

CITY OF KNOXVILLE, TENNESSEE

City Council

AGENDA INFORMATION SHEET

AGENDA DATE: November 6, 2018

DEPARTMENT: Finance

DIRECTOR: Jim York

AGENDA SUMMARY A Resolution authorizing the Mayor to enter into an agreement with Volkert, Inc. to provide Owner's Representative services to manage the planning, design, bidding and construction of a new Public Safety Complex, in an amount not to exceed \$1,441,960.00.

COUNCIL DISTRICT(S) AFFECTED - All Districts

BACKGROUND - City Council approved funding for a new Public Safety Complex as a capital project in the FY2018/19 budget. The proposed project budget is \$40,000,000. The intent of the project is to develop a new Public Safety Complex, through either new construction or renovation of an existing site, which accommodates and consolidates the entire Knoxville Police Department (KPD) staff, Knoxville Fire Department (KFD) Administration staff, and City of Knoxville Municipal Court. The complex may also include accommodations for K-9, training, and other facilities.

The Owner's Representative will represent the best interest of the City by overseeing, at a minimum, the following:

- Pre-Design Phase - bidding and professional service selection, site selection and programming, cost accounting platform, and project timeline
- Design Phase - schematic design, design development, and construction documents in addition to procurement and contract negotiations for construction services
- Construction Phase - full-time on-site representation, contract management, project coordination and communication, timeline management, budget management and cost-containment
- Furniture, Fixtures, & Equipment (FF&E) Management - Specifications, selection, procurement, and installation of FF&E
- Warranty Phase (optional)- 12-month plan to manage the resolution of any warranty claims after substantial project completion followed by a year-end facility inspection prior to granting final release to the contractors

The total fee for basic services through the Construction Phase and FF&E Management is \$1,400,000. Optional warranty phase services are \$41,960.

OPTIONS Approve or Deny

RECOMMENDATION Approval

ESTIMATED PROJECT SCHEDULE - Once a contract is approved, Owner Representative services could take up to 48 months with the optional 12-month warranty phase.

PRIOR ACTION/REVIEW - The FY2018/19 budget was approved by council to include up to \$40,000,000 in funds for the Public Safety Complex project.

FISCAL INFORMATION - The total fee for basic Owner’s Representative services through the Construction Phase and FFE Management is \$1,400,000. Optional warranty phase services are \$41,960.

ATTACHMENTS:

- RESOL - Volkert C-19-0112 (DOCX)
- Volkert Owner Rep for New Public Safety Complex C-19-0112 V. 2 (DOCX)
- RFQ Owners Rep Public Safety Complex (PDF)
- Volkert - Proposal Letter Rev 1.10.20.18 (PDF)
- ORIGINAL-Knoxville Public Safety OR Services Proposal.9.26.18 (PDF)
- add1-RFQ-Owners-Representative-Public-Safety-Complex (PDF)
- add2-RFQ-Owners-Representative-Public-Safety-Complex (PDF)
- add3-RFQ-Owners-Representative-Public-Safety-Complex (PDF)

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Mark Campen, Fifth District |
| SECONDER: | Finbarr Saunders, Vice-Mayor, At-Large Seat C |
| AYES: | Campen, McKenzie, Rider, Roberto, Saunders, Singh, Stair, Welch |
| ABSENT: | George C. Wallace |

RONALD E. MILLS
Deputy Law Director
City of Knoxville

Document No. C-19-0112

AGREEMENT

This Agreement is made by and between the **City of Knoxville**, a municipal corporation organized and existing under the laws of the State of Tennessee, 400 Main Avenue, P.O. Box 1631, Knoxville, Tennessee 37901 (“City”), and **Volkert, Inc.**, 302 Innovation Drive, Suite 100, Franklin, Tennessee 37067 (“Contractor”).

WITNESSETH:

WHEREAS, the City issued a Request for Qualifications (“RFQ”) for Owner’s Representative Services to facilitate the planning, design, bidding and construction of a new Public Safety Complex Project (“Project”) for the City’s Police and Fire Departments; and

WHEREAS, Contractor submitted a proposal in the amount of \$1,400,000.00, plus an additional \$41,960.00 should the City elect to utilize Contractor’s proposed optional warranty phase services; and

WHEREAS, an evaluation team selected Contractor’s proposal according to the evaluation criteria contained in the RFQ; and

WHEREAS, Contractor has the necessary qualifications and expertise to perform said work and the Department of Finance recommended that the contract be awarded to it; and

WHEREAS, City Council by Resolution No. R-376-2018 on November 6, 2018, authorized the Mayor of the City of Knoxville to execute this Agreement on behalf of the City.

NOW, THEREFORE, the City and Contractor, for the mutual considerations and promises stated herein, agree as follows:

1. Scope of Work. Contractor will provide all supervision, technical personnel, equipment, labor and materials, and perform and complete all Owner’s Representative (“OR”) services to manage the planning, design, bidding and construction of a new Public Safety Complex. The following is a list of the duties and responsibilities that the City expects the Owner’s Representative to accomplish in the execution of this project. Tasks may be added to or deleted from this list as needed and agreed upon by both the City and the Contractor.

Scope of Service Requirements for the Project:

The OR will:

- a. Meet on a periodic basis with a Working Group that represents the stakeholders on behalf of the City. The Working Group will serve in an oversight function, potentially consisting of, but not limited to, representatives from the Mayor's Cabinet, Police Department, Fire Department, Parks & Recreation, and possibly others.
- b. Assist the City by procuring and contracting for the services of architect(s), engineers, any other consultants necessary, and construction contractor(s) necessary to complete the Project. OR will be responsible for managing the design, acquisition, and installation of furniture, fixtures and equipment ("FFE") and for assisting the City in the relocation of staff and equipment to the new complex. OR will negotiate the terms and conditions of the contract(s), all subject to the written approval of the City, and such contract(s) shall be executed by the City upon written recommendation of the OR.
- c. Design Program Development: Perform analysis of existing site conditions to develop design objectives, constraints, opportunities and criteria to identify all project parameters. OR will conduct discussions with Working Group members, as well as other stakeholders, to understand and document the project's design program.
- d. Develop project budgets which are satisfactory to the City for the Project, to include all costs for the completion and delivery of the Project, such costs to include land acquisition and investigation, site work, potential temporary relocation of the KPD staff housed at the existing Safety Building, construction, furniture, fixtures and equipment, access control and security, design and engineering, OR fees, and expenses.
- e. Monitor the cost of the Project in all phases and provide updates to the City immediately of any variances.
- f. Develop a Master Schedule for approval by the City to include key milestones to be accomplished by the Project participants. The Master Schedule shall define the length of time for all phases of the Project. The City shall retain full and final decision-making authority with respect to the Master Schedule. OR will monitor the Master Schedule throughout the Project and apprise the other team members (in writing) when actual or

potential constraints to achieving the schedule goals occur; make written recommendations for corrective action, update the schedule as needed, and coordinate/monitor the implementation of all corrective actions.

- g. Conduct design progress meetings with the City, Design Consultants, and others. OR will coordinate the activities of the selected architect(s), engineers, and other consultants. OR will expedite the flow of information among the City, design consultants, and other parties.
- h. If temporary relocation of the KPD staff becomes necessary, assist the City in finding a temporary location and manage/coordinate the relocation.
- i. Coordinate the architect(s) and engineers in the production of final working drawings, plans, and specifications for the Project and advise the City and Architect on proposed site improvements, selection of materials, and building systems and equipment, all subject to final approval by the City.
- j. Prepare and distribute a monthly Project Status Report to include schedule, construction, and cost status reports. Include actual progress relative to scheduled progress.
- k. Assist the City in preparation of project information for internal and public meetings and attend regular internal meetings, required City Council meetings/workshops, and public meetings.
- l. Provide recommendations to the City and Design Consultants on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost. OR will consult with the City and Design Consultants and make recommendations whenever the OR determines that design details adversely affect constructability, cost, or schedules.
- m. Provide recommendations to the City on the division of the Project into individual contracts for the construction of various categories of work, including the method to be used for selecting the contractors and awarding contract. OR will provide recommendations on the best construction methodology, i.e. CMAR, Design-Bid-Build, etc. Upon approval of methodologies, OR will conduct bidding, make

recommendations to the City for the award of contractors, coordinate selection, and negotiate the terms and conditions of the contract(s) all subject to written approval of the City.

- n. Coordinate the application and approval process in connection with the issuance of any and all building permits, temporary and final certificates of occupancy, and periodic inspections conducted by governmental officials. OR will assist in any necessary zoning changes for the Project.
- o. Provide general coordination and evaluation of the Design Consultants, engineers, contractors and/or subcontractors in connection with the Project. OR will inspect the progress of the work on the Project site and notify the City and Design Consultants of any defects and deficiencies in the work, and ensure contractors correct the defects and/or deficiencies. OR shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures or safety precautions and programs in connection with the work of each of the Design Consultants and contractor(s) as these are solely the rights and responsibilities of the Design Consultants and contractor(s) under their contract documents.
- p. Establish and implement procedures for submittals, change orders, applications and certifications for payment, maintain logs, files, and other necessary documentation. OR shall review, but not have approval authority over them, to determine whether submittals are in a complete, final, and acceptable format sufficient for the Design Consultant and the City to review and approve in accordance with the Contract Documents. OR will neither approve nor reject change orders as the City shall retain full and final decision-making authority with respect to approval and rejection of change orders.
- q. Analyze and recommend alternative courses of action for unforeseen conditions such as material shortages, work stoppages, and/or accidents or casualties if they occur for the Project.
- r. Inspect the substantially completed Project along with the Design Consultant, facilitate the satisfactory completion of all the work, assist the City in obtaining occupancy permit, and procure keys for the City. OR will provide the City with certificates of insurance received from the contractor(s), consent of surety or sureties, if any, to

reduction in or partial release of retainage, bonds, and the making of final payment, and affidavits, receipts, release and waivers of liens. OR will provide comprehensive information at the conclusion of the Project to include equipment manuals, subcontractor information, warranties and guarantees for all the equipment and furniture installed and any other documentation required under the contract documents.

- s. Coordinate the building start-up and initial systems operation, coordinate any modification of such systems as required for the Project, coordinate the training of the facility director and personnel as required, develop a preventative Operations & Maintenance Plans, and assist through the first year of occupancy to resolve warranty issues, and track energy performance.

This project will require coordination with the construction of the Clayton Family Foundation's planned Knoxville Science Museum. OR will be expected to work in concert with the project manager and/or Owner's Representative with Clayton's project team to ensure the City does not adversely impact Clayton's schedule or project.

2. Contract Documents. The executed Contract Documents will consist of the following:

- (a) This Agreement
- (b) Request for Qualifications and any Addenda thereto
- (c) Contractor's Proposal dated September 26, 2018 and revised Proposal dated October 20, 2018

To the extent there is a conflict between the terms of any of the documents that constitute this Agreement, the terms that provide the greater benefit to the City and/or impose the greater obligation on Contractor shall control.

3. Termination. The City may terminate this Agreement at any time, with or without cause, by written notice of termination to the Contractor.

If the City terminates this Agreement, and such termination is not a result of a default by the Contractor, the Contractor shall be entitled to receive as its sole and exclusive remedy the following amounts from the City, and the City shall have no further or other obligations to the Contractor: the amount due to the Contractor for work executed through the date of termination, not including any future fees, profits, or other compensation or payments which the Contractor would have been entitled to receive if this Agreement had not been terminated.

The City may, by written notice of default to the Contractor, terminate the whole or any part of this Agreement if the Contractor fails to perform any provisions of this Agreement and does not cure such failure within a period of ten (10) days (or such longer period as the Purchasing Agent may authorize in writing) after receipt of said notice from the Purchasing Agent specifying such failure. If this Agreement is terminated in whole or in part for default, the City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to those terminated.

4. Term. The Contractor will be expected to begin work as soon as possible following execution of this Agreement. Contractor shall perform the work with due and reasonable diligence and shall provide services under this Agreement as set forth in Paragraph 1 (s) through the substantial completion date of the Project pursuant to the following durations by project phase, with each subsequent phase starting immediately after completion of the previous phase:

Pre-Design Phase – three (3) consecutive calendar months,

Design Phase – eleven (11) consecutive calendar months,

Construction Phase – eighteen (18) consecutive calendar months,

Furniture, Fixture & Equipment Phase – two (2) consecutive calendar months.

If the optional warranty phase services are elected to be employed by the City, Contractor shall perform the optional warranty phase services through the first year of occupancy of the Project, starting upon the date of substantial completion. Should the various phase durations stated above be extended due to no fault of the Contractor, the Contractor shall be entitled to mutually agreeable additional compensation.

5. Contract Price. The City shall pay to Contractor for the satisfactory performance of the contract in accordance with Contractor's proposal \$1,400,000.00, plus an additional \$41,960.00 should the City elect to utilize Contractor's proposed optional warranty phase services.

Contractor shall submit invoices for services rendered to the City in a form approved by the City, shall indicate the time period during which the services were provided and shall be signed by Contractor to certify its accuracy. Invoice amounts shall be based upon the fee breakdown by phase quoted by Contractor in Contractor's revised fee proposal dated October 20, 2018. The fee by phase shall be invoiced in equal installments over the term of each phase stated in Article 4.

The City will pay Contractor for services satisfactorily rendered within thirty (30) days of the receipt of Contractor's undisputed invoice. Payment for services rendered does not indicate the City's acceptance of such services as being fully in accord with all the provisions of this Agreement.

6. **Changes in the Work.** The City may at any time, if the need arises, order changes within the scope of the services without invalidating the Agreement. If such changes increase or decrease the amount due under the Agreement, or in the time required for performance of the services, an equitable adjustment shall be authorized by Change Order or Amendment. All Change Orders must be approved and signed by the City and Contractor.

7. **Notices.** Any notice required or permitted under this Agreement will be directed to the following representatives or such other address as either party may designate by written notice to the other:

City of Knoxville:

Boyce Evans,
Deputy Director of Finance
P.O. Box 1631
Knoxville, TN 37901
(865) 215-2070
bhevans@knoxvilletn.gov

Contractor:

Leon M. Barkan, CCM
Senior Vice President
Volkert, Inc.
302 Innovation Drive, Suite 100
Franklin, TN 37067
(615) 656-1845
leon.barkan@volkert.com

cc: David Brace, Deputy to the Mayor
and Chief Operations Officer
City of Knoxville
P.O. Box 1631
Knoxville, TN 37901
(865) 215-2877
dbrace@knoxvilletn.gov

Notices shall be in writing and shall be effective when actually delivered in person, received via facsimile transmission, or private carrier with signature confirmation, or when received in the U.S. Mail, certified with return receipt requested, postage pre-paid and addressed to the party as stated above.

8. **Indemnification.** Contractor shall defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all lawsuits, claims, liabilities, damages, losses, and expenses (including, but not limited to, court costs, reasonable attorney fees, and costs of claim processing, investigation, and litigation) to the extent primarily arising out of, primarily relating to, or primarily resulting from the negligent or intentional acts, errors, or omissions of Contractor in performance of this Agreement or from Contractor's failure to perform this

Agreement using a due and reasonable standard of professional care and skill (“Indemnified Claim”), and except where such injury, damage, or loss was caused by the sole negligence of the City, its agents or employees. The amount and type of insurance coverage requirements set forth in this Agreement will in no way be construed as limiting the scope of the indemnity in this section.

Contractor shall assume and take over the defense of the City in any such claim, demand, suit, or cause of action involving an Indemnified Claim upon written notice and demand for same by the City. Contractor will have the right to defend the City with counsel of its choice that is satisfactory to the City, and the City will provide reasonable cooperation in the defense as Contractor may request. Contractor will not consent to the entry of any judgment or enter into any settlement with respect to an Indemnified Claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have the right to participate in the defense against an Indemnified Claim with counsel of its choice at its own expense.

Contractor shall save, indemnify and hold City harmless and pay judgments that shall be rendered in any such actions, suits, claims or demands against City with respect to any Indemnified Claim.

The indemnification and hold harmless provisions of this Agreement shall survive termination of the Agreement.

9. Insurance. Contractor shall at its sole expense obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement. All insurance must be underwritten by insurers with an A.M. Best rating of A-VIII or better.

- (a) **Commercial General** and Umbrella Liability Insurance; occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than \$2,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$3,000,000.

Such insurance shall:

- (1) Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf

of Contractor including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.

- (2) For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.
 - (3) At the sole discretion of the City, dedicated limits of liability for this specific project may be required.
- (b) **Automobile Liability Insurance;** including vehicles owned, hired, and non-owned, with a combined single limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Contractor.
- (c) **Workers' Compensation Insurance.** Contractor shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$500,000. Contractor shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by contractor's workers' compensation insurance coverage.
- (d) **Professional Liability (including Errors & Omissions).** Contractor shall maintain professional liability insurance covering claims arising from real or alleged negligent errors, omissions, or acts committed in the performance of professional services under this contract with limits of \$2,000,000. If the coverage is written on a claims-made form:
- a. The "Retro Date" must be shown and must be before the date of the contract or the beginning of contract work.

- b. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work and acceptance by the City.
 - c. If coverage is cancelled or non-renewed and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, Consultant must purchase "extended reporting" coverage for a minimum of three (3) years after completion of contract work.
 - d. A copy of the claims reporting requirements must be submitted to the City for review.
- (e) Other Insurance Requirements. Contractor shall:
- (1) Prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to the City Attorney of Knoxville, P.O. Box 1631, Knoxville, Tennessee 37901. Proof of policy provisions regarding notice of cancellation will be required.
 - (2) Upon the City's request, provide certified copies of endorsements and policies in lieu of or in addition to certificates of insurance. Copies of policies will only be requested when contracts are deemed to be extremely or uniquely hazardous, include a dollar amount that is significant to the overall budget of the City or a City Department, or the coverage(s) may not follow standard insurance forms. A policy will only be requested after the City's Risk Manager has reviewed the contract and proof of coverage has been provided. Should the certificate of insurance refer to specific coverage wording or endorsement(s), proof of such policy wording or endorsement(s) will be required.
 - (3) Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.
 - (4) Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.
 - (5) If Contractor cannot procure insurance through an insurer having an A.M. Best rating of A-VIII, Contractor may, in the alternative, place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be considered upon appeal to the City Law Director.

(6) Require all subcontractors to maintain during the term of the Agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation/Employer's Liability insurance (unless subcontractor's employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall furnish subcontractors' certificates of insurance to the City without expense immediately upon request.

Large Deductibles: Self-Insured Retentions. Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by the City of Knoxville prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by the City.

Waiver of Subrogation Required. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by Contractor for the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.

Occurrence Basis Requirement. All general liability policies must be written on an occurrence basis unless the Risk Manager determines that a claims made basis is reasonable in the specific circumstance. Use of policies written on a claims made basis must be approved by the Risk Manager and retroactive dates and/or continuation dates must be provided to the City prior to commencement of any work performed. Professional Liability and Environmental Liability (Pollution Coverage) are most commonly written on a claims made basis and are generally acceptable in that form.

10. Non-Discrimination. Contractor:

- (a) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, familial status or national origin;
- (b) will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, disability or familial status or national origin;
- (c) will, in all solicitations or advertisements for employees placed by or on behalf of itself, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, disability, familial status or national origin; and
- (d) will include these provisions in every subcontract or sublease let by or for it.

11. Ethical Standards. Contractor hereby takes notice of and affirms that it is not in violation of, or has not participated, and will not participate, in the violation of any of the following ethical standards prescribed by the Knoxville City Code:

(a) Sec. 2-1048. Conflict of Interest.

It shall be unlawful for any employee of the city to participate, directly or indirectly, through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering advice, investigation, auditing or otherwise, in any proceeding or application, request for ruling or other determination, claim or controversy or other matter pertaining to any contract or subcontract and any solicitation or proposal therefore, where to the employee's knowledge there is a financial interest possessed by:

(1) The employee or the employee's immediate family;

(2) A business other than a public agency in which the employee or a member of the employee's immediate family serves as an officer, director, trustee, partner or employee; or

(3) Any other person or business with whom the employee or a member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment.

(b) Sec. 2-1049. Receipt of Benefits from City Contracts by Councilmembers, Employees and Officers of the City.

It shall be unlawful for any member of Council, member of the Board of Education, officer or employee of the City to have or hold any interest in the profits for emoluments of any contract, job, work or service, either by himself or by another, directly or indirectly. Any such contract for a job, work or service for the City in which any member of Council, member of the Board of Education, officer or employee has or holds any such interest is void.

(c) Sec. 2-1050. Gratuities and Kickbacks Prohibited.

Gratuities. It is unlawful for any person to offer, give or agree to give to any person, while a city employee, or for any person, while a city employee, to solicit, demand, accept or agree to accept from another person, anything of a pecuniary value for or because of:

(1) An official action taken, or to be taken, or which could be taken;

(2) A legal duty performed, or to be performed, or which could be performed; or

(3) A legal duty violated, or to be violated, or which could be violated by such person while a city employee.

Anything of nominal value shall be presumed not to constitute a gratuity under this section.

Kickbacks. It is unlawful for any payment, gratuity or benefit to be made by or on behalf of a subcontractor or any person associate therewith as an inducement for the award of a subcontract or order.

(d) Sec. 2-1051. Covenant Relating to Contingent Fees.

(a) Representation of Contractor. Every person, before being awarded a contract in excess of ten thousand dollars (\$10,000.00) with the city, shall represent that no other person has been retained to solicit or secure the contract with the city upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide employees or bona fide established commercial, selling agencies maintained by the person so representing for the purpose of securing business.

(b) Intentional violation unlawful. The intentional violation of the representation specified in subsection (a) of this section is unlawful.

(e) Sec. 2-1052. Restrictions on Employment of Present and Former City Employees.

Contemporaneous employment prohibited. It shall be unlawful for any city employee to become or be, while such employee, an employee of any party contracting with the particular department or agency in which the person is employed.

(f) Remedies for Violations. For violations of the ethical standards outlined in the Knoxville City Code, the City has the following remedies:

- (1) Oral or written warnings or reprimands;
- (2) Cancellation of transactions; and
- (3) Suspension or debarment from being a Contractor or subcontractor under city or city-funded contracts.

The value of anything transferred in violation of these ethical standards shall be recoverable by the City from such person. All procedures under this section shall be in accord with due process

requirements, included but not limited to a right to notice and hearing prior to imposition of any cancellation, suspension or debarment from being a Contractor or subcontractor under a city contract.

12. ADA Compliance. With regard to the services performed under this Agreement, Contractor will comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., (“ADA”). Contractor agrees that it will defend, indemnify and hold the City harmless against any and all claims, demands, suits or causes of action which arise out of any negligent and/or intentional act or omission by Contractor, its employees, agents or representatives which violates the ADA. Contractor agrees that the City will not be responsible for any costs or expenses arising from Contractor’s failure to comply with the ADA.

13. Independent Contractor. Contractor and its agents and employees shall perform all work and render all services as an independent contractor; neither it nor its employees shall be considered employees, partners or agents of the City, nor shall it or its employees be entitled to any benefits, insurance, pension, or workers’ compensation as an employee of the City.

14. Assignment. The Contractor shall not assign or transfer any interest in this Agreement without obtaining the prior written approval of the City.

15. Subcontractors. Contractor shall not enter into a subcontract for any of the services performed under this Agreement without obtaining the prior written approval of the City.

16. Written Amendments. This Agreement may be modified only by a written amendment or addendum that has been executed and approved by the appropriate officials shown on the signature page of this Agreement.

17. Required Approvals. Neither Contractor nor the City is bound by this Agreement until it is approved by the appropriate officials shown on the signature page of this Agreement.

18. Article Captions. The captions appearing in this Agreement are for convenience only and are not a part of this Agreement; they do not in any way limit or amplify the provisions of this Agreement.

19. Severability. If any provision of this Agreement is determined to be unenforceable or invalid, such determination will not affect the validity of the other provisions contained in this Agreement. Failure to enforce any provision of this Agreement does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this Agreement at any time.

20. Federal, State and Local Requirements. Contractor is responsible for full compliance with all applicable federal, state, and local laws, rules and regulations.

21. No Benefit for Third Parties. The services to be performed by the Contractor pursuant to this agreement with the City are intended solely for the benefit of the City, and no benefit is conferred hereby, nor is any contractual relationship established herewith, upon or with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on the Contractor's performance of its services hereunder, and no right to assert a claim against the City or the contractor, its officers, employees, agents or contractors shall accrue to the Contractor or to any subcontractors, independently retained professional consultant, supplier, fabricator, manufacturer, lender, tenant, insurer, surety or any other third party as a result of this Agreement or the performance or non-performance of the Contractor's services hereunder.

22. Non-Reliance of Parties. Parties explicitly agree that they have **not** relied upon any earlier or outside representations other than what has been included in this Agreement. Furthermore, neither party has been induced to enter into this Agreement by anything other than the specific written terms set forth herein.

23. Force Majeure. Neither party shall 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 shall 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.

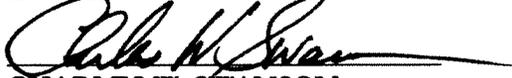
24. EEO/AA. The City of Knoxville is an EEO/AA/Title VI/Section 504/ADA/ADEA Employer.

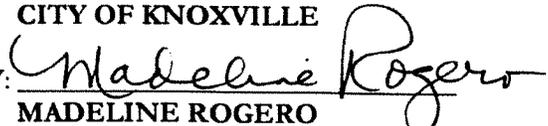
25. Governing Law and Venue. This Agreement will be governed and construed in accordance with the laws of the State of Tennessee. Any action for breach of this Agreement or to enforce or nullify any provision of this Agreement shall be instituted only in a court of appropriate jurisdiction in Knox County, Tennessee.

26. **Entire Agreement.** This Agreement forms the entire Agreement between the City and Contractor. Any prior representations, promises, agreements, oral or otherwise, between the parties, which are not embodied in this writing, will be of no force or effect.

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement in two (2) copies as of the below-written date.

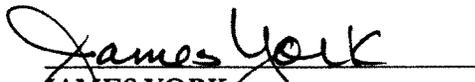
APPROVED AS TO FORM:

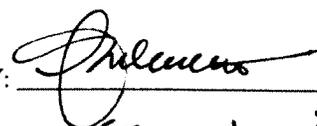

CHARLES W. SWANSON
LAW DIRECTOR

CITY OF KNOXVILLE
BY: 
MADELINE ROGERO
MAYOR

DATE: 11/20/18

FUNDS CERTIFIED:


JAMES YORK
FINANCE DIRECTOR

VOLKERT, INC.
BY: 
TITLE: SENIOR VICE PRESIDENT

Required Documents:
Certificate of Insurance



CITY OF KNOXVILLE

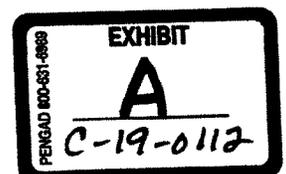
REQUEST FOR QUALIFICATIONS

OWNER'S REPRESENTATIVE FOR
PUBLIC SAFETY COMPLEX PROJECT

Qualifications to be Received by 11:00:00 a.m., Eastern Time

July 26, 2018

Submit Qualifications to:
City of Knoxville
Office of Purchasing Agent
City/County Building
Room 667-674
400 Main Street
Knoxville, Tennessee 37902



**CITY OF KNOXVILLE
Request for Qualifications**

Owner’s Representative for Public Safety Complex Project

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**City of Knoxville
Request for Qualifications**

Owner's Representative for Public Safety Complex Project

I. Statement of Intent

The City of Knoxville seeks statements of qualifications from responsible and qualified firms or teams to provide professional Owner's Representative services to facilitate the Planning, Design, Bidding, and Construction of a new Public Safety Complex for the City's Police and Fire Departments. The intent of the project is to develop a new Public Safety Complex, through either new construction or renovation of an existing site, which accommodates and consolidates the entire Knoxville Police Department (KPD) staff, the Knoxville Fire Department (KFD) Administration staff, and City of Knoxville Municipal Court. The complex may also include accommodations for K-9, training, and other facilities.

II. RFQ Time Line

Availability of RFQJune 29, 2018

Deadline for questions to be submitted in writing to the
Assistant Purchasing Agent July 19, 2018

Qualifications Due Date.....July 26, 2018

This timetable is for the information of submitting entities. These dates are subject to change. **However, in no event shall the deadline for submission of qualifications be changed except by written modification from the City of Knoxville Purchasing Division.**

III. Background

The Knoxville Police Department's current headquarters at the Safety Building on 800 Howard Baker Jr. Avenue, built 50 years ago, is antiquated and insufficient for the technology and space needed for the current KPD operations. In addition, areas of the Safety Building do not meet current fire safety and/or ADA accessibility standards. The space no longer accommodates the entire KPD staff and the KFD Administration staff currently leases space at a separate location. The City of Knoxville desires to build new facilities or renovate an existing site to house over 300 employees, vehicles, equipment, and the City courtroom. The City envisions a design that maximizes operational efficiencies, incorporates sustainable building practices to achieve LEED status (level to be determined at a future date), provides a secure facility while allowing access for the public and benefits to the overall community and/or neighborhood(s), and is practical and economically beneficial.

A potential site for the Complex exists but the City will require assistance in determining alternative locations, should the current site prove unsuitable. The City has an agreement for the

disposition of the existing Safety Building site with the Clayton Family Foundation which may necessitate the temporary relocation of the KPD staff currently housed at the Safety Building. If temporary relocation is required, the City desires the winning qualifier to coordinate this aspect of the Project.

IV. General Conditions

4.1 The following data is intended to form the basis for submission of qualifications to provide professional services for the City of Knoxville's Public Safety Complex Project.

4.2 This material contains general conditions for the procurement process, the scope of service requested; contract requirements; instructions for submissions of qualifications; and submission forms that must be included in the Statement of Qualifications. The RFQ should be read in its entirety before preparing the submission.

4.3 All materials submitted pursuant to this RFQ shall become the property of the City of Knoxville.

4.4 To the extent permitted by law, all documents pertaining to this Request for Qualifications shall be kept confidential until the qualification evaluation is complete and a recommendation submitted to City Council for review. No information about any submission of qualifications shall be released until the process is complete, except to the members of the Evaluation Committee and other appropriate City staff. All information provided shall be considered by the Evaluation Committee in making a recommendation to enter into an agreement with the selected consultant.

4.5 Any inquiries, suggestions or requests concerning interpretation, clarification or additional information pertaining to the RFQ shall be made **in writing and be in the hands of the Assistant Purchasing Agent by the close of the business day on July 19, 2018**. Questions can be submitted by letter, fax (865-215-2277), or email to powens@knoxvilletn.gov. The City of Knoxville is not responsible for oral interpretations given by any City employee, representative, or others. The issuance of written addenda is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this Request for Qualifications, the Purchasing Division will post them to the City's website at www.knoxvilletn.gov/purchasing. Submitting organizations are strongly encouraged to view this website often to see if addenda are posted. Failure of any qualifier to receive such addendum or interpretation shall not relieve such qualifier from any obligation under his submission and the City's addenda, if any. All addenda so issued shall become part of the Contract Documents.

4.6 The City of Knoxville reserves the right to (a) accept or reject any and/or all submissions of qualifications; (b) to waive irregularities and technicalities; and (c) accept any alternative submission of qualifications presented which in its opinion, would best serve the interests of the City. The City shall be the sole judge of the qualifications, and the resulting negotiated agreement that is in its best interest, and its decision shall be final. The City also reserves the right to make such investigation as it deems necessary to determine the ability of any submitting entity to perform the work or service requested. Information the City deems necessary to make this determination shall be provided by the submitting entity. Such information may include, but is not limited to, current financial statements by an independent CPA, verification of availability of equipment and personnel, and past performance records.

4.7 Included in the Contract Documents is an affidavit that the undersigned has not entered into any collusion with any person in respect to this qualification. The qualifier is required to submit this affidavit with the submission. Also included is the Diversity Business Program contracting packet. Submissions must indicate on the enclosed form whether or not the qualifier intends to use subcontractors and/or suppliers from one of the defined groups. Qualifiers are advised that the City tracks such use of DBEs, but it does not influence or affect evaluation or award.

4.8 Subsequent to the Evaluation Committee's review and the Mayor's recommendation of a firm(s), Knoxville City Council approval will be required before the final contract may be executed.

4.9 All expenses for making submission of qualifications shall be borne by submitting entity.

4.10 Any submission of qualifications may be withdrawn up until the date and time for opening of the submissions. **Any submission not so withdrawn shall, upon opening, constitute an irrevocable offer for a period of 90 days to the City of Knoxville for the services set forth in the Request for Qualifications until one or more of the submissions have been duly accepted by the City.**

4.11 Prior to submitting their qualifications, qualifiers are to be registered with the Purchasing Division through the City of Knoxville's online Vendor Registration system. Instructions for registering on-line are available at www.knoxvilletn.gov/purchasing. **Submissions from un-registered submitters may be rejected.**

4.12 **NO CONTACT POLICY:** After the posting of this solicitation to the Purchasing Division's website, any contact initiated by any qualifier with any City of Knoxville representative concerning this procurement action is strictly prohibited, unless such contact is made with the Purchasing Division representative listed herein or with said representative's authorization. Any unauthorized contact may cause the disqualification of the qualifier from this procurement transaction.

4.13 **INCLEMENT WEATHER:** During periods of inclement weather, the Purchasing Division will enact the following procedures with regard to solicitations and weather delays:

- If City offices are closed due to inclement weather on the date that qualifications of interest are due into the Purchasing Office, all solicitations due that same day will be moved to the next operational business day.
- The City of Knoxville shall not be liable for any commercial carrier's decision regarding deliveries during inclement weather.

V. Scope of Service

The City of Knoxville seeks statements of qualifications from responsible and qualified firms or teams for Owner's Representative (OR) services to manage the planning, design, bidding, and construction of a new Public Safety Complex. The following is a list of the duties and responsibilities that the City expects the Owner's Representative to accomplish in the execution

of this project. Tasks may be added to or deleted from this list as needed and agreed upon by both the City and the winning qualifier.

Scope of Service Requirements for the Project:

5.1 The selected OR will meet on a periodic basis with a Working Group that represents the stakeholders on behalf of the City. The Working Group will serve in an oversight function, potentially consisting of, but not limited to, representatives from the Mayor's Cabinet, Police Department, Fire Department, Parks & Recreation, and possibly others.

5.2 Assist the City by procuring and contracting for the services of architect(s), engineers, any other consultants necessary, and construction contractor(s) necessary to complete the Project. OR responsible for design, acquisition, and installation of FFE and for assisting the City in the relocation of staff and equipment to the new complex. OR will negotiate the terms and conditions of the contract(s), all subject to the written approval of the City, and such contract(s) shall be executed by the OR on behalf of the City upon written authorization of the City.

5.3 Design Program Development: Perform analysis of existing site conditions to develop design objectives, constraints, opportunities, and criteria to identify all project parameters. Conduct discussion with Working Group members, as well as other stakeholders, to understand and document the project's design program.

5.4 Develop project budgets which are satisfactory to the City for the Project, to include all costs for the completion and delivery of the Project, such costs to include land acquisition and investigation, site work, potential temporary relocation of the KPD staff housed at the existing Safety Building, construction, furniture, fixtures and equipment, access control and security, design and engineering, OR fees, and expenses.

5.5 Monitor the cost of the Project in all phases and provide updates to the City immediately of any variances.

5.6 Develop a Master Schedule for approval by the City to include key milestones to be accomplished by the Project participants. The Master Schedule shall define the length of time for all phases of the Project. The City shall retain full and final decision-making authority with respect to the Master Schedule. Monitor the Master Schedule throughout the Project and apprise the other team members (in writing) when actual or potential constraints to achieving the schedule goals occur; make written recommendations for corrective action, update the schedule as needed, and coordinate/monitor the implementation of all corrective actions.

5.7 Conduct design progress meetings with the City, Design Consultants, and others. Coordinate the activities of the selected architect(s), engineers, and other consultants. Expedite the flow of information among the City, design consultants, and other parties.

5.8 If temporary relocation of the KPD staff becomes necessary, assist the City in finding a temporary location and manage/coordinate the relocation.

5.9 Coordinate the architect(s) and engineers in the production of final working drawings, plans,

FFE:
furniture, fixtures & equipment

and specifications for the Project and advise the City and Architect on proposed site improvements, selection of materials, and building systems and equipment, all subject to final approval by the City.

5.10 Prepare and distribute a monthly Project Status Report to include schedule, construction, and cost status reports. Include actual progress relative to scheduled progress.

5.11 Assist the City in preparation of project information for internal and public meetings and attend regular internal meetings, required City Council meetings/workshops, and public meetings.

5.12 Provide recommendations to the City and Design Consultants on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost. Consult with the City and Design Consultants and make recommendations whenever the OR determines that design details adversely affect constructability, cost, or schedules.

5.13 Provide recommendations to the City on the division of the Project into individual contracts for the construction of various categories of work, including the method to be used for selecting the contractors and awarding contract. Provide recommendations on the best construction methodology, i.e. CMAR, Design-Bid-Build, etc. Upon approval of methodologies, conduct bidding, make recommendations to the City for the award of contractors, coordinate selection, and negotiate the terms and conditions of the contract(s) all subject to written approval of the City.

5.14 Coordinate the application and approval process in connection with the issuance of any and all building permits, temporary and final certificates of occupancy, and periodic inspections conducted by governmental officials. Assist in any necessary zoning changes for the Project.

5.15 Provide general coordination and evaluation of the Design Consultants, engineers, contractors and/or subcontractors in connection with the Project. Inspect the progress of the work on the Project site and notify the City of any defects and deficiencies in the work, reject the work, and ensure contractors correct the defects and/or deficiencies. The OR shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures or safety precautions and programs in connection with the work of each of the contractor(s) as these are solely the rights and responsibilities of the contractor(s) under their contract documents.

5.16 Establish and implement procedures for submittals, change orders, applications and certifications for payment, maintain logs, files, and other necessary documentation. OR shall review them to determine whether submittals are in a complete, final, and acceptable format sufficient for the Design Consultant and the City to review and approve in accordance with the Contract Documents. OR will neither approve nor reject change orders as the City shall retain full and final decision-making authority with respect to approval and rejection of change orders.

5.17 Analyze and recommend alternative courses of action for unforeseen conditions such as material shortages, work stoppages, and/or accidents or casualties if they occur for the Project.

5.18 Inspect the substantially completed Project along with the Design Consultant, facilitate the satisfactory completion of all the work, assist the City in obtaining occupancy permit, and procure keys for the City. Provide the City with certificates of insurance received from the contractor(s), consent of surety or sureties, if any, to reduction in or partial release of retainage, bonds, and the making of final payment, and affidavits, receipts, release and waivers of liens. Provide comprehensive information at the conclusion of the Project to include equipment manuals, subcontractor information, warranties and guarantees for all the equipment and furniture installed and any other documentation required under the contract documents.

5.19 Coordinate the building start-up and initial systems operation, coordinate any modification of such systems as required for the Project, coordinate the training of the facility director and personnel as required, develop a preventative Operations & Maintenance Plans, and assist through the first year of occupancy to resolve warranty issues, and track energy performance.

5.20 This project will require coordination with the construction of the Clayton Family Foundation's planned Knoxville Science Museum. OR will be expected to work in concert with the project manager and/or Owner's Representative with Clayton's project team to ensure the City does not adversely impact Clayton's schedule or project.

VI. Contract Requirements

Submitting entities, if selected, must be willing to sign a contract with the City which will include certain provisions, among which are the following:

6.1 Contract Documents. The contract shall consist of (1) the RFQ; (2) the qualifications submitted by the contractor to this RFQ; and (3) the contract. In the event of a discrepancy between the contract, the RFQ and the submitted qualifications, the terms that provide the greater benefit to the City and/or impose the greater obligation to the contractor will prevail.

6.2 Administration. The contract will be administered by the City of Knoxville Office of the Deputy to the Mayor and the Chief Operations Officer.

6.3 Invoices. Invoices for services will be submitted to the City in accordance with the contract terms.

6.4 Independent Contractor. The relationship of contractor to the City will be that of independent contractor. The contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants and subcontractors done during the performance of the contract. All services performed by the contractor shall be provided in an independent contractor capacity and not in the capacity of officers, agents, or employees of the City.

6.5 Assignment. The contractor shall not assign or transfer any interest in this contract without prior written consent of the City of Knoxville.

6.6 Indemnification and Hold Harmless. The successful qualifier will be required to sign a contract with the City which contains the following indemnification clause. This

indemnification clause will not be altered in any way. Failure to agree with this indemnification clause in the contract may result in the City moving to the next most qualified qualifier.

Consultant shall defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all lawsuits, claims, liabilities, damages, losses, and expenses (including, but not limited to, court costs, reasonable attorney fees, and costs of claim processing, investigation, and litigation) to the extent arising out of, relating to, or resulting from the negligent or intentional acts, errors, or omissions of Consultant in performance of this Agreement or from Consultant's failure to perform this Agreement using a due and reasonable standard of professional care and skill ("Indemnified Claim"), and except where such injury, damage, or loss was caused by the sole negligence of the City, its agents or employees. The amount and type of insurance coverage requirements set forth in this Agreement will in no way be construed as limiting the scope of the indemnity in this section.

Consultant shall assume and take over the defense of the City in any such claim, demand, suit, or cause of action involving an Indemnified Claim upon written notice and demand for same by the City. Consultant will have the right to defend the City with counsel of its choice that is satisfactory to the City, and the City will provide reasonable cooperation in the defense as Consultant may request. Consultant will not consent to the entry of any judgment or enter into any settlement with respect to an Indemnified Claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have the right to participate in the defense against an Indemnified Claim with counsel of its choice at its own expense.

Consultant shall save, indemnify and hold City harmless and pay judgments that shall be rendered in any such actions, suits, claims or demands against City with respect to any Indemnified Claim.

The indemnification and hold harmless provisions of this Agreement shall survive termination of the Agreement.

6.7 Termination. The City may this Agreement at any time, with or without cause, by written notice of termination to the Contractor.

If the City terminates this Agreement, and such termination is not a result of a default by the Contractor, the Contractor shall be entitled to receive as its sole and exclusive remedy the following amounts from the City, and the City shall have no further or other obligations to the Contractor: the amount due to the Contractor for work executed through the date of termination, not including any future fees, profits, or other compensation or payments which the Contractor would have been entitled to receive if this Agreement had not been terminated.

The City may, by written notice of default to the Contractor, terminate the whole or any part of this Agreement if the Contractor fails to perform any provisions of this Agreement and does not cure such failure within a period of ten (10) days (or such longer period as the Purchasing Agent may authorize in writing) after receipt of said notice from the Purchasing Agent specifying such failure. If this Agreement is terminated in whole or in part for default, the City may procure, upon such terms and in such manner as the Purchasing Agent may deem

appropriate, supplies or services similar to those terminated.

6.8 Insurance. When applicable and prior to the commencement of the contract, contractor must, at its sole expense, obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement. Contractor shall furnish the City of Knoxville with properly executed certificates of insurance which shall clearly evidence all insurance required by the City. All insurance must be underwritten by insurers with an A.M. Best rating of A-VIII or better. Such insurance shall be at a minimum the following:

- A. **Commercial General Liability Insurance;** occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than two million dollars each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$3,000,000.

Such insurance shall:

(a.) Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.

(b.) For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, officers, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.

(c.) At the sole discretion of the City, dedicated limits of liability for this specific project may be required.

- B. **Automobile Liability Insurance;** including vehicles owned, hired, and non-owned, with a combined single limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Contractor.

- C. **Workers' Compensation Insurance.** Contractor shall maintain workers' compensation insurance with statutory limits as required by the State of

Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$500,000. Contractor shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Contractor's workers' compensation insurance coverage.

- D. **Professional Liability (including Errors & Omissions).** Consultant shall maintain professional liability insurance covering claims arising from real or alleged negligent errors, omissions, or acts committed in the performance of professional services under this contract with limits of \$2,000,000. If the coverage is written on a claims-made form:
- a. The "Retro Date" must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work and acceptance by the City.
 - c. If coverage is cancelled or non-renewed and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, Consultant must purchase "extended reporting" coverage for a minimum of three (3) years after completion of contract work.
 - d. A copy of the claims reporting requirements must be submitted to the City for review.
- E. **Other Insurance Requirements.** Contractor shall:
- Prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to the City Attorney of Knoxville; P.O. Box 1631; Knoxville, Tennessee 37901. Proof of policy provisions regarding notice of cancellation will be required.
 - Upon the City's request, provide certified copies of endorsements and policies if requested by the City in lieu of or in addition to certificates of insurance. Copies of policies will only be requested when contracts are deemed to be extremely or uniquely hazardous, include a dollar amount that is significant to the overall budget of the City or a City Department, or the coverage(s) may not follow standard insurance forms. A policy will only be requested after the City's Risk Manager has reviewed the contract and proof of coverage has been provided. Should the certificate of insurance refer to specific coverage wording or endorsements(s), proof of such policy wording or endorsement(s) will be required.
 - Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.

- Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.
- If Contractor cannot procure insurance through an insurer having an A.M. Best rating of A-VIII, Contractor may, in the alternative, place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be considered upon appeal to the City Law Director.
- Require all subcontractors to maintain during the term of the Agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation/Employer's Liability insurance (unless subcontractor's employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall furnish subcontractors' certificates of insurance to the City without expense immediately upon request.
- Large Deductibles; Self-Insured Retentions. Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by the City of Knoxville prior to the commencement of services. Use of large deductibles and/or self-insured retentions may require proof of financial ability as determined by the City.
- Waiver of Subrogation Required. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by Contractor for the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.
- Occurrence Basis Requirement. All general liability policies must be written on an occurrence basis, unless the Risk Manager determines that a claims made basis is reasonable in the specific circumstance. Use of policies written on a claims made basis must be approved by the City. Risk Manager and retroactive dates and/or continuation dates must be provided to the City prior to commencement of any work performed. Professional Liability and Environmental Liability (Pollution Coverage) are most commonly written on a claims made basis and are generally acceptable in that form.

6.9 Ethical Standards. Attention of all firms is directed to the following provisions contained in the Code of the City of Knoxville: Chapter 24, Article II, Section 24-33 entitled "Debts owed by persons receiving payments other than Salary;" Chapter 2, Article VIII, Division 11. the Contractor hereby takes notice of and affirms that it is not in violation of, or has not participated, and will not participate, in the violation of any of the following ethical standards prescribed by the Knoxville City Code:

A. Section 2-1048. Conflict of Interest.

It shall be unlawful for any employee of the city to participate, directly or indirectly, through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard,

rendering of advice, investigation, auditing or otherwise, in any proceeding or application, request for ruling or other determination, claim or controversy or other matter pertaining to any contract or subcontract and any solicitation or qualifications therefore, where to the employee's knowledge there is a financial interest possessed by:

- (1) the employee or the employee's immediate family;
- (2) A business other than a public agency in which the employee or member of the employee's immediate family serves as an officer, director, trustee, partner or employee; or
- (3) Any person or business with whom the employee or a member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment.

B. Section 2-1049. Receipt of Benefits from City Contracts by Council Members, Employees and Officers of the City.

It shall be unlawful for any member of council, member of the board of education, officer or employee of the city to have or hold any interest in the profits or emoluments of any contract, job, work or service, either by himself or by another, directly or indirectly. Any such contract for a job, work or service for the city in which any member of council, member of the board of education, officer or employee has or holds any such interest is void.

C. Section 2-1050. Gratuities and Kickbacks Prohibited.

It is unlawful for any person to offer, give or agree to give to any person, while a city employee, or for any person, while a city employee, to solicit, demand, accept or agree to accept from another person, anything of a pecuniary value for or because of:

- (1) An official action taken, or to be taken, or which could be taken;
- (2) A legal duty performed, or to be performed, or which could be performed; or
- (3) A legal duty violated, or to be violated, or which could be violated by such person while a city employee.

Anything of nominal value shall be presumed not to constitute a gratuity under this section.

Kickbacks. It is unlawful for any payment, gratuity, or benefit to be made by or on behalf of a subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

D. Section 2-1051. Covenant Relating to Contingent Fees.

(a) **Representation of Contractor.** Every person, before being awarded a contract in excess of ten thousand dollars (\$10,000.00) with the city, shall represent that no other person has been retained to solicit or secure the contract with the city upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide employees or bona fide established commercial, selling agencies maintained by the person so representing for the purpose of securing business.

(b) **Intentional Violation Unlawful.** The intentional violation of the representation specified in subsection (a) of this section is unlawful.

E. Section 2-1052. Restrictions on Employment of Present and Former City Employees. Contemporaneous employment prohibited. It shall be unlawful for any city employee to become or be, while such employee, an employee of any party contracting with the particular department or agency in which the person is employed.

For violations of the ethical standards outlined in the Knoxville City Code, the City has the following remedies:

- (1) Oral or written warnings or reprimands;
- (2) Cancellation of transactions; and
- (3) Suspension or debarment from being a Contractor or subcontractor under city or city-funded contracts.

The value of anything transferred in violation of these ethical standards shall be recoverable by the City from such person. All procedures under this section shall be in accord with due process requirements, included but not limited to a right to notice and hearing prior to imposition of any cancellation, suspension or debarment from being a Contractor or subcontractor under a city contract.

6.10 Firms must comply with the President's Executive Order No. 11246 and 11375 which prohibit discrimination in employment regarding race, color, religion, sex or national origin. Firms must also comply with Title VI of the Civil Rights Act of 1964, Copeland Anti-Kick Back Act, the Contract Work Hours and Safety Standards Act, Section 402 of the Vietnam Veterans Adjustment Act of 1974, Section 503 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, all of which are herein incorporated by reference.

6.11 Firms shall give consideration to the inclusion of minority firms or individuals in this project, and shall advise the city in this submittal of qualifications of their efforts to do so.

6.12 Firms shall give consideration to the use of environmentally sustainable best practices, and shall advise the city in this submittal of qualifications of their efforts to do so.

6.13 Federal, State, and Local Requirements. Each submitting entity is responsible for full compliance with all applicable federal, state, and local laws, rules and regulations.

6.14 Licenses. The contractor must be a licensed professional as required by the State of Tennessee for any services in this contract requiring such licensure. Additionally, any and all sub-consultants/contractors employed by the prime consultant/contractor for the performance of the services requested in this RFQ must be licensed as professional service firms in the State of Tennessee if said sub-consultants/contractors will perform services that are considered professional in nature. As such, the prime consultant/contractor submitting his/her statement of qualifications must submit an affidavit with his/her statement of qualifications stating that all sub-consultants/contractors he plans to use are indeed licensed as professional service firms in the State of Tennessee. This affidavit is located in the "submission forms" section of this RFQ.

6.15 Before a contract is signed by the City, the submitting entity, if selected, **must** provide the City Purchasing Division with a copy of its valid business license **or** with an affidavit

explaining why it is exempt from the business licensure requirements of the city or county in which it is headquartered. If a contract is signed, the contractor's business license shall be kept current throughout the duration of the contract, and the contractor shall inform the City of changes in its business name or location.

6.16 Funding. The City's performance and obligation to pay under this contract is subject to funding contingent upon an annual appropriation.

6.17 Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Tennessee and its conflict of laws provisions. Venue for any action arising between the City and the Contractor from the Agreement shall lie in Knox County, Tennessee.

6.18. Subcontracts to the Agreement. Contractor shall not enter into a subcontract for any of the services performed under this Agreement without obtaining the prior written approval of the City.

6.19. Amendments. This Agreement may be modified only by a written amendment or addendum that has been executed and approved by the appropriate officials shown on the signature page of the Agreement.

6.20 Captions. The captions appearing in the Agreement are for convenience only and are not a part of the Agreement; they do not in any way limit or amplify the provisions of the Agreement.

6.21. Severability. If any provision of the Agreement is determined to be unenforceable or invalid, such determination shall not affect the validity of the other provisions contained in the Agreement. Failure to enforce any provision of the Agreement does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this Agreement at any time.

6.22 No Benefit for Third Parties. The services to be performed by the Contractor pursuant to the Agreement with the City are intended solely for the benefit of the City, and no benefit is conferred hereby, nor is any contractual relationship established herewith, upon or with any person or entity not a party to the Agreement. No such person or entity shall be entitled to rely on the Contractor's performance of its services hereunder, and no right to assert a claim against the City or the Contractor, its officers, employees, agents, or contractors shall accrue to the Contractor or to any subcontractors, independently retained professional consultant, supplier, fabricator, manufacturer, lender, tenant, insurer, surety, or any other third party as a result of this Agreement or the performance or non-performance of the Contractor's services hereunder.

6.23 Non-Reliance of Parties. Parties explicitly agree that they have not relied upon any earlier or outside representations other than what has been included in the Agreement. Furthermore, neither party has been induced to enter into this Agreement by anything other than the specific written terms set forth herein.

6.24. Force Majeure. Neither party shall 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 shall 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.

6.25 EEO/AA/ The City of Knoxville is an EE/AA/Title VI/Section 504/ADA/ADEA Employer.

6.26 By submitting a statement of qualifications, the submitting entity agrees to all terms and conditions established in this RFQ, including its contract requirements.

VII. Instructions to Submitting Entities

All submissions of qualifications shall comply with the following instructions. These instructions ensure that (1) submissions contain the information and documents required by the City RFQ; and (2) the submissions have a degree of uniformity to facilitate evaluation.

7.1 General

Submission forms and RFQ documentation may be obtained on or after June 29, 2018, at no charge from:

City of Knoxville Purchasing Division
City/County Building
400 Main Street, Room 667
Knoxville, Tennessee 37902

between 8:30 a.m. and 4:30 p.m. (Eastern Time), Monday through Friday or by calling 865-215-2070. Forms and RFQ information are also available on the City web site at www.knoxvilletn.gov/purchasing where it can be read or printed using Adobe Acrobat Reader software.

7.2 Submission Information

Submitters shall include eight (8) hard copies (one original and seven (7) duplicates—**mark the original as such**), as well as one electronic copy of their submission (.pdf format on CD only—**mark the storage device with the company name**); the electronic version shall be an exact duplicate of the original, and the electronic version will be the official document exhibited in the contract. **Electronic submissions must be included with the sealed submissions; do not email your submission.**

Submissions of Qualifications shall clearly indicate the legal name, address and telephone number of the submitting entity (company, firm, partnership, individual). Original signature must be signed above the typed or printed name and title of the signer. All submissions of qualifications must be signed by an officer of the company authorized to bind the firm to a contract.

Qualifications will be received until 11:00:00 a.m. (Eastern Time) on July 26, 2018. Each submission of qualifications must be submitted in a sealed envelope addressed to:

City of Knoxville Purchasing Division
City/County Building
400 Main Street, Room 667
Knoxville, TN 37902

IMPORTANT NOTE: Each outermost mailing envelope or shipping carton containing a submission of qualifications must be plainly marked on the outside "Owner's Representative for Public Safety Complex Project." Those making submissions are reminded that the Purchasing Division receives many submissions for any number of solicitations; unlabeled submissions are extremely difficult to match to their appropriate solicitations and therefore may be rejected.

Any submissions of qualifications received after the time and date on the cover sheet will not be considered. It shall be the sole responsibility of the submitting entity to have the submissions of qualifications delivered to the City of Knoxville Purchasing Division on or before that date.

Late submissions will not be considered. Submissions that arrive late due to the fault of United States Postal Service, United Parcel Service, DHL, FEDEX, any delivery/courier service, or any other carrier of any sort are still considered late and shall not be accepted by the City. Such submissions shall remain unopened and will be returned to the submitting entity upon request.

7.3 Format

The City is committed to reducing waste. Submissions of qualifications must be typed on 8.5 x 11 inch wide white paper, printed on both sides. DO NOT BIND the document; instead, staple or binder clip the submission together and place in a sealed envelope (see Paragraph 7.2). Pages must be consecutively numbered. A table of contents must be included in the submission immediately after the title page, and each of the following numbered sections must be tabbed.

Submissions of qualifications shall be structured as follows:

1. Title Page
2. Table of Contents
3. Submission Forms:
 - A. Form S-1
 - B. Form S-2: List of Current Projects
 - C. Non-Collusion Affidavit
 - D. Iran Divestment Act Certification of Noninclusion
 - E. Diversity Business Enterprise Program form

4. Body of Submission: Information which submitting entity wishes to include

NOTE: All required submission forms may be found in this solicitation document.

7.4 Evaluation of Qualifications

All qualified submissions received by the deadline will be analyzed by the Evaluation Committee according to the criteria outlined in these specifications. Failure to comply with the provisions of the RFQ may cause any submission of qualifications to be ineligible for evaluation. Each submittal of Qualifications will be initially analyzed and judged according to the evaluation criteria below. The maximum score is 100 points.

Firms and/or teams responding to this Request for Qualifications shall be available for interviews with the Evaluation Committee. Discussions may be conducted with responsible submitting entities for purposes of clarification to assure full understanding of and conformance to the RFQ requirements. Selection shall be based on the firms' qualifications applicable to the scope and nature of the services to be performed per this request for qualifications. Determination of firms' qualifications shall be based on their written responses to this Request for Qualifications and information presented to the Evaluation Committee during oral interviews, if any.

Each Statement of Qualifications will be initially analyzed and judged according to the evaluation criteria listed in Section VIII below. The maximum score is 100 points.

In addition to materials provided in the written responses to this Request for Qualifications, the Committee may request additional material, information, or references from the submitting entity or others.

Provided it is in the best interest of the City of Knoxville, the firm or team determined to be the most responsive to the City of Knoxville, taking into consideration the evaluation factors set forth in this Request for Qualifications, will be selected to begin contractual negotiations. The firm or team selected will be notified at the earliest practical date and invited to submit more comprehensive information if necessary. If no satisfactory agreement can be reached with the "most responsive firm," the City may elect to negotiate with the next best and most responsive firm or team.

VIII. Evaluation Criteria

An evaluation team, composed of representatives of the City, will evaluate Statements of Qualifications on a variety of quantitative and qualitative criteria. Upon receipt of submissions, the City will review to determine whether the submission is acceptable or non-acceptable based on the criteria outlined below.

The criteria, and their associated weights, upon which the evaluation of the qualifications will be based includes, but is not limited to, the following:

- Firm Experience: **40 points**
 - Include examples of work in managing projects of similar size and complexity and those with similar security and access control requirements

- **Qualifications of Personnel: 40 points**
 - List team members, their qualifications and expertise, and their potential role in this project
- **References and Quality of Past Work: 10 points**
- **Approach to accomplishing the proposed scope of project: 10 points**
 - Describe your firms normal approach to accomplishing the scope of services for an Owner's Representative project of this nature

Submission Forms

**CITY OF KNOXVILLE
REQUEST FOR QUALIFICATIONS**

**OWNER'S REPRESENTATIVE
PUBLIC SAFETY COMPLEX PROJECT**

Submission Form (S-1)

Qualifications To Be Received by 11:00 a.m., Eastern Time, July 26, 2018, in Room 667-674, City/County Building, Knoxville, Tennessee.

IMPORTANT: Submitters shall include eight (8) hard copies (one original and seven (7) duplicates—**mark the original as such**), as well as one electronic copy of their submission (.pdf format on CD only—**mark the storage device with the company name**); the electronic version shall be an exact duplicate of the original, and the electronic version will be the official document exhibited in the contract. **Electronic submissions must be included with the sealed submissions; do not email your submission.**

Please complete the following:

Legal Name of Qualifier: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Contact Person: _____

Email Address: _____

Signature: _____

Name and Title of Signer:

Note: Failure to use these response sheets may disqualify your submission.

**CITY OF KNOXVILLE
REQUEST FOR QUALIFICATIONS**

**OWNER'S REPRESENTATIVE
PUBLIC SAFETY COMPLEX PROJECT**

**Submission Form (S-2)
List of Current Projects**

Please provide a list of the current projects managed by the team you would assign to this project

| Brief Project Description | Total Project Budget Cost (\$) | Scheduled End Date |
|----------------------------------|---------------------------------------|---------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

NON-COLLUSION AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

- (1) He/She is the _____ of _____, the firm that has submitted the attached Proposal;
- (2) He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
- (3) Such Proposal is genuine and is not a collusive or sham Proposal;
- (4) Neither the said firm nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other vendor, firm or person to submit collusive or sham proposal in connection with the contract or agreement for which the attached Proposal has been submitted or to refrain from making a proposal in connection with such contract or agreement, or collusion or communication or conference with any other firm, or, to fix any overhead, profit, or cost element of the proposal price or the proposal price of any other firm, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Knoxville or any person interested in the proposed contract or agreement; and
- (5) The proposal of service outlined in the Proposal is fair and proper and is not tainted by collusion, conspiracy, connivance, or unlawful agreement on the part of the firm or any of its agents, representatives, owners, employees, or parties including this affiant.

(Signed): _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20__.

NOTARY PUBLIC

My Commission expires _____

IRAN DIVESTMENT ACT
Certification of Noninclusion

NOTICE: Pursuant to the Iran Divestment Act, Tenn. Code Ann. § 12-12-106 requires the State of Tennessee Chief Procurement Officer to publish, using creditable information freely available to the public, a list of persons it determines engage in investment activities in Iran, as described in § 12-12-105. Inclusion on this list makes a person ineligible to contract with the state of Tennessee; if a person ceases its engagement in investment activities in Iran, it may be removed from the list. A list of entities ineligible to contract in the State of Tennessee Department of General Services or any political subdivision of the State may be found here:

[https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/cpo-library/public-information-library/List of persons pursuant to Tenn. Code Ann. 12-12-106 Iran Divestment Act updated 7.7.17.pdf](https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/cpo-library/public-information-library/List%20of%20persons%20pursuant%20to%20Tenn.%20Code%20Ann.%2012-12-106%20Iran%20Divestment%20Act%20updated%207.7.17.pdf)

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to T.C.A. § 12-12-106.

| | |
|--|---------------|
| Vendor Name (Printed) | Address |
| By (Authorized Signature) | Date Executed |
| Printed Name and Title of Person Signing | |

NOTARY PUBLIC:

Subscribed and sworn to before me this _____ day of _____, 2_____.

My commission expires:_____

LICENSURE AFFIDAVIT OF PRIME QUALIFIER

The undersigned "prime qualifier" hereby states that any and all sub-consultants/contractors employed by the prime qualifier in the performance of the services requested in this RFQ are licensed as professional service firms in the State of Tennessee where said sub-consultants/contractors will perform services that are considered professional in nature.

Signed: _____

Title: _____

Subscribed and sworn to before me this ____ day of _____, 2____.

My commission expires: _____

DIVERSITY BUSINESS ENTERPRISE (DBE) PROGRAM

The City of Knoxville strongly encourages prime contractors to employ diverse businesses in the fulfillment of contracts/projects for the City of Knoxville.

The City of Knoxville's Fiscal Year 2017 goal is to conduct 3.33% of its business with minority-owned businesses, 9.21% of its business with woman-owned businesses, and 45.5% with small businesses.

While the City cannot engage (pursuant to state law) in preferential bidding practices, the City does **strongly encourage** prime contractors to seek out and hire diverse businesses in order to help the City meet its goals as stated above. As such, the City encourages prime contractors to seek out and consider competitive sub-bids and quotations from diverse businesses.

For DBE tracking purposes, the City requests that prime contractors who are bidding, proposing, or submitting statements of qualifications record whether or not they plan to employ DBE's as sub-contractors or consultants. With that in mind, please fill out, sign and submit (with your bid/proposal) the following sub-contractor/ consultant statement.

CITY OF KNOXVILLE DIVERSITY BUSINESS DEFINITIONS

Diversity Business Enterprise (DBE's) are minority-owned (MOB), women-owned (WOB), service-disabled veteran-owned (SDVO), and small businesses (SB), who are impeded from normal entry into the economic mainstream because of past practices of discrimination based on race or ethnic background. These persons must own at least 51% of the entity and operate or control the business on a daily basis.

Minority: A person who is a citizen or lawful admitted permanent resident of the United States and who is a member of one (1) of the following groups:

- a. African American, persons having origins in any of the Black racial groups of Africa;
- b. Hispanic American, persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;
- c. Native American, persons who have origin in any of the original peoples of North America ;
- d. Asian American, person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

Minority-owned business (MOB) is a continuing, independent, for profit business that performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or

more minority individuals.

Woman-owned business (WOB) is a continuing, independent, for profit business that performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more women.

Service Disabled Veteran-owned business (SDOV) is a continuing, independent, for profit business that performs a commercially useful function, owned by any person who served honorably on active duty in the armed forces of the United States with at least a twenty percent (20%) disability that is service connected. Meaning such disability was incurred or aggravated in the line of duty in the active military, naval or air service, and is at least fifty-one percent (51%) owned and controlled by one (1) or more service disabled veteran.

Small Business (SB) is a continuing, independent, for profit business which performs a commercially useful function and has total gross receipts of not more than ten million dollars (\$10,000,000) average over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis.

Subcontractor/Consultant Statement
(TO BE SUBMITTED IN THE BID/PROPOSAL ENVELOPE)

We _____ do certify that on the
(Bidder/Proposer Company Name)

_____ do certify that on the
(Project Name)

\$ _____
(Amount of Bid)

Please select one:

Option A: Intent to subcontract using Diverse Businesses

A Diversity business will be employed as subcontractor(s), vendor(s), supplier(s), or professional service(s). The estimated **dollar value** of the amount that we plan to pay is:

\$ _____
Estimated Amount of Subcontracted Service

| Diversity Business Enterprise Utilization | | | |
|---|--------|---|--------------------------|
| Description of Work/Project | Amount | Diverse Classification (MOB, WOB, SB, SDOV) | Name of Diverse Business |
| | | | |
| | | | |
| | | | |

Option B: Intent to perform work "without" using Diverse Businesses

We hereby certify that it is our intent to perform 100 % of the work required for the contract, work will be completed without subcontracting, or we plan to subcontract with non-Diverse companies.

DATE: _____ COMPANY NAME: _____

SUBMITTED BY: _____ TITLE: _____
(Authorized Representative)

ADDRESS: _____

CITY/STATE/ZIP CODE: _____

TELEPHONE NO: _____

ADDENDUM NO. 1

DATE: July 13, 2018
TO: All Potential Qualifiers
FROM: Penny Owens, Assistant Purchasing Agent, City of Knoxville
SUBJECT: Addendum No. 1 – RFQ for Owner’s Representative for Public Safety Complex Project
RFPS TO BE OPENED: July 26, 2018 at 11:00:00 a.m. (Eastern Time)

This addendum is being published to address the following questions received regarding the above referenced RFQ. This addendum becomes a part of the contract documents and modifies the original specifications as noted.

Question #1: Do you have a timeline for when the City expects to release a RFQ for architectural services?

Response: The City intends to release the RFQ for architectural services as soon as possible following award of a contract from this RFQ for the Owner’s Representative.

Question #2: In the second paragraph of the background information provided at Article III, and then again at Paragraph 5.8 when referring to the potential for a temporary relocation, the need to relocate KPD staff is mentioned specifically but City Court is not. So, my question is whether there is a plan in place already for city court should a temporary relocation be required? Or should the potential for a temporary relocation consider both KPD staff and city court?

Response: A temporary relocation, if needed, would include both KPD staff and city court.

END OF ADDENDUM 1

ADDENDUM NO. 2

DATE: July 18, 2018
TO: All Potential Qualifiers
FROM: Penny Owens, Assistant Purchasing Agent, City of Knoxville
SUBJECT: Addendum No. 2 – RFQ for Owner’s Representative for Public Safety Complex Project

RFPS TO BE OPENED: July 26, 2018 at 11:00:00 a.m. (Eastern Time)

This addendum is being published to address the following questions received regarding the above referenced RFQ. This addendum becomes a part of the contract documents and modifies the original specifications as noted.

Question #1: DBE Program. Does the companies need to be certificated with the City of Knoxville? If so what is the process for certification?

Response: No, the City does not certify DBEs. Please see the DBE Program form for the DBE definitions.

Question #2: Fire Department. What is the scope for this department? Is the scope for an administration building only?

Response: Yes, administration only.

Question #3: Licensed professional firms. For and Owner's Representative what licensed professional is required?

Response: None. This would apply to those professional services firms required to be licensed by the State of Tennessee that are hired by the Owner’s Representative.

Question #4: Will the owners rep contract and the eventual architectural firm selected contract for the Public Safety Complex be with the City of Knoxville or PBA?

Response: The Owner’s Representative and architectural contracts will be with the City of Knoxville.

Question #5: In reviewing the Submission Forms for the above RFQ, I notice that pursuant to the City of Knoxville’s Diversity Business Definitions, our company (as the prime contractor) actually qualifies as a Small Business. Since there is not a form for the prime contractor to indicate this information to the City of Knoxville, should this simply be mentioned in a cover letter?

Response: Yes, please include Diversity Business status in a cover letter.

Question #6: It appears from reading the RFQ and Evaluation Criteria that you are not asking for a fee at this time for the services. However, the DBE program form that is required to be submitted with the RFQ includes a place for amount of bid, estimated amount of subcontracted services, and the \$ amount allocated for the specific DBEs.

- a. Please advise if a bid amount is required in the response to the RFQ.
- b. If a bid amount is not required, please confirm these areas can be left blank on the DBE program form.
- c. If a bid amount is required, please advise if there is additional information describing the size of facility, anticipated budget, anticipated timeframe, etc. other than what is included in the attached RFQ.

Response: No, we are not asking for a fee at this time. The areas on the DBE Program Form may be left blank or you may enter a percentage of work that you anticipate to have completed by a DBE.

Question #7: In the attached RFQ there is a form titled "Licensure Affidavit of Prime Qualifier", but this form is not listed as one of the forms asked to be included in the response in the Evaluation Criteria section. Should this form also be included with the response or is this a form that will be executed further into the process?

Response: Yes. Section 7.3 (3) Submissions Forms is hereby deleted and replaced with the following:

3. Submission Forms:

- A. Form S-1
- B. Form S-2
- C. Non-Collusion Affidavit
- D. Iran Divestment Act Certification of Noninclusion
- E. Diversity Business Enterprise Program form
- F. Licensure Affidavit of Prime Qualifier

Question #8: Regarding Form (S-2), should we include a list of all current projects as the form title states or only those current projects managed by the team that will be assigned to this project?

Response: Please provide a list of only those current projects managed by the team that will be assigned to this project.

Question #9: Can the electronic copy be submitted on a USB drive (thumb drive) instead of a CD?

Response: Yes, a USB drive is acceptable for the electronic copy.

Question #10: Do all eight copies need to be submitted unbound?

Response: Yes.

END OF ADDENDUM 2

ADDENDUM NO. 3

DATE: July 23, 2018
TO: All Potential Qualifiers
FROM: Penny Owens, Assistant Purchasing Agent, City of Knoxville
SUBJECT: Addendum No. 3 – RFQ for Owner’s Representative for Public Safety Complex Project

RFPS TO BE OPENED: July 26, 2018 at 11:00:00 a.m. (Eastern Time)

This addendum is being published to address the following questions received regarding the above referenced RFQ. This addendum becomes a part of the contract documents and modifies the original specifications as noted.

Question #1: Do all eight copies need to be submitted unbound?

Response: Yes.

Question #2: Has a determination been made regarding the inclusion of the K-9 training and related facilities?

Response: The City’s intent is to include the K-9 training and related facilities at this new facility. The only current KPD facilities the City does not plan to include at this time are the firearms center at the Phil E. Keith Training Center and the driving track at the adjacent Don Jones Driving Track

Question #3: Can the City of Knoxville include a schedule that delineates anticipated start and completion dates for this Project?

Response: The City does not have start and completion dates at this time but the Owner’s Representative will be expected to begin work as soon as possible following execution of the contract. The length of the project will be dependent upon coordination with the building of the Clayton Science Center and could then be as short as two years or perhaps as long as five years, depending on the site chosen and the Clayton project.

Question #4: Does the City have an existing brokerage representation agreement, and if not, will brokerage services be necessary to secure temporary and/or permanent locations?

Response: No, there is no brokerage agreement in place.

Question #5: Section 5.13 indicates that the OR shall assist in the negotiation of terms and conditions of contracts for the Project. Does the City plan to use AIA contracts or modified City of Knoxville agreements?

Response: For contracts issued by the City of Knoxville the City plans to use modified agreements but for contracts issued by the Owner's Representative, AIA contracts are acceptable.

Question #6: Is there an estimated overall program budget established? If so, can you please share that total?

Response: A total of \$40 million has been budgeted by the City. See Section 5.4 of the RFP for the Owner's Representative's responsibilities to develop the project budgets.

Question #7: Is there an estimated square footage area that will be constructed for the new facility?

Response: Preliminary estimates are building between 125,000 and 150,000 square feet. This does not include needs for KFD administration. Full programming analysis will need to occur once a design team is assembled.

Question #8: Are there any time restrictions, or time requirements for the delivery of the new facility? For example, we must stay in the existing until XX date, or we must have the new facility open by XX date.

Response: See Question #3 above.

Question #9: I am hoping to find out if the new public safety complex will have a 911/emergency dispatch or communications center, or an emergency operations center?

Response: No. KEMA and 911 will remain in their current location on Bernard Avenue but we will need to consider a backup, or secondary 911 location within the new KPD/KFD building should the current site no longer be useable as the result of a natural or human-made event.

END OF ADDENDUM 3



302 Innovation Drive, Suite 100
Franklin, Tennessee 37067
615.656.1845
www.volkert.com

October 20, 2018

Penny Owens, CPPO
Assistant Purchasing Agent
City of Knoxville
City County Building
Room 667
400 Main Street
Knoxville, TN 37901

RE: Owner's Representative Services Proposal
Knoxville Public Safety Complex

Dear Ms. Owens:

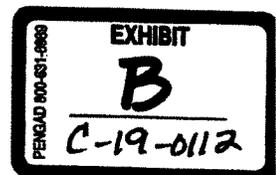
Pursuant to our conversation, please accept this letter as our revised proposal to perform Owner's Representative services for the Knoxville Public Safety Complex project. This revised proposal is based upon Volkert's current understanding of the project scope, budget and schedule. Additionally, it is our understanding that the warranty phase services are to be optional services that the City may or may not chose to employ. As with the original proposal, the fees quoted are "all in" fees. Unless there are additional requested services or the timeline for the project is extended, there will be no additional reimbursable expenses or subsequent fees for Volkert to perform the services detailed in the attached Scope of Services.

At the City's request, we will be quoting our services on a lump sum basis. I have taken the liberty of breaking down our fee by project phase to give the City a better understanding of the level of effort and associated fee in the various stages of the project.

Pre-Design Phase

During the Pre-Design Phase, the Volkert Team will be working with the current architectural consultant to review and validate the project program, review the proposed Tennova site for feasibility and establish a cost model to design, construct, furnish and move-in KPD, KPF and Courts. Concurrent with the aforementioned activities, Volkert will be assisting the City with solicitation, selection and contract negotiations of all other required professional services to include Architectural/Engineering, Construction Material Testing, Hazard Material Testing, Surveying, etc. Additionally, during this phase, Volkert will be establishing project management protocols, developing the management information system and establishing the cost accounting platform to be used for the duration of the project. We anticipate this phase lasting 60 to 90 days.

Total Fee Pre-Design Phase - \$31,400





302 Innovation Drive, Suite 100
Franklin, Tennessee 37067
615.656.1845
www.volkert.com

Design Phase

Volkert's dedicated preconstruction team will work with the eventual design consultants to assist with the effective deliver of plans and specifications incorporating the City's programmatic needs into a project that meets the City's budgetary constraints and operational requirements. Our preconstruction team will perform milestone estimates at the end of the schematic, design development and construction document design phases to confirm the design will be in budget when we go to the construction market. Additionally, our Team will perform milestone design constructability reviews and work to advise the design team on project phasing, building system alternatives, bid packaging strategies, etc. with the goal of minimizing costly changes during construction and streamlining the construction process to protect the schedule. We will meet regularly with the design team to ensure their questions are answered completely and expeditiously and to collaboratively resolve design phase challenges to keep the design process on schedule. Also, during the Design Phase, we will advise the City on the preferred project delivery approach and lead the procurement and contract negotiations for construction services. Volkert will review and recommend for payment all professional services invoices and account for expenditures utilizing our internet-based management system. Volkert will formally report to the City, in the frequency determined by the City, on Preconstruction Phase progress and also serve as the City's technical consultant on required public interaction. We anticipate the Preconstruction Phase lasting 9 to 11 months.

Total Fee Design Phase - \$239,010

Construction Phase

For a project of the magnitude of the Public Safety Building, Volkert proposes full-time on-site representation during the construction phase. Volkert will provide contract management over the construction service providers, working with the contractors to maintain the project's budget, schedule and quality. Additionally, Volkert will lead all Owner, Architect & Contractor (OAC) meetings and work with the entire project team to ensure efficient flow of project information, resolution of conflicts and maintenance of proper document control over project materials utilizing our internet-based project management system. We will work with the design team to perform milestone inspections and manage the corrective action for noted construction deficiencies. Volkert will review and recommend for payment all professional services and construction services invoices and account for expenditures utilizing our internet-based management system. Volkert will formally report to the City, in the frequency determined by the City, on Construction Phase progress. We anticipate the Construction Phase services lasting 18 months.

Total Fee Construction Phase Services - \$1,038,130

Furniture, Fixtures & Equipment (FF&E) Management Services

The FF&E package and the definition of FF&E requirements will be fairly significant for a project of this complexity. Specification, selection, procurement and installation management will be handled by our dedicated FF&E manager. The FF&E manager will work concurrent with the Construction Phase to ensure that FF&E procurement and delivery comes in budget and is delivered and installed pursuant to project timeline constraints. The FF&E manager will work with the design team and various City departments occupying the new facility to



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properly select, specify, procure, expedite delivery and installation of all required FF&E to fully outfit the facility. Depending on project phasing, FF&E installation should be complete 30 to 60 days after Certificate of Occupancy. FF&E selection, specification and procurement will run concurrent with construction.

Total Fee FF&E Management Service - \$91,460

Warranty Phase

The Warranty Phase will run 12 months after granting of substantial completion. Working with the facility occupants, Volkert will manage the identification and successful resolution of warranty phase claims. We will utilize our internet-based management system to log and track warranty items and warranty item resolution. At the conclusion of the 12 month warranty period, Volkert, along with facility representatives, the design team and construction team will perform a year end facility inspection to identify any new or outstanding warranty items. Volkert will manage the completion of those warranty claims prior to granting final release to the contractors.

Total Fee Warranty Phase Service - \$41,960

Total fee for basic services through Construction Phase and FFE Management is **one million four hundred thousand dollars (\$1,400,000)**. Optional Warranty Phase Services are **forty-one thousand nine hundred sixty dollars (\$41,960)**. We would propose to bill the fee for each service phase over the scheduled duration of each phase in equal monthly installments.

I trust this information meets with your approval and ask that you not hesitate to contact me should you have any questions or require any additional information. Thank you again for the opportunity and we look forward to getting started.

Sincerely,

Leon M. Barkan, CCM
Senior Vice President

CC: Chris Koeper, Vice President, Skanska
Brad Thompson, Vice President, Volkert
Philip Russell, Vice President, Volkert
Stan Winter, Assistant Vice President, Volkert



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September 26, 2018

Penny Owens, CPPO
Assistant Purchasing Agent
City of Knoxville
City County Building
Room 667
400 Main Street
Knoxville, TN 37901

RE: Owner's Representative Services Proposal
Knoxville Public Safety Complex

Dear Ms. Owens:

It was a pleasure meeting you and the rest of the Knoxville City Team relative to the Public Safety Complex. On behalf of both Volkert and Skanska, let me say how excited we are to be working with the City of Knoxville to deliver this important project. Pursuant to our discussions and Volkert's current understanding of the project scope, budget and schedule, please accept this letter as our proposal to perform Owner's Representative Services. Please note that the fees quoted are "all in" fees. Unless there are additional requested services or the timeline for the project is extended, there will be no additional reimbursable expenses or subsequent fees for Volkert to perform the services detailed in the attached Scope of Services.

At the City's request, we will be quoting our services on a lump sum basis. I have taken the liberty of breaking down our fee by project phase to give the City a better understanding of the level of effort and associated fee in the various stages of the project.

Pre-Design Phase

During the Pre-Design Phase, the Volkert Team will be working with the current architectural consultant to review and validate the project program, review the proposed Tennova site for feasibility and establish a cost model to design, construct, furnish and move-in KPD, KPF and Courts. Concurrent with the aforementioned activities, Volkert will be assisting the City with solicitation, selection and contract negotiations of all other required professional services to include Architectural/Engineering, Construction Material Testing, Hazard Material Testing, Surveying, etc. Additionally, during this phase, Volkert will be establishing project management protocols, developing the management information system and establishing the cost accounting platform to be used for the duration of the project. We anticipate this phase lasting 60 to 90 days.

Total Fee Pre-Design Phase - \$31,400



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Design Phase

Volkert's dedicated preconstruction team will work with the eventual design consultants to assist with the effective deliver of plans and specifications incorporating the City's programmatic needs into a project that meets the City's budgetary constraints and operational requirements. Our preconstruction team will perform milestone estimates at the end of the schematic, design development and construction document design phases to confirm the design will be in budget when we go to the construction market. Additionally, our Team will perform milestone design constructability reviews and work to advise the design team on project phasing, building system alternatives, bid packaging strategies, etc. with the goal of minimizing costly changes during construction and streamlining the construction process to protect the schedule. We will meet regularly with the design team to ensure their questions are answered completely and expeditiously and to collaboratively resolve design phase challenges to keep the design process on schedule. Also, during the Design Phase, we will advise the City on the preferred project delivery approach and lead the procurement and contract negotiations for construction services. Volkert will review and recommend for payment all professional services invoices and account for expenditures utilizing our internet-based management system. Volkert will formally report to the City, in the frequency determined by the City, on Preconstruction Phase progress and also serve as the City's technical consultant on required public interaction. We anticipate the Preconstruction Phase lasting 9 to 11 months.

Total Fee Design Phase - \$257,535

Construction Phase

For a project of the magnitude of the Public Safety Building, Volkert proposes full-time on-site representation during the construction phase. Volkert will provide contract management over the construction service providers, working with the contractors to maintain the project's budget, schedule and quality. Additionally, Volkert will lead all Owner, Architect & Contractor (OAC) meetings and work with the entire project team to ensure efficient flow of project information, resolution of conflicts and maintenance of proper document control over project materials utilizing our internet-based project management system. We will work with the design team to perform milestone inspections and manage the corrective action for noted construction deficiencies. Volkert will review and recommend for payment all professional services and construction services invoices and account for expenditures utilizing our internet-based management system. Volkert will formally report to the City, in the frequency determined by the City, on Construction Phase progress. We anticipate the Construction Phase services lasting 18 months.

Total Fee Construction Phase Services - \$1,069,240

Furniture, Fixtures & Equipment (FF&E) Management Services

The FF&E package and the definition of FF&E requirements will be fairly significant for a project of this complexity. Specification, selection, procurement and installation management will be handled by our dedicated FF&E manager. The FF&E manager will work concurrent with the Construction Phase to ensure that FF&E procurement and delivery comes in budget and is delivered and installed pursuant to project timeline constraints. The FF&E manager will work with the design team and various City departments occupying the new facility to



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properly select, specify, procure, expedite delivery and installation of all required FF&E to fully outfit the facility. Depending on project phasing, FF&E installation should be complete 30 to 60 days after Certificate of Occupancy. FF&E selection, specification and procurement will run concurrent with construction.

Total Fee FF&E Management Service - \$93,660

Warranty Phase

The Warranty Phase will run 12 months after granting of substantial completion. Working with the facility occupants, Volkert will manage the identification and successful resolution of warranty phase claims. We will utilize our internet-based management system to log and track warranty items and warranty item resolution. At the conclusion of the 12 month warranty period, Volkert, along with facility representatives, the design team and construction team will perform a year end facility inspection to identify any new or outstanding warranty items. Volkert will manage the completion of those warranty claims prior to granting final release to the contractors.

Total Fee Warranty Phase Service - \$41,960

Total fee for the above described services is **one million four hundred ninety-three thousand seven hundred ninety-five dollars (\$1,493,795)**. We would propose to bill the fee for each service phase over the scheduled duration of each phase in equal monthly installments.

I trust this information meets with your approval and ask that you not hesitate to contact me should you have any questions or require any additional information. Thank you again for the opportunity and we look forward to getting started.

Sincerely,

Leon M. Barkan, CCM
Senior Vice President

Attachments

- CC: Chris Koeper, Vice President, Skanska
Brad Thompson, Vice President, Volkert
Philip Russell, Vice President, Volkert
Stan Winter, Assistant Vice President, Volkert

OWNER'S REPRESENTATIVE SCOPE OF BASIC SERVICES

A. PRE-DESIGN PHASE

1. **DEVELOPING DESIGN PROCEDURES.** Owner's Representative and Owner will develop the Design procedures and report formats. These procedures will provide the basis for communication among the Owner, Owner's Representative and the Architect.
2. **ARCHITECT ORIENTATION.** Owner's Representative will conduct an Architect orientation session in which all project parameters such as schedule and design requirements, budget requirements, program requirements, site conditions, and other physical and Owner administrative constraints will be made known to the Architect.
3. **PRE-DESIGN PROGRAM ANALYSIS.** Owner's Representative, Owner, Architect and other appropriate parties will conduct a pre-design program analysis. The program analysis will provide a forum to further analyze the budget and schedule constraints.
4. **MASTER SCHEDULE.** Owner's Representative will develop a Master Schedule for approval by Owner. The Master Schedule will contain key milestones to be accomplished by the project participants. The Master Schedule shall define the length of time for Pre-Design Phase Services and Construction Phase Services. Owner shall retain full and final decision-making authority with respect to the Master Schedule, despite Owner's Representative's recommendations.
5. **LIST OF CRITICAL DATES.** Once the Master Schedule is defined, a more comprehensive List of Critical Dates will be prepared by Owner's Representative for approval by Owner. This list of Critical Dates will indicate the various activities which are critical for the success of the overall schedule during the design, the last acceptable date for each task to be completed, and the party responsible for accomplishing the task. This document will be the basis for Owner's Representative to monitor progress during the design. Owner shall retain full and final decision-making authority with respect to the List of Critical Dates, despite Owner's Representative's recommendations.
6. **COST MODEL.** Owner's Representative will provide a budget for the program for purposes of developing and/or analyzing the Program Budget.
7. **PROGRAM BUDGET.** Owner's Representative will review the Program Requirements, site constraints, the Owner's schedule goals, and budget data in existence, and develop the Program budget based on this data and Owner's Representative's historical cost data. Owner's Representative will make a report of the budget to the Owner indicating (1) shortfalls or surpluses in the budget and (2) recommendations for cost reductions or

revisions to the Program Requirements if necessary. Upon balancing the budget with the Program Requirements, Owner's Representative will present to the Owner the Program Budget. Owner shall retain full and final decision-making authority with respect to Program Budget, despite Owner's Representative's recommendations.

8. **MANAGEMENT INFORMATION SYSTEM.** Owner's Representative will become knowledgeable of the Owner's reporting requirements and needs, will interview the Owner's key personnel, and in conjunction with the Owner, will determine the type of information required and needed by the Owner, the reporting format, the frequency of various reports, and the distribution requirements for the Management Information System (MIS) relative to the Program. The MIS will be presented to the Owner in the form of a written report.
9. **ARCHITECT(S) SELECTION.** Owner's Representative will assist the Owner in Design Consultant(s) selection by developing lists of potential Design Consultant firms, developing criteria and formats, preparing and transmitting the request for proposals, assisting in the review of written proposals, assisting in conducting interviews, evaluating candidates and making recommendations. Owner hereby recognizes that Design Consultants, providing a professional service, can be selected by Quality Based Selection (QBS), as opposed to "lowest bid" or the Alabama Public Works Law, and therefore Owner shall retain full and final decision-making authority with respect to Design Consultants, despite Owner's Representative's recommendations.
10. **ARCHITECT(S) CONTRACT.** Owner's Representative will assist the Owner in the preparation of the Owner/Design Consultant Agreement by preparing draft language for the Design Consultant contract, including recommended language pertaining to budget and schedule adherence and Owner's Representative interface requirements. Owner shall retain full and final decision-making authority with respect to Design Consultant Contracts, despite Owner's Representative's recommendations.
11. **BOOKKEEPING SERVICES.** Owner's Representative will provide bookkeeping services that include accounting of all cash flow needs, appropriations and commitments from funding sources, and the expenditure of funds in accordance with the policies of the Owner and the requirements of the finance department of the Owner.
12. **PROJECT SPECIFICATIONS.** Owner's Representative will provide input, advice and recommendations to Owner personnel and/or the project specifications consultant during the development of the Program. Owner's Representative will make recommendations regarding the program specifications' impact on and necessary adjustments to the Program Budget, if any.

B. DESIGN PHASE

13. **DESIGN PHASE COORDINATION.** Owner's Representative will serve as the Owner's representative in coordination of the design team's activities with respect to the design procedures by all parties involved in the Program. Owner's Representative will expedite the flow of information among the Owner, the Architects, and other parties.
14. **MONITOR DESIGN SCHEDULE.** Owner's Representative will monitor the Design Schedule, apprise the other team members in writing when actual or potential constraints to achieving the schedule goals occur and will make written recommendations for corrective action, and will coordinate and monitor the implementation of all corrective actions. Owner's Representative shall not have the right or authority to direct or control Architect(s) or any other member of the design team, but shall endeavor to make those recommendations Owner's Representative deems appropriate for achieving schedule goals. Owner shall retain full and final decision-making authority with respect to Monitor Design Schedule, despite Owner's Representative's recommendations.
15. **DESIGN PROGRESS MEETINGS.** Owner's Representative will conduct design progress meetings with the Owner, Architects, and others. Owner's Representative will provide coordination between the Architect and the Owner in an effort to obtain the proper flow of information. These meetings will serve as a forum for the exchange of information and resolution of design decisions, and will be a point where design progress is reviewed and noted. Owner's Representative will distribute minutes of these meetings to all attendees and other appropriate parties.
16. **DESIGN REVIEW.** Owner's Representative will review the in-progress design documents solely for adherence to the Project Requirements; but Owner's Representative shall not review, peer review or otherwise perform any analysis of the in-progress design documents for things such as constructability or code compliance. Owner's Representative will conduct the in-progress design reviews at the Schematic Design, Design Development, 60% Construction Documents and 100% Construction Documents phases.
17. **DESIGN COMMENTS.** Owner's Representative's comments will be provided in writing and as notations on the construction documents and will be transmitted to the Owner. Owner shall retain full and final decision-making authority with respect to the Design, despite Owner's Representative's recommendations.
18. **CONSTRUCTABILITY REVIEW.** Owner's Representative shall not conduct any facet or aspect of a constructability review beyond providing input to the Owner and Architect relative to the duration of construction. In no way shall this constitute a guarantee, warranty, representation or commitment from Owner's Representative that Architect's design plans and other contributions to the Construction Documents meet the

Architect's applicable Standard of Care.

19. **UPDATE MASTER SCHEDULE.** During the design, Owner's Representative will maintain and periodically update the Master Schedule. The updated Master Schedule will be distributed to the Owner, the Architect, and other appropriate parties on the program.
20. **SCHEMATIC DESIGN ESTIMATE.** At the conclusion of the Schematic Design phase Owner's Representative will provide a Schematic Design Estimate in Cost Model format. This Schematic Design Estimate will be accompanied by a report to the Owner and Architect identifying variances, if any, with the original budget and making recommendations for modifications, if required. Owner's Representative will be responsible for coordinating and monitoring required modifications of the Architect necessary to attempt to eliminate variances with the budget. Owner's Representative will inform the Owner in a timely manner as to the status of any required modifications.
21. **DESIGN DEVELOPMENT ESTIMATE.** At the conclusion of the Design Development phase Owner's Representative will provide a Design Development Estimate in Cost Model format. This Design Development Estimate will be accompanied by a report to the Owner and Architect identifying variances, if any, with the original budget and making recommendations for appropriate modifications, if required. Owner's Representative will be responsible for coordinating and monitoring required modifications of the Architect necessary to attempt to eliminate variances with the budget. Owner shall retain full and final decision-making authority with respect to Monitor Design Schedule, despite Owner's Representative's recommendations. Owner's Representative will inform the Owner in a timely manner as to the status of any required modifications.
22. **CONSTRUCTION DOCUMENT (CD) ESTIMATES.** At the conclusion of the Construction Document phase Owner's Representative will provide 100% CD Estimate in Cost Model format. This Construction Document Estimate will be accompanied by a report to the Owner and Architect identifying variances, if any, within the original budget and making recommendations for appropriate modifications, if required. Owner's Representative will be responsible for coordinating and monitoring required modifications of the Architect necessary to attempt to eliminate variances within the original budget. Owner shall retain full and final decision-making authority with respect to Monitor Design Schedule, despite Owner's Representative's recommendations. Owner's Representative will inform the Owner in a timely manner of the status of any required modifications.
23. **COST ADJUSTMENT SESSIONS.** Should significant variance be detected on the Schematic Design, Design Development or 100% CD Estimate, Owner's Representative will immediately conduct cost adjustment sessions with the Architect and the Owner. At the conclusion of these sessions, Owner's Representative and Owner will immediately request commitments from the Architect for design adjustments to the documents.

Upon submittal of adjusted design documents, Owner's Representative will immediately prepare a confirmation Schematic Design, Design Development or 100% CD Estimate and report to the Owner and Architect.

24. **COST MONITORING.** Owner's Representative will monitor the cost of the design in each phase. Owner's Representative will maintain dialogue with the Architect and provide cost information at the project meetings and on an as needed basis.
25. **PROJECT STATUS REPORTS.** Owner's Representative will prepare and distribute a monthly Project Status Report which will include schedule maintenance and construction and cost status reports. The schedule maintenance report will reflect actual progress against schedule progress for the design. The project summary cost status report will reflect actual current cost and projected project cost compared to budgeted project cost. Owner's Representative shall develop and recommend any necessary modifications concerning any deficiencies therein. Owner's Representative will coordinate and monitor required modifications of the Architect necessary to attempt to eliminate variances from the original budget. Owner's Representative shall inform the Owner in a timely manner of the status of the required modifications.
26. **PUBLIC RELATIONS ACTIVITIES.** Owner's Representative will assist the Owner and Architect in public relations activities including preparation of the project information, and attending internal and public meetings.

C. BID AND AWARD PHASE

27. **GENERATE BIDDER INTEREST.** Owner's Representative will maintain contact with potential bidders on a regular basis throughout the bid period. This includes major subcontractors and suppliers as well as General Contractors. A telephone campaign will be conducted to stimulate and maintain interest in bidding on projects within the Program.
28. **CONTRACTS FOR CONSTRUCTION.** Owner's Representative will review the Architect's General Conditions and make recommendations for their modification in areas relating to Construction/Program Management as they apply to the specific contract in question. The General Conditions will contain various construction phase time/cost control provisions which, in general, provide better Owner control and options to expedite the construction utilizing the presence of an on-site Construction/Owner's Representative. The Supplementary Conditions and Special Conditions will be tailored to meet the specific project requirements as approved by the Owner.
29. **PRE-BID CONFERENCE.** In conjunction with the Owner and Architect, Owner's Representative will conduct pre-bid conference(s). These conferences will be a forum

for the Owner, Owner's Representative and Architect to present the project requirements to the bidders.

30. **REVIEW AND INQUIRIES.** Owner's Representative will review communications related to Bidder inquiries and seek resolution from the appropriate design team member.
31. **ADDENDA REVIEW.** Owner's Representative will provide a review of each addendum during the Bid Phase solely for time, cost, or constructability schedule impact, and make appropriate comments or recommendations. In no way shall this constitute a guarantee, warranty, representation or commitment from Owner's Representative that Architect's design plans, addenda and other contributions to the Construction Documents meet the Architect's applicable Standard of Care.
32. **BID EVALUATION.** Upon receipt of bids, Owner's Representative will assist the Owner and Architect in the bid opening, evaluate the bids for completeness, full responsiveness and price, including alternate prices and unit prices.
33. **REVIEW OF SYSTEM ALTERNATIVES.** Owner's Representative, if required because of budgetary reasons, will provide a review of system alternatives to evaluate construction components and to reconcile construction cost overruns. This review will be summarized in report form and distributed to the Owner, the Architect, and other appropriate parties.
34. **CONSTRUCTION CONTRACT NEGOTIATIONS.** Owner's Representative shall assist the Owner in preparing, negotiating and entering into General Contractor's Agreements, and advise the Owner on the qualifications of subcontractors and suppliers proposed by General Contractors. All General Contractor Agreements shall be between the Owner and General Contractors and not between Owner's Representative and General Contractors. The terms and conditions of the General Contractor Agreements shall be acceptable to Owner's Representative. Owner's Representative will negotiate on behalf of the Owner with the General Contractors when negotiation for added or deleted scope is necessary prior to award of contract.
35. **PROJECT STATUS REPORTS.** Owner's Representative will prepare and distribute a monthly Project Status Report which will include schedule maintenance and cost status reports. The schedule maintenance report will reflect actual progress compared with scheduled progress for the Bid and Award Phase. The project summary cost status report will reflect actual current cost and projected project cost compared to budgeted project cost. Owner's Representative shall develop and recommend any necessary modifications concerning any deficiencies therein. Owner's Representative will coordinate and monitor required modifications of the Architect and/or General Contractor necessary to attempt to eliminate variances from the original budget. Owner's Representative shall inform the Owner in a timely manner of the status of the required modifications.

D. CONSTRUCTION PHASE

36. **PRE-CONSTRUCTION CONFERENCE.** Owner's Representative and Owner will conduct, in conjunction with the Architect, a pre-construction orientation conference for the benefit of the successful General Contractors. It will serve to orient the General Contractors to the various reporting procedures and site rules prior to the commencement of actual construction.
37. **CONTRACT MANAGEMENT.** Under Contract Management Owner's Representative shall be responsible for the coordination and management of the Architect and/or General Contractors for the projects within the Program, and shall make a diligent effort to keep the Owner fully apprised whether or not the Architect and/or General Contractors are complying with the contract terms including, but not limited to, schedule and budget.

As will be called for in the contract between Owner and the Architect, the Architect has sole, total, exclusive, primary and final responsibility for contract administration and shall visit the site as necessary, in accordance with Architect's applicable standard of care, to determine in general if the work is being performed in a manner indicating the work when completed will be in accordance with the contract documents. The Architect will make final decisions on whether particular portions of work conform to plans and specifications.

38. **CONSTRUCTION SCHEDULE.** Owner's Representative will review the Contractor's development of its detailed construction schedule within the framework of the submitted Master Schedule. Owner's Representative will receive the detailed Construction Schedule from the Contractors and, when approved by the Architect, distribute the detailed Construction Schedule to the Contractors, the Owner, the Architect and other appropriate parties. This schedule will be the basis for all future reports reflecting scheduled progress versus actual project progress during the Construction Phase. Owner shall retain full and final decision-making authority with respect to the Construction Schedule, despite Owner's Representative's recommendations.
39. **SCHEDULE OF VALUES.** Owner's Representative will review and reconcile the Contractor's Schedule of Values for each of the activities included in the Construction Schedule and will use this information as initial data for the Construction Phase. This report will then be used as the basis for all future progress payments during the Construction Phase.
40. **SUBMITTAL PROCEDURES.** Owner's Representative will establish and implement procedures for submittals, change orders, Applications and Certificates for Payment and other procedures; and maintain logs, files, and other necessary documentation. Owner's Representative shall not approve or deny said submittals; but shall review them merely

to determine whether said submittals are in a complete, final and acceptable format sufficient for transmittal to the Architect and Owner for their review and approval pursuant to the Contract Documents.

41. **JOB SITE MEETING.** Owner's Representative will conduct periodic job site progress meetings with the General Contractors, will report to the Owner and will distribute minutes to all attendees, the Owner, the Architect, and all other appropriate parties.
42. **CONSTRUCTION OBSERVATION.** Owner's Representative is not a guarantor of the Work or of the Program or of the various Projects with the Program. Owner's Representative is not being retained as a Owner's Representative at Risk or as a Clerk of the Works, and neither the overall Program nor the various Projects within the Program are turn-key operations. Architect has primary construction inspection/construction observation/construction administration/contract administration responsibility under its contract(s) with Owner. Owner's Representative's construction observation obligations are secondary to those of Architect. Owner acknowledges and takes into account the fact that Owner's Representative does not have a contract with General Contractors or Architects and, as such, cannot direct their respective means and methods, forces, personnel, subcontractors and subconsultants. Owner's Representative cannot force those parties with which it has no contract to perform any acts they are not willing to perform. Forcing Owner-desired action out of General Contractor and/or Architect is up to Owner. As Owner's representative, Owner's Representative shall endeavor to determine in general whether the Work is being performed in accordance with the requirements of the respective Construction Contractor Agreements, endeavoring to guard the Owner against defects and deficiencies in the Work. Owner's Representative is not being retained to perform quality control or quality assurance inspections on the Work, and Owner's Representative shall not be held liable or attempted by Owner to be held liable for Architect's or Construction Contractors' performance.
43. **NON-CONFORMING WORK.** Owner's Representative will, in conjunction with the Architect, make recommendations for corrective action on observed non-conforming work. Owner's Representative shall not have control over or charge of acts or omissions of the Contractors or their subcontractors, agents or employees, or any other persons performing portions of the Work not directly employed by Owner's Representative. Owner's Representative shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of the Trade Contractors, since these are solely the Contractors' responsibilities. Owner's Representative shall not be responsible for a Contractor's failure to carry out the Work in accordance with the respective Contract Documents.
44. **EXERCISE OF CONTRACT PREROGATIVE.** Owner's Representative will advise the Owner

and make recommendations to the Owner for exercising the Owner's contract prerogative, such as giving the Contractors notice to accelerate the progress when the schedule goals are in jeopardy due to Contractor's failings, withholding payment for cause and other prerogatives when required in an effort to achieve contract compliance. Owner shall retain full and final decision-making authority with respect to its Exercise of Contract Prerogative, despite Owner's Representative's recommendations.

45. **CONSTRUCTION PROGRESS REVIEW.** Owner's Representative, in addition to the Architect, will review and monitor the pace and progress of construction with the Contractors, observe work in place and properly stored materials and on a monthly basis solely in order to evaluate the percentage complete of each construction activity as indicated in the construction schedule. This will serve as data to update the monthly progress report which will be prepared and distributed to the Contractors, the Owner, Architect and other appropriate parties. This report will reflect the Trade Contractor's contractual progress, will be the basis for the monthly progress payment to the Contractors and will indicate to the Owner when notices to the Contractors for acceleration of the Work and the Owner prerogatives are appropriate.
46. **MONTHLY CONSTRUCTION SCHEDULE UPDATES.** Owner's Representative will prepare and distribute monthly construction schedule updates. After an evaluation of the actual progress as observed by Owner's Representative; schedule activities will then be assigned percentage-complete values in conjunction with the General Contractors. The report will reflect actual progress as compared to schedule progress noting variances (if any) as negative float. This report will also be the basis for determining implementation of certain Owner prerogatives concerning progress of the Project, when required.
47. **RECOVERY SCHEDULE.** Owner's Representative shall assist the General Contractors in preparing a Recovery Schedule and shall monitor the implementation of same. This Recovery Schedule will reflect the corrective action and extraordinary efforts to be undertaken by the Contractors to recapture the lost time and complete the Work in accordance with the Contract Completion Dates. This Recovery Schedule will be distributed to the General Contractors, the Owner, Architect and other appropriate parties.
48. **MONTHLY CONSTRUCTION PAYMENT.** Owner's Representative will review and make recommendations pertaining to monthly progress payment to each General Contractor. The results of this activity will be an integral part of the monthly progress report updates.

A Pay Request Form will be prepared and approved by Owner's Representative and attached to the Application and Certificate for Payment prepared by the General Contractors and which is executed by both the Architect and General Contractors, all of which will be transmitted to the Owner for use in the Owner's internal accounting system

payment to the General Contractors.

The recommendation for payment of a Trade Contractor's application for payment shall not be a representation that Owner's Representative has:

- a. made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
- b. reviewed construction means, methods, techniques, sequences or procedures for the Trade Contractor's Work;
- c. reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the Owner to substantiate the Trade Contractor's right to payment; or
- d. ascertained how or for what purpose the Trade Contractor has used money previously paid.

Owner, shall retain full and final decision-making authority with respect to Monthly Construction Payment, despite Owner's Representative's recommendations.

49. **MONTHLY CONSTRUCTION PAYMENT REPORTS.** Owner's Representative will prepare and distribute the monthly construction payment reports which will be an integral part of the monthly progress report. This report will reflect the total construction contract price, Trade Contractor's progress payment(s) to date, current payment requested, retainage, and actual amount owed for the current period.
50. **EVALUATE PROPOSAL COST.** Owner's Representative will evaluate the Trade Contractor's proposal cost and will make a formal recommendation to the Owner regarding acceptance of the proposal for a Change Order.
51. **CHANGE ORDER PROCESSING SYSTEM.** Owner's Representative will establish and implement a Change Order processing system. Owner's Representative will neither approve nor reject Change Orders; this is within the province of the Architect and Owner. Owner shall retain full and final decision-making authority with respect to approval and rejection of Change Orders, despite Owner's Representative's recommendations.
52. **NEGOTIATION OF CHANGE ORDER COSTS AND TIME EXTENSIONS.** Should Owner and Architect approve a Change Order Request, Owner's Representative will then negotiate change order costs and time extensions on behalf of the Owner. Owner's Representative will advise the Owner of acceptability of price and time extension prior to the execution of any change order.
53. **FORCE ACCOUNT RECORDS.** In instances when the change order work is to be done on

a time and material basis, and when approved by the Owner as an Additional Service, Owner's Representative will maintain force account records on a daily basis to determine the actual work and time required for the work.

54. **CHANGE ORDER REPORTS.** Owner's Representative will prepare and distribute Change Order reports on a monthly basis throughout the Construction Phase. This report will provide Change Order information pertaining to proposed and executed Change Orders and their effect on the contract price as of the date of the report.
55. **GENERAL CONTRACTOR CLAIMS.** Owner's Representative will perform a preliminary evaluation of the contents of the claim and obtain factual information concerning the claim. Owner's Representative will analyze claims for extension of time and for impact cost, using the schedule report. Owner's Representative will prepare estimates based on the alleged cause of claims submitted by the General Contractors and will prepare alternate estimates based on varying scenarios of the claim cause. These estimates will be transmitted to the Owner for potential use in claim rulings and negotiations. Owner's Representative will make a final recommendation to the Owner concerning settlement or other appropriate action. If desired, Owner's Representative will negotiate claims with the General Contractors on behalf of the Owner at the Owner's instructions. Owner shall retain full and final decision-making authority with respect to General Contractor Claims, despite Owner's Representative's recommendations.
56. **PROJECT STATUS REPORTS.** Owner's Representative will prepare and distribute a monthly Project Status Report which will include schedule maintenance and cost status reports and claims reports. The schedule maintenance report will reflect actual progress against scheduled progress for the construction phase. The project summary cost status report will reflect actual current cost and projected project cost compared to budgeted Project cost.
57. **SUBSTANTIAL COMPLETION.** In addition to the Architect, Owner's Representative will make a determination of the remaining work necessary for Substantial Completion, and notify the Architect of any observed deficiencies. Owner's Representative will be responsible for coordinating and monitoring any necessary actions of the General Contractors and/or Architect required to implement and correct any deficient or incomplete work. When incomplete work or defective work has been remedied, Owner's Representative will advise the Owner of acceptability of Project completeness and advise as to issuance of a Certificate of Substantial Completion. In the event of remaining incomplete items, Owner's Representative will, upon the Owner's concurrence, recommend issuance of a Certificate of Substantial Completion with exceptions noted. Owner shall retain full and final decision-making authority with respect to Substantial Completion and with respect to its occupancy and use of the Work and Project, despite Owner's Representative's recommendations

58. **FINAL COMPLETION.** Owner's Representative, in conjunction with the Architect, will at the conclusion of all corrective action of all punch list items, make a final comprehensive review of the Project, make a report to the Owner which will indicate whether Owner's Representative and the Architect find the Work performed acceptable under the Contract Documents and the relevant Project Data, and make recommendations as to final payment to the Trade Contractors.
59. **OWNER START-UP.** Owner's Representative, with the Owner's maintenance personnel, shall direct the checkout of utilities, operations systems and equipment for readiness and assist in their initial start-up and testing by the Trade Contractors.
60. **DELIVERY OF MANUALS, ETC.** Owner's Representative shall collect and deliver to the Owner the guarantees, affidavits, releases, bonds and waivers from Trade Contractors and any keys, manuals, record drawings and maintenance stocks Owner's Representative receives from the Trade Contractors.
61. **OCCUPANCY PERMIT.** Owner's Representative will assist the Owner in obtaining the occupancy permit. This task may encompass accompanying governmental officials during inspections of the facility, assist in preparing and submitting proper documentation to the appropriate approving agencies, assisting in final testing and other necessary and reasonable activities and securing corrective action.
62. **OCCUPANCY PLAN/SCHEDULE.** Owner's Representative will prepare an occupancy plan which will include a schedule indicating critical interfaces for relocation of furniture, equipment, new furniture and equipment and the relocation of the Owner's personnel. This schedule will be distributed to the moving contractors, the Owner's affected departments, and other appropriate parties. In addition Owner's Representative will be responsible for the management of the procuring and the placement of all furniture, fixtures and equipment.
63. **FINAL PROJECT REPORT.** At the conclusion of the project, Owner's Representative will prepare final Project accounting and close-out reports of all above indicated report systems. These reports will summarize for historical purposes any items which are not self-explanatory.

E. FURNITURE, FIXTURES & EQUIPMENT

64. Owner's Representative shall have a dedicated Furniture, Fixtures & Equipment (FF&E) manager. The FF&E manager will work concurrent with the Construction Phase to ensure that FF&E procurement and delivery comes in budget and is delivered and installed pursuant to project timeline constraints. The FF&E manager will work with the design

team and various City departments occupying the new facility to properly select, specify, procure, expedite delivery and installation of all required FF&E to fully outfit the facility.

F. WARRANTY PHASE

65. The Warranty Phase will run 12 months after granting of substantial completion. Working with the facility occupants, the Owner's Representative will manage the identification and successful resolution of warranty phase claims. Owner's Representative will utilize a management system to log and track warranty items and warranty item resolution. At the conclusion of the 12-month warranty period, the Owner's Representative, along with facility representatives, the design team and construction team will perform a year end facility inspection to identify any new or outstanding warranty items. The Owner's Representative will manage the completion of those warranty claims prior to granting final release to the contractors.