



Great Rivers Greenway

REQUEST FOR PROPOSALS

Pre-Construction and Construction Management Services

Brickline Greenway (project #308A)

ISSUE DATE: July 22, 2020

SUBMITTAL DUE DATE: August 27, 2020 by 2:00 PM CDT

SUBMITTAL VIA: Great Rivers Greenway (GRG) website (in a PDF format)

Questions or information related to this request should be directed to the GRG website. See below for submittal and questions deadline information.

RESPONSES DUE

Submittals are due at 2:00 PM Central Standard Time on August 27, 2020

Electronic submittals only via .pdf format will be considered; no facsimile or paper copies will be accepted.

All submittals received after the due date and time will not be considered. It shall be the responsibility of the respondent to ensure its submittal has been received by GRG prior to the deadline date and time.

QUESTIONS

All questions must be submitted to the GRG website for this RFP by 5:00pm Central Standard Time on Thursday, August 13, 2020. Answers to questions received by August 13, 2020 will be distributed to all known recipients of the RFP by Thursday, August 20, 2020 via the email address provided and posted onto the website as well. Please be sure to indicate if your question pertains to a specific component of the project listed or to the entire project.

GREAT RIVERS GREENWAY BACKGROUND

The Metropolitan Park and Recreation District d/b/a the Great Rivers Greenway District (“GRG”), has issued this request for proposals (“RFP”) to seek the services of qualified professionals for Pre-Construction and Construction Management Services for Brickline Greenway (previously called Chouteau Greenway).

Great Rivers Greenway is leading a major public-private partnership to establish the conceptual plan for the then-named Chouteau Greenway, which will connect Washington University & Forest Park, Downtown & the Gateway Arch, Fairground Park and Tower Grove Park, and many other destinations along the way, such as area neighborhoods, employment centers, parks, transit, and dozens of cultural and educational institutions.

Great Rivers Greenway, the public agency connecting St. Louis City (“City”), St. Louis County and St. Charles County with greenways for nearly 20 years, has collaborated with many partners to think about how to bring this particular urban greenway to life. Engaging the community along the way, Great Rivers Greenway and many partners launched an international design competition in 2017. Next came a framework plan, a “road map” that sets a tone and provides overall recommendations for the greenway project and process.

It presents a masterplan for the greenway, with potential alignments and signature projects. It outlines how the greenway could contribute to equitable economic opportunity, how it could look and feel, and how it could be realized and sustained long-term.

The partners on the Brickline Greenway project have been studying examples of transformational projects around the country, including the New York City High Line, Atlanta Beltline, Indianapolis Cultural Trail, and Washington, D.C.’s 11th Street Bridge Park project. Partners have been discussing the successes and challenges of these projects and how we can learn from them to inform the Brickline Greenway project as it moves from the framework plan into concept and schematic design.

PROJECT BACKGROUND and STATUS: CONCEPT DESIGN PHASE

The design concept for Brickline Greenway is made up of a central loop in the middle of St. Louis, with links connecting to Forest Park, Fairground Park, Gateway Arch National Park, and Tower Grove Park. The greenway connects people to the region’s greenway network and other transportation options—it

will become a part of St. Louisans' everyday experience, helping them reach their schools, workplaces, and many destinations throughout the city.

This greenway is different from other projects not just because of its scale or its ambition but also because of its process.

Diversity, equity, and inclusion are key principles and goals in this project. These values come through in the way the team will make decisions about how the greenway is designed, planned, and built. Fostering economic development and job growth is essential to improving quality of life, which will require many partners. GRG will assemble a steering committee and four working groups from 125 institutional partners, neighborhood representatives, private funders, and city staff who will come together to guide how we think about this next phase of the project in four categories:

- Equity & Economic Development
- Central West End MetroLink Station to Grand MetroLink Station
- Fairground Park to Grand MetroLink Station
- Universal Design Group

With the help of the Artists of Color Council, we identified opportunities to integrate art along the greenway in a way that rings true to the local flavor and history of St. Louis.

We've been to neighborhood meetings, elected official briefings, local leader interviews and community events to ask people for ideas and feedback. There is an energy in the air in St. Louis, and we're excited to build on that momentum to create something that everyone living here feels like they belong to and are a part of. This project has and will continue to try new ways to connect and engage people in open dialogue.

The most immediate next steps for the Brickline Greenway project includes but not limited to the following:

- Engage in meaningful community dialogue with a diversity of perspectives. Given the need and historic lack of investment, prioritize north city as a focus area for greenway projects.
- Coordinate and collaborate economic development plans, projects and opportunities with the City and other partners.
- Coordinate and collaborate with the City and other organizations to ensure additional trails, sidewalks, street routes for bicycles and transit options are connected to this greenway.
- Develop land use goals and controls, potentially involving rezoning.
- Design and implementation should meet people where they are, encouraging active participation from a variety of stakeholders. It

should challenge people to think beyond their neighborhoods to the wider region and its opportunities for growth and equitable development.

- Develop a long-term, sustainable governance model that ensures investment of public and private time, talent and treasure from a variety of resources to build ownership over time.

SCOPE OF SERVICES

GRG is seeking proposals from qualified firms for Pre-Construction and Construction Management (CM) Services for the program listed above and located in the City of St. Louis. GRG staff will negotiate and recommend a contract to be authorized by GRG's Board of Directors with the selected firm. The selected firm will join an existing team of designers and engineers already working on the program as it moves through schematic design and construction documents towards public bidding of projects by geography. The CM Agent selected under this request for proposals (RFP) will serve as the CM Agent over the entire Brickline Greenway program, and each geographic project within the Brickline Greenway program will be managed by individual construction management firms and bid to a qualified list of general contractors to execute the project. The selected firm under this RFP serving as the CM Agent for the entire Brickline Greenway program will not be eligible to bid on the individual projects in specific geographies that will be available in the future through separate requests for qualifications (RFQs) or RFPs. GRG intends to enter into an initial contract for the scope of work detailed herein but shall have the option to enter into subsequent amendments or additional contracts for any portion of the scope of work. GRG may also choose to enter into additional contracts or amendments for additional periods of service connected to the performance of the scope of work.

Upon selection of the most qualified consultant(s), the initial scope of work under this RFP will be two-fold as follows:

- Pre-Construction Services for the entire Brickline Greenway including, but not limited to, cost estimating, scheduling, and constructability analysis. Pre-Construction and Construction Management services will include, but are not limited to, the following:
 - Manage construction of on-road bicycle facilities, off-road multi-use bike and pedestrian trails, parks, trailheads and trail amenities

including landscape and hardscape, specialized bridge structures, linear parks and greenways, public art installations

- Review of architectural, landscape and engineering design drawings and specifications and providing options and suggestions to improve constructability and reduce costs
 - Analyze and provide value engineering solutions
 - Prepare cost estimates
 - Perform constructability analysis
 - Oversee and assure permitting requirements
 - Advise on construction phasing, short and long-term maintenance, sustainability, contractor staging, site access, traffic control, and logistics
 - Review, prepare, and administer the public bidding of final construction plans and specifications
 - Perform post-bid analysis and provide recommendations to GRG on contract awards
 - Lead and facilitate pre-construction activities
 - Perform utility relocation coordination
 - Assist GRG in construction public notices
 - Procure and subcontract materials testing firms
 - Perform construction cost monitoring and cash flow analysis of construction and budgeted contingencies
 - Undertake and advise GRG on construction risk management
 - Overall management of project construction including on-site administration, inspection, coordination, administering shop drawings, tracking progress, documenting activities, documenting DBE/workforce data, administering payments, schedule management, change management, preparing and resolving punch lists, performing construction close-out, assuring compliance with outside funding requirements (if applicable), and other construction related tasks.
 - Working with the project designer, the Construction Manager will create a report documenting the sustainable features of the project and its impact on sustainability working with the design team and GRG staff.
- Construction Management and oversight of the installation of approximately 8 piers at the Foundry. The contractor(s) for this and related work will be determined as geographic projects are bid. The expected services to be provided are included in Exhibit A, attached hereto and incorporated by reference herein.

Immediate next steps for the selected Construction Manager will be to provide pre-construction services including but not limited to developing a cost estimate and schedule which prioritizes north city as a focus area, as well as developing a phasing schedule for the project.

INSTRUCTIONS FOR PREPARING PROPOSALS

General Provisions

Any contract awarded as a result of this RFP will be awarded without discrimination on race, color, religion, age, sex, sexual orientation, or national origin.

Prospective consultants shall assure GRG that they will comply with The Americans with Disabilities Act of 1990 and Revised ADA Regulations Implementing Title II and Title III, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.) and 2010 ADA standards for Accessible Design.

Any contract awarded for this work will require the consultant to execute and deliver to GRG an affidavit confirming the consultant's enrollment in the e-verify federal work authorization program with respect to its employees, in compliance with Section 285.530 R.S.Mo. as well as a copy of the consultant's e-verify MOU. Consultants shall not be required to execute the affidavit and supply an e-verify MOU copy if either (i) the compensation to be paid is \$5,000 or less, or (ii) the consultant does not have any employees (though an affidavit attesting that the Consultant has no employees will still be required).

GRG intends to utilize the contract form attached hereto and incorporated as Exhibit B. Consultants should address any material variances from the contract form's terms in their proposal, including but not limited to any proposed variances to the insurance and indemnification provisions. Any contract(s) awarded under this RFP will require consultants to meet the insurance requirements contained in Exhibit B.

MINORITY AND WOMEN BUSINESS ENTERPRISE POLICIES

It is the policy of GRG that minority and women-owned businesses shall have the maximum opportunity to participate in the performance of contracts utilizing GRG funds.

Minority and Women Business Enterprise goals of 25/5% have been established by GRG; i.e. 25% of the total contract amount to be awarded to Minority Business Enterprises (MBE) and 5% of the total contract amount to be awarded to Women Business Enterprises (WBE). It is the prospective consultant's responsibility to make a sufficient portion of the work available to sub-contractors to meet the goal, consistent with the availability and capacities of MBE and WBE firms. GRG reserves the right to negotiate contract participation with qualified respondents.

As discussed in the "Selection Process and Criteria" section, the consultant's ability to meet GRG's diversity goals will be a consideration in the evaluation of firm submittals.

SUBMISSION OF PROPOSAL

Provide one (1) electronic copy in (.pdf format) and uploaded to GRG's website. Submittals should contain the following information:

1. One page letter of interest that includes a synopsis of qualifications of the firm and any subconsultants, the primary contact, anticipated project manager, and the project principal stating his/her professional credentials. Please clearly state the individual representing the contractual authority of the firm on the proposal.
2. Profile of firm(s) including number of employees, location, and relevant experience working on similar projects within the last five (5) years. Provide a brief description of the firm(s) participating in this proposal and ownership structure. Indicate percentage ownership by women and minorities if applicable.
3. Describe the prime firm's experience in construction management projects with federal, state and local governments, public/private partnerships; multiple, complex capital projects; and an understanding of landscapes and the suburban and urban environment. Recent project experience for on-road/off-road bicycle facilities, parks, trails (including related trailheads and amenities) and greenways is particularly relevant. LEED (Leadership in Energy and Environmental design) certification is desirable.
4. Resumes of no more than four (4) key staff members identified by the firm as having a major role in this project and their qualifications. Resumes may not be longer than two pages, double-sided per person.

5. Complete and submit Form A included and attached to this RFP (Exhibit C), which includes information on the firm submitting its proposal. Include fees for overhead and profit; estimated reimbursable expenses; and a fee schedule with hourly rates for all job titles anticipated with this project. Do not include a total price for the anticipated services.
6. Project descriptions for three (3) recent projects where the prime firm was the lead on the project, performed within the last five (5) years. Provide the name of the client (include contact information), description of services provided, key personnel involved, year the project was completed, and estimated or completed construction cost. It is acceptable if the projects were for GRG.
7. References from owners for whom construction management services have been performed on comparable projects within the last five (5) years.
8. Disclose any material agreements, relationships, or employment your firm or team members has with Great Rivers Greenway, any engineering, planning or design firm or contractors currently working on the projects listed in this RFP, government agency or other person or entity that is involved with the projects listed in this RFP that may create a conflict of interest or the appearance thereof.
9. Include (as an appendix) copies of your firm's most recent Equal Opportunity form (EEO-1) and Affirmative Action policies, if applicable.

Submittals should be two-sided and limit length to 25 sides (pp. 1-25), including text, graphics and cover letter. Use a minimum 10-pt. font. Cover sheet, title page, and/or dividers are not included within the page limitation.

It is the sole responsibility of the vendor to ensure the PDF statement of qualifications is received in proper time. No late submittals will be considered. No printed, fax or verbal proposals will be accepted.

SELECTION PROCESS AND CRITERIA

GRG staff will assemble a review committee to evaluate all responses to the Request for Proposals. Interviews may be scheduled. The basis for evaluating consultants for Pre-Construction and Construction Management Services shall include the following: qualifications to perform the work outlined; qualifications of in-house personnel to manage project; demonstration of ability to perform projects comparable in design, scope and complexity;

demonstration of compliance with GRG's Minority and Women Business Enterprise goals and any applicable federal, State, or local MBE/WBE goals; references from owners for whom construction management services have been performed on comparable projects; fees for overhead and profit; reimbursable costs for reimbursable items; financial strength; and the demonstration of successful management systems used for estimating, scheduling and cost controls.

GRG shall select the firm considered best qualified and capable of performing the desired services based upon the foregoing criteria, and negotiate a scope, fee, and contract with the selected firm. The committee may contact any or all respondents to clarify submitted information. GRG intends to enter into an initial contract with an option to add amendments or issue additional contracts for additional durations and the scope of services.

Firms will be notified in writing via electronic mail (email) or letter once the committee has reviewed all materials, selected a candidate, conducted due diligence and negotiated a scope and fee with a recommended firm.

IMPORTANT CONSIDERATIONS

GRG reserves the right, at its sole discretion, to 1) reject any or all submittals when, in its opinion, it is determined to be in the public interest to do so, 2) waive minor informalities of a submittal, 3) cancel, revise, or extend this solicitation, 4) request additional information which GRG deems necessary.

This RFP does not obligate GRG to pay any costs incurred by any respondent in the submission of proposal or in making necessary studies or design for the preparation thereof, or for procuring or contracting for the services to be furnished under this request for proposals. GRG will give preference to firms located in St. Louis City, St. Louis County and/or St. Charles County, and secondly, in the State of Missouri, when other considerations are equal.

EXHIBIT A

CONSTRUCTION MANAGEMENT SERVICES SCOPE OF WORK TEMPLATE

Section 1. Preconstruction Phase

1. The Construction Manager shall review the project documents furnished by the Owner to ascertain the requirements of the project and shall arrive at a mutual understanding of such requirements with the Owner and the Design Team.
2. The Construction Manger shall provide a preliminary evaluation of the Owner's scope, schedule and construction budget requirements, each in terms of the other.
3. Based on the project design documents and other design criteria prepared by the Design Team at relevant stages of the project, the Construction Manager shall provide estimates of construction cost for project requirements using area, volume or similar conceptual estimating techniques and include appropriate risk-based contingency and budget reserve recommendations. Based upon the stage of project design development at the time of this Pre-Construction Phase Construction Manager services agreement, at a minimum, estimates of construction cost shall be provided at the following project stages:
 - a. Concept/Schematic Design
 - b. 30% (Preliminary) Design
 - c. 60% (Site-Control) Design
 - d. 95% (Pre-Final) Design
 - e. 100% (Final) Design

The Construction Manager shall advise the Owner and Design Team if it appears that the construction cost may exceed the Owner's latest approved project budget and make recommendations for corrective action. The Construction Manager shall also provide cost evaluations of alternative materials, methods, and systems which may result in cost savings.

4. The Construction Manager shall expeditiously review design documents during their development and advise on proposed site use and improvements, selection of materials, building systems and equipment, and methods of project delivery. The Construction Manager shall provide recommendations on feasibility of construction, availability of materials and labor, time requirements for procurement, installation and construction and factors related to construction

costs including, but not limited to, costs of alternative designs or materials, project budget, and possible economics.

5. The Construction Manager shall routinely review and provide recommended updates to the Owner's Project Schedule as shown in the Owner's Project Control System. The Construction Manager shall obtain the Design Team's approval for portions of the Project Schedule relating to the performance of the Design Team's services. In the Project Schedule, the Construction Manager shall coordinate and integrate the Construction Manager's services, the Design Team's services, and the Owner's responsibilities with anticipated construction schedules, highlighting critical and long-lead time items. Project Schedule updates provided by the Construction Manager shall conform to the following requirements:
 - a. Be in the form of an electronic schedule file provided in Microsoft Office 2007 (or newer) compatible, Extensible Markup Language (XML) format
 - b. Identification of the work tasks and milestones involved by name and an associated unique integer; the sequence of proposed work tasks; scheduled dates at which the work tasks will start and finish (or the duration of the work tasks); the dependencies between the work tasks; and a baseline representing the entire schedule (note: files provided to the Owner shall not include assigned resources)
 - c. Be provided no less than monthly (unless otherwise authorized in writing by the Owner)
 - d. Work tasks shall maintain the same unique integer identification as the initial schedule unless the work task is new
 - e. Specifically identify, via color and/or highlighting:
 - i. delayed work tasks from the baseline
 - ii. changes to dependencies in the work tasks from the most recent prior updated schedule
 - iii. work tasks which have identified potential changes to future final completion costs or dates
 - f. Have actual completion dates and percentages of completion recorded in the appropriate, representative "Actual Start", "Actual Finish", and "% Complete" data fields for the relevant work tasks
6. The Construction Manager shall consult with the Owner and the Design Team regarding the designs and construction documents and make recommendations whenever design details adversely affect constructability, quality, cost, or schedules.
7. The Construction Manager shall provide recommendations and information to the Owner and Design Team regarding the assignment of responsibilities for temporary project facilities, equipment, materials, and services for common use of the Contractors. The Construction Manager shall verify that such

requirements, assignment of responsibilities, and basis of payment are included in the proposed contract documents and the Owner's project budget.

8. The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors.
9. The Construction Manager shall advise on the division of the project into individual contracts for various categories of work, including the method to be used for selecting contractors and awarding contracts and alternate bids. If multiple contracts are to be awarded, the Construction Manager shall review the construction documents and make recommendations as required to provide assurance: (1) the work of all contractors (including agents external to the Owner, such as private utilities) is coordinated, (2) all requirements for the project have been assigned to the appropriate contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.
10. The Construction Manager shall prepare and provide an estimated project construction schedule, meeting the requirements of Section 5 of the Pre-Construction Phase Scope of Services, providing for the components of the work, including phasing of construction, times of commencement and completion required of each contractor, ordering and delivery of products requiring long lead time, and the occupancy requirements of the Owner. The Construction Manager shall provide their current estimated project construction schedule for each set of bidding documents.
11. The Construction Manager shall expedite and coordinate the ordering and delivery of materials requiring long lead time when procured ahead of construction bids.
12. The Construction Manager shall select, scope, procure, retain, subcontract, and provide construction phase support services such as, but not limited to: construction surveyors, specialty consultants, and materials sampling/testing/special-inspection firms and laboratories which are necessary to assure construction compliance with the Construction Contract Documents. The Construction Manager will endeavor to comply with the Owner's Diversity, Equity, & Inclusion (DEI) objectives in the selection and use of firms. Prior to subcontracting with any firm for these services, the Construction Manager will propose the firm's proposed scope, team, rates, hours, and fees for these services to the Owner and will obtain the Owner's approval of the proposed firms and subcontracts.
13. The Construction Manager shall provide an analysis of the types of quantities of materials and labor required for critical phases. The Construction Manager shall

make recommendations for actions designed to minimize adverse effects of materials and labor shortages.

14. The Construction Manager shall assist the Owner in obtaining information regarding applicable requirements for equal employment opportunity programs for inclusion in the contract documents.
15. Following the Owner's approval of the Construction Documents, the Construction Manager shall update and submit the latest estimate of construction cost and the project construction schedule for the Design Team's review and the Owner's approval prior to bidding.

The Construction Manager shall develop bidders' interest in the project and establish bidding schedules. The Construction Manager, with the assistance of the Design Team, shall prepare final bidding and contract documents to bidders, conduct pre-bid conferences with prospective bidders, prepare responses to questions from bidders, and issue addenda to clarify the bidding and bid packages. The Construction Manager shall be responsible for uploading and administering the bid packages and bidding process using the Owner's online bidding site (known as "Bid Express").

16. The Construction Manager shall receive bids, prepare bid tabulations and analyses, prepare and perform post bid interviews, and make recommendations to the Owner for the Owner's award of contracts or rejection of bids.
17. The Construction Manager shall assist the Owner in preparing construction contracts and advise the Owner on the acceptability of subcontractors and material suppliers proposed by contractors.
18. The Construction Manager shall obtain various regulatory or special permits (such as grading permits, building permits, etc.) on behalf of the Owner for permanent improvements, except for permits required to be obtained directly by the various contractors, in which case the Construction Manager shall verify the acquisition of applicable permits by the various contractors. The Construction Manager shall facilitate the Owner's payment of applicable permit fees and assessments and verify the receipt of such payments by the respective permitting agency. The Construction Manager shall assist the Owner and the Design Team in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the project.
19. Projects which are fully or partially funded by federal funding must comply with the specific construction requirements of that funding. If the construction must meet federal funding requirements, the Construction Manager shall be knowledgeable of such requirements and only assign personnel who are "LPA

Certified” under Missouri’s “Local Public Agency” (LPA) program as administered by the Missouri Department of Transportation. The Construction Manager will assist the project Design Team to ensure project plans, specifications and estimates comply with MoDOT’s Engineering Policy Guide (EPG) and Local Public Agency (LPA) Manual.

Section 2. Construction Phase

1. The construction phase will commence with the award of the initial construction contract and, together with the Construction Manager’s obligation to provide basic services under this agreement, will end 30 days after final payment to all contractors is paid.
2. The Construction Manager shall provide administration of the contracts for construction, in cooperation with the Design Team, as set forth below and in accordance with the General Conditions of the Project’s Construction Contract Documents.
3. The Construction Manager shall provide administrative, management, and related services to coordinate scheduled activities and responsibilities of the contractors with each other and with those of the Construction Manager, the Owner and the Design Team to endeavor to manage the project in accordance with the Owner’s approved project budget, the project schedule, and the Construction Contract Documents.
4. Upon full execution of the Construction Contract Documents, the Construction Manager shall schedule and conduct a pre-construction meeting. The Construction Manager shall notify the contractor that a detailed construction schedule meeting the requirements of the Construction Contract Documents must be provided by the time of the pre-construction meeting. The pre-construction meeting is intended to assemble all parties where pertinent topics can be discussed in preparation for construction. The Construction Manager, in collaboration with the Design Team and the Owner, shall verify all participants are invited which will typically include, but not necessarily be limited to, the following:
 - a. Appropriate internal Owner staff from the Build, Promote, and Sustain groups.
 - b. The prime contractor(s) and their appropriate staff members, suppliers, and subcontractors selected by the contractor
 - c. The Design Team and applicable sub-consultants
 - d. The construction staking surveyor
 - e. Representatives from impacted utility agencies
 - f. Representatives from outside funding or permitting agencies (MoDOT, MSD, etc.)

- g. Representatives from other impacted local government agencies as directed by the Owner (Counties, Cities, etc.)
- h. Representatives from appropriate project stakeholders as directed by the Owner who may need to be involved or aware of the construction planning (Homeowners Associations, Neighborhood Groups, Businesses, or Business Associations, etc.)

The Construction Manager shall prepare an appropriate pre-construction meeting agenda and assure its distribution to participants prior to the meeting. Upon conclusion of the pre-construction meeting, the Construction Manager shall assure the resolution of various action items from the meeting and that the Owner is provided with the approved construction schedule meeting the requirements of Section 5 of the Pre-Construction Phase Scope of Services to be uploaded to the Owner's Project Controls System. Upon the Owner's approval, the Construction Manager shall issue the Notice to Proceed (NTP) to the contractor.

- 5. In consultation with the Owner, the Construction Manager shall coordinate the Contractor's (unless separately contracted by the Owner) placement of required public notice signs, changeable message boards, and/or other notices announcing the construction start and end times and traffic impacts at least 5 days prior to actual construction start.
- 6. The Construction Manager shall schedule and conduct a photo/video inventory with the contractor prior to construction start in order to document existing conditions on the site and provide a copy to the Owner as well as retain in the files.
- 7. The Construction Manager shall review and coordinate the Design Team's Storm Water Pollution Prevention Plan (SWPPP) with any SWPPP documents or details required from the contractor by the Construction Contract Documents and any project permits. The Construction Manager shall inspect and verify the contractor's compliance with the project's SWPPP, administer needed SWPPP adjustments or amendments, and specify and assure corrective actions are taken by the contractor.
- 8. The Construction Manager shall schedule and conduct meetings to discuss such matters as construction means and methods, progress, and scheduling. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Design Team, and contractors.
- 9. The Construction Manager shall assure construction schedules provided by the contractors comply with the Construction Contract Documents. The Construction Manager shall update the project construction schedule incorporating the activities of the contractors, including activity sequences and durations, allocation

of labor and materials, processing of shop drawings, product data and samples and delivery of products requiring long lead-time and procurement. Updates provided to the Owner shall comply with the same schedule update requirements as identified in Section 5 of the Pre-Construction Phase Scope of Services. The project construction schedule shall include the Owner's use requirements showing portions of the project having use priority. The Construction Manager shall update and reissue the project construction schedule as required to show current conditions. If an update indicates that the previously approved project construction schedule may not be met, the Construction Manager shall recommend corrective action to the Owner and the Design Team.

10. Consistent with the various Construction Contract Documents, and utilizing information from the contractors, the Construction Manager shall coordinate the sequence of construction and assignment of space in areas where the contractors are performing work.
11. The Construction Manager shall endeavor to obtain satisfactory performance from each of the contractors. In accordance with the General Conditions, the Construction Manager shall recommend courses of action to the Owner when requirements of the Construction Contract Documents are not being fulfilled.
12. The Construction Manager shall monitor the approved project budget. The Construction Manager shall show actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with such approved estimates.
13. The Construction Manager shall develop cash flow reports and forecasts for the project and advise the Owner and Design Team as to variances between actual and planned or estimated costs.
14. The Construction Manager shall maintain accounting records on authorized work performed under quantities, unit costs, additional work performed on the basis of actual costs of labor and materials, force-account, and other work requiring accounting records.
15. The Construction Manager shall develop and implement procedures for the review and processing of Certificates for Payment by contractor(s) for progress and final payments, as well as any construction support services including but not limited to: construction surveyors, specialty consultants, and materials sampling/testing/special-inspection firms/laboratories.
16. The Construction Manager shall prepare an application for payment based on the contractor's Certificates for Payment.
17. The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's

determinations at the site as provided in this document and on the data comprising the Construction Manager's knowledge, information, and belief, the work has progressed to the point indicated, represented quantities are stored or installed, and the quality of the work is in accordance with the Construction Contract Documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents correctable prior to completion and to specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a representation that the contractor is entitled to payment in the amount certified.

18. The Construction Manager shall review the safety programs developed by each of the contractors for purposes of coordinating the safety programs with those of the other contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the contractors, subcontractors, agents or employees of the contractors or subcontractors or any other persons performing portions of the work and not directly employed by the Construction Manager.
19. The Construction Manager shall follow best-practices in Risk Management techniques, on the Owner's behalf, particularly as described by the Project Management Institute (PMI). These practices shall generally include:
 - a. Risk Identification - determining which risks are likely to affect the outcomes of the construction and documenting the characteristics of each.
 - b. Risk Analysis - evaluating risk impacts and their interactions, both quantitatively and qualitatively, among possible construction outcomes.
 - c. Risk Response Development - defining possible enhancement steps for opportunities and possible responses to threats.
 - d. Risk Control – routinely revisiting risk statuses, implementing responses, and adjusting to changes in risks over the course of the construction.

The Construction Manager shall continuously advise the Owner of potential risks as they arise and assist the Owner in the execution of Risk Management practices.

20. The Construction Manager shall determine in general that the work of each contractor is being performed in accordance with the requirements of the Construction Contract Documents, endeavoring to guard the owner against defects and deficiencies in the work. As appropriate, the Construction Manager may require additional inspection or testing of the work in accordance with the provisions of the Construction Contract Documents, whether or not such work is fabricated, installed, or completed. The Construction Manager, in consultation with the Owner and the Design Team may reject work which does not conform to the requirements of the Construction Contract Documents. Materials sampling,

testing, and special inspections will be performed by the Construction Manager's subcontracted Materials Testing Firm under the direction and oversight of the Construction Manager. Observations and construction assurance activities performed by the Construction Manager shall include, but not necessarily be limited to, the following:

- a. The Construction Manager must be present to oversee critical components of the project construction. They shall observe and evaluate it as long as the work is proceeding. This shall particularly apply to work that requires specified construction methods or procedures for quality assurance such as paving, retaining wall construction, installation/connection of piping, placing reinforcing steel, driving piles, installing equipment, etc.
 - b. The Construction Manager will review all reports, notify the Owner and contractor of issues, and take appropriate action to protect the Owner. The Construction Manager must be present for all on-site testing and special inspections. Results immediately available which indicate failure shall be immediately relayed to the contractor to address the situation to the satisfaction of the Construction Manager.
 - c. The Construction Manager shall check and review delivered materials as soon after delivery as possible (within 24 hours for signage delivery) so as to avoid rejecting material after it has already been placed.
 - d. The Construction Manager shall promptly check preparatory work (such as the preparation of sub-grade or the setting of forms) to minimize delay to subsequent operations.
 - e. The Construction Manager shall inspect work as it progresses and not delay inspections until component work is complete.
 - f. The Construction Manager has the responsibility to be available, provide prompt inspection, and make a majority of field decisions, which do not substantially impact project delivery or performance, without the Owner and/or Design Team.
 - g. The Construction Manager shall avoid rushed or hasty decisions. The Construction Manager shall thoroughly investigate situations and their possible risks or consequences and report these to the Owner as appropriate.
 - h. The Construction Manager will maintain all records of inspection, special inspection, sampling, and testing results and supply these to the Owner as requested as well as in total at acceptance of the construction.
 - i. The Construction Manager shall not require the contractor to furnish more than required by the Construction Contract Documents.
21. The Construction Manager shall schedule and coordinate the sequence of construction in accordance with the Construction Contract Documents and the latest approved project construction schedule.

22. With respect to the contractor's own work, the Construction Manager shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work of each of the contractors, since these are solely the contractor's responsibility under the Construction Contract Documents. The Construction Manager shall transmit to the Design Team requests for interpretations of the meaning and intent of the drawings and specifications and assist in the resolution of questions that may arise.
23. The Construction Manager shall review requests for changes (change requests), assist in negotiating contractor's proposals, submit recommendations to the Design Team and Owner, and, if they are accepted, prepare change orders and construction change directives which may incorporate the Design Team's modifications to the documents. The Construction Manager shall carefully track and monitor change requests and change orders and employ the following procedures in the management of changes to the Construction Contract Documents:
- a. Change requests are simply requests for a change to the contractual agreement between the Owner and the contractor. Change requests may be necessitated by field conditions, requests by the Owner, requests by the contractor, or other constraints. The Construction Manager shall review all change requests to determine if the proposed work should be considered fully or partially within the original contract agreement and relay their determination to the Owner. Change requests shall be processed by the Construction Manager according to the Construction Contract Documents and the Owner's procurement policies.
 - b. Change requests shall be prepared by the Construction Manager on forms approved by the Owner and expeditiously submitted to the Owner. The Owner's Chief Executive Officer, or such staff as authorized by him/her, may approve change requests in the Owner's Project Controls System so as not to delay project progress, provided that a change order, representing approved change requests, which amends the respective contract is approved by the Chief Executive Officer within a reasonable amount of time.
 - c. Change orders are formal amendments to the contract and shall represent the accumulation of approved single or multiple change requests. The Construction Manager shall prepare and process change orders for both pay and non-pay items. Non-pay items typically represent scope changes such as contract time extensions (note: these are different than construction schedule changes), shifting of locations, relocation of planned quantities, modification of design plans, etc. Change orders shall be prepared by the Construction Manager on forms approved by the Owner and any applicable funding agency forms (such as MoDOT).
 - d. Price and time considerations for lump-sum changes must be negotiated with the contractor by the Construction Manager using relevant

comparisons of means, methods, and costs. If an acceptable negotiation cannot be reached, the Construction Manager may choose to have the work completed by "Force-Account" (a time and material basis). The Construction Manager shall use negotiated rates and production estimates (these must also be verified by relevant comparisons) provided by the contractor and process an estimated change request for the total Force-Account work. The Construction Manager shall maintain detailed records, invoices, and other documentation to justify the total amount of the final change order which shall be processed when the Force-Account work is completed.

- e. Except in the case of emergencies, the Construction Manager shall not allow the contractor to perform work related to a change request prior to approval of the change request.
 - f. At no time shall the Construction Manager allow the cumulative amount of approved change requests and change orders to exceed the available contingency budget amount provided to the Construction Manager by the Owner.
24. The Construction Manager shall administer retainage on contractor payments according to Missouri Revised Statutes Section 34.057 using the following standards and as allowed by state law:
- a. Retainage is required on all projects and subtracted from each progress payment. The Owner will retain five percent (5%) of the amount of each progress payment, until final completion and acceptance of all construction.
 - b. The Construction Manager shall recommend release of retainage held only when the following conditions have been met or, in the Construction Manager's opinion, the following conditions are likely to be met:
 - i. No liquidated damages are applicable
 - ii. There has been satisfactory progression of the work and general compliance with the construction schedule
 - iii. Defective construction work or material has been remedied
 - iv. Disputed work has been resolved
 - v. There are no failures to comply with any material provision of the contract
 - vi. There are no third-party claims filed or reasonable evidence that a claim will be filed
 - vii. There are no failures or indications of failures of the contractor to make timely payments for labor, equipment, or materials
 - viii. There are no damages to a subcontractor or material supplier
 - ix. There is full compliance with the contract wage rate provisions
 - x. There are no citations from permitting and/or enforcing authorities for acts of the contractor or subcontractor not complying with any material provisions of the contract which result in a violation of any

federal, state, or local law regulation or ordinance applicable to the project causing additional costs or damages to the Owner

25. The Construction Manager, with assistance from the Design Team and Owner, shall review, evaluate, document, and recommend courses of action to the Owner in the event of any claims during construction.
26. The Construction Manager shall receive certificates of insurance from the contractors, verify their completeness (proper business names, coverage types and amounts, additional insureds, etc.), maintain appropriate files, and forward them to the Owner and send a copy to the Design Team.
27. In collaboration with the Design Team, the Construction Manager shall establish and implement procedures for expediting the processing and approval of shop drawings, mix designs, product data, samples, and other submittals. The Construction Manager shall review all shop drawings, product data, samples, and other submittals from the contractors and transmit these submittals with information contained in related documents to the Design Team for final reviews, revisions, and/or approvals. The Construction Manager's actions shall be taken with such reasonable promptness as to cause no delay in the work or in the activities of the Owner or contractors.
28. The Construction Manager shall verify the responsibilities for various construction survey staking needs and recommend appropriate Owner project budget to meet the needs. In order to facilitate independent utility relocations, stage construction, or other reasons, it may be necessary for the Construction Manager to have portions of the project pre-staked prior to any of the contractor's staking, or even prior to bidding the project. Pre-staking may be completed in a variety of ways that shall be coordinated with the Owner; however, the Construction Manager shall be responsible for coordinating the completion of any pre-staking. The Construction Manager shall also be responsible for ascertaining the planned start and duration of construction staking and monitoring its completion. When complete, the Construction Manager shall obtain and review appropriate cut-sheets and point files from the staking surveyor (note: the performance and accuracy of all staking remains the responsibility of the surveyor).
29. The Construction Manager shall record the progress of the project and maintain a daily log of all construction activity and inspections. At a minimum, log entries shall include the following:
 - a. A recording of the day's activities
 - b. A recording of weather conditions
 - c. Work accomplished by the contractors
 - d. The number and classes/trades of workers
 - e. The number and type of equipment used
 - f. Any problems encountered

- g. Instructions or judgments given to the contractors
- h. Decisions or agreements made with the contractors

The Construction Manager shall submit weekly (unless otherwise authorized in writing by the Owner) written progress reports to the Owner and Design Team including summaries of the daily log information, identified risks to the Owner, percentages of completion, and other similar relevant data as the Owner may require.

30. The Construction Manager shall maintain at the project site for the Owner one record copy of all contracts, drawings, specifications, addenda, change requests, change orders and other modifications, in good order and marked currently to record changes and selections made during construction, and in addition, approved shop drawings, product data, samples, mock-ups, and similar required submittals. The Construction Manager shall maintain records in duplicate, of principal structural layout lines, cut sheets, elevations of the bottom of footings, top of foundations, low chords, floor/deck levels, and key site elevations certified by the Owner's qualified surveyor or professional engineer. The Construction Manager shall make all such records available to the Design Team and upon completion of the project shall deliver them to the Owner.
31. The Construction Manager shall verify the contractor's delivery, storage, protection, and security of Owner-purchased materials, systems and equipment that are a part of the project until such items are incorporated into the project.
32. The Construction Manager shall be responsible for reviewing the contractor's compliance with Labor Wage Rates, Disadvantaged Business Enterprise (DBE), and Equity goals set by the Construction Contract Documents. The Construction Manager shall conduct periodic Labor Wage Rate interviews of contractors' workers to ascertain duties and pay rates for comparison with those rates required by the Construction Contract Documents. In addition, certified payrolls shall be collected from the contractors and generally reviewed for compliance by the Construction Manager using appropriate sampling. The Construction Manager shall also conduct periodic interviews of any DBE subcontractors and/or workers on-site to confirm compliance with Commercially Useful Function (CUF), Equity, or other requirements set forth by the Construction Contract Documents. Any discrepancies shall be reported to the Owner by the Construction Manager along with a recommended course of action.
33. Working with the Design Team and the Owner (or the Owner's Partners), the Construction Manager will create a report documenting the sustainable features of the project and its impact on sustainability efforts by the Owner.

34. With the Design Team and the Owner's (or the Owner's Partner's) maintenance personnel, the Construction Manager shall observe the contractor's final testing and start-up of utilities, operational systems, and equipment.
35. When the Construction Manager considers each contractor's work or a designated portion thereof substantial complete, the Construction Manager shall, jointly with the contractor prepare for the Design Team a list of incomplete or unsatisfactory items and a schedule for their completion; i.e., the "punchlist". The Construction Manager shall assist the Design Team in conducting inspections to determine whether the work or designate portion thereof is substantially complete.
36. The Construction Manager shall coordinate the correction and completion of the work. Following issuance of a Certificate of Substantial Completion of the Work (issued by Design Team) or a designated portion thereof, the Construction Manager shall evaluate the completion of the work of the contractors and make recommendations to the Design Team when work is ready for final inspection. The Construction Manager shall assist the Design Team in conducting final inspections.
37. The Construction Manager shall assist with closeout of the project in accordance with GRG's Project Controls Manual. This includes securing and transmitting to GRG and the Design Team various documentation required by the Construction Contract Documents which includes, but may not be limited to, the following:
 - a. Record "as-built" drawings
 - b. Operational warranties and manuals
 - c. Maintenance stocks
 - d. Final wage rate certifications
 - e. Affirmative action certifications
 - f. DBE participation certifications (if applicable)
 - g. Union associated certifications (if applicable)
 - h. Security certifications (along with copies of any keys and keying schedule)
 - i. Sub-contractor's verifications of payments (lien waivers)
 - j. Material and equipment supplier's verifications of payments (lien waivers)
 - k. Affidavits of claim settlements

The Construction Manager shall forward to the Design Team a final project application for payment along with a recommendation for the Owner to issue a Certificate of Acceptance, upon compliance with the requirements of the contract documents.

38. Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Construction Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Construction

Manager, Design Team, and Contractors. Consent shall not be unreasonably withheld.

39. Projects which are fully or partially funded by federal funding must comply with the specific construction requirements of that funding. If the construction must meet federal funding requirements, the Construction Manager shall be knowledgeable of such requirements and only assign personnel who are "LPA Certified" under Missouri's "Local Public Agency" (LPA) program as administered by the Missouri Department of Transportation. At a minimum, work performed by the Construction Manager on federally funded projects shall assure the Owner's compliance in the following areas:

- a. Request and achieve, on the Owner's behalf, MoDOT concurrence of contract award
- b. Assist the Owner in preparing and submitting LPA required (or required by other applicable funding) construction start-up submittals
- c. Collect and obtain the Owner's and/or MoDOT's approval of all subcontracts to the contractor prior to any work on-site (using C-220 form)
- d. Provide record keeping in conformance with the MoDOT LPA Manual (or other applicable funding requirements) and LPA Construction Checklist and store such records for the period of time required to allow funding compliance audits
- e. In addition to daily logs, maintain an LPA-compliant payment diary to record the daily measurements and amounts of stored and installed quantities according to the bid/contract pay items
- f. Collect and verify any Construction Material and Operation Certifications according to the funding requirements
- g. Prepare and submit Monthly Progress Reports conforming to the funding requirements
- h. If On the Job (OJT) provisions are required, maintain and monitor documentation to ensure compliance with all funding requirements
- i. Assure the contractor's compliance with OSHA training levels according to the funding requirements.
- j. Assure compliance and obtain any required MSD letters of project acceptance.
- k. Review job site notices, postings, equal employment opportunity information, and other related items, for compliance with the funding requirements
- l. Perform Labor Wage Rate (state and federal) and DBE compliance checks and record and/or report related information according to funding requirements.
- m. Perform activities required to assure applicable Davis-Bacon Law compliance.
- n. Maintain a certified payroll checklist, following the format of Attachment A, throughout the duration of the project.

- o. Ensure the contractor is performing ADA compliance of reconstructed ADA ramps, crossings, signals, sidewalks, and surfaces. Participate with MODOT, Owner, Design Team, and Contractor on the final ADA inspection.
- p. Participate in all work in progress, semi-final and final inspection visits performed by MoDOT or other regulatory staff. Prepare final inspection punch list and subsequent inspections of remediated work.
- q. Prepare and provide final certifications and acceptance checklists required in the MoDOT LPA Manual (or other applicable funding requirements)

EXHIBIT B

Form of Construction Management Agreement

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

(_____ Greenway)

THIS AGREEMENT is made and entered into the ___ day of _____, 20__ by and between the **METROPOLITAN PARK AND RECREATION DISTRICT d/b/a THE GREAT RIVERS GREENWAY DISTRICT** (hereinafter the “**DISTRICT**”) and _____ (hereinafter the “**CONSTRUCTION MANAGER**”).

1. **Scope of Work.** The **CONSTRUCTION MANAGER** agrees to perform the services described in Exhibit B-1, which is attached hereto and made a part hereof (the “**SCOPE OF WORK**”).

2. **Compensation.** The **DISTRICT** shall pay to the **CONSTRUCTION MANAGER** the Total Fee in accordance with the rate schedule attached hereto as Exhibit B-2. The Total Fee paid to the **CONSTRUCTION MANAGER** shall be the actual days worked multiplied by the rate from Exhibit B-2. In no case shall the Total Fee pursuant to this **AGREEMENT** exceed _____ dollars (\$ _____) without a formal amendment to this **AGREEMENT**. The Total Fee is based on the performance of the **SCOPE OF WORK** specified in this **AGREEMENT**. Payment to the **CONSTRUCTION MANAGER** shall be made based upon itemized monthly invoices submitted by the **CONSTRUCTION MANAGER** detailing the work performed, the person or persons performing the work, the detailed fees and costs associated therewith, and the percentage of the respective task(s) completed at the time of invoicing. The **CONSTRUCTION MANAGER** shall maintain all records supporting the invoicing and the records shall be open for inspection.

3. **Period of Service.** The **CONSTRUCTION MANAGER’S** services shall be performed expeditiously and consistent with the **CONSTRUCTION MANAGER’S** professional skill and judgment, in consultation with **DISTRICT**, and within any time periods specified in the **SCOPE OF WORK**, including through the completion of Construction Close-Out, unless such time is extended by the parties hereto by mutual written agreement.

4. **Definitions.**

- a. "Construction Close-Out" means the period after construction completion by the Construction Contractor during which final payment, or retained payment, is released to the Construction Contractor and all final services and documentation required within the **SCOPE OF WORK** has been delivered to the **DISTRICT**.
- b. "Construction Contract Documents" means the documents required for construction of the Project.
- c. "Construction Contractor" means a company hired by the **DISTRICT** to construct improvements in accordance with the Construction Contract Documents.
- d. "Project" means the unique endeavor being undertaken by the **DISTRICT** as a combination of all project phases: "Planning", "Design", "Site Control", and "Build"; with an intended final deliverable of completed Greenway construction commonly known as _____ in this **AGREEMENT**.
- e. "Total Fee" means the total compensation payments to be made to the **CONSTRUCTION MANAGER** for the performance of the **SCOPE OF WORK** including all overhead and profit, supervision, materials, supplies, labor, equipment, etc.

5. **Deliverables.** The deliverables to be produced by the **CONSTRUCTION MANAGER** are set forth and described in the **SCOPE OF WORK**.

6. **Meetings.** The **CONSTRUCTION MANAGER** shall consult with the **DISTRICT** at regularly scheduled progress meetings, the time and place of such meetings to be mutually agreed upon by **CONSTRUCTION MANAGER** and **DISTRICT**.

7. **Right to Withhold Payment:** In the event the **DISTRICT** becomes aware that any cost, charge, or representation of the **CONSTRUCTION MANAGER** provided in its services and/or invoicing is believed by the **DISTRICT** to be inaccurate or incorrect, the **DISTRICT** may withhold payment related to the disputed amount until the matter is corrected to the **DISTRICT**'s reasonable satisfaction. The **DISTRICT** will notify the **CONSTRUCTION MANAGER** of the disputed amount as soon as reasonably practicable. **DISTRICT** and **CONSTRUCTION MANAGER** will cooperate to expeditiously effect a resolution of the disputed amount and **CONSTRUCTION MANAGER** shall issue a revised invoice to the

DISTRICT as necessary. Invoiced amounts not questioned by the **DISTRICT** shall be paid to **CONSTRUCTION MANAGER** in accordance with payment procedures of this **AGREEMENT**.

8. **Amendment:** This **AGREEMENT** may be amended only by written instrument signed by both the **DISTRICT** and the **CONSTRUCTION MANAGER**. This **AGREEMENT** may be amended to provide for additions, deletions and revisions in the **SCOPE OF WORK** or **CONSTRUCTION MANAGER'S** period of service or to modify the terms and conditions thereof.

9. **District's Representative.** The **DISTRICT** hereby designates [REDACTED] as the **DISTRICT'S** Representative to act in the **DISTRICT'S** behalf with respect to the Project. The **DISTRICT** or the **DISTRICT'S** Representative shall render decisions promptly to avoid unreasonable delay in the progress of the **CONSTRUCTION MANAGER'S** services.

10. **Construction Manager's Representative.** The **CONSTRUCTION MANAGER** shall assign only qualified personnel to perform any service concerning the Project. **CONSTRUCTION MANAGER** hereby designates [REDACTED] as **CONSTRUCTION MANAGER'S** Representative to act on the **CONSTRUCTION MANAGER'S** behalf with respect to the Project. **CONSTRUCTION MANAGER'S** Representative shall be the primary point of contact with the **DISTRICT'S** Representative. If not the herein designated **CONSTRUCTION MANAGER'S** Representative, the **CONSTRUCTION MANAGER** shall also designate, in writing to the **DISTRICT**, the person with the authority to bind the **CONSTRUCTION MANAGER**. **CONSTRUCTION MANAGER'S** Representative shall not be changed without **DISTRICT'S** prior written consent, except in the event that **CONSTRUCTION MANAGER'S** Representative is no longer an employee or agent of **CONSTRUCTION MANAGER**, in which event **CONSTRUCTION MANAGER** shall notify **DISTRICT** in writing of its new representative.

11. **Services Outside of Scope of Work:** **DISTRICT** shall not be responsible for paying **CONSTRUCTION MANAGER** for any services or expenses that are not contained in the **SCOPE OF WORK** or otherwise authorized in writing by **DISTRICT**. This may include payments for professional services, necessary permits, licenses, ownership certifications, materials testing, advertising costs, and other special tests or other work.

12. **Subcontracting of Services:** **DISTRICT** hereby consents to the subcontracted services and designated subconsultants set forth on Exhibit B-3. Other than as set forth in Exhibit B-3,

the **CONSTRUCTION MANAGER** shall not subcontract, delegate the performance thereof, or assign any of the **SCOPE OF WORK** without first obtaining the written consent of the **DISTRICT**. Unless otherwise stated in such written consent, no assignment or delegation shall release or discharge the assignor or obligor from any obligation pursuant to this **AGREEMENT**. The **DISTRICT** shall be named as an intended third-party beneficiary of any of the **CONSTRUCTION MANAGER'S** subcontracts. Any subconsultant performing services pursuant to this **AGREEMENT** shall maintain throughout the duration of the **AGREEMENT**, insurance as provided in Section 18 herein, and shall additionally maintain Professional Liability Errors and Omissions insurance in a minimum policy amount equivalent to that of the **CONSTRUCTION MANAGER** under this **AGREEMENT** and provide the **DISTRICT** with certification thereof.

13. **Inspection of Documents:** The **CONSTRUCTION MANAGER** shall maintain all Project records for inspection by the **DISTRICT** during the **AGREEMENT** term and for five (5) years from the date of final payment and shall notify the **DISTRICT** prior to their disposal.

14. **Standard of Care/Relationship of Parties.** No agency or employment agreement is created by this **AGREEMENT**. **CONSTRUCTION MANAGER** shall be an independent contractor for purposes of this **AGREEMENT**. Except as specifically authorized in writing, **CONSTRUCTION MANAGER** is not authorized to bind the **DISTRICT** to any contractual obligations. **CONSTRUCTION MANAGER** shall recommend sound, technical, schedule and economic design solutions to the **DISTRICT**. In addition to its obligations to perform the duties specified in this **AGREEMENT**, the **CONSTRUCTION MANAGER** shall perform its services hereunder with such professional skill and care ordinarily provided by such construction managers practicing the same profession or trade in the St. Louis Metropolitan Area.

15. **Confidentiality.** During the course of this **AGREEMENT**, the **CONSTRUCTION MANAGER** may become privy to information identified by the **DISTRICT** as confidential, or which, is otherwise considered by its nature to be confidential. The **CONSTRUCTION MANAGER** represents and warrants that it will take all steps necessary to protect such confidential information consistent with its duties hereunder.

16. **Publicity.** Unless directed otherwise by the **DISTRICT**, the **CONSTRUCTION MANAGER** shall include in all publicity generated by it concerning the Project which is the subject of this **AGREEMENT**, that the Project is “funded, in part, by the Great Rivers Greenway District.”

17. **Compliance with ADA and Other Applicable Law.** The **CONSTRUCTION MANAGER** shall perform all tasks in strict compliance with all applicable laws and ensure that all work produced as part of the **SCOPE OF WORK** is in strict compliance with all applicable laws. Regarding any trail involving property owned, leased, operated or governed by the Missouri Department of Transportation (MODOT), the **CONSTRUCTION MANAGER**, acting in its capacity as construction manager under the **SCOPE OF WORK**, will coordinate with the design professionals hired by the **DISTRICT** to assure that any requirements of MODOT pertaining to the Project are fully addressed. The **CONSTRUCTION MANAGER**, acting in its capacity as construction manager under the **SCOPE OF WORK**, will coordinate with the design professionals hired by the **DISTRICT** to ensure compliance with any requirements of The Americans with Disabilities Act, as amended, Missouri’s accessibility standards as set forth in Missouri Revised Standards at 8.610, as amended, or regulations promulgated by the United States Department of Justice (2010 ADA Standards and the 2009 Draft Final Accessibility Guidelines for Outdoor Developed Areas), as well as any modifications, amendments or update to any of these standards in effect during the term of this **AGREEMENT**. Further, the **CONSTRUCTION MANAGER**, acting in its capacity as Construction Manager under the **SCOPE OR WORK**, will coordinate with the design professionals hired by the **DISTRICT** to ensure compliance with all applicable provisions of the Architectural Barriers Act (42 USC 4151). Any deviation from the above standards, whether in accordance with plans, or at the discretion of design professionals, must be approved in writing by the **DISTRICT** or its authorized representative.

18. **Insurance.** The **CONSTRUCTION MANAGER** shall maintain throughout the term of this **AGREEMENT** insurance coverage for the risks specified below and shall maintain policy limits at a minimum in the amounts specified below. All commercial general liability and automobile liability insurance shall be written on an occurrence basis. With the exception of professional liability insurance and workers’ compensation/employer’s liability insurance, the **DISTRICT** shall be named as an additional

insured on all insurance policies, the **CONSTRUCTION MANAGER**'s insurance will be primary to any insurance the **DISTRICT** may have and the **DISTRICT**'s insurance shall be non-contributory.

Professional Liability: The **CONSTRUCTION MANAGER** shall maintain Professional Liability Errors and Omissions insurance coverage for five (5) years beyond the termination date of this **AGREEMENT** for the Professional Services performed pursuant to this **AGREEMENT** in a policy limit not less than \$2,000,000.00 for each claim and aggregate, and shall provide the **DISTRICT** with a copy of the insurance endorsements and a certificate of insurance as well as a copy of the policy, when requested. The **CONSTRUCTION MANAGER**'s duty and obligation to maintain Professional Liability insurance and provide the insurance policy to the **DISTRICT** shall survive termination of this **AGREEMENT**.

Commercial General Liability: **CONSTRUCTION MANAGER** shall maintain Commercial General Liability insurance in the following amounts:

| | |
|---|-------------|
| Each Occurrence | \$3,000,000 |
| Personal & Advertising Injury | \$3,000,000 |
| Products/Completed Operations Aggregate | \$3,000,000 |
| Per Project Aggregate | \$3,000,000 |
| General Aggregate | \$3,000,000 |

An umbrella or excess liability policy may be used to attain the shown Commercial General Liability limits.

Policy shall not contain any endorsements that remove or restrict the following coverages:

Contractual Liability

Explosion, Collapse & Underground

Independent Contractors

Automobile Liability Insurance: **CONSTRUCTION MANAGER** shall maintain Automobile Liability Insurance protecting against claims for bodily injury or property damage arising out of the ownership or use of any owned, hired or non-owned vehicle and including protection for either all owned, hired, or non-owned motor vehicles of any type, in the following limits: \$3,000,000 Each Accident, Combined Single

Limits, Bodily Injury and Property Damage. An umbrella or excess liability policy may be used to attain the shown Automobile Liability limits. Such policy shall insure the contractual liability assumed by the **CONSTRUCTION MANAGER** pursuant to this **AGREEMENT**.

Workers' Compensation and Employers' Liability: **CONSTRUCTION MANAGER** shall maintain Worker's Compensation Insurance protecting the **CONSTRUCTION MANAGER** against all claims under applicable state Workers' Compensation laws in the following limit: Statutory Limit.

CONSTRUCTION MANAGER'S Worker's Compensation insurance policy shall also protect **CONSTRUCTION MANAGER** against claims for injury, disease or death of employees for which, for any reason, may not fall within the provisions of a Workers' Compensation law under an Employers Liability policy with the following limits:

| | |
|---------------------------|---------------------------|
| Bodily Injury by Accident | \$1,000,000 each accident |
| Bodily Injury by Disease | \$1,000,000 policy limit |
| Bodily Injury by Disease | \$1,000,000 each employee |

An umbrella or excess liability policy may be used to attain the shown Workers' Compensation and Employers' Liability limits.

Industry Ratings: The **DISTRICT** will only accept coverage from an insurance carrier that offers proof that the carrier:

- a. is licensed to do business in the State of Missouri; and
- b. carries a Best's Policyholder rating of A-VII, or better or is otherwise approved by the **DISTRICT**.

Additional Insured: _____ **DISTRICT** shall be named as an additional insured on **CONSTRUCTION MANAGER'S** comprehensive general liability insurance, automobile liability insurance, and property liability insurance policies. Such insurance shall not be cancelled without prior notification to the **DISTRICT**.

Certification of insurance coverage in the sections above shall be on the ISO Standard Certificate of Insurance Form. Certification of professional liability insurance shall be provided on a separate ACORD form provided by the **CONSTRUCTION MANAGER'S** insurance carrier or its authorized representative. Copies of additional insured endorsements shall accompany the insurance certificates.

Subconsultant's Insurance: If a part of this **AGREEMENT** is to be subcontracted, then the **CONSTRUCTION MANAGER** shall either:

a. cover all subconsultants under its insurance policies; or b. require each subconsultant not so covered to secure insurance which will protect against applicable hazards or risks of loss and in the minimum amounts designated herein.

Waiver of Subrogation: All policies described above shall contain a Waiver of Subrogation in favor of the **DISTRICT** for those policies lawfully allowable in Missouri.

The **CONSTRUCTION MANAGER** or its insurance company shall provide to the **DISTRICT** at least thirty (30) days advanced written notice prior to any renewal or expiration date of any insurance policy.

19. **Indemnity/Hold Harmless.** **CONSTRUCTION MANAGER** shall indemnify, defend and hold harmless **DISTRICT**, its elected and appointed officials, officers, representatives, agents, and all employees from and against any and all claims, damages, demands, actions, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the **SCOPE OF WORK** (hereinafter, "Claims") including, but not limited to (a) Claims due to bodily injury, including death, and property damage (b) and other economic damage, which are caused or occasioned, in whole or in part, by any negligent or intentional act or omission, breach of contract, or violation of law, of the Contractor, or of any Subcontractor or Sub-subcontractor, their employees or agents or any of them.

CONSTRUCTION MANAGER shall defend **DISTRICT**, its elected and appointed officials, officers, representatives, agents and all employees, from and against any and all Claims(excluding only Claims arising out of **CONSTRUCTION MANAGER'S** professional negligence, errors and omissions) arising in whole or in part out of, in connection with, resulting from, or incidental to **CONSTRUCTION MANAGER'S** operation under this **AGREEMENT**.

In addition to the foregoing, **CONSTRUCTION MANAGER** shall require that any representative, agent, consultant, or subcontractor with which it enters into any agreements or contracts to perform any work related to this **AGREEMENT** agree to hold harmless **CONSTRUCTION MANAGER** and **DISTRICT** for all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from the performance of the **SCOPE OF WORK**.

20. **Copyright or Patent Infringement/Indemnification.** Except in cases in which the **DISTRICT** or any of its consultants or vendors purposely violate copyrights or patents, the **CONSTRUCTION MANAGER** shall defend any and all actions or claims (i) charging infringement of any copyright or patent by reason of the use or adoption by the **DISTRICT** of any design, drawings or specifications applied by the **CONSTRUCTION MANAGER** or (ii) otherwise caused by or related to the use by the **DISTRICT** of any such design, drawings, or specifications in connection with the Project, or resulting from any act or omission of **CONSTRUCTION MANAGER** or any of its subconsultants (or any agent, employee or servant of any of them), or any other person or entity under the direction or control of the **CONSTRUCTION MANAGER** in performing the work.

21. **Termination.** This **AGREEMENT** may be terminated as follows:

a. For failure to perform or for other breach of the terms of this **AGREEMENT**, the **DISTRICT** may terminate by giving written notice to the **CONSTRUCTION MANAGER**, seven (7) days prior to the date of termination; or

b. Without cause, either party may terminate by giving written notice to the other thirty (30) days prior to the date of termination.

In the event this **AGREEMENT** is terminated due to a breach by **CONSTRUCTION MANAGER**, **DISTRICT** shall have all remedies available to it at law or in equity. In the event this **AGREEMENT** is terminated without cause, the **DISTRICT** will pay the **CONSTRUCTION MANAGER** for all services prior to the date of termination; subject, however, to **CONSTRUCTION MANAGER** delivering an invoice and the supporting documentation set forth in Section 3 of this **AGREEMENT**.

22. **Notice.** All notices required or permitted under this **AGREEMENT** shall be deemed served when received by personal delivery, by nationally recognized overnight carrier or certified mail, return receipt requested, postage prepaid at the following addresses:

DISTRICT

CONSTRUCTION MANAGER

Great Rivers Greenway District
3745 Foundry Way, Suite 254
St. Louis, MO 63110
Attn: Chief Executive Officer

23. **Waiver.** The failure of one party to require performance of any provision of this **AGREEMENT** shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this **AGREEMENT** constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

24. **Controlling Law/Venue.** This **AGREEMENT** shall be interpreted in accordance with the laws of the State of Missouri. Any action brought hereunder shall be brought in the Circuit Court of St. Louis County, Missouri or in the event of Federal jurisdiction, in the United States District Court, Eastern District of Missouri.

25. **Attorney Fees and Costs.** In the event that the **DISTRICT** shall institute litigation or be named as a party to any litigation to enforce or interpret the provisions of this **AGREEMENT**, and the **DISTRICT** shall be successful in whole or part in the prosecution or defense of such litigation, the **CONSTRUCTION MANAGER** shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by the **DISTRICT** in connection with such litigation.

26. **E-Verify Affidavit.** Concurrently with execution of this **AGREEMENT**, **CONSTRUCTION MANAGER** shall execute and deliver to **DISTRICT** the affidavit attached hereto as Exhibit B-4 confirming **CONSTRUCTION MANAGER'S** enrollment in a federal work authorization program with respect to its employees, in compliance with Section 285.530 R.S.Mo. **CONSTRUCTION MANAGER** shall not be required to execute such affidavit if either (i) the compensation to be paid to **CONSTRUCTION MANAGER** under this **AGREEMENT** is \$5,000 or less, or (ii) **CONSTRUCTION MANAGER** does not have any employees. In the event **CONSTRUCTION MANAGER** is not required to execute the affidavit

attached hereto as Exhibit B-4 because it has no employees, **CONSTRUCTION MANAGER** shall instead execute and deliver to **DISTRICT** concurrently with execution of this **AGREEMENT** an affidavit attesting that **CONSTRUCTION MANAGER** has no employees.

27. **Warranties and Representations of Construction Manager.** **CONSTRUCTION MANAGER** hereby represents, warrants, and covenants to **DISTRICT** that: (1) it has the lawful power and authority to enter into this **AGREEMENT**; (2) acting through its duly authorized officers or representative it has duly authorized the execution of this **AGREEMENT**, and (3) neither the execution nor the fulfillment of or compliance with the terms hereof, conflicts with or results in a breach of the terms, conditions, or provisions of any restriction, agreement, or instrument to which **CONSTRUCTION MANAGER** is now a party or by which it is bound.

28. **Conflict.** In the event of any conflict or inconsistency between the provisions of the body of this **AGREEMENT** and the exhibits attached hereto, the provisions of the body of this **AGREEMENT** shall control and govern.

29. **Integration.** This **AGREEMENT** represents the entire integrated agreement between the **DISTRICT** and the **CONSTRUCTION MANAGER**, and supersedes all prior negotiations, representations or agreements, either written or oral.

[Remainder of page intentionally left blank; signature page follows]

WHEREFORE, the parties have set their hands the day and date first above written.

| DISTRICT | CONSTRUCTION MANAGER |
|--|---|
| <p>Metropolitan Park and Recreation District d/b/a The Great Rivers Greenway District</p> <p>By: _____</p> <p>Susan Trautman Chief Executive Officer</p> | <p>_____</p> <p>By: _____</p> <p>Print: _____</p> <p>Title: _____</p> |

| |
|--|
| <p>Approved as to Form:</p> <p>_____</p> |
|--|

EXHIBIT B-1

SCOPE OF WORK

EXHIBIT B-2

Rate Schedule

EXHIBIT B-3

Subconsultants

EXHIBIT B-4

Affidavit of Compliance with Section 285.500 R.S.Mo., Et Seq.

For all Agreements in excess of \$5,000.00.

Effective January 1, 2009

STATE OF _____)

) ss.

COUNTY OF _____)

Before me, the undersigned Notary Public, in and for the County/City of -
_____, State of _____, personally appeared
(Name) _____, who is

(Title) of _____
(Name of company), (a corporation), (a partnership), (a sole proprietorship), (a
limited liability company), and is authorized to make this affidavit, and being duly
sworn upon oath deposes and says as follows:

(1) that said company is enrolled in and participates in a federal work
authorization program with respect to the employees working in
connection with the contracted services; and

(2) that said company does not knowingly employ any person who is
an unauthorized alien in connection with the contracted services.

The terms used in this affidavit shall have the meaning set forth in Section 285.500
R.S.Mo., et seq.

**Documentation of participation in a federal work authorization program is
attached to this affidavit.**

Signature _____

Name: _____

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public

My commission expires: _____

EXHIBIT C (place holder for now)

EXHIBIT D (place holder for now)