



MINNESOTA
DEPARTMENT OF TRANSPORTATION
DISTRICT 6

REQUEST FOR PROPOSALS

TRUNK HIGHWAY 43

Winona Bridge

Construction Manager General Contractor (CMGC)

PROJECT

S.P. 8503-46 (TH 43)

October 2, 2013

Addendum No. ~~12 October~~ November 85, 2013

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PROPOSAL FORMS

- Form 1 Information about Proposer Organization
- Form 2 Responsible Proposer and Major Participant Questionnaire
- Form 3 Conflict of Interest Disclosure Statement
- Form 4 Affirmative Action Certification
- Form 5 ~~Resident Vendor Form~~ Affidavit of Non-Collusion

1 INTRODUCTION

1.1 GENERAL INFORMATION

This Request for Proposals (RFP) is issued by the Minnesota Department of Transportation (MnDOT) to all firms and teams of firms (“Proposer”) that MnDOT has shortlisted for Construction Manager General Contractor (CMGC) services for the Trunk Highway 43 (T.H. 43) Winona Bridge Project (the “Project”) located in Winona County, Minnesota. MnDOT hereby invites such Proposers to submit competitive proposals (“Proposals”) for CMGC services for the Project as more specifically described in this RFP.

The Project will be funded with State, Federal and Local dollars thereby requiring that the Proposers adhere to all pertinent Federal, state and local laws, regulations and/or requirements.

This RFP uses the term “CMGC Contractor” when indicating the construction firm that will provide pre-construction services as Construction Manager. The CMGC Contractor may be awarded a construction contract to become the General Contractor if the terms of construction, including the cost, meet the CMGC procurement requirements. For more information on CMGC contracting and the scope of work required for this project, refer to Exhibit 1 and Exhibit 2 of this RFP.

1.2 PROJECT TEAM & RESPONSIBILITIES

The Project Team, as referenced herein, is composed of MnDOT, MnDOT’s Design Consultant (Designer), and the CMGC Contractor. MnDOT is in the process of hiring a separate independent cost estimator (ICE) through a separate procurement process, with whom the CMGC Contractor will coordinate throughout the design phase of the Project. More definition of the roles and responsibilities of the Project Team and the ICE can be found in the RFQ.

1.3 PROJECT DESCRIPTION

The project is primarily located in Winona County, Minnesota, within the city of Winona. The project limits extend a total of 0.6 miles from approximately the 4th Street Intersection to Latsch Island.

The project scope includes the construction of:

- New Bridge 85851, a proposed concrete box girder bridge spanning the Mississippi River.
- Rehabilitation and reconstruction of existing historic Bridge No. 5900.
- Roadway work on both approaches.

New Bridge 85851 is proposed as a segmental concrete box girder type river crossing bridge constructed upstream of the existing bridge. The bridge type was selected to avoid impacts to federally protected migratory birds and to minimize visual effects to the existing historic bridge. The new 50 ft, 4 inch wide bridge will carry two lanes of traffic with shoulders and a separated 12 foot pedestrian and bike lane. When open, two-way traffic will be moved onto the bridge while the existing bridge is being rehabilitated. When the new bridge is completed, traffic will be two lanes in the southbound direction.

Existing Bridge No. 5900 listed on the national register of historic places is historic with an overall structure length of 2,281 feet. This includes a 933-foot, three span, continuous steel, riveted high truss, with 21 approach spans consisting of 3 spans of steel girders, 12 spans of concrete girders and 2 spans of steel, riveted deck truss on the south end and 4 spans of steel, riveted deck truss on the north end. The posted speed limit is 40 mph. Current traffic volumes of approximately 11,000 AADT are planned to be routed onto the new Bridge 85851 during rehabilitation of the existing Bridge 5900. Bridge 5900 carries a 4-1/2 foot wide walkway over the Mississippi River. The walkway is not part of the original bridge design; it was added in the 1980's. This walkway will be eliminated during rehabilitation and a new 12 foot wide shared-use path will be constructed on the new bridge.

Bridge No. 5900 has undergone several repair projects including the replacement of the deck, widening of the roadway to 30 feet, and replacement of concrete girder approach spans 1 and 2 with steel-stringer spans in 1985. Repairs were completed to the concrete piers in 1992 and 1998. Bridge No. 5900 was load rated in 2008.

Once the new bridge is open to traffic, Bridge 5900 will be rehabilitated as follows: the southerly approach spans (spans 1-15) will be reconstructed, the southerly deck truss spans (spans 16 and 17) will be reconstructed (as a replica), the through truss (spans 18-20) will be rehabilitated, and the northerly approach deck truss spans (spans 21-24) will be reconstructed (as a replica). Rehabilitation of the through truss is needed to refurbish existing members that may be near the end of their anticipated life cycle and prevent further corrosion; while preserving the historic character-defining features including the unusual truss design, ornamental metal railings and lighting, and Classical Revival detailing on concrete railing posts and abutments. Reconstruction of both approaches will be done to replicate the existing historical elements of the structure. When the rehabilitation is complete, traffic on the bridge will be two lanes in the northbound direction. Roadway work is required at the north and south access points in order to integrate the new and existing bridges into the existing roadway system. On the south end, the intersection of 4th Street and Winona Street will be reconstructed to connect the new northbound lanes into the intersection. Median and channelization is required to accommodate the new northbound lane approach and capacity improvements. On the north end, roadway work is required to tie the new bridge to TH 43 on Latsch Island. Sidewalk and trail construction is necessary at both ends to connect into the existing system. Two-way traffic across the Mississippi River will be maintained during all phases of construction.

At each approach touchdown, it is MnDOT's intent to not preclude the use of either bridge to carry one lane of traffic each way if, under emergency situations, one of the bridges needed to be closed.

Reference and background materials for this project are available at the following ftp site:
ftp://ftp2.dot.state.mn.us/pub/outbound/district6/Winona%20Bridge/Proposal_Information/

- Draft preliminary plans for the new bridge 85851 (recommended alternative, See [Section 1.4](#))
- Draft preliminary plans of the existing bridge 5900
- Bridge Type Study Report
- Draft preliminary geometric layout for the project.

- Draft Section 106 Programmatic Agreement

Additional information regarding the project and MnDOT’s CMGC process can be found on the following websites:

Winona Project Website: <http://www.dot.state.mn.us/d6/projects/winonabridge/index.html>

MnDOT CMGC Website: <http://www.dot.state.mn.us/const/tools/const-manager-general-contractor.html>

1.4 STATUS OF NEPA (ENVIRONMENTAL) DOCUMENT

MnDOT is currently in the process of completing the Environmental Assessment (EA) as part of the NEPA process for this project. Under the NEPA process, MnDOT is required to evaluate a range of alternatives that meet the project’s purpose and need, including a no-build alternative. The project description outlined in Section 1.3 is based on MnDOT’s current recommended alternative being considered in the EA. Until FHWA approves the EA and formalizes that decision in a decision document, MnDOT cannot make any commitments regarding the final selection of the alternatives currently being evaluated. MnDOT is required to consider the comparative merits of all alternatives under consideration in the EA (including the no-build alternative) as the alternatives are being evaluated and objectively considered. Part of the CMGC Contractor’s services may include providing technical assistance as alternatives are evaluated in the NEPA process. Because NEPA requires that MnDOT consider the no-build alternative, MnDOT reserves the right to terminate the P / T contract in the event that the no-build alternative is selected by FHWA.

1.5 PROCUREMENT METHOD

MnDOT will use a two-phase process to select a CMGC Contractor to provide services for the delivery of the Project. As part of the first phase, MnDOT determined the shortlist for the Project based on Statements of Qualifications (“SOQs”) it received in response to MnDOT’s Request for Qualifications (“RFQ”) dated August 1, 2013. This RFP is issued as part of the second phase. MnDOT will accept Proposals only from such shortlisted submitters of SOQs. Pursuant to Minnesota Statute 161.3209, MnDOT will award a Professional / Technical (P/T) Services Contract (if at all) for pre-construction services to the responsive and responsible Proposer offering a Proposal that has the highest technical score, meets the standards established by MnDOT, and successfully negotiates an acceptable preconstruction services scope of work and fee-fee and CMGC fixed markup percentage. MnDOT reserves the right to reject any or all Proposals.

Once the pre-construction phase of the Project nears completion, the CMGC Contractor is given an opportunity to provide a bid called a Guaranteed Maximum Price (GMP) to construct the Project, or a package for a phase of the Project. Upon successful review and approval of the CMGC Contractor’s bid, MnDOT then awards a construction contract to the CMGC Contractor, who becomes the General Contractor for the construction phase of the Project. The CMGC Contractor will also be required to provide payment and performance bonds covering the project. If the Owner and CMGC Contractor fail to reach agreement on price, MnDOT may terminate the CMGC professional/technical services contract without penalty or payment (except payment for previously performed pre-construction services) and procure the construction of the Project by some other method. If there are multiple work packages on a project, the CMGC contractor will be allowed to continue to perform construction services for previously awarded work packages, but MnDOT will procure future work packages by another procurement method.

1.6 PROJECT GOALS

The following goals have been established for the Project:

- Shift all Trunk Highway 43 traffic to new Bridge No. 85851 as expeditiously as possible to minimize the risk of closures of existing Bridge No. 5900 for bridge maintenance activities.
- Design and construct a high quality project that minimizes future maintenance.
- Minimize impacts to the environment.
- Substantial completion of the overall project by the Spring 2020. Allow and encourage innovative ideas to improve quality, shorten the schedule, reduce cost, or reduce impacts to the public, environment, etc; ultimately to provide value to both MnDOT and the CMGC Contractor.
- Successfully deploy the CMGC delivery method.
- Facilitate and foster collaboration, communication, and partnership with all members of the Project Team and stakeholders during design and construction.
- Ensure the rehabilitation and reconstruction of Bridge No. 5900, which is listed on the National Register of Historic Places, does not compromise the integrity of the historic features of the bridge or other historic properties in downtown Winona identified in Appendix A of the Section 106 Programmatic Agreement.
- Provide assistance to MnDOT to enhance the Section 106 historical review and approval processes, including any visual quality review and coordination.

In addition to the goals listed above the following are always important project goals to MnDOT; safety of workers and public, quality, budget, environmental stewardship and public engagement.

1.7 CHANGE IN PROPOSER’S ORGANIZATION

If a Proposer wishes to change its organization from that described in its SOQ, Proposer shall obtain written approval of the change from the Commissioner prior to submitting their Proposal. This includes any changes in the form of organization of any CMGC firm or individual identified in the SOQ (including additions, deletions, and reorganization). To qualify for the Commissioner’s approval, the written request shall document that the proposed removed, replaced, or added CMGC firm or individual will be equal to or better than the CMGC firm or individual identified in the SOQ. The Commissioner will use the criteria specified in the RFQ to evaluate all requests. Any such request shall be addressed to the Project Manager at the address set forth in [Section 3.3](#), accompanied by the information specified for such entities or individuals in the RFQ. The Commissioner is under no obligation to approve such requests and may approve or disapprove a portion of the request or the entire request at his or her sole discretion.

1.8 ESTIMATED COST; MAXIMUM TIME ALLOWED

The estimated construction cost of the Project is between \$90-\$120 million. All aspects of the project are expected be completed and open to traffic no later than Spring 2020.

1.9 DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of MnDOT that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, and other small businesses shall have the maximum feasible opportunity to participate in contracts financed in whole or in part with public funds. Consistent with this policy, MnDOT will not allow any person or business to be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any U.S. Department of Transportation (DOT)-assisted contract because of sex, race, religion, or national origin. MnDOT has established a DBE program in accordance with regulations of the DOT, 49 CFR Part 26. In this regard, the CMGC Contractor will take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform the contract.

MnDOT will determine a DBE goal for this project. The DBE goal, which will be identified once the design of the project is nearing completion, will apply to the construction of the project. There will not be a DBE goal for the preconstruction Professional/Technical services contract. MnDOT's updated directory of DBE contractors can be viewed at the following website: <http://www.dot.state.mn.us/eecm/index.html>.

1.10 EQUAL EMPLOYMENT OPPORTUNITY

The Proposer will be required to follow both State of Minnesota and Federal Equal Employment Opportunity (EEO) policies.

In accordance with the Minnesota Human Rights Act, Minnesota Statute 363A.08 Unfair Discriminatory Practices, MnDOT will affirmatively assure that on any project constructed pursuant to this advertisement, equal employment opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age.

Affirmative Action Certification

For all Contracts estimated to be in excess of \$100,000, responders are required to complete the attached "Affirmative Action Certification" page and submit it as part of their proposal. As required by Minnesota Rules Part 5000.3600; Minnesota Statutes §363A.36, and Minnesota Rules 5000.3400 will be incorporated into any Contract resulting from this RFP. Copies of Minnesota Statutes §363A.36 and Minnesota Rules 5000.3400-5000.3600 are available upon request from MnDOT.

In accordance with Minnesota Human Rights Act, Minnesota Statute 363.073 Certificates of Compliance for Public Contracts, and 363.074 Rules for Certificates of Compliance, MnDOT will assure that appropriate parties to any contract entered into pursuant to this advertisement possess valid Certificates of Compliance. Any Proposer that is not a current holder of a compliance certificate issued by the Minnesota Department of Human Rights must contact the Department of Human Rights immediately for assistance in obtaining a certificate.

1.11 E-VERIFY CERTIFICATION (IN ACCORDANCE WITH MINNESOTA STATUTES §16C.075)

By submission of a proposal for services in excess of \$50,000.00, responders certify that as of the date of services performed on behalf of MnDOT, they, and all of their proposed subcontractors, will have implemented, or be in the process of implementing, the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of MnDOT. In the event of contract award, the successful responder will be responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with the successful responder and made available to MnDOT upon request.

1.11.12 FEDERAL LOBBYING RESTRICTIONS

Section 1352, Title 31, United States Code (U.S.C.), prohibits federal funds from being expended by the recipient or any lower tier sub recipient of a federal aid contract to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the awarding of any federal aid contract, the making of any federal grant or loan, or the entering into of any cooperative agreement. Section 1352 also requires Proposers to disclose any funds expended for lobbying in connection with a federal aid contract, as well as requiring disclosure by lower-tier contractors of funds expended for lobbying in connection with subcontracts exceeding \$100,000.

1.12.13 U.S. DEPARTMENT OF TRANSPORTATION “HOTLINE”

The U.S. Department of Transportation (USDOT) provides a toll-free “hotline” service to report bid rigging activities. Bid rigging activities can be reported Monday through Friday, between 8:00 a.m. and 5:00 p.m., Eastern Time, telephone (800) 424-9071. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the hotline to report these activities. The hotline is part of the USDOT’s continuing effort to identify and investigate highway construction contract fraud and abuse, and it is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

1.13.14 NOTICES

Proposer shall take note of the information provided and Notice to Proposers included as Attachments 1, 2 and 3 hereto.

1.14.15 DEBARMENT AND CERTIFICATION

1.14.15.1 Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions.

Contractor certifies that neither it nor its principles is presently debarred or suspended by the state, or any of its departments, commissions, agencies or political subdivisions. Contractor’s certification is a material representation upon which the contract award was based. Contractor will provide immediate written notice

to State’s Authorized Representative if at any time it learns this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

1.14.21.15.2 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.

Federal money will be used (or may potentially be used) to pay for all or part of the work under this Contract; therefore, Contractor must certify that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion implementing Executive Order 12549. Contractor’s certification is a material representation upon which the contract award will be based.

2 PROCUREMENT AND PROJECT SCHEDULE

The deadlines and due dates for procurement shown in Table 2.1 apply to this RFP. MnDOT reserves the right to modify the Public Opening date at any time if MnDOT needs additional time to review the Technical Proposals. MnDOT may at its discretion amend the procurement schedule by issuing an addendum to the RFP.

The anticipated project design and construction schedule is shown in Table 2.2. MnDOT may at its discretion amend the project schedule shown in Table 2.2 based on the actual design and construction schedule that is submitted by the selected CMGC Contractor that is jointly developed during the preconstruction stage of the project.

Issue LOI	June 18, 2013
Issue CMGC RFQ	August 1, 2013
Deadline for Submitters to Submit SOQs	September 4, 2013
Shortlisting of CMGC Contractors for RFP Phase	September 20, 2013
CMGC RFP Issued	October 2, 2013
Deadline for Proposers to Submit Requests for Clarification on the RFP	November 15, 2013
Responses to Requests for Clarification on RFP Issued	November 19, 2013
Deadline for Proposers to Submit Proposal	November 27, 2013
CMGC Contractor Selected	December 18, 2013
Pre-Construction Services Contract Negotiated	January 2014

Design Complete for Work Package 1 (Foundation Package for New Bridge No. 85851). Submit GMP Bid for Contract 1.	May/June 2014
Start Construction – Contract 1 (Foundation Package New Bridge No. 85851)	Summer / Fall 2014
Design Complete for Work Package 2 (New Bridge No. 85851). Submit GMP Bid for Contract 2.	Fall 2014
Start Construction – Contract 2 (New Bridge No.85851)	March 2015
Design Complete for Work Package 3 (Rehab and reconstruction of existing Bridge No. 5900). Submit GMP Bid for Contract 3.	Fall 2014 to Fall 2016
Start Construction – Contract 3 (Rehab and reconstruction of existing Bridge No. 5900)	Fall 2016
Place Traffic on new Bridge No. 85851	Fall 2016
Project Substantial Completion	Spring 2020

3 PROCUREMENT PROCESS

3.1 CONFIDENTIALITY DURING EVALUATION AND SELECTION PROCESS

Subject to the [Minnesota Government Data Practices Act](#), MnDOT has taken measures to protect the confidentiality of all submitted Proposals during the entire evaluation and selection process. Every person involved in the process shall sign a confidentiality and nondisclosure agreement. However, under no circumstances will MnDOT be responsible or liable to a Proposer or any other party as a result of disclosing any materials, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of MnDOT or its respective officers, employees, contractors, or consultants.

3.2 EXAMINATION OF RFP AND REQUESTS FOR CLARIFICATION

Proposer shall be solely responsible for 1) reviewing and examining, with appropriate care, all RFP documents, including any supplements, addenda, and clarification notices issued, 2) requesting clarification or interpretation of any material discrepancy, deficiency, ambiguity, error, or omission in the RFP documents, or of any provision Proposer fails to understand and 3) informing itself with respect to any and all conditions that may in any way affect the cost or nature of the Proposal or the performance of the Work after Contract award. Failure of Proposer to inform itself as described herein shall be at its sole risk, and no relief for error or omission will be provided by MnDOT.

3.3 MNDOT’S PROJECT MANAGER

MnDOT’s Project Manager for the Project is:

Mail Delivery:	Terry Ward CMGC Project Manager Minnesota Department of Transportation District 6 2800 48 th Street NW Rochester, MN 55901-5848
E-mail:	terry.ward@state.mn.us

3.4 COMMUNICATIONS

MnDOT’s Project Manager is the sole MnDOT contact person and addressee for receiving clarification requests and all other communications about the Project, the RFP, and Proposal submittal. Except for communications expressly permitted by this RFP or delegated by the Project Manager, Proposer shall not discuss the RFP with other MnDOT staff members, or MnDOT consultants involved with the Project before Contract award or cancellation of the RFP. Any Proposer engaging in such prohibited communications may be disqualified at the sole discretion of MnDOT. The Proposer shall identify a sole primary contact to send and receive information from MnDOT. This information includes, but is not limited to Requests for Clarification and receipt of Addendums.

CMGC programmatic questions and questions related to any Protest (See [Section 3.9](#)) must be e-mailed or sent by letter (written inquiries only) to MnDOT’s CMGC Program Manager:

Mail Delivery: Kevin Hagness
CMGC Program Manager
Minnesota Department of Transportation
395 John Ireland Blvd
MS 650
St Paul, MN 55155

E-mail: Kevin.Hagness@state.mn.us

3.5 SUBMISSION FOR REQUEST FOR CLARIFICATIONS

All inquiries and comments regarding the Project shall be made by e-mail to MnDOT’s Project Manager as specified in [Section 3.3](#) by 12:00 p.m., Central Time, on the Clarification Submittal Deadline (identified in [Section 2](#)). Only written inquiries (e-mail or by letter) will be accepted. No oral requests for clarification or interpretation, whether in person or by telephone, will be accepted. If Proposer has meetings or discussions with agencies or entities other than MnDOT during the procurement phase, Proposer shall be responsible for verifying with MnDOT’s Project Manager any Project-related information it so receives.

3.6 RFP ADDENDA AND CLARIFICATION NOTICES

If MnDOT determines at its sole discretion that interpretation or clarification of the RFP or any other consideration requires a revision of the RFP, MnDOT will prepare and issue a written addendum. A copy of any such RFP addendum will be sent by e-mail to all shortlisted Proposers.

MnDOT may issue clarification notices listing questions received from Proposers and the responses given by MnDOT. Any such written clarification notice will be sent by e-mail to all shortlisted Proposers.

MnDOT will not be bound by, and Proposers shall not rely on, any oral communication regarding the Project or RFP documents; and Proposer shall not rely on any MnDOT or other communication except the RFP documents and addenda notices.

To allow receipt of any addenda, clarification notices, or other information regarding the RFP, Proposer is solely responsible for ensuring that MnDOT’s Project Manager has Proposer’s contact person name and e-mail address.

3.7 WITHDRAWAL OF PROPOSAL

A proposal may be withdrawn and resubmitted any time prior to the deadline for submitting the proposal. No proposal may be changed, amended, or modified after the deadline for submitting the proposal. No proposal may be withdrawn after the deadline for submitting the proposal without a written request by the Proposer stating the reasons for withdrawing the proposal and acceptance of the request by MnDOT. All decisions are at the sole discretion of MnDOT.

3.8 MNDOT’S RIGHTS

Proposer is solely responsible for ensuring that its proposal is clear, correct, and internally consistent. MnDOT reserves the right, at its sole discretion (but is not obligated), to:

- a) Investigate the qualifications of any Proposer
- b) Seek or obtain data from any source related to the proposals
- c) Require confirmation of information furnished by a Proposer
- d) Require additional information from a Proposer concerning its proposal
- e) Seek and receive clarifications to a proposal
- f) Require additional evidence of qualifications to perform the Work
- g) Modify the RFP process by issuing an addendum to the RFP
- h) Waive minor deficiencies and irregularities in a proposal
- i) Reject any or all of the proposals
- j) Cancel, modify, or withdraw the RFP
- k) Issue a new RFP
- l) Cancel a Contract signed by the selected CMGC Contractor but not yet executed by MnDOT

The RFP does not commit MnDOT to enter into a Contract or proceed with the procurement described herein. By submitting a proposal, the Proposer understands and acknowledges the following:

3.8.1 Assumed Requirements

The proposal presented is based on assumed requirements of the proposed Project; and, that MnDOT has made no written or oral representations that any such assumed requirements are accurate should a conflict arise from the presented proposal. Proposer is required to qualify all assumptions it makes.

3.8.2 Cost of Submission

All costs incurred by the Proposer as a result of the Proposer’s efforts to participate in this selection process shall be at the sole risk and obligation of the Proposer.

3.8.3 Reimbursement

MnDOT will not provide compensation to the Proposer for any expenses incurred for the proposal preparation.

3.8.4 Award of Preconstruction Technical (P/T) Services Contract

MnDOT makes no guarantee that an award will be made as a result of this RFP, and reserves the right to accept or reject any or all proposal's, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP or resulting contract when deemed to be in the Project's best interest. Representations made within the proposal will be binding on responding firms.

3.9 PROTEST PROCEDURES

This section sets forth the exclusive protest remedies available with respect to this RFP. Each Proposer, by submitting its proposal, expressly recognizes the limitation on its rights to protest contained herein. These provisions are included in this RFP expressly in consideration for such waiver and agreement by the Proposers. Such waiver and agreement by each Proposer are also consideration to each other Proposer for making the same waiver and agreement.

If a Proposer disregards, disputes or does not follow the exclusive protest remedies set forth in this RFP, it shall indemnify, defend, protect and hold harmless MnDOT, its officers, officials, employees, agents, representatives and consultants from and against all liabilities, expenses, costs (including attorneys' fees and costs), fees and damages incurred or suffered as a result. The submission of a proposal by a Proposer shall be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

3.9.1 Protests Regarding Facially Apparent Deficiencies in RFP and Selection Procedures

The Proposer may protest the terms of this RFP or selection procedures prior to the time for submission of proposals on the grounds that (a) a material provision in this RFP or selection process is ambiguous, (b) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement, or (c) this RFP in whole or in part exceeds the authority of MnDOT. Protests regarding this RFP and selection procedures shall be filed only after the Proposer has informally discussed the nature and basis of the protest with MnDOT's CMGC Program Manager in an effort to remove the grounds for protest.

Protests regarding this RFP shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.

Protests regarding this RFP shall be filed as soon as the basis for protest is known to the Proposer, but in any event it must be actually received no later than ten calendar days before the proposal due date, provided that protests regarding an addendum to this RFP shall be filed and actually received no later than five calendar days after the addendum to this RFP is issued (or no later than the Proposal due date, if earlier).

Protests regarding this RFP shall be filed in writing by hand delivery or courier to the Protest Official with a copy to MnDOT's CMGC Program Manager. The "Protest Official" is:

Kent Allin, Materials Management Division
Department of Administration

112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

MnDOT will distribute copies of the protest to the other Proposers and may, but need not, request other Proposers to submit statements or arguments regarding the protest and may, in its sole discretion, discuss the protest with the protesting Proposer. If other Proposers are requested to submit statements or arguments, they may file a statement in support of or in opposition to the protest within seven calendar days of the request. MnDOT may also file a written statement with the Protest Official.

No hearing will be held on the protest. The Protest Official or designee will review the facts and arguments presented in the written submissions and will decide the protest on the basis of the written submissions and any clarifications or additional information from MnDOT, the Proposers, or other resources as may be required. The Protest Official will consider whether MnDOT's position (a) is reasonable, (b) is in compliance with the Minnesota CMGC statute, Minn. Stat. §161.3207 et. seq. and (c) meets applicable legal standards. The protest Official will recommend to the MnDOT Commissioner whether any changes or addenda to the RFP and procurement process are warranted. The Protest Official's recommendation will be in writing and will state the reasons for the decision. MnDOT will furnish copies of the decision in writing to each Proposer. The Commissioner will issue MnDOT's final decision within ten calendar days of receiving the recommendation and include written reasons for the decision (or incorporate those of the Protest Official). The decision shall be final and conclusive. If necessary to address the issues raised in the protest, MnDOT will make appropriate revisions to this RFP by issuing addenda. MnDOT may extend the proposal due date, if necessary, to address any protest issues.

The failure of a Proposer to raise a ground for a protest regarding this RFP within the applicable period shall constitute an unconditional waiver of the right to protest the terms of this RFP and shall preclude consideration of that ground in any protest of qualification of a Proposer unless such ground was not and could not have been known to the Proposer in time to protest prior to the final date for such protests.

3.9.2 Protests Regarding Responsiveness

A Proposer may protest the results of the above-described evaluation by filing a written notice of protest by hand delivery or courier to the Protest Official with a copy to MnDOT's CMGC Program Manager. The notice of protest shall specifically state the grounds of the protest.

Notice of protest of any decision to accept or disqualify a proposal on responsiveness grounds must be filed within five calendar days after the earliest of notification of non-responsiveness, or the public announcement. Within seven calendar days of the notice of protest, the protesting Proposer must file with the Protest Official, with a copy to MnDOT's CMGC Program Manager, a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.

Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation process and decisions thereunder, other than any protest based on facts not reasonably ascertainable as of such date.

MnDOT may, at its option, file a written response to the Protest with the Protest Official, with a copy to the Proposer and any Proposers who have filed statements with the Protest Officials. MnDOT will respond with 14 calendar days upon its detailed statement of protest.

The Protest Official will consider whether the Committee's decision (a) is reasonable; (b) is in compliance with the Minnesota CMGC statute, Minn. Stat. §161.3207 et. seq. (c) meets applicable legal standards. The Protest Official will review the facts and arguments presented in the written submissions of the protesting firm, and the written submission of MnDOT, if any. The Protest Official may also seek clarifications and information from MnDOT, Proposers or other resources as may be required. The Protest Official will recommend, within 14 calendar days after MnDOT's response, that the MnDOT Commissioner, acting through the Committee, either (1) affirm the Committee's original decision; or, depending on the nature of the protest, (2) reinstate a firm disqualified on responsiveness grounds. If MnDOT does not submit a written response, the Protest Official will make a recommendation within 21 calendar days upon the receipt of the detailed statement of protest. The Protest Official's recommendation will be in writing and include the reasons for the decision. The Commissioner will issue MnDOT's final decision within ten calendar days of receiving the recommendation, and include written reasons for the decision (or incorporate those of the Protest Official). The Commissioner will deliver the written decision to the protesting Proposer and copies to the other Proposers.

If the Protest Official or his designee concludes that the Proposer filing the protest has established a basis for protest, the Protest Official or his designee will determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the decisions, issuing a new request for proposal or taking other appropriate actions.

3.9.3 Protests Regarding Determination or Award

A Proposer may protest any determination by MnDOT regarding any award made by MnDOT by filing a written notice of protest by hand delivery or courier to the Protest Official with a copy to MnDOT's CMGC Program Manager. The protest shall specifically state the grounds of the protest.

Protest of any award by MnDOT shall be filed within five Days after MnDOT's award of the Contract. The Proposer shall file the protest to the Protest Official, with a copy to MnDOT's CMGC Program Manager. The protest shall include a detailed statement of the grounds, legal authorities, and facts, including all documents and evidentiary statements, in support of the protest. Evidentiary statements, if any, shall be supported by affidavit based on personal knowledge except where stated to be based on information and belief.

Failure to file a protest within the applicable period shall constitute an unconditional waiver of the right to protest the applicable evaluation process and decisions thereunder, other than any protest based on facts not reasonably ascertainable as of such date.

MnDOT may, at its option, file a written response to the protest with the Protest Official. The Protest Official will only consider, based on a preponderance of the evidence, whether MnDOT's determination of award is arbitrary, capricious, or contrary to law. The Protest Official will recommend, within 14 Days after the Protest Official receives the protest or MnDOT's response (if applicable), that the Commissioner

either affirm MnDOT’s original determination or recommend remedial steps, if appropriate, to address the issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the determination, issuing a new Request for Proposal, or taking other appropriate actions. The Protest Official may also request extensions to the 14 Days. Extension will only be granted if both MnDOT and the protesting Proposer agree to such request. The Protest Official’s recommendation will be in writing and will include the reasons for the decision. The Protest Official will furnish copies of the recommendation to the Commissioner of Transportation and the Protestor. The Commissioner will issue MnDOT’s final decision within 10 Days of receiving the recommendation, and include written reasons for the decision (or incorporate those of the Protest Official). The Commissioner will deliver the written decision to the protesting Proposer and copies to the other Proposers. The decision shall be final and conclusive and not subject to legal challenge unless arbitrary.

MnDOT will not execute the Contract until at least seven Calendar Days after the award of the Contract. This timeline may be waived if all Proposers agree to such waiver.

3.9.4 Costs and Damages

All costs of a protest shall be the responsibility of the protestor and undertaken at the protestor’s expense. In addition, if the protest is denied, the Proposer filing the protest may be liable for MnDOT's costs reasonably incurred in defending against the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by MnDOT as a consequence of the protest. MnDOT shall not be liable for damages to the Proposer filing the protest or to any participant in the protest, on any basis, express or implied.

4 PROPOSAL DELIVERY, CONTENT AND FORMAT

4.1 GENERAL

The following section describes requirements that all Proposers must satisfy in submitting proposals. The Proposal shall consist of the qualitative portion of the Proposal and a Price Proposal. Failure of any Proposer to submit their proposal as required in this RFP may result in rejection of its proposal.

4.2 DUE DATE, TIME, AND LOCATION

Technical Proposals shall be hand delivered between **9:00 a.m. and 11:00 a.m.**, Central Time, on the Technical Proposal Due Date (identified in Section 2) to MnDOT as set forth below:

Kevin Hagness, P.E.
Minnesota Department of Transportation
MS 650
Office of Project Management
395 John Ireland Boulevard
St. Paul, MN 55155

Proposals in hard copy format must be delivered to the Information Desk located on the 1st Floor and given directly to the MnDOT representative listed above. Proposals will be time stamped by MnDOT. Any proposal that fails to meet the deadline or delivery requirement will be rejected without opening, consideration or evaluation.

4.3 FORMAT

“**Front Cover:** The front cover of each proposal shall be clearly labeled as follows:

“Trunk Highway 43 Winona Bridge CMGC Project, S.P. 8503-46 (TH 43)”

“Technical Proposal”

Proposer’s name, contact person, and address

- **Language:** All information including dimensions shall be in English.
- **Font:** All narrative text shall be Times New Roman, a minimum of twelve (12) points in size and single-spaced. The cover font can be larger.
- **Page Size:** With the exception of charts, exhibits and other illustrative material, all information shall be printed on 8.5-inch x 11-inch paper. Charts, exhibits and other illustrative material may be printed on 11-inch x 17-inch paper, but shall be folded to 8.5- inch x 11-inch and will be counted as one (1) sheet. Text contained on charts, exhibits, design plans, and other illustrative and graphical information shall be no smaller than 10-point Times New Roman.
- **Page Margins:** Page margins shall be set at 0.75 inches minimum, not including headers or

footers.

- **Page Limit:** proposal(s) shall not exceed 12 pages in length. Cover letter, Table of Contents, section dividers, appendices and required forms are not included in page limits.
- **Dividers:** Section dividers in bound copies, for the ease of finding information in the proposal, are welcomed. Section dividers shall only be used to convey the heading of the section and shall not be used to supplement or enhance any information included in the proposal (photos, but not photo renderings, on the dividers are acceptable).
- **Binding:** Each copy of the proposal shall be bound separately, with the exception of the “Original” which shall remain unbound.

All copies of the Technical Proposal shall be packed together in a separately sealed, clearly identified package or container for delivery to MnDOT as set forth in Section 4.2. The outside of the sealed package or container containing all copies of the Technical Proposal shall be labeled as follows:

“Trunk Highway 43 Winona Bridge CMGC Project, S.P. 8503-46 (TH 43)“

“Technical Proposal”

The date and time of the submittal deadline

The name of MnDOT’s Project Manager as specified in Section 3.3

Proposer’s name, contact person, and address

4.4 PROPOSAL CONTENT

A submission of a proposal in response to this RFP indicates the Proposer’s acceptance of the evaluation process as detailed in Section 5 and the recognition that subjective judgments must be made by the Selection Committee during the evaluation process and in its final selection.

This section describes the order of and specific information that must be included in the proposal. Proposals must follow the outline of this section. Proposers shall provide brief, concise information that addresses the requirements of the Project consistent with the evaluation criteria described in this RFP.

Documents submitted pursuant to this RFP will be subject to the Minnesota Government Data Practices Act.

Some of the information requested in this RFP is for informational purposes only, while other information will be used in the qualitative analysis of the proposal. MnDOT will initially review RFPs to determine whether the Proposal, on its face, is responsive to this RFP per Section 5.3. A proposal will be, on its face, responsive to this RFP if it appears to include all of the components of information required by this RFP in the manner required by this RFP. This initial review does not include any qualitative assessment as to the substance of the information submitted. Those proposals that pass this review will then be reviewed on a qualitative basis according to the criteria specified in Section 5.4.

Failure to comply with the requirements contained in the RFP may be subject for rejection of the proposal. Any proposal that fails to meet the deadline or delivery requirements will be rejected and returned to the Proposer without having been opened, considered or evaluated.

The following Sections describe the information that is required and how it will be used.

4.4.1 Executive Summary (Cover Letter & Table of Contents)

The executive summary shall include a Cover Letter stating the business name, address, business type (e.g., corporation, partnership, joint venture) and roles of the Proposer (and Subcontractors-optional). Identify one contact person and his or her address, telephone and fax numbers, and e-mail address. This person shall be the single point of contact on behalf of the Proposer organization, responsible for correspondence to and from the organization and MnDOT. MnDOT will send all Project-related communications to this contact person. Authorized representatives of the Proposer organization must sign the letter. If the Proposer is a joint venture, the joint venture members must sign the letter. If the Proposer is not yet a legal entity, they must sign the letter. The letter must certify the truth and correctness of the contents of the proposal. The Cover Letter shall be limited to one page.

The Executive Summary must also include a Table of Contents. The Table of Contents shall be limited to one page.

This information will be used to identify the Proposer and its designated contact, and will be reviewed for responsiveness in accordance with Section 5.3 and not as part of the qualitative assessment of the proposal.

4.4.2 Organizational Chart

Proposer shall provide an organizational chart showing the chain of command with lines identifying participants who are responsible for major functions to be performed and their reporting relationships in managing, designing and building the Project. The chart(s) must show the functional structure of the organization and include the names of the Key Personnel (and company) as explained in the RFP. Proposer shall identify any changes to the personnel described within the SOQ and include a copy of the written approval from MnDOT for changes to Key Personnel as outlined in Section 1.7. The proposed organizational chart (and any supporting documentation for changes in Key Personnel) shall be included as Appendix A to the Proposal.

4.4.3 Qualitative Technical Proposal

The qualitative portion of the Proposal shall include narratives described in Sections 4.4.3.1 through 4.4.3.4. The maximum relative points in the scoring are shown in parentheses. MnDOT will evaluate the qualitative portion of the Proposal based on the information provided by the Proposers. Proposer may choose to provide additional information that further enhances the RFP requirements within these categories and sub-categories.

4.4.3.1 Project Approach (35 points)

Proposing teams should state their approach to addressing key issues and achieving the Project Goals. Address in detail at least the following topics:

- Demonstrate the Proposer’s understanding of the Project Goals listed in the RFP and the approach to maximizing and attaining the Project Goals.
- Propose a construction approach and sequence that optimizes value to the Project with a realistic view of known constraints. Discuss factors that would affect schedule such as outside constraints, seasonal work, materials equipment and labor availability, etc. Although the CMGC Scope of Work detailed in the RFP suggest that MnDOT is considering progressing the work by using three separate and severable work packages, MnDOT will consider alternative approaches to sequencing the work suggested by the Proposer in response to this RFP. Ultimately, the final sequencing of the work will not be known until work progresses and will be MnDOT’s sole decision based on consultation with the selected CMGC Contractor prior to submitting the first GMP bid on the project.
- Identify other resources and capabilities of the Proposer. Describe additional unique resources and capabilities that the Proposer’s company will bring to the Project and how these unique resources and capabilities will be beneficial in achieving the Project Goals.
- Discuss the potential Project challenges. Describe any Project challenges that are anticipated by the Proposer’s company and how the Proposer plans to mitigate the risk of these challenges.
- Discuss the Proposer’s approach to support MnDOT in working with stakeholders such as regulatory agencies to achieve their goals.
- Schedule Management and Mitigation: MnDOT will be responsible for developing the overall, programmatic schedule for the project. The CMGC Contractor will be responsible for developing the master construction schedule that is input into MnDOT’s programmatic schedule. Describe the Proposer’s approach to scheduling the work on this project and how the Proposer will maintain a construction schedule that is realistic and achievable. Describe mitigating effects of sequencing changes on the overall project schedule. Address how the CMGC Contractor will collaboratively integrate and optimize the construction schedule with the design schedule. Proposers will be evaluated on schedule management approaches (including mitigation of schedule risks, recovery strategies, and other factors described in this paragraph) rather than on an actual schedule.
- Discuss the approach for accelerating the shift of traffic to the new Bridge No. 85851 to minimize the risk of closures of existing Bridge No. 5900 for bridge maintenance activities.

4.4.3.2 Project Innovations (15 points)

In conjunction with the Proposer’s team Project Approach, the team may have some innovative ideas that may or may not meet the requirements of the RFP that could increase the likelihood for success. The Selection Team will consider how well the Proposer’s innovative ideas help achieve the Project Goals. Please discuss these further as follows:

- Describe specific technical innovations related to design or construction that may further improve meeting or exceeding the Project Goals.
- Describe impacts of the innovation(s) on time, costs, and quality. Proposers will be evaluated based on the potential benefit of the proposed innovation(s) to achieve the Project Goals and NOT directly on the magnitude of the cost savings associated with the Proposer’s innovation(s).

4.4.3.3 CMGC Design Process (25 points)

How the CMGC Contractor supports the CMGC process and the Project Goals is critical to the team's success. In the Project Approach the Proposer may have provided some response to this issue. This section is an opportunity to provide additional information related to the CMGC design process.

Collaboration: The CMGC process is based on principles of collaboration, cooperation, and trust between the owner, design team, and CMGC Contractor. The Proposer is expected to work in a collaborative environment with the design team and the owner as they work together to resolve challenges. Describe the process for accomplishing this objective on the Project. Provide examples of how the Contractor has done this on past projects that support your proposed approach. Demonstrate that the Key Personnel proposed on this Project have the ability and experience to successfully work in a collaborative team environment.

Risk Management: The CMGC process is intended to eliminate or reduce risk of individual activities. Innovation and risk mitigation allow for reducing the cost of construction. Explain the process the Proposer will use to identify, price, and mitigate risk. How will the Proposer support the team during pre-construction and construction activities in achieving a cost at or below traditional projects? How will the Proposer provide input in assigning risk responsibility and developing the Risk Register? How will the Proposer track and document risk and its cost and schedule impacts?

Decision Analysis and Resolution: Proposer's experience in the design effort should help to reduce errors and omissions, improve constructability, and reduce the cost of construction. Describe means and methods that will be used to support the design development and decision-making process in both the pre-construction and construction phases of the Project. How will the proposed processes help MnDOT decide which suggestions to use, and how will the benefits and cost savings of CMGC be documented?

4.4.3.4 Approach to Cost Estimating (25 points)

Project estimating on CMGC projects is a collaborative process where the CMGC Contractor is expected to provide an open and transparent Cost Model at each pricing milestone (OPCC) and during GMP discussions to clearly document the means, methods, and assumptions that were used to derive the proposed pricing. The Cost Model is defined as an open book cost estimate for the project from the CMGC Contractor's native estimating software platform that includes such things as labor and equipment rates, production rates, trucking costs, fuel costs, man-hours assumptions (hours planned per shift, hours planned per day, days per week), material costs, and subcontractor bids, overhead assumptions, proposed profit, and contingency. The cost model is supplemented by a CPM schedule.

Discuss Proposer's approach to providing an open and transparent estimating environment that will assure MnDOT that they are getting a fair and competitive price for the proposed work. Describe how Proposer will develop a Cost Model that allows MnDOT and MnDOT's ICE to clearly understand all of the factors that are used to derive the proposed pricing? Provide examples of past experience providing owners with transparent estimates in order to reach a fair negotiated price (experience does not need to be in a CMGC setting). Include with these examples the owner, the project, and what specifically was provided to the owner with the estimate to make the estimate more transparent and, therefore, help assure the owner that they are getting a "fair" price for the work. Does the Proposer's estimating software allow MnDOT and MnDOT's ICE to fully understand how the pricing is derived?

List assumptions and information that will influence the Proposer’s Cost Model for this project. For example, Proposer may discuss early procurement for long lead time items, early phasing for material and other independent contracts that may be accomplished before Project design completion. Discuss how Proposer’s Cost Model will be used throughout the design process and for the development of each OPCC and GMP proposal.

Consider the following questions with respect to pricing for significant items of work on this Project:

- Describe risks that would increase the price.
- Describe mitigation that would decrease the price.
- What quantity change would justify a change in price?
- Effect of schedule on costs.
- Describe any activities that are assumed to be assigned to MnDOT which could affect price.

Subcontractor Plan: Pursuant to Minnesota Statute §161.3209, the CMGC Contactor has a minimum self-performance requirement of 30 percent. Discuss the approach to developing a subcontractor selection plan that will allow for competitive solicitation of bids from reliable sources. How will the Proposer demonstrate that the subcontractor's prices are competitive? The Proposer’s plan will in part be judged on how well it brings market competitive pricing into the Project. What specific commitments will the Proposer provide that enhance DBE participation both for individual work packages as well as the overall project?

~~4.4.4—CMGC Fixed Markup Percentage Proposal (Price Proposal)~~

~~Utilizing the Proposed CMGC Fixed Markup Percentage Form included in Exhibit 4 of this RFP, Proposers shall state their proposed CMGC fixed markup percentage, identified as a percentage and carried out to two (2) decimal points (e.g., 0.00%), which will be applied to the Guaranteed Maximum Price (GMP) bid during all Construction Phase Services. The CMGC fixed markup percentage provided in response to Exhibit 4 is not scored directly. The CMGC fixed markup percentage form shall be included as Appendix B to the Proposal and shall be submitted in a separately sealed envelope with the following label:~~

- ~~• “Appendix B—CMGC Fixed Markup Percentage Proposal”~~
- ~~• Proposer’s identifying information as described in Section 4.3.~~

~~The CMGC fixed markup percentage will include all profit plus the portion of home office overhead (G&A) allocated to the Project. Home office overhead (G&A) is defined as all auditable costs that are allocated to all of the Contractor’s ongoing projects, including insurance that is maintained by the Contractor as a general cost of doing business. The fixed markup percentage proposed in the RFP will be used in the Opinion of Probable Construction Cost (OPCC) estimates, GMP bidding for all work packages and all change orders.~~

~~The fixed markup percentage will exclude all costs for any field indirect costs or direct costs of the Project. Explanation and definitions of home office overhead (G&A), field indirect costs, and direct construction costs are clarified in Exhibit 3.~~

~~The CMGC fixed markup percentage provided in response to Exhibit 4 is not a guarantee. MnDOT reserves the right to establish a competitive range for the fixed markup percentage for the Project and to negotiate a competitive CMGC value prior to executing a Professional / Technical (P/T) Services Contract if the proposed percentage is outside of the competitive range, as outlined in Section 6.1.~~

~~For provisional contingency items included in the CMGC Contractor's GMP bid, the CMGC Contractor will only be entitled to fixed markup percentage for those provisional contingency items that are authorized by MnDOT.~~

4.4.54.4.4 Proposer Information, Certifications, and Documents

The Proposer shall provide the following: ~~forms or other information.~~

- a) Provide evidence that Proposer and its general partners and joint venture members are qualified to do business by providing evidence for each such entity that is a corporation, limited liability company, or limited partnership that it is currently in good standing in the state of its respective organization/formation. Such evidence shall be in the form of good standing certificates dated no earlier than 90 Days before the Proposal Due Date. If not currently registered with the Minnesota Secretary of State, provide a statement that such registration will occur prior to contract approval if the contract is awarded.
- b) Describe in detail the legal structure of the entity making the Proposal. If Proposer is a partnership or joint venture, attach full names and addresses of all partners or joint ventures and the equity ownership interest of each entity and provide the aforementioned incorporation, formation, and organization information for each general partner or joint venture. If Proposer is a joint venture, attach a letter from each joint venture stating that the joint venture agrees to be held jointly and severally liable for any and all of the duties and obligations of Proposer under the Proposal and under any contract arising therefrom. If Proposer is a limited liability entity, attach full names and addresses of all equity holders and other financially responsible entities and the equity ownership interest of each entity. Attach evidence to the Proposal and to each letter that the person signing has authority to do so.
- c) With respect to authorization of execution and delivery of the Proposal and the Contract, if any signature is provided pursuant to a power of attorney, provide a copy of the power of attorney as well as a certified copy of corporate or other appropriate resolutions authorizing said power of attorney. If Proposer is a corporation, provide evidence in the form of a resolution of its governing body certified by an appropriate officer of the corporation. If Proposer is a limited liability company, such evidence shall be in the form of a limited liability company resolution and a managing member resolution providing such authorization, certified by an appropriate officer of the managing member. If Proposer is a partnership or a joint venture, such evidence shall be provided for the governing body of Proposer and for the governing bodies of each of its general partners/joint venture members, at all tiers, and in all cases certified by an appropriate officer.
- d) Provide Form 1 (Information about Proposer Organization).

- e) Provide Form 2 (Responsible Proposer and Major Participant Questionnaire).
- f) Provide Form 3 (Conflict of Interest Disclosure Statement) for Proposer and each Major Participant. If there are no additional updates to the organizational conflicts of interest disclosed in the Proposer’s Statement of Qualifications, the Proposer may respond “No updates to information provided in SOQ” to the questions.
- g) Provide Form 4 (State of Minnesota - Affirmative Action Certification)
- h) Provide Form 5 (~~State of Minnesota - Affidavit of Non-Collusion~~~~State of Minnesota – Resident Vendor Form~~)

4.5 QUANTITIES

Proposer shall provide the following:

- 10 complete hardcopies (one original and nine copies) of the proposal with appendices (excluding the Proposal forms; each copy shall be identified in the upper right-hand corner of its front cover as “Copy ___ of 10 Copies – with Appendices”; the original copy shall be identified as “Copy 1 of 10 Copies.”)
- One complete electronic copy in PDF format of the proposal with appendices on a compact disk(s) (the electronic copy may include Proposal forms that are not executed).
- Three complete hardcopies (one original and two copies) of the proposal forms and other information required.
- ~~Three hardcopies of Appendix B (CMGC Fixed Markup Percentage Proposal) in a sealed envelope. Include all three copies of Appendix B in one sealed envelope.~~

4.6 DISQUALIFICATION

Failure to use a sealed package or to properly identify and label any qualification package may result in failure of the proposal to be timely delivered and/or an inadvertent opening prior to the appointed time and place. Any proposal that is not timely delivered will not be considered. If any proposal is inadvertently opened, MnDOT may determine that the evaluation process has been compromised and disqualify the proposal. Proposer will be entirely responsible for any consequences, including disqualification of the proposal that result from Proposer’s failure to follow the instructions in the RFP. It is Proposer’s sole responsibility to see that its proposal is received as required. Failure to respond or to provide requested information may result in a determination by MnDOT, in its sole discretion, that a proposal is non-responsive.

5 PROPOSAL EVALUATION PROCESS

5.1 GENERAL

MnDOT will award the Contract (if at all) to the responsible and responsive Proposer that has complied with all of the requirements of the RFP with the highest qualitative technical score as set forth in Section 5.4 that ~~meets the following two additional requirements:~~

~~Successfully negotiates an acceptable CMGC fixed markup percentage as set forth in Section 6.1.~~

~~Suecessfully successfully negotiates an acceptable scope of work and fee for CMGC preconstruction services as set forth in Section 6.2.~~

Either the Commissioner or a specifically designated representative will notify the successful Proposer and the unsuccessful Proposers.

MnDOT reserves the right to request clarification or supporting documentation at any time at its sole discretion.

5.2 PROPOSAL OPENINGS

The Qualitative Technical Proposals (Section 4.2) will be opened immediately after the Proposal Due Date. ~~The CMGC fixed markup percentage proposals (Section 4.3) will remain sealed until after the Qualitative Technical Proposals have been given final ranking by the Technical Review Committee, after which time MnDOT will open the CMGC fixed markup percentages Proposals for the highest ranked Proposer.~~

5.3 RESPONSIVENESS AND PASS/FAIL REVIEW

5.3.1 Proposal Responsiveness Evaluation

MnDOT will conduct an initial review of the Proposals for responsiveness to the requirements set forth in the RFP. A Proposal will be deemed non-responsive if:

- The Proposal does not receive a “pass” rating on the criteria set forth in Section 5.3.2.
- The Proposal contains a major defect or defects that, in MnDOT’s sole discretion, would significantly violate an RFP requirement.
- The Proposer places any condition on the Proposal.

MnDOT, in its sole discretion, reserves the right to seek clarification/supporting documentation from Proposers at any time during the Proposal review process and to waive minor irregularities in a Proposal.

If a Proposal is deemed non-responsive, the Proposer will be so advised in writing by MnDOT. This initial review of responsiveness does not preclude a later finding of non-responsiveness by either the Technical Review Committee or the MnDOT Office of Civil Rights.

5.3.2 Pass/Fail Criteria Evaluation

Proposals will be evaluated based on the following pass/fail criteria:

- An individual or a CMGC firm identified in the Proposal shall not have changed since submission of the Proposer’s SOQ, or Proposer shall have previously advised MnDOT of a change and received the Commissioner’s prior written approval thereto.
- Proposer information, certifications, and documents as listed in Section 4.4 are included in the Proposal and are complete, accurate, and responsive, and they do not identify any material adverse changes from the information provided in the SOQ information.
- The Proposal contains no major defect in MnDOT’s sole discretion that would significantly violate an RFP requirement.
- The Proposer has not placed conditions on the Proposal.

A Proposal shall receive a “pass” on all “pass/fail” criteria listed in the RFP for the Proposal to be further evaluated. Failure to achieve a “pass” rating on a “pass/fail” factor will result in the Proposal being declared non-responsive and Proposer being disqualified. Failure to submit information in the manner, format, and detail specified may result in the Proposal receiving a “fail” rating and being declared non-responsive. MnDOT will in its sole discretion determine the pass or fail designation of the criteria specified in this RFP.

5.4 EVALUATION OF TECHNICAL PROPOSAL

Once a Proposal has been determined to meet the minimum Pass/Fail criteria, MnDOT will evaluate the proposal relative to the Project Goals as described in Section 1.6 and factors set forth in Section 4.4.3 to determine the total score. A maximum of 100 points is possible for the qualitative technical proposal.

The evaluation score for Section 4.4.3 will be determined as follows:

- The MnDOT Technical Review Committee will review each proposal identifying significant and minor strengths and weaknesses of the Proposer. This review may also include a comparative analysis of all proposals received.
- Determination of Strengths and Weaknesses will be made at the sole discretion of Technical Review Committee members. The Technical Review Committee members may be advised on strengths and weaknesses by one or more subcommittees. Strengths and weaknesses are considered on their own merits when determining an adjectival rating and point score and do not “offset” each other. Strengths and weaknesses are generally defined as follows:
 - Strengths – That part of the Proposal which ultimately represents a clear benefit, advantage or value added to the Project and is expected to increase the Proposer’s ability to meet or exceed the Project Goals. A minor strength has a slight positive influence on the Proposer’s ability to meet or exceed the Project Goals, while a significant strength results when a Proposer clearly demonstrates a benefit, advantage or value added that has a considerable positive influence on the Proposer’s ability to meet or exceed the Project Goals.

- Weaknesses – That part of the Proposal which detracts from the Proposer’s ability to meet the Project Goals or may result in an inefficient or ineffective performance. A minor weakness has a slight negative influence on the Proposer’s ability to meet the Project Goals, while a significant weakness has a considerable negative influence on the Proposer’s ability to meet the Project Goals.

Based on the identified strengths and weaknesses, the Technical Review Committee will select an objective rating and select a percent of maximum score in the identified range.

The following rating system will be used in determining the value for each Scoring Element of the proposal:

- **Excellent (91-100% of points possible):** The Proposer demonstrates a complete understanding of the subject and approaches it with unique, innovative and/or well proven methods. The Proposer communicates an outstanding level of quality. The Proposer’s qualifications for the subject are exceptional. The Proposer demonstrates through verifiable sources past relevant experience for personnel assigned to the Project with respect to their proposed roles. In an exceptional rating, there are clear advantages, benefits or value added to the proposed approach. In determining this rating, the Technical Review Committee may also take into account other relevant factors including, but not limited to, engineering merit of the proposed approach, innovation or lack thereof, approach to quality and timeliness of delivery, and record of past performance (“past performance” will not be negatively affected by the assertion of legal rights). This rating may also involve a comparative analysis of all proposed submitted.
- **Very Good (76-90%):** The Proposer demonstrates a good understanding of the subject and an approach that meets the stated requirements and objectives of this Project. The Proposer communicates a high level of quality. The Proposer’s qualifications are above average. The Proposer demonstrates through verifiable sources past relevant experience for personnel assigned to the Project with respect to their proposed roles at an above-average rating. There are few to no identified weaknesses or deficiencies for the subject. There are perceived advantages, benefits or value added to the proposed approach. In determining this rating, the Technical Review Committee may also take into account other relevant factors including, but not limited to, engineering merit of the proposed approach, innovation or lack thereof, approach to quality and timeliness of delivery, and record of past performance (“past performance” will not be negatively affected by the assertion of legal rights). This rating may also involve a comparative analysis of all proposed submitted
- **Good (51-75% of points possible):** The Proposer demonstrates a general understanding of the subject and an approach containing some weaknesses/deficiencies regarding the stated requirements and objectives of this Project. The Proposer communicates an average level of quality. The Proposer’s qualifications are adequate. Verifiable source provide an acceptable rating. There is more perceived advantage, benefit or value added than perceived weakness or deficiencies. In determining this rating, the Technical Review Committee may also take into account other relevant factors including, but not limited to, engineering merit of the proposed approach, innovation or lack thereof, approach to quality and timeliness of delivery, and record of

past performance (“past performance” will not be negatively affected by the assertion of legal rights). This rating may also involve a comparative analysis of all proposed submitted

- **Fair (21-50% of points possible):** The Proposer demonstrates a vague understanding of the subject and an approach containing significant weaknesses/deficiencies regarding the stated requirements and objectives of the Project. The Proposer communicates a below-average level of quality. The Proposer’s qualifications raise questions about the Proposer’s ability to successfully complete the Project. Verifiable sources provide a neutral to unfavorable rating. In determining this rating, the Technical Review Committee may also take into account other relevant factors including, but not limited to, engineering merit of the proposed approach, innovation or lack thereof, approach to quality and timeliness of delivery, and record of past performance (“past performance” will not be negatively affected by the assertion of legal rights). This rating may also involve a comparative analysis of all proposed submitted
- **Poor (0-20% of points possible):** The Proposer demonstrates insufficient understanding of the subject and an approach that fails to meet the stated requirements and objectives of the Project. The Proposer communicates a low level of quality. The Proposer’s qualifications do not indicate the likelihood that the work will be completed successfully. Verifiable sources provide an unfavorable rating. In determining this rating, the Technical Review Committee may also take into account other relevant factors including, but not limited to, engineering merit of the proposed approach, innovation or lack thereof, approach to quality and timeliness of delivery, and record of past performance (“past performance” will not be negatively affected by the assertion of legal rights). This rating may also involve a comparative analysis of all proposed submitted

A score will be calculated for the Qualitative Technical Proposal by multiplying the percentage of maximum score by the points available.

MnDOT reserves the right to conduct an independent investigation of any information, including prior experience, identified in the proposal by contacting project references, assessing public information, contacting independent parties or other means. MnDOT further reserves the right to request additional information from a Proposer during the evaluation of the proposal.

5.5 FINAL SCORE AND SELECTION

Selection will be based on the Proposer with the highest total combined score (100 possible points).

6 CONTRACT AWARD AND APPROVAL

~~6.1 CMGC FIXED-MARKUP PERCENTAGE NEGOTIATIONS~~

~~Prior to entering into a Professional/Technical (P/T) Services Contract with the Proposer with the highest ranked Qualitative Technical Proposal, MnDOT will open the sealed CMGC fixed-markup percentage Proposals submitted by the highest ranked Proposer as Appendix B to the Proposal. As outlined in Section 4.4.4, MnDOT will establish a competitive range for the fixed-markup percentage for the Project. MnDOT will review the proposed fixed-markup percentage from the Proposer with the highest qualitative technical score. If the Proposer's proposed fixed-markup percentage is not within the competitive range, MnDOT reserves the right to negotiate a competitive fixed-markup percentage prior to executing a Professional/Technical (P/T) Services Contract. If MnDOT and the Contractor cannot successfully reach agreement on a competitive fixed-markup percentage, MnDOT reserves the right to terminate negotiations and begin contract negotiations with the next highest ranked Proposer.~~

~~6.26.1 PRECONSTRUCTION SERVICES NEGOTIATIONS~~

~~Within 53 business days of notification of selection, the highest ranked Proposer will meet with MnDOT's Project Manager in order to Upon successfully negotiating the CMGC fixed-markup percentage, MnDOT will enter into negotiations for the to scope of work and fee for preconstruction services provide constructability and other services during the preconstruction phase of the Project. A Professional/Technical (P/T) Services Contract will be prepared for preconstruction services and will be administered by Consultant Services.~~

The successful Proposer will prepare a cost proposal for preconstruction services and submit to MnDOT's Project Manager within 10 business days of this initial meeting. –The scope of work for preconstruction services will be based on the preconstruction tasks outlined in Exhibit 2, but may be adjusted by MnDOT's Project Manager during negotiations. The cost of the Professional/Technical (P/T) Services Contract will be based on negotiated unit rates for key personnel and support staff identified on the Project team that will participate on the Project. Terms of the cost proposal as stated must be valid for the length of the project.

The successful -Proposer must include a total project cost, along with the following:

- A breakout of the hours by task for each employee.
- Identification of anticipated direct expenses.
- Identification of any assumptions made while developing this cost proposal.
- Identification of any cost information related to additional services or tasks. This should be included in the cost proposal, but clearly identify it as additional costs and not made part of the total project cost.

MnDOT does not make regular payments on Professional/Technical Services Contracts based upon the passage of time; MnDOT only pays for services performed or work delivered after it is accomplished.

A copy of link to a sample State of Minnesota Professional/Technical Contract is available for reference on MnDOT's CMGC website: <http://www.dot.state.mn.us/const/tools/documents/samplecontract.pdf>. Much

of the language reflected in the Contract is required by statute. If there are exceptions to any of the terms, conditions or language in the Contract, the successful Proposer must negotiate those exceptions with MnDOT prior to submitting a cost proposal, and MnDOT makes no guarantee that exceptions will be approved.

Travel Reimbursements

Reimbursements for travel and subsistence expenses actually and necessarily incurred by the successful Proposer, as a result of the Contract, will not exceed the amounts provided in the current MnDOT Travel Regulations. Reimbursements will not be allowed for travel and subsistence expenses incurred outside of Minnesota, unless the successful Proposer has received MnDOT's written approval for out-of-state travel. Minnesota will be considered the home base for determining whether travel is out-of-state.

6.2 CMGC FIXED-MARKUP PERCENTAGE

Utilizing the Proposed CMGC Fixed-Markup Percentage Form included in Exhibit 4 of this RFP, the apparent highest ranked Proposer will submit to MnDOT's Project Manager their proposed CMGC fixed-markup percentage identified as a percentage and carried out to two (2) decimal points (e.g. 0.00%) which will be applied to the Guaranteed Maximum Price (GMP) bid during all Construction Phase Services. The proposed fixed-markup percentage will not be submitted or scored in response to the RFP. Rather, the highest ranked Proposer will submit their proposed fixed-markup percentage to MnDOT's Project Manager at the initial meeting with MnDOT's Project Manager (see Section 6.1).

The CMGC fixed-markup percentage includes (1) all profit plus (2) the portion of home office overhead (G&A) allocated to the Project. Home office overhead (G&A) is defined as the cost of activities that are necessary to the overall operation of the contractor's business as a whole allocated to all of the Contractor's ongoing projects, including insurance that is maintained by the Contractor as a general cost of doing business. The fixed-markup percentage proposed in the RFP will be used in the Opinion of Probable Construction Cost (OPCC) estimates, GMP bidding for all work packages and all change orders. For provisional contingency items included in the CMGC Contractor's GMP bid, the CMGC Contractor will only be entitled to fixed-markup percentage for those provisional contingency items that are authorized by MnDOT.

The fixed-markup percentage will exclude all costs for any field indirect costs or direct costs of the Project. Explanation and definitions of home office overhead (G&A), field indirect costs, and direct construction costs are clarified in Exhibit 3.

The CMGC fixed-markup percentage provided in response to Exhibit 4 is not a guarantee. MnDOT will establish a competitive range for the fixed-markup percentage for the Project reserves the right to negotiate a competitive fixed-markup percentage with the apparent successful proposer. If MnDOT and the CMGC Contractor cannot successfully reach agreement on a competitive fixed-markup percentage during the OPCC or GMP bid validation process, MnDOT reserves the right to terminate the CMGC professional/technical services contract without penalty or payment (except payment for previously performed pre-construction services) and procure the construction of the Project by some other method.

6.3 P/T SERVICES CONTRACT AWARD AND EXECUTION

Upon successfully negotiating ~~the CMGC fixed markup percentage and~~ the scope of work/fee for preconstruction services, MnDOT will award a Professional/Technical (P/T) Services Contract to the successful Proposer and will provide for execution by the successful Proposer 5 copies of the Contract and of each available Master Utility Agreement, if any. A Professional/Technical (P/T) Services Contract will be prepared and administered by Consultant Services. Within 7 Days of receipt of the Contract from MnDOT, the successful Proposer shall fully execute and return to MnDOT the Contract together with all other required documents described below.

- Executed Contract
- Evidence of authorization to execute the Contract, in the form of a certified resolution of the governing body of Proposer expressly stating such body's authorization to execute the Contract and, if Proposer is a partnership, joint venture, unincorporated association, or limited liability company, of the governing bodies of the entity's partners or members
- Human Rights Certificate

MnDOT reserves the right to cancel the award of the Contract at any time before the execution of the Contract by all parties without any liability against MnDOT or the State of Minnesota.

Insurance Requirements for Professional/Technical Services Contract

1. Insurance Certificates and Continuity of Coverage Required. The successful responder must provide a certificate of insurance showing that they have each type of insurance coverage and limits required herein. The certificate must be filed with MnDOT's Authorized Representative within 30 days of execution of the contract, and prior to commencing work under the contract. The successful responder must maintain such insurance in full force and effect throughout the term of the contract.
2. Required Insurance. The successful responder will be required to maintain the furnish satisfactory evidence of the following insurance policies:
 - a. Workers' Compensation Insurance: Except as provided below, the successful responder will be required to provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, will require its subcontractor(s) to provide Workers' Compensation insurance in accordance with the statutory requirements of the state of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:
 - \$100,000.00 – Bodily Injury by Disease per employee
 - \$500,000.00 – Bodily Injury by Disease aggregate
 - \$100,000.00 – Bodily Injury by AccidentIf Minnesota Statutes §176.041 exempts the successful responder from Workers' Compensation insurance requirements, or if such responder has no employees in the state of Minnesota, the successful responder will be required to provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes the successful responder from the Minnesota Workers' Compensation requirements. If, during the course of the contract, the successful responder becomes subject to the Workers' Compensation Insurance requirements, the successful responder then must comply with such requirements and must provide MnDOT with a Certificate of Insurance evidencing such coverage.
 - b. Commercial General Liability Insurance: The successful responder will be required to maintain insurance protecting the successful responder from claims for damages for bodily injury, including

sickness or disease, death and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the contract whether the operations are by the successful responder or by a subcontractor or by anyone directly or indirectly employed by the successful responder pursuant to the contract. Insurance **minimum** limits are as follows:

- \$2,000,000.00 – per occurrence
- \$2,000,000.00 – annual aggregate
- \$2,000,000.00 – annual aggregate – Products/Completed Operations

The following coverages must be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal and Advertising Injury
- Blanket Contractual Liability
- Products and Completed Operations Liability
- State of Minnesota named as an Additional Insured, to the extent permitted by law

- c. **Commercial Automobile Liability Insurance:** The successful responder will be required to maintain insurance protecting the successful responder from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under the contract, and in case any work is subcontracted the successful responder must require the subcontractor to provide Commercial Automobile Liability insurance. Insurance **minimum** limits are as follows:

- \$2,000,000.00 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages must be included:

- Owned, Hired and Non-owned Automobile

- d. **Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance.** The successful responder will be required provide coverage for all claims the successful responder may become legally obligated to pay resulting from any actual or alleged negligent act, error or omission related to the successful responders professional services performed under the contract. Unless otherwise specified within this RFP, the successful responder will be required to carry the following **minimum** limits:

- \$2,000,000.00 – per claim
- \$2,000,000.00 – annual aggregate

Any deductible will be the sole responsibility of the successful responder and may not exceed \$50,000.00 with the written approval of MnDOT. If the successful responder desires authority from MnDOT have a deductible in a higher amount, the successful responder will be required to make such request in writing, specifying the amount of the desired deductible and providing financial documentation, acceptable to MnDOT, so that MnDOT can ascertain the ability of the successful responder to cover the deductible from its own resources. MnDOT will treat such financial statements as non-public data to the extent permitted by the Minnesota Government Data Practices Act.

The retroactive or prior acts date of coverage must not be after the effective date of the contract and the successful responder must maintain such coverage for a period of at least three years following the completion of work. If such insurance is discontinued, then extended reporting period coverage must be obtained by the successful responder to fulfill this requirement.

e. Additional Insurance Conditions:

- The successful responder’s policy(ies) will be primary insurance to any other valid and collectible insurance available to MnDOT with respect to any claim arising out of the successful responder performance under this contract;
- If the successful responder receives a cancellation notice from an insurance carrier affording coverage herein, the successful responder agrees to notify the state of Minnesota within five business days with a copy of the cancellation notice, unless the successful responder’s policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least 30 days advance written notice to the state of Minnesota.
- The successful responder is responsible for payment of contract related insurance premiums and deductibles;
- If the successful responder is self-insured, a Certificate of Self-Insurance must be provided to MnDOT;
- The successful responder’s policy(ies) must include legal defense fees in addition to its liability policy limits, with the exception of part d above;
- The successful responder must obtain insurance policies from insurance companies having an “AM BEST” rating of “A minus”, a Financial Size Category VII, or better, and authorized to do business in the state of Minnesota.
- An Umbrella or Excess Liability insurance policy may be used to supplement the successful responder’s policy limits to satisfy the full policy limits required by the contract.

~~The CMGC Contractor will be required to provide a certificate of insurance showing that they have each type of insurance coverage and limits required as set forth in the Professional/Technical Services Contract. The certificate must be filed with MnDOT’s Authorized Representative within 30 days of execution of this Contract. Each policy and Certificate of Insurance must contain a 30 day notice of cancellation, nonrenewal or changes in coverage or limits to all named and additional insured. The successful Proposer must maintain such insurance in full force and effect throughout the term of the Professional/Technical Services Contract.~~

Pre-Award Audit Requirement

The successful responder will be required to submit pre-award audit information and comply with audit standards. Failure to do so may result in disqualification. The minimum amount of information that the Audit Office must have for pre-award audit evaluations of a Contractor is a follows:

1. Business address of the firm with name and phone number of appropriate contact person(s) for accounting and auditing related issues.
2. Description of company’s accounting system. Submit a brief summary of company’s accounting system including software package being used (i.e., cash vs. accrual, manual vs. computerized, etc.).
3. Explanation of how direct expenses identifiable to a specific project are handled (e.g. purchased services, travel, etc.). Are they:
 - a. Included in overhead accounts?
 - b. Segregated into direct expense accounts and not included in overhead.

4. A list of the firm's general ledger accounts (Chart of Accounts).
5. Examples of the company's completed timesheet(s) and expense report(s)
6. State the company's fiscal year.
7. List of hourly billing rates.

6.4 DEBRIEFING

Within 60 Days after execution and delivery of the Contract, MnDOT will be available for an oral debriefing session upon written request made to the MnDOT CMGC Program Manager by an authorized representative of an unsuccessful Proposer. MnDOT reserves the right to delay indefinitely and/or cancel the debriefing meetings in its sole discretion.

At a minimum, the debriefing information shall include MnDOT's evaluation of the significant weaknesses or deficiencies in Proposer's Proposal, if applicable.

The debriefing shall not include point-by-point comparisons of the debriefed Proposer's Proposal with those of the other Proposers. Moreover, the debriefing shall not reveal any information that MnDOT cannot lawfully release or disclose at such time under the Minnesota Government Data Practices Act.

The purpose of a debriefing meeting is for MnDOT to provide informal and objective comments to a Proposer on MnDOT's review of their proposal, and provide feedback that may help Proposers improve their proposals for future procurements. A debriefing meeting also provides an informal setting to discuss this RFP and the procurement process; however, the Proposer should not use the debriefing meeting as a forum in which to address issues raised in any Protest under Section 3.9. If a Proposer has filed a protest under Section 3.9, and the Proposer also requests a debriefing meeting, the debriefing meeting will be scheduled to occur after MnDOT has issued a final agency decision regarding the merits of the Protest as provided in Section 3.9.

6.5 STIPENDS

MnDOT will not provide compensation to the Proposer for any expenses incurred for the proposal preparation. Refer to Section 3.8 for further clarification.

EXHIBIT 1 - CMGC INTRODUCTION

Construction Manager/General Contractor (CMGC) is a contracting method that involves MnDOT executing a Professional / Technical (P/T) services contract with a firm (CMGC Contractor) to provide constructability and other services during the pre-construction phase of the Project. During this pre-construction phase, the CMGC Contractor performs a Construction Manager role. Once the pre-construction phase of the Project reaches the appropriate stage, the CMGC Contractor is given an opportunity to provide a proposed cost (“bid”) to construct the Project. The Owner then reviews the bid and if agreement is reached, the CMGC Contractor becomes the General Contractor for the construction phase of the Project. If the Owner and the CMGC Contractor fail to reach agreement on price, MnDOT has the option to terminate the CMGC Professional/Technical services contract without penalty or payment (except payment for pre-construction services) and procure the construction of the Project by some other method. If there are multiple work packages on a project, the CMGC contractor will be allowed to continue to perform construction services for previously awarded work packages, but MnDOT will procure future work packages by another procurement method. This RFP uses the term “CMGC Contractor” when indicating the construction firm that will provide pre-construction services as Construction Manager and that may become the General Contractor if MnDOT and the CMGC Contractor successfully agree upon an acceptable price for the work.

The intent is to form a partnership with MnDOT, the Design Consultant, and the CMGC Contractor.

The goals of this partnership are to mitigate risk, improve the construction schedule, streamline the design process, improve overall quality, and develop a project that adheres to the budget. An important role of the CMGC Contractor is to evaluate the constructability of the design concepts to reduce risks and costs in all phases with innovative approaches to meet budget goals. We anticipate the involvement of the CMGC Contractor will help minimize design elements that unnecessarily increase cost and improve the overall constructability of the Project.

The Integrated Project Team (MnDOT, Design Consultant, and the CMGC Contractor) will collaborate to deliver the Project in less time, at a lower total cost, and meet the Project Goals. The Project Team offers:

- Expertise in design, constructability, and project phasing.
- The skills and knowledge to estimate the quantities of materials, labor, and equipment needed for construction.
- The skills and knowledge to determine the tasks (work breakdown structure) needed to complete the Project and estimate the costs, duration, and sequence of these tasks.
- An understanding of the availability, cost, and capacities of materials, labor, and equipment.
- The skills and knowledge to identify potential risks (including financial risks) and methods to mitigate them during the design process.

- A CMGC Contractor provided model for estimating construction costs.

During the design process (preconstruction phase) the CMGC Contractor works with the Design Consultant and the MnDOT Project Management Team to:

- Implement the risk management strategy and provide input into the development and monitoring of a Risk/Opportunity Register.
- Participate in risk assessment and mitigation workshops.
- Lead the development of an open cost model for the Engineer’s Estimator and Independent Cost Estimator (ICE) so that assumptions, contingency, and approach to the estimate are similar.
- Provide for open-book examination of an open cost model by MnDOT, the Independent Cost Estimator, and the Design Consultant.
- Continually update, at the 30%, 60%, and 90% design submissions, a Project estimate and construction schedule.
- Integrate Disadvantaged Business Enterprises (DBEs) in the Project as required during the CMGC pre-construction services.
- Develop and update a Subcontracting Plan to integrate subcontractors, including DBEs, in the construction phases.
- Participate in formal reviews of each design PS&E package at the 30%, 60%, and 90% design submissions.
- Provide progressively refined Construction Cost Estimates at the 30%, 60%, and 90% design submissions.
- Continually provide informal input on constructability, value engineering, and cost as requested.
- Prepare Construction Bid Price Proposals for MnDOT with appropriate backup documentation for all construction, early work, and procurement PS&E packages.
- Develop, propose, and track innovations for Project construction.

If the CMGC Contractor is awarded a construction contract, their role will be to construct the Project within the Construction Bid Price Proposal and propose solutions that will help achieve the goal of staying within the budget. If the MnDOT and the CMGC Contractor cannot reach agreement on a construction contract, MnDOT retains the option to cancel the Project, reduce the scope, or deliver the Project by other methods. If the Project is publicly advertised for bids, the CMGC Contractor will be allowed to submit a bid for the Project.

Early procurement or construction work may be considered for acquisition of long lead items or to complete early construction tasks that can be completed and turned over to another Contractor, should negotiations for final construction cease. Early construction work may be performed by the CMGC Contractor with the understanding that work on early phases does not guarantee the CMGC Contractor will receive a contract for the remaining phases. Early phases will be independent and severable from the final construction package, with a well-defined end point. Construction will not begin until a Construction Bid Price Proposal has been accepted for a substantially complete Plans, Specifications, and Estimate (PS&E) package.

EXHIBIT 2 – CMGC SCOPE OF WORK

The CMGC Contractor is being selected for this Project, to join the Project Team. The CMGC Contractor will be expected to provide the Project Team with construction expertise and technical experience, to assist in Project decision-making and ensure the technical, social and economic challenges are addressed, and provide input on items affecting construction schedule and costs.

Scope of Work (Pre-Construction Services)

The CMGC Contractor shall consult with the Project Team during the design phase in order to develop, implement and maintain a spirit of cooperation and open communication among the parties so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and upon completion, the Project is deemed a success by all.

As part of the design team, the CMGC Contractor will provide input on schedule, phasing, constructability, materials availability, cost, etc. throughout the design phase of the Project. The CMGC Contractor tasks during the design phase include:

- 1) Provide a Project Manager and associated staff to consult with, advise, assist, and provide recommendations to MnDOT and the design team on all aspects of the planning, design, and proposed construction, as requested by MnDOT.
- 2) Attend an initial Project workshop that includes the following agenda items:
 - a) Introduction to the Project Team
 - b) Introduction of the Project Stakeholders
 - c) Project status, goals, objectives, funding, etc.
 - d) Presentation of Project elements.
 - e) Identify Project risks and provide input that will be used to develop a risk management plan.
 - f) Coordination of initial traffic control plan for construction.
 - g) Development of initial rehabilitation/repair strategies.
 - h) Question and answer session.
- 3) Participate in design coordination meetings with MnDOT and MnDOT's design consultant. Design coordination meetings are anticipated to be held every 2 weeks.
- 4) It is anticipated that this project will be progressed by dividing the work into a minimum of three separate and severable work packages or contracts (sometimes referred to as progressive GMP contracting). For each work package, formal design milestone review meetings will take place at the following approximate design development 30%, 60% and 90%. The first milestone review meeting will cover 30% plan development for all separate and severable work packages. Subsequently, each separate and severable work package will go through their own 60% and 90%

design milestone reviews although consolidation of review milestones is possible. For each milestone review meeting, provide the following services:

- a) Participate in formal constructability, material, equipment and labor availability reviews. These formal reviews will focus on identifying revisions to improve clarity for bidding, identifying potential design revisions that would reduce construction costs, and identifying elements to improve the time performance of the Project.
- b) Participate in formal risk analysis workshops with MnDOT and MnDOT's design consultant. The focus of the risk analysis workshops will be to identify potential risks and to assign cost and schedule impacts to each risk in order to better define pricing and contingency.
- c) Participate in a formal Cultural/SHPO review(s) for the bridge rehabilitation design and any other project design elements under Cultural/SHPO review.
- d) Provide progressively refined Opinion of Probable Construction Cost estimates (OPCC). For each OPCC develop a cost model and provide MnDOT with a written narrative that identifies the means, methods, assumptions, and risks that were used to price the work. The OPCC cost validation process is shown in Figure 1 and is outlined in more detail on MnDOT's CMGC website.
- e) Participate in price reconciliation meetings to reconcile components of the price that deviates from that of the ICE more than a stipulated amount. During price reconciliation meetings, MnDOT may request that the CMGC Contractor share the cost model in an over-the-shoulder environment with them to more fully understand how the proposed pricing was derived and to help reconcile differences. During these meetings, any sharing of or discussions about the CMGC Contractor's cost model will be limited to MnDOT's Project Manager, MnDOT's Resident Engineer, key estimating staff, and possibly the ICE. At the conclusion of each meeting all cost model data presented by the CMGC Contractor will remain with the CMGC Contractor and remain their property. The CMGC Contractor is responsible for preparing and updating the cost model. The following information is typical of what is included in a CMGC cost model:
 - (1) Unit prices and quantity take-offs.
 - (2) Material costs, equipment costs, labor costs, hourly labor rates, crew sizes, shifts per day, hours per shifts. Labor rates shall include employee benefits, payroll taxes and other payroll burdens.
 - (3) Risk assumptions and assignment of risks.
 - (4) Production rates, transportation, and other facilities and services necessary for the proper execution of the work.
 - (5) Copies of quotations from subcontractors and suppliers.
 - (6) Field indirect costs, bonds, taxes and insurance.
- f) Provide written reports and recommendations of the conceptual drawings being prepared by MnDOT and the design consultant, including conflicts and/or deficiencies noted.
- g) Prepare and submit a Critical Path Method (CPM) schedule that supports each OPCC.

- 5) Continually provide informal oversight and constructability reviews with the MnDOT team on various specific elements of the Project and provide recommendations, including providing input on staging, sequencing, equipment storage, detour routes, traffic control, storm water management, accelerated bridge construction techniques, evaluation of bridge types, and materials that may be cost-effectively recycled during construction.
- 6) Identify any long lead items that may cause schedule impacts.
- 7) Prior to the development of the GMP, prepare a detailed baseline cost-loaded CPM schedule to serve as the Project Baseline Schedule, which identifies all activities during construction. In addition to the CPM Schedule, submit a finalized budget and schedule control management plan to ensure completion of construction within budget and in accordance with the Project Baseline Schedule.
- 8) Develop and formulate a Subcontracting Plan to integrate subcontractors as needed to accomplish all construction work. Identify the proposed plan to meet DBE contract goals for the overall Project and also for each separate and severable work package.
- 9) Help ensure that environmental commitments are implemented during construction including those from permits as applicable through review of design and permit applications. The Department will provide the CMGC Contractor with anticipated timelines required to obtain the necessary environmental clearances and permits on this Project. Provide input on temporary construction or staging activities that may require additional environmental permits based on the proposed construction operations. Clearly reflect in the Baseline CPM Schedule the times required to obtain these clearances and permits. Identify time and cost impacts associated with schedule slippage and propose mitigation measures to minimize these impacts. Provide constructability feedback on mitigation measures proposed in the design plans.
- 10) Assist MnDOT in preparing the draft and final submissions of a Storm Water Pollution Prevention Plan (SWPPP) as applicable to local jurisdictional requirements.
- 11) Develop, propose, and track innovations for Project construction. Document and track cost savings and schedule impacts associated with innovations in a written report to the MnDOT.
- 12) Coordinate with Project stakeholders in conjunction with MnDOT and the Design Consultant.

Scope of Work (GMP Bid Validation Process)

When MnDOT and the CMGC Contractor agree that the Project has been designed to a sufficient level of detail to allow for a constructible and biddable Project or work package, the following process will be used. The GMP validation process is shown in Figure 2 and is outlined in more detail on MnDOT's CMGC website.

- 1) The design consultant will produce a set of Issue for Bid (IFB) plans and specifications showing all work to be accomplished.
- 2) The CMGC Contractor will prepare a Construction Service Cost Proposal package for the work which will include the following components:

- “Bid” or cost proposal, including all overhead and profit considered within specified pay items. The bid will include a cost proposal for all items of work identified in the plans. The CMGC Contractor will submit their bid to MnDOT. The bid will be based on the estimating model and the most recent OPCC for the agreed scope of work. Any provisional contingency items that may be mutually agreed upon by MnDOT and the CMGC Contractor during pre-bid discussions will be included in the bid. However, provisional contingency items will be tabulated separately in the bid. The CMGC Contractor will not be entitled for payment (including fixed-markup) for any provisional contingency items without justification and authorization from MnDOT.
- A detailed baseline cost and resource loaded CPM Schedule to serve as the Project Baseline Schedule, which identifies all activities during construction. Schedule shall clearly identify milestones, showing the proposed start and finish dates and include a narrative that clearly describes the assumptions that were used to derive item prices (e.g., crew sizes, production rates, and other requirements outlined in Standard Specification 1803).
- Narrative about how the CMGC Contractor will meet the Disadvantaged Business Enterprise (DBE) goal for the particular work package and for the entire project. DBE participation goal will be established as the design of the project or work package is nearing completion.
- Narrative description of all other inclusions to, or exclusions from, the GMP, including all assumptions and clarifications that support the bid prices.

3) MnDOT will review the CMGC Contractor’s bid using the following process

- MnDOT will secure an Independent Cost Estimate (ICE) for the Work. Upon opening the CMGC Contractor’s bid, MnDOT will compare the CMGC Contractor’s bid with the estimate prepared by the ICE. If the CMGC Contractor’s overall bid is within 10% of the ICE, the bid will be forwarded to MnDOT’s Central Office Estimating Unit for review.
- The Estimating Unit will compare the CMGC Contractor’s bid to the ICE and to MnDOT’s Engineer’s Estimate. If the proposed pricing is found to be acceptable, the bid will be reviewed for irregularities as outlined in Standard Specification 1207 (Irregular Proposals). If pricing is acceptable and does not contain any irregularities, MnDOT will accept the CMGC Contractor’s bid as the basis for the GMP and MnDOT will prepare a construction Contract based on the GMP bid. The Contract amount will include funding for provisional contingency items mutually agreed upon by MnDOT and the CMGC Contractor during pre-bid discussions. However, the CMGC Contractor will not be entitled to payment for any provisional contingency items without justification and authorization from MnDOT.
- If the prices are not acceptable, MnDOT will enter into a process of risk identification that identifies price differences between the CMGC Contractor and the ICE. Following the resolution of these risk issues, the CMGC Contractor will have the option to re-bid the project. MnDOT has the option to accept the revised price or to terminate the CMGC professional/technical services contract without penalty or payment (except payment for pre-

construction services) and procure the construction of the Project by some other method. If there are multiple work packages on a project, the CMGC contractor will be allowed to continue to perform construction services for previously awarded work packages, but MnDOT will procure future work packages by another procurement method.

The GMP will not be exceeded except as allowed for quantity over-runs, under runs or changed conditions as defined in the MnDOT 2010 Standard Specifications 1402 and 1903. However, when considering additional compensation for changed conditions, MnDOT will consider the fact that the CMGC Contractor participated in the design effort during the Preconstruction phase and therefore has a more thorough understanding of the assumptions and risks which should have been reflected in the “bid” or in the provisional contingency items.

Multiple, Severable Work Packages: As previously explained, this project is considering the use of multiple GMPs in which the work will be progressed through three separate and severable work packages or contracts. At a minimum, MnDOT anticipates the following work packages for this project:

- Package 1: All work required to construct the river foundations for the new Bridge No. 85851.
- Package 2: All work required to complete the construction of the new Bridge No 85851, including the necessary roadway work, allowing Trunk Highway 43 traffic to be routed onto the new bridge.
- Package 3: All work related to the rehabilitation of existing Bridge No. 5900 plus any remaining work on the project.

Each work package will be a separate and severable contract with MnDOT. The CMGC Contractor will assist MnDOT in providing documentation that breaking the work into progressive GMP work packages results in time savings, reduced construction costs, or a reduced inconvenience to the traveling public.

Overall Project Target Price: Prior to submitting a GMP bid for the first work package, the CMGC Contractor will be required to submit an Overall Project Target Price (OTP) for the project. The OTP represents a good faith estimate from the CMGC Contractor of the construction costs required to complete all work packages on the project. It will be used by MnDOT to verify that the overall construction scope can be completed within the available project budget. An OTP will be submitted at the same time that the 90% OPCC is submitted for the first work package. It is based on the assumptions and risks that are known at the time the estimated costs are submitted to MnDOT. The CMGC Contractor’s OTP will be supported by a cost model and narrative similar to OPCCs. MnDOT may not accept the GMP Bid Proposal for a work package if the CMGC Contractor cannot demonstrate that they can complete the work for the overall project within the project budget.

Scope of Work (Construction Services)

If the CMGC Contractor and MnDOT are able to agree to a GMP, and the CMGC Contractor complies with DBE requirements and all other conditions of award, the CMGC Contractor shall:

- Execute a contract with MnDOT.

MINNESOTA DEPARTMENT OF TRANSPORTATION –DISTRICT 6

- Construct and manage all construction related contracts while meeting all Project requirements and Federal Contract requirements, as per MnDOT Standard Specifications and the prepared bid package.
- Substantially complete the construction no later than listed in the RFP.

Figure 1: CMGC Interim Pricing (OPCC) Milestone Process

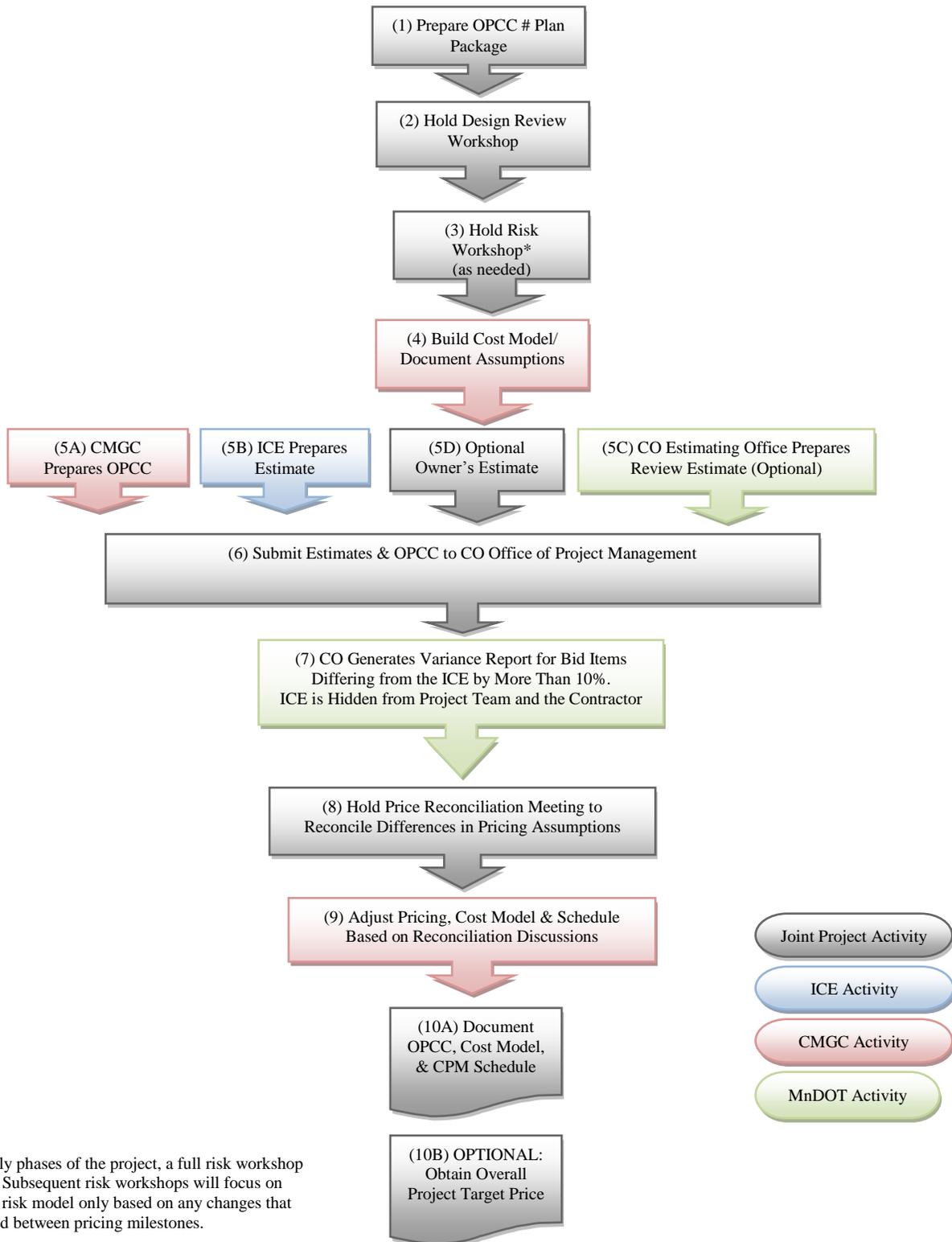


Figure 2: CMGC GMP Bid Validation Process

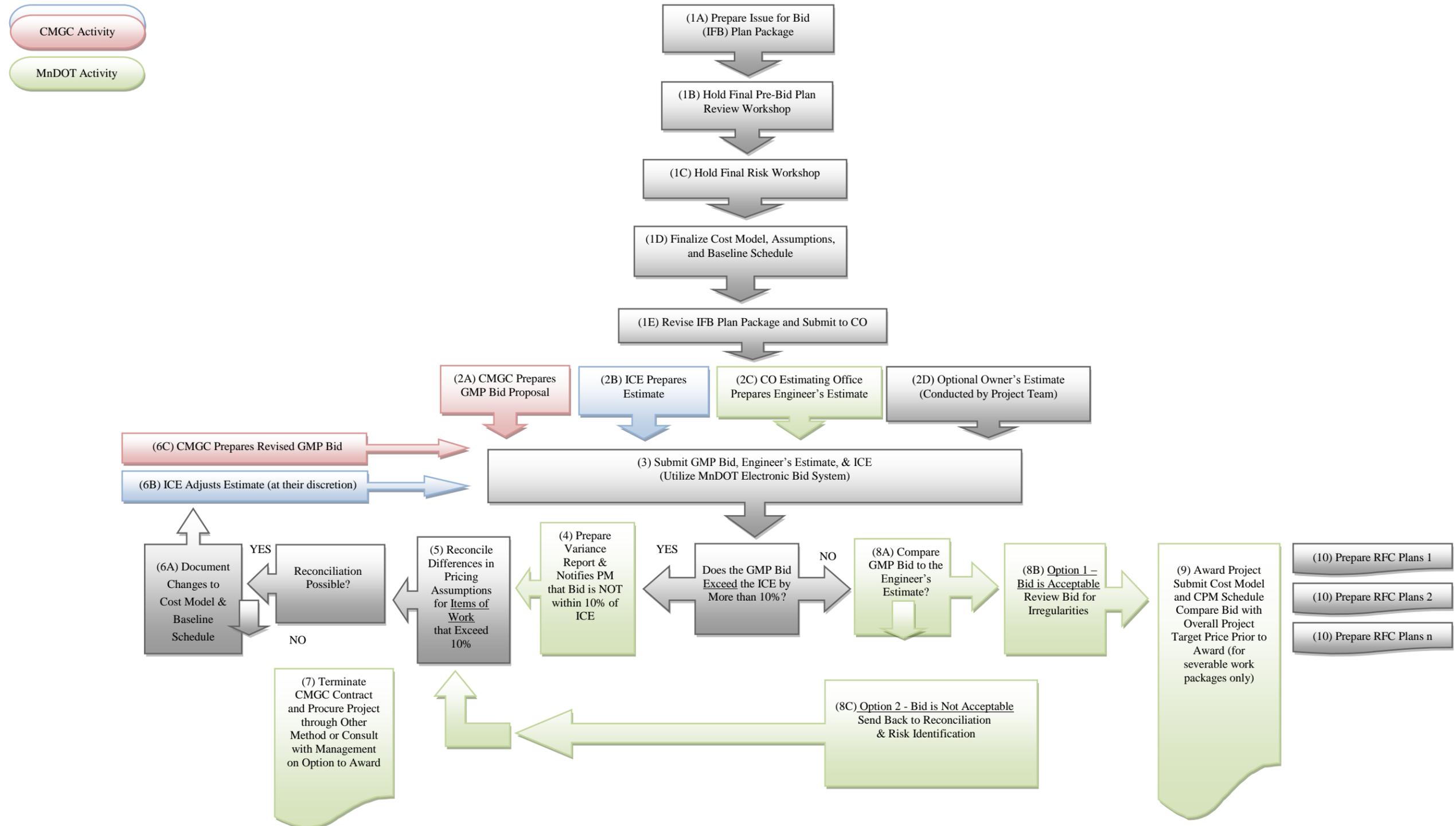


EXHIBIT 3 – CMGC FIXED-MARKUP AND OVERHEAD DEFINITIONS

Fixed-Markup Definition, OPCC, and GMP

The CMGC Contractor shall propose a fixed-markup for the Work expressed as a percentage of the Total Construction Cost on the form provided. The fixed-markup percentage will include the CMGC Contractor's profit plus the portion of home office overhead (G&A) allocated to the Project. Home office overhead (G&A) is defined as the cost of activities that are necessary to the overall operation of the contractor's business as a whole ~~all auditable costs that are~~ allocated to all of the Contractor's ongoing projects, including insurance that is maintained by the Contractor as a general cost of doing business. The fixed-markup percentage proposed ~~in the RFP~~ will be used in the OPCC estimates, GMP bidding for all work packages and all change orders.

The profit component of the fixed-markup is to include any bonuses and incentives but excludes all costs associated with direct Project construction activities, including but not limited to risk or contingency. ~~Home office overhead (G&A) is defined as all auditable costs that are allocated to all of the CMGC Contractor's ongoing projects, including insurance that is maintained by the CMGC Contractor as a general cost of doing business.~~ The fixed-markup shall not include any field indirect costs or direct costs of the Project. The fixed-markup fee percentage shall be applied to the total construction cost, and the result shall be the guaranteed maximum price. The guaranteed maximum price shall be used as the "bid" to be submitted electronically to MnDOT.

Field Indirect Costs (General Conditions of Work)

The list below states the categories of field indirect costs that are acceptable to MnDOT and shall be included in the Cost of the Work, and not included as part of the G&A portion of the CMGC fixed-markup percentage submitted ~~in response to this RFP~~ by the CMGC Contractor.

- Job Supervision and Overhead: Wages including benefits, payroll insurance and taxes for onsite management, supervision, engineers, safety personnel, quality control staff, and administration staff.
- Survey: Cost of construction survey including both CMGC Contractor-hired and outside service.
- Site Office Expense: Ownership or rental of building, maintenance, removal, utilities, office and engineering expendables, furniture, computers and infrastructure, photographs.
- Insurance and Taxes: Insurance other than that based on payroll, such as railroad protective, equipment insurance, and other specified or CMGC Contractor-required insurances. Taxes excluding payroll taxes such as property tax and any special local or State. Sales tax should be included with the applicable item taxed.

- Temporary Buildings: Cost of ownership or rental, set up, maintenance and removal of such buildings as owner’s office (if not a direct bid item), warehouses, first aid building, and other miscellaneous.
- Personnel Expense: Small tools and supplies, safety expendables, drug screen testing, training, physicals, and hiring expense. Include any per-diem costs for craft or indirect personnel.
- Project Utilities: Site utilities such as temporary electric, water, and sanitary.
- Mobile Equipment: Overhead vehicles, maintenance equipment and personnel (if not in Equipment Operating Expense), and general service equipment and personnel (such as flatbeds and forklifts if not in direct cost).
- Mobilization: Cost of transportation of equipment and other items for move in, move out, set up, and take down. Include cost of personnel moves and related expense.
- Construction Plant: Include site fences, parking areas, material yards, temporary access, and other such special construction not included in direct costs. Haul road construction and maintenance to be included in direct costs.
- Quality Control: Cost of QC labor, equipment, and supplies and outside services and CMGC Contractor-hired personnel with site overhead wages.
- Bonds: Include cost of payment and performance bond or other guaranties as specified or allowed. Cost of subcontract or material bond shall also be included here.
- Escalation: Estimated cost of Items for which firm pricing cannot be obtained. Includes increases in craft and field indirect wage rates and fringe benefits whether by agreement or estimated.

When pricing the work for OPCCs or GMPs, field indirect costs will be broken out separately and not spread over the cost of the work.

Allowable Construction Costs for Direct and Field Indirect Costs

Definitions of some of the items of direct and field indirect costs are set forth below and shall not be included in the CMGC fixed-markup percentage submitted ~~in response to this RFP~~ by the CMGC

Contractor:

- Labor: Includes wages and add-ons including overtime, vacation pay, and all fringe payments such as health and welfare, pensions, and any other that may be included in union agreement or as paid to both craft and staff employees. Payroll insurance including Worker’s Compensation and General Liability if based on labor amounts. Payroll taxes including FICA and State and Federal unemployment.

- **Permanent Materials:** Includes the cost of materials incorporated into the Work. To include estimated loss, waste, and non-pay overruns. Sales tax and any shipping for these materials will be a part of this category.
- **Construction Expendable Materials:** Includes non-permanent materials, temporary facilities, small tools, formwork, temporary construction, office supplies, services, insurance, and taxes.
- **Equipment Ownership:** Includes rental or ownership charge of both company-owned and outside rentals and sales tax on any rentals.
- **Equipment Operating Expense:** Includes repair parts, tires and tracks, CMGC Contractor’s repair labor, services and fuel, oil and grease.
- **Subcontract:** Cost of Items of work subcontracted including contracted trucking.

EXHIBIT 4 – CMGC FIXED-MARKUP PERCENTAGE PROPOSAL FORM

The RFP consists of the following form that will be submitted by the apparent successful proposer~~the CMGC Contractor shall completely execute:~~

- Proposed CMGC Fixed-Markup Percentage Form

PROPOSED CMGC FIXED-MARKUP FORM

Proposers, please read the following carefully before preparing this CMGC Fixed-Markup Percentage Form:

The CMGC fixed-markup percentage will not be submitted or scored as part of the RFP. The apparent successful Proposer shall ~~propose insert~~ a fixed-markup -percentage to be applied to the total construction cost to arrive at the Guaranteed Maximum Price (GMP). It will also be applied to the total construction cost for OPCCs and all change orders. The fixed-markup percentage will be submitted to the MnDOT Project Manager at the initial preconstruction services negotiation meeting, as noted in Section 6.2. The fixed-markup percentage includes (1) profit and (2) the portion of home office overhead (G&A) allocated to the Project. The proposed fixed–markup percentage will exclude all costs for field indirect costs.

Conditioned, qualified, or incomplete CMGC Fixed-Markup Percentage Forms will not be accepted, be considered non-responsive. ~~Fixed Markup Proposals will not be scored as part of the RFP, directly.~~

TRUNK HIGHWAY 43 -Winona Bridge, S.P. 8503-46 (TH 43)	
CMGC Fixed-Markup Percentage	
Fixed-markup percentage to be applied to the guaranteed maximum construction cost	____.____%

Proposer’s Team (Printed)

Project Principal’s Name (Signed)

ATTACHMENT 1

Prompt Payment

December 2002

NOTICE TO BIDDERS

Minnesota Statutes that require prompt payment to subcontractors:

16A.1245 Prompt payment to subcontractors.

Each state agency contract must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the state for undisputed services provided by the subcontractor. The contract must require the prime contractor to 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 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

HIST: 1990 c 541 s 1

337.10 Building and construction contracts; prohibited provisions.

Subd. 3. Prompt payment to subcontractors. A building and construction contract shall be deemed to require the prime contractor and all subcontractors to promptly pay any subcontractor or material supplier contract within ten days of receipt by the party responsible for payment of payment for undisputed services provided by the party requesting payment. The contract shall be deemed to require the party responsible for payment to pay interest of 1-1/2 percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the party responsible for payment shall pay the actual penalty due to the party requesting payment. A party requesting payment who prevails in a civil action to collect interest penalties from a party responsible for payment must be awarded its costs and disbursements, including attorney fees incurred in bringing the action. This subdivision does not apply to construction of or improvements to residential real estate as defined in section 326.83, subdivision 17, or to construction of or improvements to attached single-family dwellings, if those dwellings are used for residential purposes and have fewer than 13 units per structure.

HIST: 1997 c 127 s 1; 1998 c 289 s 1,2; 1999 c 116 s 2

ATTACHMENT 2

Bid Rigging

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

ATTACHMENT 3

NOTICE TO BIDDERS

SUSPENSIONS/DEBARMENTS

PAGE 1 OF 2

DEPARTMENT OF TRANSPORTATION

NOTICE OF DEBARMENT

NOTICE IS HEREBY GIVEN that MnDOT has ordered that the following vendors be debarred for a period of three (3) years, effective March 25, 2011 until March 25, 2014:

- Philip Joseph Franklin and his affiliates, Leesburg, VA
- Franklin Drywall, Inc. and its affiliates, Little Canada, MN
- Master Drywall, Inc. and its affiliates, Little Canada, MN

NOTICE IS HEREBY GIVEN that MnDOT has ordered that the following vendors be debarred for a period of three (3) years, effective May 6, 2013 until May 6, 2016:

- Gary Francis Bauerly and his affiliates, Rice, MN
- Gary Bauerly, LLC and its affiliates, Rice, MN
- Watab Hauling Co. and its affiliates, Rice, MN

NOTICE OF SUSPENSION

NOTICE IS HEREBY GIVEN that the Department of Transportation (“MnDOT”) has ordered that the following vendors be suspended for a period of sixty (60) days, effective July 3, 2013 until September 1, 2013:

- Marlon Louis Danner and his affiliates, South St. Paul, MN
- Danner, Inc. and its affiliates, South St. Paul, MN
- Bull Dog Leasing, Inc. and its affiliates, Inver Grove Heights, MN
- Danner Family Limited Partnership and its affiliates, South St. Paul, MN
- Ell-Z Trucking, Inc. and its affiliates, South St. Paul, MN
- Danner Environmental, Inc. and its affiliates, South St. Paul, MN

Minnesota Statute section 161.315 prohibits the Commissioner, counties, towns, or home rule or statutory cities from awarding or approving the award of a contract for goods or services to a person who is suspended or debarred, including:

- 1) any contract under which a debarred or suspended person will serve as a subcontractor or material supplier,
- 2) any business or affiliate which the debarred or suspended person exercises substantial influence or control, and
- 3) any business or entity, which is sold or transferred by a debarred person to a relative or any other party over whose actions the debarred person exercises substantial influence or control, remains ineligible during the duration of the seller’s or transfer’s debarment.

NOTICE TO BIDDERS

SUSPENSIONS/DEBARMENTS

PAGE 1 OF 2

DEPARTMENT OF ADMINISTRATION

As of the date of this notice and in accordance with Minnesota Rules 1230.1150, the Minnesota Department of Administration has debarred and disqualified the following persons and businesses from entering into or receiving a State of Minnesota contract:

NAME	DATE OF DEBARMENT
Best Used Trucks of Minnesota, Inc. 635 Marin Ave. Crookston, MN 56716	Nov. 20, 2012 through Nov. 20, 2015 (eligible for reinstatement on Nov. 20, 2016)
Bull Dog Leasing, Inc. 7854 Danner Court Inver Grove Heights, MN 55076	Aug. 30, 2011 through Aug. 30, 2014 (eligible for reinstatement on Aug. 30, 2015)
Danner Family Ltd. Ptshp. 843 Hardman Ave. S. S. St. Paul, MN 55075	Aug. 30, 2011 through Aug. 30, 2014 (eligible for reinstatement on Aug. 30, 2015)
Danner, Inc. 843 Hardman Ave. S. S. St. Paul, MN 55075	Aug. 30, 2011 through Aug. 30, 2014 (eligible for reinstatement on Aug. 30, 2015)
Ell-Z Trucking, Inc. 843 Hardman Ave. S. S. St. Paul, MN 55075	Aug. 30, 2011 through Aug. 30, 2014 (eligible for reinstatement on Aug. 30, 2015)
Franklin Drywall, Inc. 43279 Fieldsview Crt. Leesburg, VA 20176	March 25, 2011 through March 25, 2014 (eligible for reinstatement on March 25, 2015)
Master Drywall, Inc. 43279 Fieldsview Crt. Leesburg, VA 20176	March 25, 2011 through March 25, 2014 (eligible for reinstatement on March 25, 2015)
Watab Hauling Co. Gary Francis Bauerly 9695 Deerwood Rd. NE Rice, MN 56367	Jan. 14, 2013 through Jan. 14, 2016 (eligible for reinstatement on Jan. 14, 2017)

Minnesota Administrative Rule part 1230.1150, subpart 6 requires the Materials Management Division to maintain a master list of all suspensions and debarments. The master list must retain all information concerning suspensions and debarments as a public record for at least three (3) years following the end of a suspension or debarment. Refer to the following website for the master list: <http://www.mmd.admin.state.mn.us/debarredreport.asp>.

If the project is financed in whole or in part with federal funds, refer to the following website for vendors debarred by federal government agencies: <http://sam.gov>.

Form 1

INFORMATION ABOUT PROPOSER ORGANIZATION

1.0 Name of Proposer: _____

2.0 Type of entity: _____

3.0 Proposer's address: _____

Telephone Facsimile

4.0 How many years has Proposer and each member, partner or joint venturer of Proposer been in its current line of business?

Proposer: _____

_____: _____

_____: _____

_____: _____

_____: _____

5.0 How many years has Proposer and each member, partner or joint venturer of Proposer been in business under its present name?

Proposer: _____

_____: _____

_____: _____

_____: _____

_____: _____

6.0 Under what other or former names has Proposer and each member, partner or joint venturer of Proposer operated?

Proposer: _____
_____: _____
_____: _____
_____: _____
_____: _____

7.0 If Proposer (or any member, partner or joint venturer of Proposer) is a corporation or includes a corporation as a joint venturer, partner or member, answer the following (copy this page if necessary for multiple corporations):

7.1 Name of corporation: _____
7.2 Relationship of corporation to Proposer: _____
7.3 Date of incorporation: _____
7.4 State of incorporation: _____
7.5 President’s name: _____
7.6 Vice president’s name(s): _____

7.7 Secretary’s name: _____
7.8 Treasurer’s name: _____

8.0 If Proposer (or any member, partner or joint venturer of Proposer) is a partnership (including general partnerships, limited partnerships and limited liability partnerships) or includes a partnership as a joint venturer, partner or member, answer the following (copy this page if necessary for multiple partnerships):

8.1 Name of partnership: _____
8.2 Relationship of partnership to Proposer: _____
8.3 Date and state of formation of partnership: _____

8.4 Full names and addresses of all partners (state whether general or limited partners):

9.0 If Proposer (or any member, partner or joint venturer of Proposer) is a joint venture or includes a joint venture as a joint venturer, partner or member, answer the following (copy this page if necessary for multiple joint ventures):

9.1 Name of venture: _____

9.2 Relationship of venture to Proposer: _____

9.3 Full names and addresses of all members (at all tiers):

10.0 If Proposer (or any member, partner or joint venturer of Proposer) is a limited liability company or includes a limited liability company as a joint venturer, partner or member, answer the following (copy this page if necessary for multiple companies):

10.1 Name of company: _____

10.2 Relationship of company to Proposer: _____

10.3 Date of organization: _____

10.4 State of organization: _____

10.5 President’s name: _____

10.6 Vice president’s name(s): _____

10.7 Secretary’s name: _____

10.8 Treasurer’s name: _____

11.0 If Proposer (or any member, partner or joint venturer of Proposer) is an individual or an entity other than a corporation, partnership, limited liability company or joint venture, **include copies of organizational documents for all tiers certified by an appropriate individual** and describe such person or entity and name all principals (copy this page if necessary for multiple entities):

12.0 Proposer shall review its SOQ previously submitted to MnDOT and list below any new or changed information. If Proposer’s organization has changed since submission of its SOQ, specifically describe such changes, and include a copy of the Commissioner’s approval letter(s) (see RFP Section 1.6). Except as updated by the following information, Proposer’s SOQ is hereby incorporated as if set forth in full and Proposer represents and warrants to MnDOT that the information set forth in the SOQ, except as set forth herein, is true, complete and accurate in all respects and does not contain any misleading or incorrect information. Attach separate sheets if necessary.

13.0 Within the last five years, has Proposer or any member, partner or joint venturer of Proposer ever failed to comply with the requirements of regulatory agency permits? If so, note when, where and why (and specify which entity was involved).

14.0 Proposer shall identify and describe any pending or active sales, mergers, acquisitions or bankruptcy filings for any member, partner or joint venturer of the Proposer.

Note:

Proposer’s partnership agreement, limited liability company agreement and joint venture agreement, as applicable, must include an express provision satisfactory to MnDOT, in its sole discretion, stating that, in the event of a dispute between or among joint venturers, partners or members, as applicable, no joint venturer, partner or member, as applicable, shall be entitled to stop, hinder or delay work on the Project.

MnDOT reserves the right to request copies of organizational documents such as articles of incorporation, bylaws, partnership agreements, certificates of partnerships, joint venture agreements, limited liability company operating agreements and others.

STATE OF _____)
)
COUNTY OF _____)

Each of the undersigned, being first duly sworn, deposes and says that _____ is the _____ of _____ and is the _____ of _____, which entity(ies) are the _____ of _____, the entity making the foregoing Proposal, and that the answers to the foregoing questions and all other statements therein are true and correct.

_____	_____
(Signature)	(Signature)
_____	_____
(Name Printed)	(Name Printed)
_____	_____
(Title)	(Title)
_____	_____
(Company Name)	(Company Name)

Form 2
RESPONSIBLE PROPOSER AND MAJOR PARTICIPANT
QUESTIONNAIRE

Proposer Name: _____

1. Questions

Proposer shall respond either “yes” or “no” to each of the following questions. If Proposer’s response is “yes” to any question(s), a detailed explanation of the circumstances shall be provided in the space following the questions. Proposer shall attach additional documentation as necessary to fully explain said circumstances. Failure to either respond to the questions or provide adequate explanations may preclude consideration of the proposal and require its rejection. With respect to Proposer, the term “affiliate” shall mean any firm, corporation, partnership, joint venture, limited liability company or association which is a member, joint venturer or partner of Proposer or any such entity which owns a substantial interest in or is owned in common with Proposer or any of its members, joint venturers or partners, or any such entity in which Proposer or any of its members, joint venturers or partners own a substantial interest. With respect to a Major Participant, the term “affiliate” shall mean any firm, corporation, partnership, joint venture, limited liability company or association which is a member, joint venturer or partner of the Major Participant or any such entity which owns a substantial interest in or is owned in common with the Major Participant or any of its members, joint venturers or partners, or any such entity in which the Major Participant or any of its members, joint venturers or partners own a substantial interest.

Within the past ten years, has Proposer, any affiliate of Proposer, any officer, director, responsible managing officer or responsible managing employee of proposer who has a proprietary interest in proposer, any Major Participant, any affiliate of the Major Participant, any officer, director, responsible managing officer or responsible managing employee of the Major Participant:

- a) Been disqualified, debarred, removed or otherwise prevented from bidding or proposing on or completing a federal, state or local contract anywhere in the United States or any other country?

If yes, please explain the circumstances. If no, so state.

Yes __ No __

- b) Been convicted by a court of competent jurisdiction of any criminal charge of fraud, bribery, collusion, conspiracy or any act in violation of state, federal or foreign antitrust law in connection with the bidding or proposing upon, award of or performance of any public works contract with any public entity?

If yes, please explain the circumstances. If no, so state.

Yes __ No __

- c) Had filed against it, him or her, any criminal complaint, indictment or information alleging fraud, bribery, collusion, conspiracy or any action in violation of state or federal antitrust law in connection with the bidding or proposing upon, award of or performance of any public works contract with any public entity?

If yes, please explain the circumstances. If no, so state.

Yes No

- d) Had filed against it, him or her, any civil complaint (including but not limited to a cross-complaint) or other claim arising out of a public works contract, alleging fraud, bribery, collusion, conspiracy or any act in violation of state or federal antitrust law in connection with the bidding or proposing upon, award of or performance of any public works contract with any public entity?

Yes No

- e) Been found, adjudicated or determined by any federal or state court or agency (including, but not limited to, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and any applicable Minnesota governmental agency to have violated any laws or Executive Orders relating to employment discrimination or affirmative action, including but not limited to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sections 2000e et seq.); the Equal Pay Act (29 U.S.C. Section 206(d)); and any applicable or similar Minnesota law.

If yes, please explain the circumstances. If no, so state.

Yes No

- f) Been found, adjudicated, or determined by any state court, state administrative agency, federal court or federal agency, to have violated or failed to comply with any law or regulation of the United States or any state governing prevailing wages (including but not limited to payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation?

If yes, please explain the circumstances. If no, so state.

Yes No

- g) Been convicted of violating a state or federal law respecting the employment of undocumented aliens?

If yes, please explain the circumstances. If no, so state.

Yes No

- h) Been assessed liquidated or other damages, monetary deductions, disincentives or penalties in excess of \$50,000 (aggregate for the contract) for failure to complete any contract or intermediate completion deadline on time?

If yes, please explain the circumstances. If no, so state.

Yes No

- i) Is actively undergoing a merger, acquisition, sale, or bankruptcy filing?

If yes, please explain the circumstances. If no, so state.

Yes No

Explain the circumstances underlying any “yes” answers for the aforementioned questions on separate sheets attached hereto.

2. Verification / Declaration

I declare under penalty of perjury under the laws of the State of Minnesota that the foregoing declaration is true, correct and accurate. Executed _____, 200_.

(Signature)

(Name Printed)

(Title)

Form 3

CONFLICT OF INTEREST DISCLOSURE STATEMENT

Proposer’s attention is directed to 23 CFR Section 636 Subpart A and in particular to Subsection 636.116 regarding organizational conflicts of interest. Section 636.103 defines “organizational conflict of interest” as follows:

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the owner, or the person’s objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

1. Organizational Conflict of Interest Policy

MnDOT may disqualify Proposer if any of its Major Participants belong to more than one Proposer organization. If any Major Participants of different Proposer organizations belong to the same parent company, each Proposer must describe how the participants have avoided conflicts of interest during the procurement phase of the Project.

Proposer agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to MnDOT that must include a description of the action that Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, MnDOT may, at its discretion, cancel the Contract. If Proposer was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the contracting officer, MnDOT may terminate the Contract for default.

2. Disclosure Pursuant to Section 636.116(2)(v)

In the space provided below, and on supplemental sheets as necessary, identify all relevant facts relating to past, present, or planned interest(s) of Proposer’s team (including Proposer, Major Participants, proposed consultants and proposed subcontractors, and their respective chief executives, directors, and key project personnel) which may result, or could be viewed as, an organizational conflict of interest in connection with the RFP.

Proposer shall disclose: (a) any current contractual relationships with MnDOT (by identifying the MnDOT contract number, project manager, and project description); (b) present or planned contractual or employment relationships with any current MnDOT employee; (c) conflicts or potential conflicts as described in MnDOT’s Design-Build Approach to Conflict Management, and (d) any other circumstances that might be considered to create a financial interest in the contract for the Project by any current MnDOT employee if Proposer is awarded the contract. Proposer shall also disclose any current contractual relationships where Proposer is a joint venturer or partner with firms identified in Section 2.6 of the RFQ. The foregoing is provided by way of example, and shall not constitute a limitation on the disclosure obligations.

3. Explanation

In the space provided below, and on supplemental sheets as necessary, identify steps that have been or will be taken to avoid, neutralize, or mitigate any organizational conflicts of interest described herein.

4. Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no interest exists that is required to be disclosed in this Conflict of Interest Disclosure Statement, other than as disclosed above.

Signature

Name

Title

Company Name

Form 4

STATE OF MINNESOTA AFFIRMATIVE ACTION CERTIFICATION

If your response to an RFP is or could be in excess of \$100,000.00, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statutes §363A.36) certification requirement, and to provide documentation of compliance, if necessary. It is your sole responsibility to provide this information and, if required, to apply for Human Rights certification prior to the due date and time of the proposal and to obtain Human Rights certification prior to the execution of the Contract. The State of Minnesota is under no obligation to delay proceeding with a Contract until a company receives Human Rights certification.

7 BOX A – FOR COMPANIES WHICH HAVE EMPLOYED MORE THAN 40 FULL-TIME EMPLOYEES WITHIN MINNESOTA ON ANY SINGLE WORKING DAY DURING THE PREVIOUS 12 MONTHS. ALL OTHER COMPANIES PROCEED TO BOX B.

Your proposal will be rejected unless your business:

Has a current Certification of Compliance issued by the Minnesota Department of Human Rights (MDHR)

-or-

Has submitted an affirmative action plan to the MDHR, which the Department received prior to the date and time the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

- We have a current Certificate of Compliance issued by the MDHR. **Proceed to Box C. Include a copy of your Certification with your response**
- We do not have a current Certificate of Compliance; However, we submitted an Affirmative Action Plan to the MDHR for approval, which the Department received on _____ (date). **Proceed to Box C.**
- We do not have a Certification of Compliance, nor has the MDHR received an Affirmative Action Plan from our company. We acknowledge that our response will be rejected. **Proceed to Box C.** Contact the MDHR for assistance. (See below for contact information)

Please note: Certificates of Compliance must be issued by the MDHR. Affirmative Action Plans approved by the Federal government, a county, or a municipality must still be received, reviewed and approved by the MDHR before a certificate can be issued.

BOX B – For those companies not described in BOX A

Check below

- We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months.** Proceed to BOX C.

BOX C – For ALL companies. By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the responder. You also certify that you are in compliance with federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on federal projects or Contracts. Contractors are alerted to these requirements by the federal government.)

Name of Company: _____ Date _____

Authorized Signature: _____ Telephone number: _____

Printed Name: _____ Title: _____

For assistance with this form, contact:
Minnesota Department of Human Rights, Compliance & Community Relations

Mail: The Freeman Building, 625 Roberts Street North
St. Paul, Minnesota 55155

TC Metro: 651-296-5663

Toll Free: 800-657-3704

Web: www.humanrights.state.mn.us

Fax: 651-296-9042

TTY: 651-296-1283

Email: compliance.mdhr@state.mn.us

Form 5

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STATE OF MINNESOTA RESIDENT VENDOR FORM

~~In accordance with Laws of Minnesota 2013, Chapter 142, Article 3, Section 16, amending Minn. Stat. § 16C.02, subd. 13, a “Resident Vendor” means a person, firm, or corporation that:~~

- ~~(1) — is authorized to conduct business in the state of Minnesota on the date a solicitation for a contract is first advertised or announced. It includes a foreign corporation duly authorized to engage in business in Minnesota;~~
- ~~(2) — has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought;~~
- ~~(3) — has a business address in the state; and~~
- ~~(4) — has affirmatively claimed that status in the bid or proposal submission.~~

~~To receive recognition as a Minnesota Resident Vendor (“Resident Vendor”), your company must meet each element of the statutory definition above by the solicitation opening date and time. If you wish to affirmatively claim Resident Vendor status, you should do so by submitting this form with your bid or proposal.~~

~~Resident Vendor status may be considered for purposes of resolving tied low bids or the application of a reciprocal preference.~~

~~**I HEREBY CERTIFY THAT THE COMPANY LISTED BELOW:**~~

- ~~1. — Is authorized to conduct business in the State of Minnesota on the date a solicitation for a contract is first advertised or announced. (This includes a foreign corporation duly authorized to engage in business in Minnesota.)
___ Yes ___ No (must check yes or no)~~
- ~~2. — Has paid unemployment taxes or income taxes in the State of Minnesota during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought.
___ Yes ___ No (must check yes or no)~~
- ~~3. — Has a business address in the State of Minnesota.
___ Yes ___ No (must check yes or no)~~
- ~~4. — Agrees to submit documentation, if requested, as part of the bid or proposal process, to verify compliance with the above statutory requirements.
___ Yes ___ No (must check yes or no)~~

~~**BY SIGNING BELOW, you are certifying your compliance with the requirements set forth herein and claiming Resident Vendor status in your bid or proposal submission.**~~

Name of Company:

_____ **Date:**

Authorized Signature: _____ **Telephone:**

Printed Name: _____ **Title:**

~~IF YOU ARE CLAIMING RESIDENT VENDOR STATUS, SIGN AND RETURN THIS FORM WITH YOUR BID OR PROPOSAL SUBMISSION.~~

STATE OF MINNESOTA
AFFIDAVIT OF NONCOLLUSION

Instructions: Please return your completed form as part of your proposal.

I swear (or affirm) under the penalty of perjury:

1. That I am the responder (if the responder is an individual), a partner in the company (if the responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the responder is a corporation);
2. That the attached proposal submitted in response to the _____ RFP has been arrived at by the responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other responder of materials, supplies, equipment or services described in the RFP, designed to limit fair and open competition;
3. That the contents of the proposal have not been communicated by the responder, or its employees or agents, to any person not an employee or agent of the responder and will not be communicated to any such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Authorized Signature:

Responders Firm Name: _____

Print Authorized Representative Name: _____ Title: _____

Authorized Signature: _____ Date: _____

Notary Public

Subscribed and sworn to before me this:

_____ day of _____, _____

Notary Public Signature

Commission Expires