NOTICE TO RECEIVE STATEMENTS OF QUALIFICATIONS FOR DESIGN SERVICES FOR A NEW CITY HALL FACILITY
COF CONTRACT No. 2020-0041

NOTICE IS HEREBY GIVEN that the City of Franklin, Tennessee will receive Statements of Qualifications in the Department of Administration of the Franklin City Hall, 109 3rd Avenue South, Suite 103, Franklin, Tennessee, 37064, until 2:00 P.M. Central Time, March 13, 2020 for the following: Design Services for a New City Hall Facility – COF Contract No. 2020-0041. Documents are on-line at https://www.franklintn.gov/business/business-opportunities-with-the-city-1494 and available for examination in the City of Franklin Department of Administration. The envelope containing the statement of qualifications must be sealed and contain the words “Statement of Qualifications for Design Services for a New City Hall Facility– COF Contract No. 2020-0041.” Statements of Qualifications received after the deadline for submittal of statements of qualifications shall not be considered.

Any questions should be submitted to Vernon J. Gerth, Assistant City Administrator for Community and Economic Development, at vernon.gerth@franklintn.gov. Replies to questions will be sent via e-mail and all questions/responses will be shared with all applicants on the project webpage.

The Board of Mayor and Aldermen of Franklin, Tennessee shall reserve the right to reject any and all statements of qualifications if said body deems it necessary in the best interest of the citizens of Franklin, Tennessee.
PROJECT BACKGROUND

Franklin City Hall is located on the Public Square in historic, downtown Franklin. The existing one-story building was originally built in the 1960s as a mall, but the building has held city government offices since the 1980s. These include City Administration, Law, Finance, Purchasing, Human Resources, Building and Neighborhood Services, Engineering, Planning and Sustainability, Communications, Information Technology, Municipal Court, Fire Administration, Recorder/Revenue, and Facility Maintenance. The city hall site also contains a public parking garage and small theater, both of which are to remain. The former mall has outlasted its functional lifespan, and the City has decided to pursue redevelopment of the city hall site with a more functional campus that addresses the City’s long-term needs.

Completed work to-date includes a Space Needs Assessment (SNA) with employee projections through 2040. The SNA was recently completed by a consultant, along with a preliminary analysis of potential commercial tenant space opportunities. The City is looking to move quickly and efficiently through the public input and design phase, and the City needs assistance in identifying logistic solutions to continue to provide city services and public access throughout the construction period. The SNA will be provided to the select consultant.

PROJECT OBJECTIVE

The City of Franklin, Tennessee, seeks to redevelop its existing city hall site on the historic Public Square in Downtown Franklin. The goal is to redevelop the site with a finished multi-story city hall facility, inclusive of public meeting spaces, additional structured parking, and potential complementary uses to this prominent location in historic downtown Franklin. The intent is to provide a prominent civic building, activated streetscape, additional parking, and gathering spaces that will serve the citizens for generations to come.

The City solicits Statements of Qualifications from interested, qualified teams to conduct public outreach, work with the City and various stakeholders through the design process, create a conceptual space layout, develop site plan and construction documents, and act as the applicant and represent this site plan and architectural plans through the approval process before the City’s Design Review Committee, the Historic Zoning Commission, the Franklin Municipal Planning Commission, and Board of Mayor and Aldermen. The selected consultant is also expected to provide bidding and construction administration services for the project.
ANTICIPATED SCOPE OF SERVICES

Design Team Capabilities
The respondent’s team shall have the ability to perform the design services below. All work must be
sealed by professionals licensed to work in the State of Tennessee.
1. Land Planning and Landscape Design
2. Architectural Planning and Design
3. Civil Site Design
4. Charrette facilitation/community engagement
5. Logistics/Phasing Specialist
6. Structural Design
7. Mechanical, Electrical, and Plumbing Design
8. Fire Protection Design
9. Interior Design

The respondent’s team shall have the ability to perform the anticipated scope of services below:

Planning and Design
1. With the assistance of the completed SNA, evaluate the existing site for development,
   including land, buildings, and parking.
2. In consultation with City team members, conduct a multi-day Charette with community
   stakeholders prior to beginning design with resulting conceptual plans.
3. Present conceptual plans to the Board of Mayor and Alderman, Franklin Municipal Planning
   Commission, and Design Review Committee (of the Historic Zoning Commission).
4. Produce preliminary design documents, including:
   a. Preliminary land use and building programming and space layout
   b. Conceptual phasing plans and schedules enabling current City Hall services to
      function throughout construction
   c. Schematic renderings
   d. Preliminary civil drawings with recommended modifications to existing street and
      utility networks for site functionality
   e. Design narratives for expected building systems
   f. Probable construction costs
   g. Estimate project schedule
5. Conduct a neighborhood meeting, including handouts, displays, and other materials as
   necessary.
6. Serve as the applicant as follows:
   a. Apply for and represent a Certificate of Appropriateness for review before the Design
      Review Committee and Historic Zoning Commission;
   b. Draft, submit, and represent the Site Plan for review before the Franklin Municipal
      Planning Commission;
   c. Submit Building Plans for Building Permit Issuance;
d. Submit other permit applications for state and federal regulatory agencies, and 
e. Advise the City on applicable permitting and compliance issues.

7. Conduct progress meetings with city staff and submit progress drawings for review throughout the design process.

8. Finalize design documents and prepare final construction drawings, specifications, contract documents, and refined project cost and schedule for City review and approval. Final construction documents are the property of the City of Franklin.

**Bidding**

1. In consultation with City team members, prepare construction bid documents, advertisement for bid, and conduct bid process.

2. Review bids and provide a recommendation to the Board of Mayor and Aldermen for award of project.

3. Assist staff in preparing standard City contracts to be executed between the contractor and the City of Franklin.

**Construction Administration**

1. Conduct a pre-construction conference with the contractor.

2. Review and approve shop drawings and answer contractor requests for information.

3. Evaluate, prepare, and recommend for approval necessary change-orders during construction.

4. Review contractor payment requests and schedule and provide recommendations for acceptance of work and payments.

5. Provide monthly inspections during the construction phase, conduct monthly progress meetings with the contractor and the City of Franklin, and prepare associated reports.

6. Provide contract close-out services and prepare as-built drawings upon project completion.

**Anticipated Schedule**

The following timetable is for planning purposes only. The City of Franklin will make every attempt to comply with the dates set forth in this table but reserves the right to adjust this timetable as required.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request for Qualifications (RFQ) Advertised</td>
<td>February 20, 2020</td>
</tr>
<tr>
<td><strong>Deadline for receipt of responses to RFQ</strong></td>
<td>March 13, 2020, 2:00 PM Central Time</td>
</tr>
<tr>
<td>Review of Submittals</td>
<td>March 16 – March 23, 2020</td>
</tr>
<tr>
<td>Interview short-listed teams</td>
<td>March 30 - April 3, 2020</td>
</tr>
<tr>
<td>Select Team &amp; Contract Negotiations</td>
<td>April 3 – April 24, 2020</td>
</tr>
<tr>
<td>Recommendation presented to BOMA</td>
<td>May 12, 2020</td>
</tr>
<tr>
<td>Recommendation considered by BOMA</td>
<td>May 26, 2020</td>
</tr>
</tbody>
</table>

**Target Move-in Date**                         | July 1, 2024                |
RFQ PROCESS INFORMATION

Methodology
Selection for the award of this contract will be done in a two-step process. The first step will be to review and evaluate the submitted statements based on qualifications. Responding teams must demonstrate their qualifications to render the scope of services anticipated by this request for qualifications. The second step will involve short-listing teams for a formal interview process.

Once the finalist is selected, it will be expected to enter into a standard Professional Services Agreement (PSA) in a timely fashion. See enclosed sample PSA. Insurance requirements, as determined by the City of Franklin Risk Manager, shall be included in the services agreement package, including general liability and professional liability insurance. The final PSA will be subject to approval by the Board of Mayor and Aldermen.

Statement of Qualifications Format
The response submittal shall be no more than 33 single-sided 8 ½-inch x 11-inch pages, not including dividers, and shall consist of the following:

A. Title Page and Table of Contents (2 pages)

B. Letter of Interest (1 page)
   1. Provide a summary of the team’s interest, understanding, and qualifications to perform the services anticipated by the Request for Qualifications.

C. Experience and Qualifications (10 pages max)
   1. Provide an overview of the team, including organizational structure and a brief history.
   2. Describe the team’s experience, expertise, and capabilities to perform the services anticipated by the Request for Qualifications, including:
      i. Space planning for office or government facilities;
      ii. Redevelopment phasing and logistics of maintaining operations throughout the construction project;
      iii. Landscape architecture and site design;
      iv. Traditional architecture in a historic setting;
      v. Charrette facilitation;
      vi. LEED design experience;
      vii. Unique or value-added design abilities; and
      viii. Exemplary ability to provide design services, project management, public meeting facilitation, and stakeholder interviews.
   3. Identify key personnel that would be assigned to this project and identify each member’s education, certifications, experience, qualifications, and the role each would play. Indicate the degree of availability of each identified individual for this project.
   4. Provide a realistic projection of the percentage of work that will be performed within each office.
5. Describe the team’s ability to complete work under a short timeline.
6. Describe the team’s financial ability to perform the services anticipated by the Request for Qualifications.

D. Work History and References (20 pages max)
   1. Provide at least three examples where the team has provided high-quality services closely resembling the services being anticipated by the City’s Request for Qualifications within the last five years. For each example, include the following:
      i. Describe the type of work performed;
      ii. Provide sample site design and architectural rendering that demonstrate design capabilities;
      iii. Name, title, e-mail address, and phone number of an owner contact that the City of Franklin may contact as a reference; and
      iv. Name of the team’s project manager and personnel who worked on each project with a brief description of their responsibilities.

EVALUATION CRITERIA AND TEAM SELECTION

Principal evaluation factors will be based on past performance on projects of similar nature, magnitude, and complexity. Qualifications will be evaluated based on their clear ability to meet the City’s anticipated scope of services quickly, efficiently, and with high-quality deliverables. Thoroughness and degree of responsiveness of the response submittal will be considered.

| Experience and Qualifications | up to 50 points |
| Work History and References   | up to 50 points |
| Maximum Possible Score        | 100 points |

INSTRUCTIONS FOR SUBMITTING STATEMENTS OF QUALIFICATIONS

The Statement of Qualifications must be received by the City of Franklin by the submittal deadline. Submissions will be evaluated for degree of responsiveness to this request for qualifications.

The submittal must include one set of original submittal documents, nine (9) additional hard copies, plus one complete digital copy. The digital copy shall be loaded on either a CD or a flash drive and shall consist of one (preferably) or more text-searchable, non-password-protected files in Portable Document Format (PDF). The submittal must be submitted to:

Ms. Angie Johnson, Deputy Assistant City Recorder
Franklin City Hall, Department of Administration
109 3rd Avenue South, Suite 103
Franklin, Tennessee 37064
 TERMS, CONDITIONS, AND DISCLAIMERS

1. All facts and opinions stated within this Request for Qualifications and in all supporting documents and data are based on available information from a variety of sources. Additional information may be made available via written amendment throughout the process. No representation or warranty is made with respect thereto.

2. Respondents to the Request for Qualifications shall be responsible for the accuracy of the information they provide to the City.

3. The City reserves the right to reject any and all submittals, to waive minor irregularities in any submittal, to issue additional Requests for Qualifications, and to either substantially modify or terminate the Project at any time prior to final execution of a contract. The City also reserves the right to choose not to proceed with this project or to re-issue a Request for Qualifications. The City reserves the right to postpone the opening of the responses and to reject all responses without indication of any reasons for such rejection. The City shall not be responsible for any cost incurred by the respondent(s) in preparing, submitting, or presenting its response to the Request for Qualifications or for the interview process. The responding team shall bear all costs relating to their response to this Request for Qualifications, including submitting information, copies, and time spent in interviews or negotiation with the City prior to final selections.

4. Nothing contained herein shall require the City to enter into exclusive negotiations, and the City reserves the right to amend, alter, and revise its own criteria in the selection of a respondent without notice.

5. The City reserves the right to request clarification of information submitted and to request additional information from any respondent to the Request for Qualifications.

6. Nothing contained herein shall require or create an agreement between parties to contract or enter into an agreement.

7. In the interest of a fair and equitable process, the City retains the sole responsibility to determine the timing, arrangement, and method of proposal presentations throughout the selection process. Members of the team are cautioned not to undertake activities or actions to promote or advertise their qualification or proposal except in the course of a City-sponsored presentation.

8. If negotiations are not completed with the top ranked team, negotiations may proceed with the next most qualified team or teams.

9. Upon receipt, the Statements of Qualifications shall become the property of the City of Franklin, without compensation to the responding teams, for disposition or usage by the City of Franklin at its discretion and will become public documents subject to public disclosure with limited exceptions. The State of Tennessee public disclosure act requires public agencies in Tennessee to promptly make public records available for inspection and copying unless they fall within the specified exemptions contained in the act or are otherwise privileged.

10. The City of Franklin, Tennessee, encourages submittals from firms that demonstrate a commitment to equal employment opportunity.
SAMPLE ONLY – Professional Services Agreement

CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No 2020-XXXX

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and Insert: Name of Consultant hereinafter referenced as Consultant, who mutually agree as follows:

DECLARATIONS. City desires to retain Consultant to provide engineering, related technical, and other services in connection with City's project hereinafter referenced as Project. The Project is described as follows:

   Insert: Project Description

1. SCOPE OF SERVICES. Consultant shall provide Insert: Type of Professional Services and related technical services for the Project in accordance with the Scope of Services. The Scope of Services as found in Attachment A shall be considered as an integral part hereof.

2. Consultant shall be paid monthly based on work completed within the invoice dates per approved Task and Labor Category and corresponding Billing Rate used to accomplish completed work (see Scope of Services. The not-to-exceed upper limit for this Agreement is Insert: Contract Amount $$

3. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.

The Board of Mayor and Aldermen Approved this Agreement on the ____ Day of _________ 2020.

BY: ____________________________  BY: ____________________________
Consultant's Signature          Dr. Ken Moore
TITLE: __________________________ Mayor
Date: __________________________

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SAMPLE ONLY - PSA
TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. Consultant will:
1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry:
1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
1.4 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:
2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

ARTICLE 3. GENERAL CONDITIONS.
3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.
3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the PROJECT acting upon written instruction issued by the Consultant.

3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party. However, nothing in this Article shall prevent Consultant from engaging independent consultants, associates, and subcontractors to assist in the performance of the Services at Consultant's cost.

3.4 ALLOCATION OF RISK AND LIABILITY; GENERAL. Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.

3.5 INDEMNIFICATION. Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.

3.5.1 SURVIVAL. The terms and conditions of this paragraph shall survive completion of this services agreement.

3.6 LIMITATIONS OF RESPONSIBILITY. Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, SCOPE OF SERVICES; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, SCOPE OF SERVICES.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:
4.1 Termination for Convenience. The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such termination becomes effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

1. The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.

2. The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.

3. Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
   
   a. Contract costs for labor, materials, equipment and other services accepted under this Agreement;

   b. Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the
Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any:

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, SCOPE OF SERVICES.

5.1 By mutual agreement, this contract and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 ENVIRONMENTAL RESPONSIBILITY. Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 TIME OF THE ESSENCE. The parties agree that TIME IS OF THE ESSENCE with respect to the parties' performance of all provisions of the Agreement.

6.2 FORCE MAJEURE. Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to
machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

6.3 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant’s services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.
7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.

7.1.1 USE OF DATA SYSTEMS: Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.

7.1.2 DISCLOSURE OF DOCUMENTS/DATA. City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file if it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.

7.2 City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by
Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant’s copyright, if any.

7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, SCOPE OF SERVICES. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user’s sole risk.

7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data’s creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.

7.5 When transferring documents in electronic media format, Consultant makes no representations as to long term compatibility, usability, or readability, of documents resulting from the use of software application packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.

7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City’s sole risk and without liability or legal exposure to the Consultant or to Consultant’s Consultants.

7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.
ARTICLE 8. INSURANCE.

8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
   a) General Liability Insurance with a combined single limit of $1,000,000 per occurrence and $2,000,000 annual aggregate.
   b) Automobile Liability Insurance with a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
   c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of $500,000 for each occurrence.
   d) Professional Liability Insurance with a limit of $1,000,000 annual aggregate.

8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.

8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to City.

8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope Of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.

9.2 Consultant shall be paid in full for all services under this Agreement, including City-authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.
9.3 TRAVEL: EXPENSES
The City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope Of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed in the per diem reimbursement rates on the "CONUS" website developed by the United States General Services Administration, located at www.gsa.gov [click on 'per diem rates' under the 'etools' category].

ARTICLE 10. MISCELLANEOUS PROVISIONS
10.1 EQUAL EMPLOYMENT OPPORTUNITY. In connection with this Agreement and the Project, the City and the Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. The City and Consultant will take affirmative action to ensure that contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.
10.1.1 The Consultant shall insert the foregoing provision in all contracts relating to this Project.

10.2 TITLE VI – CIVIL RIGHTS ACT OF 1964. The City and the Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.
10.2.1 The Consultant shall insert the foregoing provision in all contracts relating to this Project.

10.3 NO THIRD PARTY RIGHTS CREATED. City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.
10.4 WARRANTIES/LIMITATION OF LIABILITY/WAIVER. The City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:
11.1 APPLICABLE LAW/CHOICE OF FORUM AND VENUE. This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

11.2 ENTIRE AGREEMENT. This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.
12.1 If a dispute should arise relating to the performance of or payment for the services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to the Contract. No arbitration or mediation shall be binding.

12.2 BREACH. Upon deliberate breach of the Contract by either party, the non-breaching party shall be entitled to terminate the Contract with notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity.

ARTICLE 13. SURVIVAL.
The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Contract, agreement or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.

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