

CITY OF NAPLES, FLORIDA
AGREEMENT
(CONSTRUCTION MANAGER-AT-RISK SERVICES)

Bid/Proposal No. 17-007

Clerk Tracking No. 2017-00056

Project Name: **Construction Manager-at-Risk Baker Park**

THIS AGREEMENT (the "Agreement") is made and entered into this **3rd day of May 2017**, by and between the **City of Naples**, a Florida municipal corporation, (the "CITY") and **Manhattan Construction (Florida), Inc.**, a Florida Corporation, authorized to do business in the State of Florida, whose business address is: 3705-1 Westview Drive; Naples, Florida 34104 (the "CONSTRUCTION MANAGER").

WHEREAS, the CITY desires to obtain the services of the CONSTRUCTION MANAGER concerning certain services specified in this Agreement (referred to as the "Project"); and

WHEREAS, the CONSTRUCTION MANAGER has submitted a Request for Qualification No. RFQ 17-007 for provision of those services; and

WHEREAS, the CONSTRUCTION MANAGER represents that it has expertise in the type of professional services that will be required for the Project.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

ARTICLE ONE
CONSTRUCTION MANAGER'S RESPONSIBILITY

1.1. The Services to be performed by the CONSTRUCTION MANAGER are generally described as **Construction Manager-at-Risk Baker Park** and may be more fully described in the Scope of Services, attached as **EXHIBIT A** and made a part of this Agreement.

1.2. The CONSTRUCTION MANAGER agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida, the City of Naples, and in Collier County, Florida, including, but not limited to, all licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the professional services to be provided and performed by the CONSTRUCTION MANAGER pursuant to this Agreement in accordance with Florida Statute 287.055, Consultants' Competitive Negotiation Act.

1.3. The CONSTRUCTION MANAGER agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, registration, certificate of authorization or other form of legal entitlement to practice such services, it shall employ or retain only qualified personnel to provide such services.

1.4. The CONSTRUCTION MANAGER agrees to employ and designate, in writing, within 5 calendar days after receiving its Notice to Proceed, or other directive from the CITY, a qualified licensed



professional to serve as the CONSTRUCTION MANAGER's project manager (the "Project Manager"). The Project Manager shall be authorized and responsible to act on behalf of the CONSTRUCTION MANAGER with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement.

1.5. The CONSTRUCTION MANAGER has represented to the CITY that it has expertise in the type of professional services that will be required for the Project. The CONSTRUCTION MANAGER agrees that all services to be provided by CONSTRUCTION MANAGER pursuant to this Agreement shall be subject to the CITY's review and approval and shall be in accordance with the generally accepted standards of professional practice in the State of Florida, as may be applied to the type of services to be rendered, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by the CONSTRUCTION MANAGER. In the event of any conflicts in these requirements, the CONSTRUCTION MANAGER shall notify the CITY of such conflict and utilize its best professional judgment to advise CITY regarding resolution of the conflict.

1.6. The CONSTRUCTION MANAGER agrees not to divulge, furnish or make available to any third person, firm or organization, without CITY's prior written consent, or unless incident to the proper performance of the CONSTRUCTION MANAGER's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by the CONSTRUCTION MANAGER hereunder, and the CONSTRUCTION MANAGER shall require all of its employees, agents, sub-consultants and sub-contractors to comply with the provisions of this paragraph. However, the CONSTRUCTION MANAGER shall comply with the Florida Public Records laws including those requirements set out in ARTICLE FIVE, below.

1.7. The CONSTRUCTION MANAGER agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of the CITY who in any way deals with, coordinates on, or assists with, the professional services provided in this Agreement, for a period of 2 years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. If the CONSTRUCTION MANAGER violates the provisions of this paragraph, the CONSTRUCTION MANAGER shall be required to pay damages to the CITY in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of the CITY from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last 2 years of gross compensation from the CITY, whichever is greater.

1.8. The CONSTRUCTION MANAGER agrees not to provide services for compensation to any other party other than the CITY on the same subject matter, same project, or scope of services as set forth in this Agreement without approval from the City Council of the CITY.

1.9. Except as otherwise provided in this Agreement, the CONSTRUCTION MANAGER agrees not to disclose or use any information not available to members of the general public and gained by reason of the CONSTRUCTION MANAGER's contractual relationship with the CITY for the special gain or benefit of the CONSTRUCTION MANAGER or for the special gain or benefit of any other person or entity.

ARTICLE TWO CITY'S RESPONSIBILITIES

2.1. The CITY shall designate in writing a project coordinator to act as the CITY's representative with respect to the services to be rendered under this Agreement (the "Project Coordinator"). The Project Coordinator shall have authority to transmit instructions, receive information, interpret and define the CITY's policies and decisions with respect to the CONSTRUCTION MANAGER's services for the Project. However, the Project Coordinator is not authorized to issue any verbal or written orders or instructions to the CONSTRUCTION MANAGER that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

(a) The scope of services to be provided and performed by the CONSTRUCTION MANAGER;

(b) The time the CONSTRUCTION MANAGER is obligated to commence and complete all such services; or

(c) The amount of compensation the CITY is obligated or committed to pay the CONSTRUCTION MANAGER.

Any such modifications or changes shall only be made by or upon the authorization of the CITY's city manager as authorized by city council in the enabling legislation or in the CITY's procurement policies.

2.2. The Project Coordinator shall:

(a) Review and make appropriate recommendations on all requests submitted by the CONSTRUCTION MANAGER for payment for services and work provided and performed in accordance with this Agreement;

(b) Arrange for access to and make all provisions for the CONSTRUCTION MANAGER to enter the Project site to perform the services to be provided by the CONSTRUCTION MANAGER under this Agreement; and

(c) Provide notice to the CONSTRUCTION MANAGER of any deficiencies or defects discovered by the CITY with respect to the services to be rendered by the CONSTRUCTION MANAGER hereunder.

2.3. The CONSTRUCTION MANAGER acknowledges that access to the Project Site, to be arranged by the CITY for the CONSTRUCTION MANAGER, may be provided during times that are not the normal business hours of the CONSTRUCTION MANAGER.

ARTICLE THREE TIME

3.1. Services to be rendered by the CONSTRUCTION MANAGER shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from the CITY for all or any designated portion of the Project and **shall be performed and completed by January 31, 2018 with a 60-day Project Close-out time frame.** Time is of the essence with respect to the performance of this Agreement.

3.2. Should the CONSTRUCTION MANAGER be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of the



CONSTRUCTION MANAGER, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the CITY, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then the CONSTRUCTION MANAGER shall notify the CITY in writing within 5 working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONSTRUCTION MANAGER may have had to request a time extension.

3.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the CONSTRUCTION MANAGER's services from any cause whatsoever, including those for which the CITY may be responsible in whole or in part, shall relieve the CONSTRUCTION MANAGER of its duty to perform or give rise to any right to damages or additional compensation from the CITY. The CONSTRUCTION MANAGER's sole remedy against the CITY will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion.

3.4. Should the CONSTRUCTION MANAGER fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the CITY hereunder, the CITY at its sole discretion and option may withhold any and all payments due and owing to the CONSTRUCTION MANAGER until such time as the CONSTRUCTION MANAGER resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the CITY's satisfaction that the CONSTRUCTION MANAGER's performance is or will shortly be back on schedule.

ARTICLE FOUR COMPENSATION

4.1. The total compensation to be paid the CONSTRUCTION MANAGER by the CITY for all Services related to the Design Phase is not to exceed **\$84,519.00** and shall be paid in the manner set forth in the "Basis of Compensation", which is attached as **EXHIBIT B** and made a part of this Agreement. Said Agreement will be Amended upon successful negotiation with the CONSTRUCTION MANAGER of a Guaranteed Maximum Price (GMP) for the Construction Phase and its associated fees for Construction Management-at-Risk.

ARTICLE FIVE MAINTENANCE OF RECORDS

5.1. The CONSTRUCTION MANAGER will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by the CONSTRUCTION MANAGER for a minimum of five 5 years from the date of termination of this Agreement or the date the Project is completed, whichever is later. The CITY, or any duly authorized agents or representatives of the CITY, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the 5 year period noted above; provided, however, such activity shall be conducted only during normal business hours. If the CONSTRUCTION MANAGER desires to destroy records prior to the minimum period, it shall first obtain permission from the CITY in accordance with the Florida Public Records laws.

5.2 119.0701 F.S. CONTACT INFORMATION FOR CITY OF NAPLES' CUSTODIAN OF PUBLIC RECORDS, CITY CLERK'S OFFICE

If the CONSTRUCTION MANAGER has questions regarding the



application of Chapter 119, Florida Statutes, to the **CONSTRUCTION MANAGER's** duty to provide public records relating to this contract, contact the City of Naples' Custodian of Public records, the City Clerk at Telephone: 239-213-1015, Email: PublicRecordsRequests@naplesgov.com; Address: 735 8th Street S.; Naples, Florida 34102. Mailing address: same as street address.

5.3 The CONSTRUCTION MANAGER shall:

1. Keep and maintain public records required by the CITY to perform the service.
2. Upon request from the CITY'S custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter 119.0701 F.S. or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONSTRUCTION MANAGER does not transfer the records to the CITY.
4. Upon completion of the contract, transfer, at no cost, to the CITY all public records in possession of the CONSTRUCTION MANAGER or keep and maintain public records required by the CITY to perform the service. If the CONSTRUCTION MANAGER transfers all public records to the CITY upon completion of the contract, the CONSTRUCTION MANAGER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONSTRUCTION MANAGER keeps and maintains public records upon completion of the contract, the CONSTRUCTION MANAGER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY'S custodian of public records, in a format that is compatible with the information technology systems of the CITY.

**ARTICLE SIX
INDEMNIFICATION**

6.1. The CONSTRUCTION MANAGER agrees to indemnify and hold harmless the CITY from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSTRUCTION MANAGER and persons employer or utilized by the CONSTRUCTION MANAGER in the performance of the Contract.

**ARTICLE SEVEN
INSURANCE**

7.1. The CONSTRUCTION MANAGER shall obtain and carry, at all times during its performance under this Agreement, insurance of the types and in the amounts set forth in the document titled General Insurance Requirements, which is attached as **EXHIBIT C** and made a part of this Agreement.



7.2 In addition to the General Insurance Requirements in Exhibit C the CONSTRUCTION MANAGER shall obtain and maintain Professional Liability Insurance to insure its legal liability for claims arising out of the performance of professional services under this Agreement. CONSTRUCTION MANAGER waives its right of recovery against OWNER as to any claims under this insurance. Such insurance shall have limits of not less than \$1,000,000 each claim and in the aggregate.

ARTICLE EIGHT SERVICES BY CONSTRUCTION MANAGER'S OWN STAFF

8.1. The services to be performed hereunder shall be performed by the CONSTRUCTION MANAGER's own staff, unless otherwise authorized in writing by the CITY. The employment of, contract with, or use of the services of any other person or firm by the CONSTRUCTION MANAGER, as independent CONSTRUCTION MANAGER or otherwise, shall be subject to the prior written approval of the CITY. No provision of this Agreement shall, however, be construed as constituting an agreement between the CITY and any such other person or firm. Nor shall anything contained in this Agreement be deemed to give any such party or any third party any claim or right of action against the CITY beyond such as may otherwise exist without regard to this Agreement.

ARTICLE NINE WAIVER OF CLAIMS

9.1. The CONSTRUCTION MANAGER's acceptance of final payment shall constitute a full waiver of any and all claims, except for insurance company subrogation claims, by it against the CITY arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by the CONSTRUCTION MANAGER as unsettled at the time of the final payment. Neither the acceptance of the CONSTRUCTION MANAGER's services nor payment by the CITY shall be deemed to be a waiver of any of the CITY's rights against the CONSTRUCTION MANAGER.

ARTICLE TEN TERMINATION OR SUSPENSION

10.1. The CONSTRUCTION MANAGER shall be considered in material default of this Agreement and such default will be considered cause for the CITY to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) to Proceed, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by the CITY, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by the CONSTRUCTION MANAGER or by any of the CONSTRUCTION MANAGER's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The CITY may so terminate this Agreement, in whole or in part, by giving the CONSTRUCTION MANAGER at least 3 calendar days' written notice.

10.2. If, after notice of termination of this Agreement as provided for in paragraph 10.1 above, it is determined for any reason that the CONSTRUCTION MANAGER was not in default, or that its default was excusable, or that the CITY otherwise was not entitled to the remedy against the CONSTRUCTION MANAGER provided for in paragraph 10.1, then the notice of termination given pursuant to paragraph 10.1 shall be deemed to be the notice of termination provided for in paragraph 10.3 below and the CONSTRUCTION MANAGER's remedies against the CITY shall be the same as and limited to those afforded the CONSTRUCTION MANAGER under paragraph 10.3 below.



10.3. The CITY shall have the right to terminate this Agreement, in whole or in part, without cause upon 7 calendar day's written notice to the CONSTRUCTION MANAGER. In the event of such termination for convenience, the CONSTRUCTION MANAGER's recovery against the CITY shall be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by the CONSTRUCTION MANAGER that are directly attributable to the termination, but the CONSTRUCTION MANAGER shall not be entitled to any other or further recovery against the CITY, including, but not limited to, anticipated fees or profits on work not required to be performed.

ARTICLE ELEVEN CONFLICT OF INTEREST

11.1. The CONSTRUCTION MANAGER represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONSTRUCTION MANAGER further represents that no persons having any such interest shall be employed to perform those services.

ARTICLE TWELVE MODIFICATION

12.1. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

ARTICLE THIRTEEN NOTICES AND ADDRESS OF RECORD

13.1. All notices required or made pursuant to this Agreement to be given by the CONSTRUCTION MANAGER to the CITY shall be in writing and shall be delivered by hand or by (USPS) United States Postal Service, first class mail service, postage prepaid, return receipt requested, or as otherwise agreed upon and addressed to the following CITY's address of record:

City of Naples

735 Eighth Street South
Naples, Florida 34102-3796
Attention: **A. William Moss**, City Manager

13.2. All notices required or made pursuant to this Agreement to be given by the CITY to the CONSTRUCTION MANAGER shall be made in writing and shall be delivered by hand or by the (USPS) United States Postal Service, first class mail service, postage prepaid, return receipt requested, or as agreed upon and addressed to the following CONSTRUCTION MANAGER's address of record:

Manhattan Construction (Florida), Inc.

3705-1 Westview Drive
Naples, Florida 34104
Attention: **KP Pezeshkan**, Vice President
FEI/EIN Number: On File State (FL)

13.3. Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

ARTICLE FOURTEEN



MISCELLANEOUS

14.1. The CONSTRUCTION MANAGER assumes toward the CITY a duty of care commensurate with that which is imposed upon persons or firms in construction manager's profession. CONSTRUCTION MANAGER will make reasonable efforts to ensure that its employees and agents maintain a professional demeanor and that the work area is compliant with CITY property maintenance and Project standards.

14.2. No modification, waiver, suspension or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.

14.3. This Agreement is not assignable, in whole or in part, by the CONSTRUCTION MANAGER without the prior written consent of the CITY.

14.4. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

14.5. The headings of the Articles, Exhibits, Parts and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles, Exhibits, Parts and Attachments.

14.6. This Agreement constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Agreement.

14.7. The CONSTRUCTION MANAGER shall comply fully with all provisions of state and federal law, including without limitation all provisions of the Immigration Reform and Control Act of 1986 ("IRCA") as amended, as well as all related immigration laws, rules, and regulations pertaining to proper employee work authorization in the United States. The CONSTRUCTION MANAGER shall execute the Certification of Compliance with Immigration Laws, attached hereto as **EXHIBIT D**.

14.8 To the extent that any provision in the Specifications or any other Contract Documents pertaining to this Project conflict with any provision of this Agreement, this Agreement controls.

14.9 Dispute Resolution. Disputes under this Agreement shall be resolved through mutual consultation between the parties within 14 days after notice; and failing resolution through mutual consultation, through mediation within 30 days thereafter; and failing mediation, through Arbitration under the Florida Arbitration Code, by a single arbitrator. If the parties cannot agree on a mediator or arbitrator, within 14 days of failure of the previous method, they shall request the Chief Judge of the 20th Judicial Circuit to appoint a mediator, or an arbitrator, as the case may be. Time periods are waivable by mutual agreement of the parties, but shall not exceed 90 days for completion of the processes described herein, unless by mutual agreement. Costs of the mediator or arbitrator shall be shared equally.

14.10 Attorneys' fees. Except as otherwise provided herein, each party shall be responsible for its own attorneys' fees.

**ARTICLE FIFTEEN
APPLICABLE LAW**

15.1. Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate Florida state court in Collier County, Florida.

END OF ARTICLE PAGE




IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the day and year first written above.

ATTEST:

CITY:

CITY OF NAPLES, FLORIDA,
A Municipal Corporation

By: 
Patricia L. Rambosk, City Clerk

By: 
A. William Moss, City Manager

Approved as to form
and legal sufficiency:

By: 
Robert D. Pritt, City Attorney

CONSTRUCTION MANAGER:

Manhattan Construction (Florida), Inc.
3705-1 Westview Drive
Naples, Florida 34104
Attention: **KP Pezeshkan**, Vice President

CONSTRUCTION MANAGER:

Witness


Witness Printed Name

By: 

Printed Name: GORDON KNAPP

Title: SVP

FEI/EIN Number: On File
A Florida Corporation (FL)

(CORPORATE SEAL)



EXHIBIT A

SCOPE OF SERVICES

The Scope of Services to be provided under this Agreement are included in Attachment A-1 which is attached and made a part of this Agreement and those set out in the Bid, any issued Addendum(s) and Vendor's Submittal of (RFQ) Request For Qualifications No. 17-007, titled Construction Manager-at-Risk Baker Park herein referenced and made a part of this Agreement.

END OF EXHIBIT A



PROJECT REQUIREMENTS AND SPECIFICATIONS

Construction Manager-at-Risk Baker Park

RFQ 17-007

In accordance with Florida Statute 287.055, Consultants' Competitive Negotiation Act

SCOPE OF WORK

Description: The following Request for Qualifications has been developed to solicit proposals from interested and qualified firms to provide construction management at risk services for the development of a passive community park to be known as the Jay and Patty Baker (Baker) Park. Baker Park will become a public destination point along the Gordon River Greenway and will provide community amenities for all to enjoy.

Background: On June 5, 2013, City Council authorized the purchase of 6.7 acres of property in the amount of \$3.0 million from the McCauley-Pulling Family Trust by Resolution 13-13288. This parcel, combined with 12.5 acres of property owned by the City created an opportunity for a new 19.2 acre park.

On February 17, 2015, City Council established design criteria for the Gordon River bridge and boardwalks. The criteria set by City Council included concrete girders for the bridge, a 12-foot wide pathway, a wooden (ipe) deck, 4,000 pound maximum live (vehicle) load for the bridge and western boardwalk, top-down construction for the eastern boardwalk, 100-foot wide pilings over the navigational channel. City Council also expressed their interest in expediting the bridge and boardwalk in order to expand the Gordon River Greenway and its great success. The bridge and boardwalks are planned to be constructed and completed in 2017.

On June 15, 2016, City Council selected Kimley Horn & Associates to provide professional design and permitting services for Baker Park. On December 19, 2016, Kimley Horn presented a 50% complete design for the park and is prepared to deliver the 60% completed design in March of 2017. City Council has authorized staff to solicit for a construction manager-at-risk firm at this time.

Scope: Baker park has the following main components:

1. Earthwork (inclusive of sandy dredge soils, decomposing horticultural debris and other materials);
2. Construction of buildings on pile supports with active gas removal system;
3. Decorative paving;
4. Electrical, Mechanical, HVAC, lighting, potable water, irrigation water, sanitary sewer, storm sewer and other utilities, etc.
5. Landscaping

During the development of the 100% final design documents by Kimley Horn & Associates (KHA), the selected construction management at risk firm will work with the KHA and City staff and provide value engineering and constructability review services. The construction management at risk firm shall provide input to the designer regarding potential cost savings measures that could be implemented prior to the delivery of the 100% design. The construction management at risk firm shall insure that the City receives a buildable design that provides longevity through quality material selection. Furthermore, the construction management at risk firm shall insure that the design incorporates low maintenance requirements, minimum changes during construction, and that the construction is completed on time and below the GMP.

The project may include a direct materials purchase by the City. The construction management at risk firm shall be restricted from self-performing construction.

During the design phase the construction management at risk firm, the firm shall provide:

- Budget conformation/estimates
- Design reviews for constructability
- Schedule and construction phasing development
- Develop a Guaranteed Maximum Price (GMP)
- Negotiated fixed fee for design and construction phase services

During the construction Phase the construction management at risk firm shall provide:

- "Open Book" procurement
- Site planning/phasing plans
- Competitive bids from all trades
- Inspection services of all work
- Supervise the work of all subcontractors
- Assist City in direct material purchase
- Safety
- Red-line as built documents
- Warranties



**Preconstruction Scope of Work, Deliverables & Fee Proposal for 60% and 90% Construction Documents Scope of Work
For the Baker Park, Naples FL**

April 10, 2017

General Project Description and Overview of Scope of Work

OBJECTIVE

The objective shall be to assist the City of Naples and the design consultant, Kimley Horn with constructability review, value engineering and cost estimate reviews for the Baker Park Project. Through timely delivery and successful completion of design and design related services necessary to initiate construction of all elements associated with the Baker Park Project. The overriding objective of the CONSTRUCTION MANAGER is to assist the City of Naples and Kimley Horn in keeping this project on schedule, under budget, fully coordinated with all parties, and constructible to the highest quality plan.

DESCRIPTION

The scope of work is to provide City of Naples preconstruction reviews, constructability analyses, bid estimating, site utilization, budget management through value engineering and bid management services (referred to in the Overview Scope of Preconstruction Services).

Manhattan Construction will attend design meetings as well as provide estimating in two (2) tasks, constructability review, construction activity planning, scheduling, estimating services, and complete detailed project pricing services.

Overview Scope of Preconstruction Services

MANHATTAN CONSTRUCTION has prepared the following scope to define the professional services for this Project.

Task 1: 60-Percent Construction Document Phase:

- Perform a site analysis of existing conditions, to develop means of egress for material, material and personnel staging, staging of required equipment and provide documentation to define a clear definitive analysis to solidify the future bidding process.
- and investigate site fill / on-site analysis to determine actual fill material on-site as well as fill material required Provide input and guidance regarding soil blending / mixing.
- Produce a master design phase schedule that will show actual deliverables from the design consultant / construction manager's estimate deliverables for 60% and 90% construction documents and to track construction sequencing all long lead items.
- Participate with the Project Team in design meeting with constructability efforts as needed to affect both adherence to budgetary requirements and to investigate improvements in project program through design modifications.
- Perform a plans and specification review and deliver a comprehensive constructability analysis. Including a redicheck review of the complete set of plans and specifications thoroughly marked and red-lined / highlighted indicating items which have been reviewed and cross-checked for



errors, omissions and discrepancies. The reviewed documents give you the assurance that a comprehensive effort has been made to identify potential items which could add unnecessary costs, delays, and conflict to your project.

- Complete a 60% construction document estimate based on 60% CD drawings. As well prepare quantity-takeoff-based estimates of probable construction cost at Design Development stage. As a minimum, these estimates shall include an estimate of general conditions costs, expected trade-by-trade costs, CM costs for construction phase services, and any other project contingencies. This estimate shall be structured based on the following breakdown:

- ☐ Area / Location
- ☐ Bid Packages
- ☐ Detailed Takeoff and Area Analysis

- Assumptions and clarifications as related to 60% construction documents.
- Budget management of value engineering item suggestions for consideration
- Work with the A/E to provide Construction Cost estimates as well reconcile with A/E's estimated costs for potential savings.
- Site utilization plan.
- Recommendation for general conditions and general requirements for the project.

Task 2: Terminal Expansion Design Implementation / 90-Percent Construction Document Phase:Bidding

- Participate with the Project Team in design meeting with constructability efforts as needed to affect both adherence to budgetary requirements and to investigate improvements in project program through design modifications.
- **Task 2.1 Schematic Design Stage**
- Attend continued design meetings with architect, engineers and end users
- Perform a document review during the 90% Construction Document estimate and deliver a comprehensive constructability analysis and design review report for all entities. Including a redicheck review of the complete set of plans and specifications thoroughly marked and red-lined / highlighted indicating items which have been reviewed and cross-checked for errors, omissions and discrepancies. The reviewed documents give you the assurance that a comprehensive effort has been made to identify potential items which could add unnecessary costs, delays, and conflict to your project.
- Update the master design phase schedule showing actual deliverables from the design consultant / construction manager's estimate deliverables and to track construction sequencing all long lead items.
- Complete a 90% construction document estimate based on 90% CD drawings. As well prepare quantity-takeoff-based estimates of probable construction cost at Design Development stage. As a minimum, these estimates shall include an estimate of general conditions costs, expected trade-by-trade costs, CM costs for construction phase services, and any other project contingencies. This estimate shall be structured based on the following breakdown:
 - ☐ Area / Location
 - ☐ Bid Packages
 - ☐ Detailed Takeoff and Area Analysis
- Assumptions and clarifications as related to 90% construction documents.
- Site utilization plan.
- Recommendation for general conditions and general requirements for the project



Perform a reconciliation with the A/E estimated costs.

Task 2.2 Design Development Stage

Attend continued design meetings with architect, engineers and end users

Fee Summary:

The fee for pre-construction services is a lump sum amount distributed as follows:

Task 1: 60% Deliverables Total	\$ 26,864.00
Task 2: 90% Deliverables Total	\$ 19,055.00
Value Management (Prep / Workshops & Report Meeting) Total	\$ 6,038.00
Redicheck Workshops Total	\$ 5,246.00
60% CD Document Design Review / Preconstruction Design Meetings Total	\$ 9,551.00
90% CD Document Design Review / Preconstruction Design Meetings Total	\$ 17,765.00
TOTAL FOR 60% & 90% CONSTRUCTION DOCUMENT PRECON SERVICES	\$ 84,519.00

Included within the professional services fee is the cost of all travel, blueprint reproduction costs, copies, long distance telephone calls, facsimiles, technology including software and hardware usage, postage, delivery services, and other direct expenses.

Billing of the professional services fee is to be based on a monthly percent complete proportional with the scope of work and its respective total lump sum fee.

EXHIBIT B

BASIS OF COMPENSATION

As consideration for providing the Services as set forth in the Agreement, the CITY agrees to pay, and the CONSTRUCTION MANAGER agrees to accept payment on a monthly basis on the percentage of work completed and as indicated in **Attachment B-1 which is attached and made a part of this Agreement.)**

Retainage: Not applicable to this Agreement.

END OF EXHIBIT B





3705-1 Westview Drive, Naples, FL 34104

Pre-Construction Fee Proposal for 60% Construction Documents & 90% Construction Documents

Summary Report

Construction Management Services for Baker Park, Naples, FL

April 4, 2017

<i>Design-Phase</i>	<i>Amount</i>	<i>Qty.</i>	<i>Total</i>
60% CD	\$26,865	1	\$26,865
90% CD	\$19,055	1	\$19,055
Value Management [Prep, Workshop & Rptg / Mtg]	\$6,038	1	\$6,038
Redicheck Workshop	\$5,246	1	\$5,246
Precon & Review Meetings	\$27,314	1	\$27,314
TOTAL PRECON SERVICES			\$84,519

<i>Reimbursibles [INCLUDED ABOVE]</i>	<i>Total</i>
Reproduction & Postage/Courier Related	\$427
Other - [List] Related	
Reimbursibles Total	\$427

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3785-1 Westview Drive, Naples, FL 34104

Pre-Construction Fee Proposal

Hourly Report Cost by Phased Tasks

Construction Management Services for Baker Park, Naples, FL

April 4, 2017

Reviewed / Approved: _____

Item	Personnel Assigned	NOTES	HOURS REQUIRED PER ESTIMATE PHASE		VALUE ENGINEERING HOURS			RECHECK HOURS		DESIGN / REVIEW HOURS		Total Hours	Rate	TOTAL COST
			RF/CD	RF/CD	Plan	Workshop	Report	Workshop	Report	RF/CD	RF/CD			
Site Investigation														
Visit Existing Facility & Site / Dig Additional Pilot Holes	Senior Superintendent	Creek Covered under Gordon River Bridge											\$130.80	
													Subtotal:	\$0
Investigate / Site Fill On-Site Analysis														
	Senior Superintendent	Creek Covered under Gordon River Bridge											\$130.80	
	Engineering Services	Creek Covered under Kinley Holes											\$200.00	
													Subtotal:	\$0
Master Design Phase Schedule														
	Project Manager I			8								8	\$105.55	\$844
	Senior Superintendent	Creek Covered under Gordon River Bridge											\$130.80	
	Project Scheduler			8								8	\$78.50	\$612
													Subtotal:	\$1,456
Master Project Construction Schedule & Updates														
	Project Manager I			12								12	\$105.55	\$1,267
	Senior Superintendent	Creek Covered under Gordon River Bridge											\$130.80	
	Project Scheduler			12								12	\$78.50	\$918
Final Construction Schedule														
	Project Manager I			4								4	\$105.55	\$422
	Senior Superintendent	Creek Covered under Gordon River Bridge											\$130.80	
	Project Scheduler			4								4	\$78.50	\$308
													Subtotal:	\$2,913
Bi-Monthly Design Phase Review Meetings (1-per Month @ 4 hrs each)														
	Vice President of Preconstruction									12	12	24	\$140.90	\$3,382
	Project Director									12	12	24	\$100.48	\$2,411
	Project Manager I									12	12	24	\$105.55	\$2,533
	Senior Superintendent	1/2 Creek Covered under Gordon River Bridge								6	6	12	\$130.80	\$1,570
													Subtotal:	\$11,896
Document Review Reporting:														
Logistics Review														
	Vice President of Preconstruction		12	8			8		4	8	40	\$140.90	\$5,636	
Design Review Report														
	Project Director		12	8			8		4	8	44	\$100.48	\$4,421	
External Document Reviews														
	Project Manager I		12	4			8		4	12	44	\$105.55	\$4,644	
Constructability Analysis														
	Senior Superintendent		12	4			8		12	4	40	\$130.80	\$5,232	
													Subtotal:	\$22,133
Initial Budget Estimate Assessment														
	Vice President of Preconstruction		64									64	\$140.90	\$9,018
	Senior Project Estimator		40									40	\$100.65	\$4,026
	Project Estimator		40									40	\$66.90	\$2,668
	Project Director		4									4	\$150.48	\$602
													Subtotal:	\$16,314

Reviewed / Approved: _____

Item	Personnel Assigned	NOTES	HOURS REQUIRED PER ESTIMATE PHASE		VALUE ENGINEERING HOURS			RECHECK HOURS		DESIGN / REVIEW HOURS		Total Hours	Rate	TOTAL COST
			BNCO	BNCO	Prep	Workshop	Report	Workshop	Report	BNCO	BNCO			
Estimate Updates / GMP														
Bid Manual														
	Project Director												\$156.48	
	Project Manager I												\$105.55	
	Senior Superintendent												\$138.80	
	Vice President of Preconstruction												\$140.90	
90% CD Estimate														
	Vice President of Preconstruction			56							16	72	\$140.90	\$10,145
	Senior Project Estimator			40							40	88	\$100.65	\$8,852
	Project Estimator			40							40	80	\$66.50	\$5,320
													Subtotal:	\$23,917
Direct Owner Purchase														
	Vice President of Preconstruction												\$140.90	
	Project Manager I												\$105.55	
													Subtotal:	\$0
Scoping of Bid Packages														
Review Bids and GC's Assumptions & Clarification														
<i>NOTE: Two-days of review and analyzing as well as five-days of follow-up reviews</i>														
	Vice President of Preconstruction												\$140.90	
	Senior Project Estimator												\$100.65	
	Project Estimator												\$66.50	
	Project Manager I												\$105.55	
	Senior Superintendent	Civils Covered under Goshute River Bridge											\$138.80	
													Subtotal:	\$0
Site Utilization Planning														
	Project Manager I			4	2							6	\$105.55	\$633
	Senior Superintendent	Civils Covered under Goshute River Bridge											\$138.80	
													Subtotal:	\$633
Budget Management / PCE's														
	Vice President of Preconstruction			12	6	2						20	\$140.90	\$2,818
	Senior Project Estimator			4	0							4	\$100.65	\$403
	Project Estimator			2	0							2	\$66.50	\$133
	Project Manager I			12	6							16	\$105.55	\$1,689
	Senior Superintendent	12 Civils Covered under Goshute River Bridge		6	0							6	\$138.80	\$798
													Subtotal:	\$6,033
TOTALS														
Item	Personnel Assigned	NOTES	BNCO	BNCO	PREP	WORKSHOP	REPORT	WORKSHOP	REPORT	BNCO	BNCO	Total Hours		TOTAL COST



3705-1 Westview Drive, Naples, FL 34104

Pre-Construction Fee Proposal - "Reproduction & Postage/Courier Cost Analysis
Construction Management Services for Baker Park, Naples, FL

April 4, 2017

Total Bid Document Cost Summary				
Item	Description	Sets	Unit	Total
1	Blueprints	12	SF	\$427
2	Shipping	12	Set	
3	Spec Books		Sheet Side	
4	Color Copy		Sheet Side	
5	Binders		EA	
6	Xerox		Sheet Side	
7	Other		[Specify]	
	Subtotal			\$427

\$0.

60% Construction Documents Estimate

Item	Description	Sets	Shts/Set	Cost/Unit	Unit	Total	Notes
	Blueprints	6	25	\$1.09	SF	\$164	[e.g. - Drawings based on 30" x 42" sized sheets, Based on Sending 4 sets each to one of 20 trades. Average of 5.33 per Division. 10 add'l sets for estimating]
	Shipping	6		\$8.00	Set	\$0	
	Spec Books			\$0.07	Sheet Side	\$0	
	Color Copy			\$0.65	Sheet Side	\$0	
	Binders			TBD	EA		
	Xerox			TBD	Sheet Side		
	Other			TBD	[Specify]		
	Subtotal					\$164	

90% Construction Documents Estimate

Item	Description	Sets	Shts/Set	Cost/Unit	Unit	Total	Notes
	Blueprints	6	40	\$1.09	SF	\$263	
	Shipping	6		\$8.00	Set	\$0	
	Spec Books			\$0.07	Sheet Side	\$0	
	Color Copy			\$0.65	Sheet Side	\$0	
	Binders			TBD	EA		
	Xerox			TBD	Sheet Side		
	Other			TBD	[Specify]		
	Subtotal					\$263	

GRAND TOTAL

\$427

EXHIBIT C

GENERAL INSURANCE REQUIREMENTS

The CONSTRUCTION MANAGER shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the Owner, nor shall the CONSTRUCTION MANAGER allow any sub-contractor to commence work until all similar insurance required of the sub-contractor as also been obtained and approved by the Owner.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for Owner's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the Owner, and duly authorized to do business in the state of said Contract.

The CONSTRUCTION MANAGER shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any sub-contractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the CONSTRUCTION MANAGER's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the CONSTRUCTION MANAGER shall provide, and shall cause each sub-contractor to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

Except for Worker's Compensation coverage, or unless waived by the City in writing, the CONSTRUCTION MANAGER shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the Owner, and any sub-contractor performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a sub-contractor, or by anyone directly or indirectly employed by either of them. The CONSTRUCTION MANAGER shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the CONSTRUCTION MANAGER.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

Except for the Worker's Compensation and Professional Liability, the City of Naples must be named as Additional Insured on the insurance certificate and the following must also be stated on the certificate. "These coverage's are primary to all other coverage's the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. The Certificate Holder shall read as follows:

City of Naples
Attention: City Manager
735 Eighth Street South
Naples, Florida 34102

No City Division, Department, or individual name should appear on the Certificate.

No other format will be acceptable, without prior approval of the City.

The Certificate must state the bid number and title. When using the ACORD 25 – Certificate of Insurance--only the most current version will be accepted.

The City of Naples requires a copy of a cancellation notice in the event the policy is cancelled. The City of Naples shall be expressly endorsed onto the policy as a cancellation notice recipient.

[If other insurance or insurance requirements or any waivers, attach as Exhibit C-1 through C-___]

EXHIBIT D

CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS

The undersigned is the **Vice President of Manhattan Construction (Florida), Inc.**, company ("the CONSTRUCTION MANAGER"), and hereby certifies to the following:

1. The CONSTRUCTION MANAGER is in full compliance with all provisions of the Immigration Reform and Control Act of 1986 ("IRCA"), as well as all related immigration laws, rules, regulations pertaining to proper employee work authorization in the United States.

2. The undersigned has verified that the CONSTRUCTION MANAGER has obtained and maintains on file, and will continue to obtain and maintain on file, all documentation required by law, including but not limited to, Form I-9, Employment Eligibility Verification, for all persons employed by or working for the CONSTRUCTION MANAGER in any capacity on any project for the City of Naples (CITY). All such persons have provided evidence of identity and eligibility to work to the CONSTRUCTION MANAGER in accordance with the IRCA and related law. The undersigned hereby affirms that no person has been or will be employed by the CONSTRUCTION MANAGER to work on projects for the CITY who is not authorized to work under law. The undersigned further affirms that the CONSTRUCTION MANAGER's files will be updated by written notice any time that additional employees work on projects for the CITY.

3. The CONSTRUCTION MANAGER will have its contractors, sub-contractors, suppliers and vendors who are involved in projects for the CITY to sign a written acknowledgment that they too are in compliance with immigration law. It is understood that failure to do so could result in the CONSTRUCTION MANAGER being liable for any violation of the law by such third parties.

4. The CONSTRUCTION MANAGER will fully cooperate with and have its contractors, sub-contractors, suppliers and vendors to fully cooperate with, all inquiries and investigations conducted by any governmental agency in connection with proper compliance with the laws pertaining to appropriate work authorization in the United States.

5. The undersigned, on behalf of the CONSTRUCTION MANAGER, acknowledges that this Certification may be relied upon by the CITY, its officers, directors, employees, and affiliates or related persons and entities.

6. If it is found that the CONSTRUCTION MANAGER has not complied with the laws pertaining to proper employment authorization, and any legal and administrative action ensues against the CITY, the CONSTRUCTION MANAGER will indemnify, defend and hold the CITY harmless along with their officers, directors, employees, and affiliated or related persons and entities.

7. The CONSTRUCTION MANAGER acknowledges that the CITY by their authorized representatives shall have the right, at any time, upon 24 hours' notice, to examine the CONSTRUCTION MANAGER's books and records to confirm that the CONSTRUCTION MANAGER is in compliance with the terms of this certification.

Executed this 19 day of May, 2017.

By: 