



REQUEST FOR PROPOSAL (RFP)  
FOR  
CONSTRUCTION MANAGER AT RISK (CMAR)

REQUESTOR: City of Georgetown  
1134 North Fraser Street  
Georgetown, SC 29440  
Contact: Daniella Howard, Purchasing Agent  
Email: dhoward@cogsc.com  
Phone: 843.545.4043

PROJECT: City Hall Rebuild – Construction Manager at Risk Services (CMAR)

PROJECT NO.: 2001

DATE OF ISSUE: Friday, September 27, 2019

DUE: **no later than 2:00 PM EST (local time) Thursday, October 24, 2019**

Return by mail or hand-deliver only to:

City of Georgetown  
Attn: Purchasing - CMAR  
Re: City Hall Rebuild Project #2001  
1134 N Fraser Street  
Georgetown, SC 29440

TABLE OF CONTENTS

<u>Topic</u>	<u>Page</u>
Background.....	3
General Information.....	3
Purpose.....	3
Project Description.....	3
Scope of Services.....	4
Process.....	5
Evaluation Criteria.....	6
Non-Mandatory Project Information Meeting.....	7
Questions.....	7
Project Schedule of Events.....	8
Submittal Instructions.....	9
Mandatory Vendor Submittal Form.....	15
General Contractual Requirements.....	16

## **Background**

The City of Georgetown (City) is an incorporated municipality with a population of nearly 10,000 residents. The City is located 60 miles north of Charleston and 36 miles south of Myrtle Beach. It is the endpoint of the area commonly known as “The Grand Strand.” The City is bordered by the Winyah Bay to the east and the Sampit River to the south. Tourism is a major economic driver in the area, as well as local industries, such as Liberty Steel, International Paper and Tideland Hospital. The City is the county seat and operates under the Mayor-Council form of government as outlined in the State of South Carolina Code Chapter II, Article I, Section 2-1. Additional information is available on our website at [www.cogsc.com](http://www.cogsc.com).

## **General Information**

The original City Hall building was constructed in 1977 and was located at 120 N. Fraser Street, Georgetown, SC. The building foundation become unstable during the US 17/City Hall Drainage Project in 2011, after a dewatering process took place. The building was deemed unsafe and uninhabitable in August 2016, and demolished in 2019.

The proposed rebuild site includes a major sewage pump station which is adjacent to the footprint of the original building. The sewage pump station is a critical facility for the City and must remain in operation while the new City Hall is under construction.

## **Purpose**

The City is seeking statement of qualifications and proposals from firms offering Construction Manager at Risk (CMAR) services for a new city hall building which may include: review of structural, mechanical, plumbing, electrical, environmental and architectural drawings being prepared by the Project Architect, Creech & Associates (Architect), together with site/civil plans, coordination of project bidding with Project Architect; selection of subcontractors; oversight of construction, coordination with the Architect and City project manager. CMAR firm must be licensed by the South Carolina Department of Labor Licensing and Regulation as a General Building Contractor, Group 5.

## **Project Description**

The new building will be approximately 16,000 sq. ft., and will accommodate the Departments of Administration, Finance, and Housing and Community Development.

The building shall be designed in accordance with the 2018 International Building Code (IBC) and in full compliance with current occupant safety, energy, fire, seismic, wind, security, mechanical and electrical standards. The building is to be classified as a Business Group Type B. This is not an LEED project.

The City anticipates the duration of construction to last twelve (12) months or less.

The project will have a guaranteed maximum price (GMP) that will be determined during the preconstruction phase.

## Scope of Services

Work will be conducted in two (2) phases to the extent approved by the City.

Phase I: Pre-Construction services to include a construction budget at the end of each design phase, derived from the conceptual plans and information regarding interior space needs, exterior modifications, and constructability reviews.

- The CMAR will perform consulting services during this phase.
- Provide a lump sum cost proposal for the following Pre-Construction Phase services:
  1. The CMAR firm shall conduct meetings with the City and the Architect to coordinate design work; provide advice on selection of materials, building systems and equipment; perform constructability reviews; estimate construction costs including alternative selection of materials and equipment; and assist the City to stay within the approved budget.
  2. Once construction documents are complete, along with the Architect, the CMAR firm shall prepare a final construction estimate within a Guaranteed Maximum Price (GMP) for City's review and approval.
  3. The anticipated duration for this phase is six (6) months.

Phase II: Construction services to include construction management services for the project throughout the construction phase, including but not limited to:

- Pre-Construction services, preparation, and coordination of bid packages with the architect, scheduling, cost control, value engineering, and construction administration.
- The CMAR will have the ultimate responsibility to hire, control, and superintend all on-site subcontractor's activities; and to deliver the project on time and with a guaranteed maximum price (GMP).
- Provide a lump sum cost proposal for both office and on-site overhead including, but not limited, to the following services:
  1. Mobilization
  2. Project management and superintendence
  3. Submittals
  4. Insurance
  5. Payment and performance bonds
  6. Procurement of materials, labor and equipment
  7. Job site office facilities
  8. On-site storage
  9. Project signage
  10. OSHA compliance
  11. Progress photos
  12. Temporary utilities

13. Travel and vehicles
14. Demobilization
15. Other miscellaneous expenses
16. Provide a percentage mark-up fee used for all onsite/office overhead and profit.

- The CMAR shall have the responsibility to deliver the project in accordance with the Drawings and Specifications; and all applicable local, state, and federal regulations, statutes, ordinances, laws, and building codes in effect at the time of construction. The CMAR shall exercise due diligence to complete the project on time and within the approved budget. The CMAR shall provide recommendations to the City with regards to acceleration of schedule during procurement and the construction phase. The CMAR shall provide the City with a baseline project schedule and monthly schedule updates. The schedule shall be in bar chart format indicating the critical path activities. The anticipated duration for this phase is twelve (12) months.

### **Process**

This solicitation will be conducted in accordance with City's Purchasing Ordinance which can be found in its entirety on the City's website at: <http://cityofgeorgetownsc.com/find/find-ordinances/>.

The City will conduct the selection of a qualified and experienced firm with extensive experience in general building construction and knowledge of the Construction Manager at Risk (CMAR) project delivery method. Award for this project will be handled in the following manner:

1. This RFP document will be made available to interested firms. To access, go to the City's website at [www.cogsc.com](http://www.cogsc.com), and click on "Bids" at the bottom of the home page.
2. Proposals will be opened publicly. Due to the possibility of negotiation with any firm submitting a reasonable and responsible proposal which appears to be eligible for contract award pursuant to the selection criteria set forth in this RFP, prices will not be divulged at the time of opening.
3. Proposals will be received and evaluated as described in this RFP. At the City's discretion, a short list of the most qualified proposers may be compiled and they may be asked to make oral presentations and/or demonstrations to the City.
4. At the conclusion of the RFP process, qualified submittals will be presented to the City Council for review and approval, as required.
5. A firm will be selected for contract negotiations as required.
6. The City will notify selected firm of intent to offer contract award.
7. The Submittal Listing of Proposals received will be posted on the City's website, [www.cogsc.com](http://www.cogsc.com), under "Bids" within forty-eight (48) hours of opening.

**Evaluation Criteria**

Contract shall be awarded to the best qualified, and lowest responsive and responsible proposer. In determining the best qualified, responsive and responsible proposer, in addition to fee, the City, shall consider:

- (a) The ability, capacity, and skill of the proposer to perform the contract to provide the service required;
- (b) Whether the proposer can perform or provide the service promptly, or within the time specified, without delay or interference;
- (c) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;
- (d) The quality of performance of previous contracts or services similar to;
- (e) The previous and existing compliance by the proposer with laws and ordinances relating to the contract or services;
- (f) The sufficiency of the financial resources and ability of the proposer to perform the contract or provide the service;
- (g) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
- (h) The ability of the proposer to provide services for the nature of the requirements of an awarded contract as required in the RFP; and
- (i) Whether the proposer has met the criteria of the RFP specifications, terms and conditions of the RFP.

Submittals will be evaluated and scored by a Project Review Committee consisting of members appointed by the City Administrator or his/her designee. Submittals will be evaluated by considering all elements of the RFP including the following criteria:

Item no.	Evaluation criteria scoring	Maximum Points
1	Construction Manager at Risk Firm Experience with Similar Projects in Government	35
2	Pre-Construction and Construction Fees	30
3	CMAR Staff Experience in Project Management: Scheduling, Budgeting; Timely Completion of Projects; Safety Awards	25
4	Background information in Hiring Veteran, Women, and Minority-Owned Firms as Subcontractors and Vendors.	10
	<b>TOTAL</b>	<b>100</b>

**Non-mandatory Project Information Meeting**

A Non-mandatory Project Information Meeting will be held at 2377 Anthuan Maybank Drive, Georgetown, SC 29440, at 10:00 am (EST) local time, Thursday, October 3, 2019.

**Questions**

No answers will be given over the phone. Questions must be submitted in writing to Orlando Arteaga, PE, City Engineer, at [uarteaga@cogsc.com](mailto:uarteaga@cogsc.com) no later than 4:00 pm EST (local time), Friday, October 11, 2019.

Please note - if you do not receive confirmation from the City that your email was received before the deadline, it is the sole responsibility of the bidder to contact the purchasing agent at 843.545.4043.

No questions will be accepted after the aforementioned deadline. All submittals shall include the following in the subject line:

**Questions - RFP for City Hall Rebuild Proj #2001 - CMAR**

Answers to questions will be posted on the City's website at [www.cogsc.com](http://www.cogsc.com), under "Bids" as an Addendum no later than 5:00 pm EST (local time), Monday, October 14, 2019.

**Project Schedule of Events**

The following is the schedule of events listed in the order of occurrence, showing the major milestones from the issuance of the RFP to the contract award:

<b>MILESTONE EVENT</b>	<b>DATE</b>	<b>TIME EST (LOCAL TIME)</b>
1. Request for Proposal (RFP) issued	Friday, September 27, 2019	
2. Non-mandatory Project Information Meeting; 2377 Anthuan Maybank Drive, Georgetown, SC, 29440	Thursday, October 3, 2019	10:00 am
3. Deadline for questions - emailed to oarteaga@cogsc.com	Friday, October 11, 2019	4:00 pm
4. Deadline for addenda to be posted to the City's website, www.cogsc.com, under "Bids"	Monday, October 14, 2019	5:00 pm
5. Proposal due date	Thursday, October 24, 2019	No later than 2:00 pm
6. City Council contract approval (tentative)	Thursday, November 21, 2019	
7. Pre-Construction Phase I Start (tentative)	Monday, December 16, 2019	
8. Pre-Construction Phase I Completion (tentative)	Friday, May 15, 2020	
9. Construction Phase II Start (tentative)	Wednesday, July 15, 2020	
8. Construction Phase II Completion	365 calendar days after issuance of the Notice to Proceed (NTP)	

The City reserves the right to change the project schedule as it deems necessary. In the event of a major date change, the City will notify known participants. The City reserves the right to issue addenda to this RFP up to three (3) days before the RFP due date as needed to clarify the City's desires, or to make corrections or changes to the RFP document or submittal process.

When the Procurement Division is closed due to force majeure, proposal openings will be postponed to the same time on the next official business day.

The City also reserves the right to cancel or reissue the RFP and/or revise the project schedule at any time.



The City reserves the right to accept or reject any or all proposals as deemed to be in its best interest and to accept all or part of the scope of work herein as its project timeline and/or budget allows. All information will be updated and posted on the City’s website [www.cogsc.com](http://www.cogsc.com) under “Bids”. It is the proposer’s responsibility to obtain the information directly from the City’s website regarding this project.

The proposer will acknowledge receipt of all issued addenda in their submittals, if applicable.

No: \_\_\_\_\_ Dated: \_\_\_\_\_

No: \_\_\_\_\_ Dated: \_\_\_\_\_

No: \_\_\_\_\_ Dated: \_\_\_\_\_

### Submittal Instructions

Notes:

- When the Procurement Division is closed due to force majeure, bid openings will be postponed to the same time on the next official business day. Vendor is responsible to obtain information regarding bid submittals directly from the City’s website, [www.cogsc.com](http://www.cogsc.com).
- The City intends to enter into a contractual agreement with the CMAR firm using an *AIA A133-2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the cost of the Work Plus a Fee with a Guaranteed Maximum Price*.
- All procurement procedures are subject to the City’s procurement policies as outlined in Section 2-187 of the City’s municipal code.
- The City’s Purchasing Ordinance can be found in its entirety on the City’s website at: <http://cityofgeorgetownsc.com/find/find-ordinances/>.

To be considered responsive, interested parties **must** comply with the following:

Submit sealed proposals by mail or hand-deliver only to:

City of Georgetown  
Attn: Purchasing - CMAR  
Re: City Hall Rebuild. Project #2001  
1134 N Fraser Street  
Georgetown, SC 29440

Sealed proposals must be clearly marked “CMAR Project #2001” on the outside of the package. Sealed proposals must be received by the City on or before the deadline, 2:00 pm, Thursday, October 24, 2019 EST (local time). Proposals will be opened publicly. Due to the possibility of

negotiation with any firm submitting a reasonable and responsible proposal which appears to be eligible for contract award pursuant to the selection criteria set forth in this RFP, prices will not be divulged at the time of opening. Sealed proposal must include the following:

1. Letter of Interest
2. Statement of Qualifications
3. Professional References
4. Phase I: Pre-Construction proposal to include lump sum cost for all services.
5. Phase II: Construction proposal to include lump sum cost for all services.
6. Completed Mandatory Vendor Submittal Form
7. One (1) electronic copy – Ex. USB flash drive - with the entire submittal in PDF format.

1. Proposals must be received by the City's Purchasing Department at City Hall, 1134 N. Fraser Street, Georgetown, SC, 29440 no later than the aforementioned deadline. No proposal will be accepted after such time. It is the sole responsibility of the firm to have their proposals delivered to the City before the closing hour and date. The City assumes no responsibility for delivery of proposals that are mailed. Late, faxed, or emailed proposals will not be accepted nor considered for any reason and will remain unopened. The official clock shall be that of the City's Purchasing Agent, or designee. The City reserves the right to accept reject any or all proposals and to waive any informalities and technicalities in the proposal process. No additional fees, costs, or any other reimbursable expenses will be allowed.
2. The City reserves the right to waive any technicalities or informalities and to accept or reject any and/or all submissions as deemed by its sole judgment to be in its best interest. The City also reserves the right to terminate the selection process without notice, to waive any irregularities in any submittal, and to request additional information from any of the firms submitting a proposal.
3. Submissions must be sealed and clearly identify the name and number of the RFP on the outside of the envelope/package, as well as the submitter's business name, address, and license number (if applicable). No other information shall be included or written on the outside of the proposal envelope/package. The City shall not be responsible for unidentified proposals.
4. Any firm may withdraw their qualifications either personally or by written request, at any time prior to the scheduled opening of responses. No firm may withdraw qualifications for a period of sixty (60) days after the opening date. All firms shall be subject to the approval of the City Council.
5. Proposals must be submitted by firm's own format and shall address all RFP requirements. Partial or incomplete proposals may be rejected.
6. All costs incurred in preparing the proposal, or costs incurred in any other manner by the firm in responding to this RFP, will be wholly the responsibility of the firm. All materials and documents submitted by the firm in response to this RFP become the property of the City and will not be returned.

7. Any proprietary information contained in the proposal should be so indicated as follows:

Vendor Disclosure

Notice of SC Freedom of Information Act

“The parties acknowledge that all material submitted may be subject to release under the South Carolina Freedom of Information Act (FOIA) and will be released to the public unless exempt from disclosure under the FOIA.”

We discourage you from including any information you consider propriety or trade secret, as this material is subject to the FOIA once it's in the City's possession. If you must include any such information in your submission, please identify it by color, labeling, and/or bold font so that it can be readily recognized. In the event the City receives a request for this material, the City will notify those parties who have identified information they believe is proprietary or trade secret of the request. The City has a ten (10) day deadline to respond to the request. This is your window to file an action challenging the release. Please be on notice that if the City is not served with such an action, the information will be released.

8. Proposals must be made in the official name of the company or individual under which business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the person, partnership, company or corporation submitting the proposal. Proposals having any erasures or corrections must be initialed in ink by the vendor.
9. Letter of Interest – Must be no more than one (1) page (one page is one side of an 8.5” x 11” paper) in length and include contact information and signature of company owner/president/CEO.
10. Statement of Qualifications, Experience, and Availability – Must be no more than five (5) pages. It should summarize qualifications, relevant experience, and availability to participate in the RFP process to provide requested services to the City. Key staff members participating should be identified. Include photos of recent projects.
11. Proposed Process Approach – **Not applicable for this RFP** - Must be no more than two (2) pages summarizing the method and approach to providing preconstruction and construction services to the City.
12. List of Professional References – Must be no more than one (1) page listing most recent professional references for similar projects and their contact information.
13. Disqualification and Rejection of Proposal – The City reserves the right to reject any proposal from a firm who has failed to perform satisfactorily, or complete on time, or in a manner consistent with the RFP documents, contract of similar nature, or to reject the proposal from a firm who is not in a position to perform such a contract satisfactorily. The City expressly reserves the right to award the contract to the firm that best meets the requirements as set forth herein.
14. Assignment of Contract – Assignment to the selected firm of any contract to be entered into in accordance with this RFP will not be recognized by the City unless such assignment has prior written approval of the City.
15. Insurance Provisions - The selected firm will be required to provide and maintain proof of insurance throughout the contract term in the amount of \$1,000,000.00 and as required at point of contract negotiation by the City's Risk Manager as follows:
  - Comprehensive General Liability (per occurrence);
  - Comprehensive Auto Liability (per occurrence); and

- Workers' Compensation Liability
- Automobile Liability
- Professional Liability

The City is to be named as "Additional Insured" on the above insurance coverage as respect to the City's interest under the contract. Certificates showing proof of insurance shall be submitted to the City prior to commencement of services under the Agreement. Further, it shall be an affirmative obligation upon the firm to advise the City's Risk Management Department within two (2) days of the cancellation herein at one of the following options below:

- Email - [cmcdaniel@cogsc.com](mailto:cmcdaniel@cogsc.com)
- Fax - 843.527.6173
- Mailing address - PO Box 939, Georgetown, SC 29442 or
- Physical address - 1134 N. Fraser Street, Georgetown, SC, 29440

Failure to do so shall be construed to be a breach of the agreement:

16. Indemnification - The selected firm agrees to indemnify, defend and hold harmless the City and their authorized officers, employees, agents, and volunteers from any and all claims, actions, losses damages, and/or liabilities arising from their acts, errors, or omissions and for any costs or expenses incurred by the City therefore under an agreement.
17. Compliance With Law – The selected firm and its agents and employees shall be bound and comply with all federal, state and local laws, ordinance rules and regulations, as well as all other governing bodies having legal jurisdiction with respect to the area where such work is performed.
18. City Business License and Permits - The selected firm shall be required to obtain all applicable City permits and business licenses prior to work commencing. Contact Jestin Gilliard, Revenues Manager, [jgiillard@cogsc.com](mailto:jgiillard@cogsc.com) or 843.545.4041, for business license information. Contact the Planning & Community Development Department at 843.545.4017 for permitting information. These expenses shall be included in the total proposal cost.
19. Payment terms - A monthly itemized billing statement must be submitted in a form specified by the City for services performed. The City will remit full payment on all undisputed invoices within thirty (30) days from receipt of the invoice by the appropriate person(s) (to be designated at the time of contract).
20. Payment and Performance Bonds – Payment and Performance Bonds or other securities will be requested as deemed advisable to protect the City's interest as per Section 2-186 of the City's Procurement Ordinance. Such will be dependent upon the scope and the amount of the awarded contract by the City in regards to this or any subsequent related project thereto. When a construction contract is awarded in excess of \$100,000 the following bonds or security shall be delivered by the successful proposer to the City and shall become binding on the parties upon execution of the contract. Performance bonds shall not be used in substitution for determination of proposer's responsibility.
  - (a) A performance bond shall be in an amount equal to one hundred and ten percent (110%) of the contract amount; and
  - (b) A payment bond for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work shall be in an amount equal to one hundred percent (100%) of the contract amount.

Approved by council 1.19.2017

AN ORDINANCE TO AMEND  
CHAPTER 2 ADMINISTRATION –  
ARTICLE IV PROCUREMENT

SECTION 2-185 COMPETITIVE SEALED PROPOSALS LOCAL VENDOR PREFERENCE

WHEREAS, Council has determined that the existing Purchasing Regulations of the City of Georgetown should be revised and updated; and

WHEREAS, Council desires to further its support of local businesses when awarding contracts for the provision of supplies and construction services to the City through established procurement procedures.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Georgetown, South Carolina that the existing Chapter 2, Article IV, of the City Code of Ordinances.

ARTICLE IV. PROCUREMENT  
DIVISION 2. ETHICS IN CITY CONTRACTING

Section 2-185 Competitive Sealed Proposals (Proposal)

Local Vendor Preference Option

1. A vendor shall be deemed a Local Georgetown City/County vendor for the purposes of this Section if such vendor is an individual, partnership, association or corporation that is authorized to transact business within the State, maintains an office in Georgetown County, and maintains a representative inventory or commodities within the City/County on which the proposal is submitted, and has paid all taxes and business license fees duly assessed.
2. This option allows the lowest local proposer whose proposal is within five-percent (5%) of the lowest non-local Proposer to match the proposal submitted by the non-local Proposer and thereby be awarded the contract. This preference shall apply only when (a) the total dollar purchase is \$10,000 or more; (b) the vendor has a physical business address located and operating within the limits of Georgetown County and has been doing business in the City/County for a period of twelve (12) months or more; and (c) the vendor provides proof of payment of all applicable Georgetown City/County taxes, business license and fees if so requested.
3. Should the lowest responsible and responsive Georgetown City/County proposer not exercise its right to match the proposal as granted herein, the next lowest qualified Georgetown City/County proposer shall have that right and so on. The right to match the non-

Georgetown City/County proposer's proposal shall be exercised within 24 hours of notification.

4. In order to qualify for the local preference authorized by this Section, the vendor seeking same shall be required to submit with its proposal a statement containing relevant information which demonstrates compliance with the provisions of this Section. This statement shall be on the "MANDATORY VENDOR SUBMITTAL" form included in this proposal document. Failure to provide such affidavit at the time the proposer submits its proposal shall constitute a waiver of any claim for preference.

5. For all contracts for architecture, professional engineering, or other professional services governed by Section 2-187, Professional and Construction Services, the City shall include the local business status of a firm among the factors considered when selecting which firms are "most highly qualified." In determining which firm is the "most qualified" for purposes of negotiating a satisfactory contract, preference shall be given to a local business where all other relevant factors are equal.

6. Local preference shall not apply to the following categories of contracts:

- (a) Goods or services provided under a cooperative purchasing agreement or similar "piggyback" contract;
- (b) Contracts for professional services except as provided for in Section 2-187 above;
- (c) Purchases or contracts which are funded, in whole or in part, by a governmental or other funding entity, where the terms and conditions of receipt of the funds prohibit the preference;
- (d) Purchases or contracts made pursuant to a noncompetitive award process unless otherwise provided by this section; or
- (e) Any proposal announcement which specifically provides that the general local preference policies set forth in this section are suspended due to the unique nature of the goods or services sought, the existence of an emergency as found by either City Council or City Administrator, or where such suspension is, in the opinion of the City Attorney, required by law.



**MANDATORY VENDOR SUBMITTAL FORM**

AN ORDINANCE TO AMEND  
CHAPTER 2 ADMINISTRATION - ARTICLE IV  
PROCUREMENT – JANUARY 19, 2017

SECTION 2-185 COMPETITIVE SEALED PROPOSALS LOCAL VENDOR PREFERENCE

ARTICLE IV.  
PROCUREMENT  
DIVISION 2. ETHICS IN CITY CONTRACTING

I certify that [Company Name] \_\_\_\_\_  
is a **Resident Bidder** of Georgetown City/County as defined in the City of Georgetown  
Ordinance Chapter 2 Administration, Article IV Procurement, Section 2-185, and our principal  
place of business is \_\_\_\_\_ [City and State].

I certify that [Company Name] \_\_\_\_\_  
is a **Non-Resident Bidder** of Georgetown City/County as defined in the City of Georgetown  
Ordinance Chapter 2 Administration, Article IV Procurement, Section 2-185, and our principal  
place of business is \_\_\_\_\_ [City and State].

(X) \_\_\_\_\_

Signature of Company Officer

(X) \_\_\_\_\_

Date

## General Contractual Requirements

1. Force Majeure - The proposer shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the proposer. Such causes may include, but are not limited to acts of God or of the public enemy, acts of Governments in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restriction, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the proposer.
2. Governing Law - Except to the extent that this agreement may be governed by any federal law, including federal bankruptcy law, this Agreement shall be governed by, constructed and interpreted under, and enforced exclusively in accordance with the laws of the State of South Carolina, and the courts in the State of South Carolina shall have jurisdiction with respect to any dispute arising hereunder.
3. Proposer Qualifications - Proposer must, upon request of the City, furnish satisfactory evidence of its ability to furnish products and/or services in accordance with the terms and conditions of this RFP. The City reserves the right to make the final determination as to the proposer's ability to provide the services herein.
4. Proposer Responsibility – Each proposer shall fully acquaint him/herself with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this RFP. It is expected that this will sometimes require on-site observation. The failure or omission of the proposer to acquaint him/herself with existing conditions shall in no way relieve him/her of any obligation with respect to this RFP or to a contract.
5. Affirmative Action - The proposer will take affirmative action in complying with all federal and state requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees without regard or discrimination by reason of race, color, religion, sex, national origin or physical handicap.
6. Women and Minority Business Enterprise (WMBE) Statement - It is the policy of the City to provide minorities, and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to employment, construction projects, and lease agreements consistent with the laws of the State of South Carolina. It is the policy of the City to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, national origin, religion, sex, age, handicap, or veteran status. It is further the policy of the City to conduct its contracting and procurement programs so as to prevent such discrimination and to resolve any and all claims of such discrimination.
7. Termination - Subject to the following provisions, any contract resulting from this request for proposals may be terminated by the City provided a thirty (30) day advance notice in writing by the City Administrator, or his designee, is given to the proposer:
  - 7.1 Non-Appropriations - Funds for this contract are payable from local appropriations. If the sufficient appropriations are not made to pay the charges under the contract it shall terminate without any obligation to the City.
  - 7.2. Convenience - In the event that a contract is terminated or canceled upon request and for the convenience of the City without the required thirty (30) day advance written notice, then the City shall negotiate reasonable termination costs, if applicable.
  - 7.3 Cause - Termination by the City for the cause, default or negligence on part of the proposer, shall be excluded from the foregoing provisions; termination costs, if any shall



not apply. The thirty (30) day advance notice requirement is waived and the default provision herein shall apply.

7.4 Default – In case of default by the proposer, the City reserves the right to purchase any and all items/services in default in open market, charging proposer with any excessive costs. SHOULD SUCH CHARGE BE ASSESSED, NO SUBSEQUENT PROPOSALS OF THE DEFAULTING PROPOSER WILL BE CONSIDERED UNTIL THE ASSESSED CHARGE HAS BEEN SATISFIED.

8. Prime Proposer Responsibilities - The proposer will be required to assume sole responsibility for the complete effort as required by this RFP. The City will consider the proposer to be the sole point of contact with regard to all contractual matters.
9. Subcontracting - If any part of the work covered by this RFP is to be subcontracted, the proposer shall identify the subcontracting organization and the contractual arrangements made therewith at the time of the offer. All subcontractors must be approved by the City. The successful proposer will also furnish the corporate or company name and the names of the officers of any subcontractors engaged by the proposer.
10. Ownership of Material – All materials and documents submitted by the proposer in response to this specification become the property of the City and will not be returned to the proposer.
11. Compliance with State and Federal Requirements – State and Federal requirements that are more restrictive than these set forth herein shall be followed by the proposer.
12. Contract Amendments - Amendments to any agreement between the City and the proposer must be reviewed and approved in writing by the City Administrator or his designee.
13. Assignment - No contract or its provisions may be assigned, sublet, or transferred without the written consent of the City Finance Department.
14. Records Retention and Right to Audit – The City shall have the right to audit the books and records of the proposer as they pertain to this contract. Such books and records shall be maintained for a period of three (3) years from the date of final payment under contract.
15. The City may conduct performance audits of the proposer, as determined necessary by the City. Pertaining to all audits, the proposer shall make available to the City, access to its computer files containing the history of the contract performance and all other documents related to the audit. Additionally, any software used by the proposer shall be made available for auditing purposes at no cost to the City.
16. Independent Contractor Status - The parties hereby agree that the contractor is an independent contractor of the City and that nothing in an agreement with the City shall be deemed to place the parties in a relationship of employer/employee, partners, or joint ventures. Neither party shall have the right to obligate or bind the other in any manner. Each party agrees and acknowledges that it will not hold itself out as an authorized agent with the power to bind the other party in any manner. Each party shall only be responsible for any withholding taxes, payroll taxes, disability insurance payments, unemployment taxes, or other similar taxes or charges with respect to its activities in relation to the performance of its obligations of an agreement.
17. Representations of Proposer - Proposer represents, warrants, and covenants that:
  - (a) In providing the services proposer shall utilize the care and skill used by members of proposer's profession practicing under similar circumstances at the same time and in the same locality.

- (b) All employees provided by the proposer to the City shall have the qualifications, skills, and experience necessary to perform his/her job in accordance with the requirements of the agreement. The City may request removal of any employee for good cause.
  - (c) Proposer is a business, validly existing and in good standing under the Laws of the State of South Carolina.
18. Indemnity Provisions - Proposer agrees to and shall indemnify and hold the City harmless from and against all liability, loss, damages or injury, and all costs and expenses (Including attorney fees and costs of any suit related thereto) suffered or incurred by the City, arising from or related to the terms of this project, or proposer's performance thereunder.
19. City Business License and permits - The selected proposer shall be required to obtain all applicable City permits and business licenses **prior to work commencing**. Contact Jestin Gilliard, Revenues Manager, [jgiiliard@cogsc.com](mailto:jgiiliard@cogsc.com) or 843.545.4041, for business license information. Contact the Planning & Community Development Department at 843.545.4017 for permitting information. These expenses shall be included in the total proposal cost.