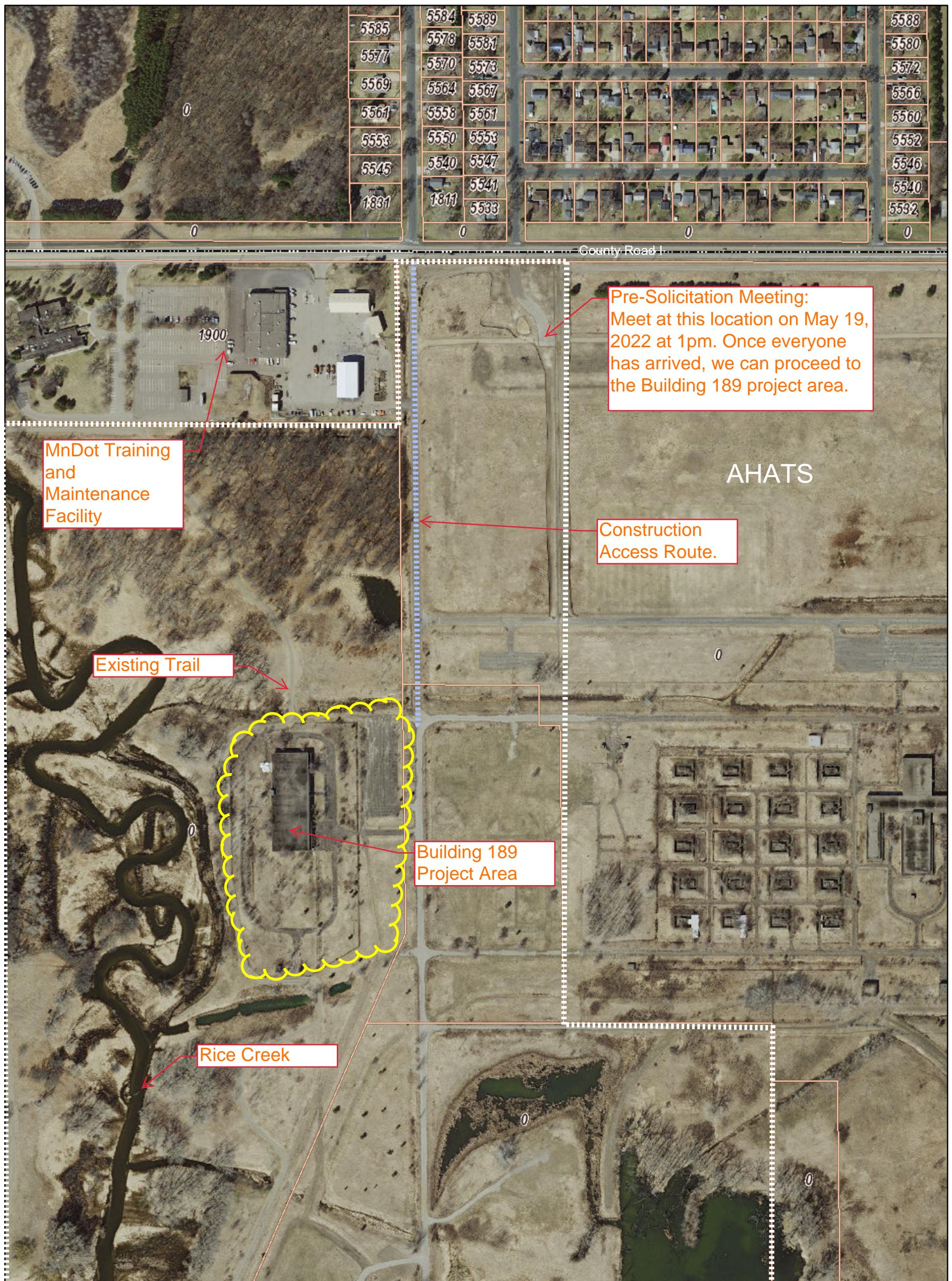
**EXHIBIT A – SCOPE OF SERVICES**  
**DEMOLITION OF BUILDING 189,**  
**SITE STRUCTURES & UTILITIES,**  
**SITE RESTORATION**

- d. *(25%) - Contractor Qualifications* (The proven performance, overall experience, resources and qualifications of the contractor and sub-contractors/consultants on projects similar in size/project scope and budget)
- e. *(10%) – SBE/Workforce Utilization Approach* (Clearly articulates approach, understanding, and implementation of SBE/Workforce strategies for utilization of SBE vendors)

***(100) Total Possible Points***

- 2. Proposal Interview – If needed, approximately 3 proposals will be short listed based on the Evaluation Criteria and total points above for interviews by the County. Interviews will be conducted by the County for final selection. The County will determine if proposal interviews are required after initial scoring of proposals.
- 3. Proposer shall provide a task table breakout for each task/phase including title and estimated hours. The contractor shall also provide an hourly cost rate sheet identifying staff hourly rates and service costs for potential scope of service additions and or deletions.

# Map Ramsey



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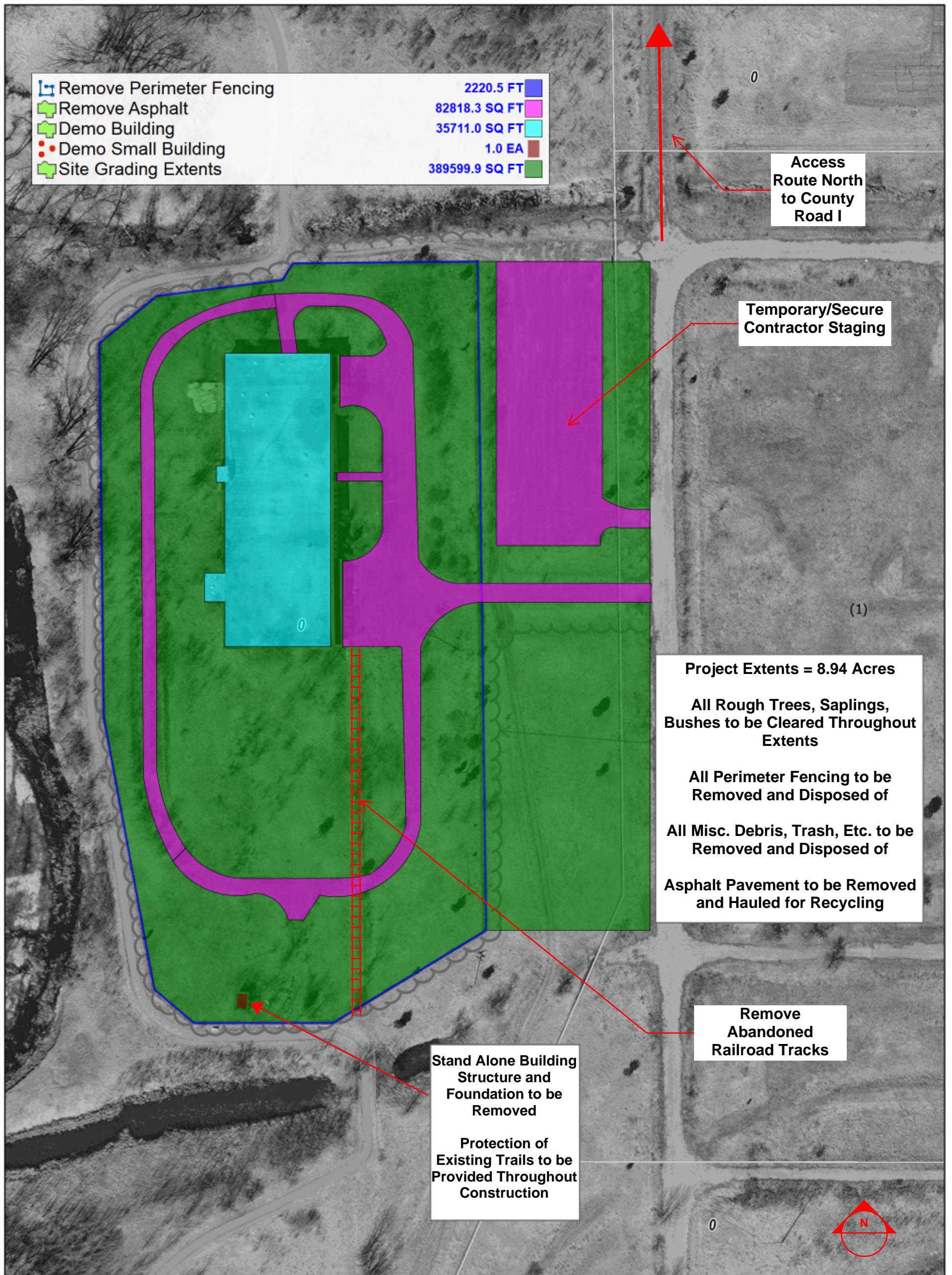
- Personal Property  County Offices
- Tax Parcels 2020 Aerial
- Cities

Red: Band\_1  
Green: Band\_2  
Blue: Band\_3

1:3,600  
0 0.04 0.08 0.12 0.16 mi  
0 0.05 0.1 0.2 km

Exhibit B - Site Context Map

Exhibit C: Conceptual Building and Site Plan



RAMSEY COUNTY BUILDING 189 DEMOLITION & SITE RESTORATION

1:1,200  
0 70 140 280 ft  
0 20 40 80 m