CITY OF JOHNSON CITY, TN

REQUEST FOR QUALIFICATIONS
ENGINEERING DESIGN AND CONSULTING SERVICES

SANITARY SEWER SYSTEM SUPPORT

RFQ# 5683

Proposal due:
FEBRUARY 27, 2013, 4:00 PM (Eastern Time)

City of Johnson City
Purchasing Department
209 Water Street (37601)
P. O. Box 2150 (37605)
Johnson City, TN

REQUEST FOR QUALIFICATIONS
ENGINEERING DESIGN AND CONSULTING SERVICES

SANITARY SEWER SYSTEM SUPPORT

CITY OF JOHNSON CITY
WATER AND SEWER SERVICES DEPARTMENT

GENERAL

The City of Johnson City ("the City") is seeking a qualified engineering consultant to provide services for the City of Johnson City in accordance with the scope of work contained herein.

SUBMITTAL PROCEDURE

To be considered, respondents shall submit a total of six (6) RFQ responses (one signed original and five copies). Submittal shall be enclosed in a sealed envelope plainly identified on the outer envelope with the proposer's name and address, along with "**RFQ # 5683 - Engineering Design and Consulting Services – Sanitary Sewer System Support**" and delivered or mailed to the Director of Purchasing, 209 Water Street (37601), P. O. Box 2150 (37605), Johnson City, TN **on or before 4:00 p.m., Wednesday, February 27, 2013**. A list of respondents will be available the next business day. It is the Proposer's responsibility to ensure receipt of submittal at the Purchasing Department by the deadline.

Proposals may be delivered or mailed to the above address. It is the responsibility of the vendor to insure that the proposal is received at the proper location by the specified time. Late proposals will not be considered and will be returned unopened. Telephone or electronic offers will not be accepted.

Proposals must be signed in ink by an authorized representative of the company to be considered valid. Unsigned offers will not be considered.

The City reserves the right to reject any or all proposals and to waive informalities, irregularities and technicalities in the process.

CONTACT PERSON

Scope of work questions/clarifications should be directed in writing (mail, fax or email) to Neal Whitten, P.E., Assistant Director of Water & Sewer Services Department, City of Johnson City, P.O. Box 2466, Johnson City, TN, 37605. Office: (423) 975-2624. Fax: (423) 975-2653. Email: nwhitten@johnsoncitytn.org. Submittal questions shall be directed to the Purchasing Department, (423) 975-2716.

BACKGROUND

The City owns and operates a wastewater system consisting of 3 wastewater treatment plants, over 560 miles of gravity and pressure sewer lines, and approximately 100 sewer pumping stations over an area of approximately 97 square miles.

Based on the Sanitary Sewer System Study completed by CDM (CDMSmith) in 2008 on behalf of the City of Johnson City, numerous capital projects were identified as well as rehabilitation activities that require professional services beyond what can be provided by current staffing levels of the City of Johnson City.

SCOPE OF SERVICES

It is desired to have services available on an "as-needed" basis to provide professional engineering design and/or consulting services for the following types of projects, which are identified in the 2008 Sanitary Sewer System Study:

1. **Sanitary Sewer Interceptor Line Sizing and Routing**
   - Evaluation of Routing Options
   - Evaluation of Material Options
   - Verification/Selection of Sizing
   - Developing Cost Estimates
   - Developing Construction Documents
   - Construction Services During Construction

2. **Sewer Pumping Station Design**
   - Verification of Sizing
   - Balancing Operational Costs with Capital Costs
   - Developing Cost Estimates
   - Developing Construction Documents

3. **Sewer Pumping Station Modification/Enhancement**
   - Emergency Generator Sizing and Additions
   - Flow Metering
   - SCADA Integration with existing System
   - Security Enhancements
   - Developing Construction Documents

4. **General Wastewater System Consulting**
   - Annexation Areas
   - Environmental Permitting
   - Troubleshooting

5. **Sanitary Sewer Rehabilitation/Replacement Design**
   - Development of alternatives & costs
   - Assistance in selection of preferred method(s)
   - Design and contract assistance for selected method(s)
   - Construction services if requested

It is anticipated that there will be a selection of multiple firms for different types of projects. There is no intent on the part of the City to limit submissions by inclusion of a large list of types of projects. If your firm only provides a limited number of the listed services you may still be selected if you are deemed most qualified for the type(s) of projects you have interest in working on for the City.

If desired by the City, construction inspection and administration **may** be included with the professional design services. Each specific project will have a detailed scope and fee developed before awarding any work.

No copies of any reports or other documents will be made available to assist with the submission of qualifications.

SUBMITTAL OF QUALIFICATIONS

1. All proposals will consider the information given in the Request for Qualifications. Where in the consultant's professional judgment, additional tasks or work elements are necessary in order to accomplish the purpose, they may be proposed. Similarly, where in the professional judgment of the consultant one or more of the work elements in the information are unnecessary, the consultant may so indicate.

2. It is anticipated that the City will "short-list" the proposals to a manageable number. These "short-listed" firms may be asked to make a presentation to the selection committee and be prepared to answer questions the selection committee may have about their company and qualifications.

3. All contents of all qualifications will become the property of the City of Johnson City once reviewed whether awarded or rejected.

4. The attached insurance checklist (which includes a section for both the Insurance Agent & Vendor to fill out) and General Contract Form must be completed and returned with the RFQ package. If Proposer has more than one insurer, a form shall be completed by each. Provide certificate of insurance, as specified, prior to contract award by the City.

5. In the event that the consultant selected does not (or cannot) execute a contract within 30 days of notice of selection, the City may give notice to such firm of intent to award the contract to the next most qualified consultant, to call for additional qualifications, or to otherwise withdraw the offer.

6. The City may wish to make reasonable investigations (as deemed proper at its sole discretion) to determine the ability of the consultant to perform the work outlined. The consultant shall agree to furnish the City all information and data for this purpose as requested. The City specifically reserves the right to reject any qualifications if the evidence submitted by, or the investigation of the consultant fails to satisfy the City that the consultant is qualified to perform any or all requirements.

7. Appendix A includes additional information regarding the preparation of the submittal.

8. Consultants selected to do business with the City of Johnson City will be required to execute a professional service agreement acceptable to the City and meet all insurance requirements.

9. This Proposal, and any response to it, includes the City's "Requirements for Bids, Requests for Proposals, and Contracts, etc." and the "Bid/Proposal General Terms and Conditions" attached hereto and set forth herein as if verbatim. These documents are included in Appendix B.

REQUIREMENTS FOR STATEMENTS OF QUALIFICATIONS

1. A letter of interest **signed by a principal of your firm** with a statement as to the availability of the firm to complete the work within the stated time period, the firm's current workload, assurance of firm's insurance coverage, and a statement of the firm's financial stability. This letter should include a brief history of the firm.

2. Provide resumes of key personnel to be assigned to this project. **Include only staff that will have a direct role in the project(s).** The City reserves the right to cancel any contract resulting from a successful qualification selection should staffing changes be necessary and appropriate replacement staff not be forthcoming. If partnering with another firm(s) is proposed, please identify project team members and roles for all participants.

3. In this section the consultant will provide a narrative statement of qualifications and experience with respect to the types of project(s) your firms is interested in performing for the City.

4. The consultant will provide at least five references. All of the references will relate to the specific types of projects the consultant is interested in participating in with the City of Johnson City. The references should contain the name of the organization for which the services were provided, a brief description of those services, dollar amount of the contract, and a name and address of a contact person. If your firm is interested in only a portion of the work, please clearly identify which types of project(s) your firm is interested in performing.

5. Projects used as references should be SIMILAR and completed within the last 10 years involving the staff targeted for work on the City of Johnson City projects. Experience related to systems of similar size and geography is preferred.

SELECTION PROCESS

The City reserves the right to reject any or all qualifications for engineering services received. Consideration for award of the contract or contracts (if awarded) will go to the firm or firms which demonstrates that it possesses the skills, judgment, experience, availability of appropriate personnel; and ability and track record of providing prompt service and on-time delivery. All judgments as to skill, judgment, experience, availability of appropriate staff, and record of on-time delivery as well as analysis of costs will be made in

the sole judgment of the City of Johnson City. Contract negotiation will commence with the consultant or consultants considered most qualified. **It is anticipated multiple consultants will be selected for different aspects of this scope of work.** If an agreement cannot be reached with consultant deemed most qualified the City may proceed to negotiate with the firm considered the next most qualified. The City may continue this process until an agreeable contract is negotiated with a qualified consultant.

This request for qualification will neither commit the City to commence any project, nor in any way limit the discretion of the City in selecting a firm or in making any future modifications to the scope of work under this proposal, before or during the life of the project, should it be undertaken.

The City will not pay any costs associated with the preparation or submission of qualifications and/or presentations and/or interviews.

ESTIMATED TIME OF COMPLETION

The City anticipates negotiating a professional services agreement by April 18, 2013.

APPENDIX A

ADDITIONAL INSTRUCTIONS

GENERAL

The City of Johnson City is seeking qualifications in accordance with the specifications contained in this document.

The specifications contained herein describe the minimum requirements of the City and any omission shall not relieve the vendor of furnishing quality service in a timely manner. Any variances to this RFQ must be clearly identified.

PROCEDURE FOR SUBMITTAL

RFQ response must be signed by an authorized agent in order to be considered valid. Unsigned submittals will not be considered.

ECONOMY OF PREPARATION

Qualifications should be prepared simply and economically, providing a straightforward and complete description of services and qualifications to meet city's requirements as outlined in this document. Emphasis should be on completeness and clarity of content.

INCURRING COSTS

The City is not liable for any costs incurred by consultant prior to issuance of a contract.

WITHDRAWAL OF QUALIFICATIONS

Qualifications may be withdrawn upon written request received from consultant prior to the time fixed for receipt.

ACCEPTANCE OF QUALIFICATIONS CONTENT

Qualifications are to be valid for a minimum period of sixty (60) days from date of receipt by the City.

The contents of any qualification received shall become contractual obligations upon the execution of a contract by authorized representatives of both the City and the consultant. Failure of the successful consultant to accept these obligations may result in cancellation of the award.

The City reserves the right to reject any or all qualifications and to waive informalities, irregularities, and technicalities in the process.

The City may negotiate separately with any source in any manner necessary to arrive at a contract agreement that is in the best interest of the City.

CANCELLATION

Either party may cancel this contract if written notice of intent is given thirty (30) days prior to the cancellation date.

If a submitter fails to state a time in which their offer must be accepted it is understood and agreed that the City will have sixty (60) days in which to enter into a contract.

EQUAL OPPORTUNITY

It is the policy of the City of Johnson City to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, Part 21; related statutes and regulations to that end that no person shall be excluded from participation in or be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or any other funding source on the grounds of race, color, sex, national origin, or ancestry. By virtue of submitting a response to this RFQ, consultants agree to comply with the same non-discrimination policy.

INDEMNIFICATION

The consultant shall guarantee and certify by affixing his signature to the RFQ that if successful, he/she/it shall indemnify and defend the City against any and all claims or legal actions arising as a result of his performance of the contract, whether or not such claims relate to damages (including amounts incurred by the City for its legal fees and court costs) or alleged damages arising out of proposer breach of contract of sustained by physical injury to consultant's personnel, subcontractors, city employees or other personnel, or against any lawsuits arising from alleged or actual patent infringements, and shall hold the City, its various departments, employees, and any and all persons or entities acting on its behalf harmless from the same.

ARBITRATION AND MEDIATION

The City shall not participate in any mediation or arbitration regarding any agreement to which it is a party, and all matters left unresolved between the City and any other party, person, or entity shall be resolved in a court of competent jurisdiction in either Washington County, Tennessee, or in Federal District Court in Greeneville, Tennessee.

APPENDIX B

1. REQUIREMENTS FOR BIDS, REQUESTS FOR PROPOSALS, AND CONTRACTS BETWEEN THE CITY OF JOHNSON CITY AND OTHER PARTIES

2. INSURANCE CHECKLIST

3. GENERAL CONTRACT FORM

4. BID/PROPOSAL GENERAL TERMS AND CONDITIONS

5. STATEMENT OF BID/RFP DECLINE

REQUIREMENTS FOR BIDS, REQUESTS FOR PROPOSALS, AND CONTRACTS
BETWEEN THE CITY OF JOHNSON CITY
AND OTHER PARTIES

The City of Johnson City has established the following requirements for use in all bids and contracts between the City and any other person or entity. The following list is mandatory and modifies any bid, contract, or request for proposal, or conditions applicable to, signed by, or let by the City, notwithstanding anything contained in any particular conditions, contract, request for proposal, or bid to the contrary.

In general, the following provisions apply to all such contracts, bids, requests for proposals, contracts requiring bids, and bids containing contracts:

1. The City of Johnson City shall not answer to any contracting party for the furnishing of public records to a person requesting such in accordance with Tennessee law.
2. The City, while it may designate in writing a representative on a particular project, shall only be bound by a majority vote of the Board of Commissioners or by the limited authority delegated to the City Manager pursuant to City Ordinance. No personal representative of the City assigned to a particular project may bind it in excess of the dollar amounts granted to the City Manager by Ordinance, and no personal representative assigned to a particular project may bind the City for an amount equal to or less than the dollar amounts granted to the City Manager by Ordinance without the City Manager's approval.
3. The City shall not in any event waive any claims for damages including but not limited to consequential damages in any contract for any reason or purpose.
4. No decision of an architect, engineer, or personal representative of the City shall be final and binding on the City, unless the City so agrees in any dispute with any party including but not limited to an architect, a contractor, a subcontractor, an engineer, etc. If the City agrees to be bound pertaining to a dispute, then the monetary limits contained in the City's ordinances regarding the authority of the City Manager shall prevail, and any amounts exceeding the authority of the City Manager shall be referred to the Board of Commissioners for their consideration.
5. The City shall not participate in any mediation or arbitration regarding any agreement to which it is a party, and all matters left unresolved between the City and any other party, person, or entity shall be resolved in a court of competent jurisdiction in either Washington County, Tennessee, or in Federal District Court in Greeneville, Tennessee.
6. No party or other entity shall file a lien of any nature whatsoever against City property, real, personal, or mixed, no matter where that property is located. Should a party or entity contracting with the City or acting as a subcontractor or subsubcontractor file a lien against any property, real, personal, or mixed, owned by the City, then that party or entity shall take immediate steps at its own cost and expense to remove said lien, or the City shall take such steps as it deems necessary and hold the other party or entity liable for any costs and attorneys' fees associated with the lifting of said lien.
7. The City shall exercise its sole discretion before agreeing to any assignments of any contracts or subcontracts regarding any project in which the City is involved. No contract with the City shall be assignable without the City's sole, discretionary, absolute consent.
8. The City shall not be required to supply any information regarding its title to any property in which it has an interest for any purposes regarding the filing of liens.
9. The City shall not waive any claims it has in the making of final payment in any project in which it is involved. The City shall have the right to terminate any agreement to which this document is attached at any time in its sole discretion without cause. In the event the City terminates without cause any agreement to which this document is attached, then in such event the City shall be liable only for the actual work and costs that have accrued at or before the date of the City's termination. In no event shall the City be liable for lost profits, consequential damages or incidental damages in the event it terminates a contract without cause.
10. Except to the extent allowed by law, the City shall not indemnify and hold harmless any other party, entity, person, their agents, employees, or anyone else in the world for any reason whatsoever.
11. The City shall not waive the rights of subrogation of its insurers or itself for any purpose whatsoever, and the City shall not cause any such endorsements to be placed on any policies to which it is a party.
12. Unless the City elects otherwise, the City shall not provide any "builders' risk" or an "all-risk" or equivalent policy for any reason whatsoever for any project in which the City has an interest, and the contractor or other such party shall assume this responsibility. That builder's risk policy provided by the contractor or other such interested party shall name the City as an additional insured. The City shall not provide boiler and machinery insurance, but shall require such insurance as applicable, depending on the parameters of whatever project is involved. The cost of boiler and machinery insurance shall be borne by the appropriate contractor, subcontractor, or other interested party. The City shall not insure the interests of any other person or entity, nor shall the City add any other person or entity as an additional insured to any of its policies.

13. The City shall not waive any rights regarding the loss of use of the City's property.
14. As to acts or failures to act or any causes of action by any party to a contract, whether that party be the architect, owner, contractor, City, etc., a cause of action shall accrue according to Tennessee law. No contract provision shall shorten the statutes of limitations, statutes of repose, or the accrual of any causes of action which the City might have against another party or entity. No contract provision shall waive any warranties, express or implied, nor shall any contract limit the standard of care for any particular service or undertaking to that of the locality where those services or undertakings are performed.
15. Any interest to be paid by the City of Johnson City for late payments shall be at the rate of interest at which the City pays on its most recently issued bonds.
16. The City reserves to itself the right to approve the use of any tests, including but not limited to any borings, test pits, geotechnical work, environmental tests, and the like in its own sole discretion. All design professionals, consultants, subcontractors, or the like shall be duly licensed in the State of Tennessee, if licensure in the State of Tennessee is required for the work to be performed by such design professional, consultants, or subcontractors.
17. Notwithstanding any applicable choice of law or conflict of law provisions or decisions, the law of the State of Tennessee shall govern all contracts to which this document is attached.
18. The City of Johnson City shall not provide any legal advice, legal services, surveys, or procure the same for any other party.
19. Upon payment for services as rendered, all design documents and all instruments of service created by design professionals, including but not limited to architects, landscape architects, engineers, etc., shall become the property of the City of Johnson City, Tennessee. The City of Johnson City shall be allowed to use all design documents and instruments of service, including but not limited to bid drawings, shop drawings, reports, specifications, cost estimates, schematic designs, construction designs, and the like for future additions or alterations to the current project or for use in other projects. Any use of the aforementioned designs and construction documents shall be at the City's sole risk and without liability to the design professional. The design professional's name and seal will be removed from all such design documents prior to the City's use thereof.
20. No person or entity shall respond to a request for bid or request for proposal with any terms or conditions that might change, alter, amend, or differ with the specifications, terms, or conditions originally provided by the City in its initial request for bids or proposals.

October 5, 2009

INSURANCE CHECKLIST

(Water/Sewer - Engineering Design & Consulting Services)

REQUIRED COVERAGE (marked by "x") **MINIMUM LIMITS**

__X__1. Worker's Compensation **(proprietor/partners/executive officers exclusion not allowed)** . . . . . Statutory limits of Tennessee and Employer's Liability . . . . . $100,000/accident, $100,000/disease, $500,000/disease policy limit
__X__2. Commercial General Liability **(including Premises/Operations)** . . . . . $1,000,000 CSL BI/PD each occurrence, $1 Million annual aggregate
__X__3. Automobile Liability & Owned/Hired/Non-Owned Vehicles **. . . . . .** $500,000 BI/PD each accident, Uninsured Motorist
__X__4. Independent Contractors . . . . . $1,000,000 CSL BI/PD each occurrence, $1 Million annual aggregate
__X__5. Products/Completed Operations . . . . . .$1,000,000 CSL BI/PD each occurrence, $1 Million annual aggregate
__X__6. Contractual Liability . . . . . .$1,000,000 CSL BI/PD each occurrence, $1 Million annual aggregate
__X__7. Personal and Advertising Injury Liability . . . . . $1,000,000 each offense, $1 Million annual aggregate
_____8. Umbrella Liability . . . . . $1 Million Bodily Injury, Property Damage and Personal Injury
_____9. Per Project Aggregate
10. Professional Liability
__X__ a. Architects and Engineers . . . . . $1 Million per occurrence/claim
_____ b. Asbestos Removal Liability . . . . . .$2 Million per occurrence/claim
_____ c. Medical Malpractice . . . . . $1 Million per occurrence/claim
_____ d. Medical Professional Liability . . . . . $1 Million per occurrence/claim
_____11. Miscellaneous E & O . . . . . $1 Million per occurrence/claim
_____12. Motor Carrier Act End. (MCS-90) . . . . . $1 Million BI/PD each accident, Uninsured Motorist
_____13. Motor Cargo Insurance
_____14. Garage Liability . . . . . $1 Million Bodily Injury, Property Damage per occurrence
_____15. Garagekeepers Liability . . . . . $500,000 Comprehensive, $500,000 Collision
_____16. Inland Marine-Bailee's Insurance . . . . . $_____
_____17. Moving and Rigging Floater . . . . . Endorsement to CGL
_____18. Dishonesty Bond . . . . . $_____
_____19. Builder's Risk/Installation Floater . . . . . Provide coverage in the full amount of contract
_____20. XCU Coverage . . . . . Endorsement to CGL
__X__21. Carrier Rating shall be Best's Rating of B++V or better or its equivalent
__X__22. Notice of cancellation, non-renewal or material change in coverage shall be provided to City at least **30 days** prior to action. Worker's Compensation and/or non-payment of premium - notification may be **10 days** prior to action.
__X__23. The City of Johnson City shall be named as Additional Insured on all policies except Worker's Compensation, Auto and Professional Liability. ***Per Acord 25 (2009/01), policies must be endorsed; please submit copy of endorsement.*** (Cert. Holder: City of Johnson City, Attn: Purchasing, P.O. Box 2150, Johnson City, TN 37605.)
__X__24. Certificate of Insurance shall show project number or other contract identifier used by the City.
_____25. OTHER INSURANCE REQUIRED:_____

INSURANCE AGENT'S STATEMENT:

I have reviewed the above requirements with the bidder named below. The bidder has coverage with this agency for all of the areas marked with the exception of the following numbers:

_____ _____ _____ _____ _____ _____ **Comments:**_____

Is Professional Liability excluded under General Liability? Yes_____ No_____
Is Contractual Liability excluded under Comm. General Liability? Yes_____ No_____
Is Independent Contractors excluded under Comm. General Liability? Yes_____ No_____

Carrier ratings: Insurer A_____; Insurer B_____; Insurer C_____; Insurer D_____

AGENCY NAME: _____ AUTHORIZED SIGNATURE: _____

Date: _____

CONTRACTOR'S STATEMENT:

I have reviewed the above requirements with my insurance agent(s) and, if awarded a contract, will provide all coverage marked.

CONTRACTOR'S NAME: _____ AUTHORIZED SIGNATURE: _____

Date: _____

Bid Number: RFQ 5683

Bid or Project Name: Sanitary Sewer Support – Engineering Design & Consulting Services

This form and the General Contract Form must be signed and returned with the bid package (if applicable). The Certificate of Insurance must be provided to Purchasing prior to contract award.

GENERAL CONTRACT FORM

The General Contract Form is included in every solicitation requiring insurance. The general requirements of the contract form are supplemented by items checked on the Insurance Checklist that identify specific requirements for the bid or project.

INSURANCE

Review this section carefully with your insurance agent or broker prior to submitting a bid or proposal. See Insurance Checklist (part of the Bid Forms) for specific coverage applicable to this contract. The term "Contract" as used in this section shall mean the Agreement covering the work that is entered into between the City of Johnson City, Tennessee and the Contractor.

1. General Insurance Requirements:

1.1 The Contractor shall not start work under this contract until the Contractor has obtained at its own expense all of the insurance called for hereunder and such insurance has been approved by the City; nor shall the Contractor allow any subcontractor to start work on any subcontract until all insurance required of the subcontractor has been so obtained and approved by the Contractor. Approval of insurance required of the Contractor will be granted only after submission to the Director of Purchasing of original, signed Certificate(s) of Insurance, General Contract Form, and Insurance Checklist or, alternately, at the City's request, certified copies of the required insurance policies.

1.2 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Contractor, or the surety, or its bond, from any liability or obligation imposed upon either or both of them by the provisions of the Contract Documents.

1.3 The City of Johnson City (including its elected and appointed officials, agents, and employees) is to be named as an additional insured under all coverage except Worker's Compensation and Automobile Liability, and the Certificate of Insurance or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees. The following definition of the term "City" applies to all policies issued under the contract:

> "The City of Johnson City, Tennessee together with all of its various departments, bureaus, and agencies, as well as any affiliated or subsidiary board, committee, or authority, including but not limited to the Johnson City Public School System."

1.4 The contractor shall provide insurance as specified in the Insurance Checklist contained in this document.

1.5 The Contractor covenants to save, defend, hold harmless and indemnify the City of Johnson City, Tennessee together with its various departments, elected or appointed officials, employees, officers, counsel, agents, and any and all other persons or entities acting on behalf of the same (collectively the City) from and against any and all claims of any sort based upon any theory of liability whatsoever, for any and all harm, loss, damage, injury, cost (including court cost and attorney fees) charges, or other liability of any nature whatsoever, however caused, resulting from or arising out of or in any way connected with the contractors performance or non-performance of the terms of the contract documents or its obligations under the contract based upon any theory of liability whatsoever, including claims brought by third persons, and further covenants to discharge all of the aforesaid persons and entities and forever hold them harmless from the same. The foregoing obligation to indemnify and defend shall continue in full force and effect after the aforesaid contractor completes all of the work required under the contract, until such time as the applicable statues of limitation or repose have expired.

1.6 The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work, until final acceptance of the work by the City.

1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. If the Contractor fails to provide acceptable evidence of current insurance within ten days of written notice at any time during the Contract Term, the City shall have absolute right to terminate the Contract without any further obligation to the Contractor and the Contractor shall be liable to the City for the entire additional cost of procuring performance by another vendor and the cost of performing the incomplete portion of the Contract at time of termination. **Contractor** is required to provide the City with notice of cancellation, non-renewal, or material change in coverage at least thirty (30) days prior to cancellation, non-renewal, or material change in coverage."

1.8 Contractual and other liability insurance provided under this Contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the City from supervising or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors and any persons employed by the subcontractor.

1.9 Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the City. The Contractor shall be as fully responsible to the City for acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by the Contractor.

1.10 Precaution shall be exercised by the Contractor at all times for the protection of persons (including employees) and property. All existing structures, utilities, roads, services, trees and shrubbery shall be protected against damage or interruption of

service at all times by the Contractor and its subcontractors during the term of the Contract, and the Contractor shall be held responsible for any damage to property occurring by reason of its operation on the property.

1.11 If a Contractor can not meet the insurance requirements contained in a bid, proposal, or project description, alternate insurance coverage may be considered. Written requests for consideration of alternate coverage must be received by the Director of Purchasing at least ten working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternate coverage, the specified coverage will be required to be submitted. If the City permits alternate coverage, an amendment to the Insurance Requirement will be prepared and distributed prior to the time and date set for receipt of bids or proposals.

1.12 All required insurance coverage must be acquired from insurers authorized to do business in the State of Tennessee, and acceptable to the City. The insurers must also have policyholders' rating of "B++" or better, and a financial size of "Class V" or better in the latest edition of Best's Insurance Reports, unless the City grants specific approval for an exception in the same manner as described in 1.11 above.

1.13 The City may consider deductible amounts as part of its review of financial stability. The Contractor shall assume all deductibles.

2. <u>Contractor's Insurance – Occurrence Basis</u>:

2.1 The Contractor shall purchase the following insurance coverage, including the terms, provisions and limits shown in the Checklist:

- **Commercial General Liability** – The Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:

  i. General aggregate limit is to apply per project;

  ii. Premises/Operations;

  iii. Action of Independent Contractors;

  iv. Contractual Liability including protection for the Contractor from claims arising out of liability assumed under this contract;

  v. Personal Injury Liability including coverage for offenses related to employment;

  vi. Explosion, Collapse, or Underground (XCU) hazards.

- **Business Automobile Liability** including coverage for any owned, hired, or non-owned motor vehicles, Uninsured Motorists insurance, and Automobile Contractual Liability.

- **Worker's Compensation** – statutory benefits as required by the State of Tennessee, or other laws as required by labor union agreements, including standard Other States coverage; Employers' Liability coverage.

3. Commercial General or other Liability Insurance – Claims-made Basis:

If Commercial General or other liability insurance purchased by the Contractor has been issued on a claims-made basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described in the Checklist remain the same. The Contractor must either:

i. Agree to provide certificates of insurance evidencing the above coverage for a period of two years after final payment for the contract. Such certificates shall evidence a retroactive date, no later than the beginning of the Contractors or subcontractors' work under this contract, or

ii. Purchase an extended (minimum two years) reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

4. Alternative Coverage (Self Insurance)

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self insurance for all or any part of the insurance required, provided that the alternative coverage is acceptable to the City.

5. Limits of Liability Coverage

Specific limits of liability coverage on the Insurance Checklist may be adjusted according to project risk if the adjustment is deemed appropriate and the amended amount is approved by the City Manager.

6. Verification of Compliance

I have read this General Contract Form and agree to all the terms and conditions contained therein.

Contractor's Name: _____

EIN or SSN: _____

Signed by: _____

Title: _____

Date: _____

This form and the Insurance Checklist must be completed and returned with Certificate of Insurance, as specified, prior to contract award.

CITY OF JOHNSON CITY, TENNESSEE

BID/PROPOSAL
GENERAL TERMS AND CONDITIONS
(Read Carefully)

1. PREPARATION OF BIDS/RFP'S
Only bids submitted on forms furnished by the city will be considered. Bids on company letterhead or quotation sheets will be judged non-responsive. TELEPHONE OR FACSIMILE BIDS WILL NOT BE ACCEPTED. Electronic receipt of bids/proposals is acceptable for those posted at: ***https://purchasing.johnsoncitytn.org/bso***. **Paper bids shall be sealed in an envelope.** No bid received after closing time shall be considered. The official time for paper bids will be that of the date and time clock in the Purchasing Department. For electronic bids the official time is that posted on the website. Late bids will not be accepted. The City of Johnson City shall not be responsible for technical difficulties experienced by vendors trying to register or submit their bid/rfp response electronically less than one hour prior to the bid/rfp opening time. If not offering a bid/proposal response, the vendor is encouraged to complete the "Statement of Decline" form and return prior to solicitation opening.

2. SIGNATURE ON BIDS
When submitting a bid, other than electronically, the bid form must contain the full name and address of the company and be signed in Ink by a person authorized to bind that company to a contract. Submission of an electronic solicitation constitutes acceptance of all terms and conditions. Unsigned paper bids will not be considered, read or tabulated. They may not be signed during or after the bid opening, even if a representative is present.

3. PRICING
All pricing must appear in the spaces provided on the city's form (if applicable) and be in ink or typed. Changes or corrections by the bidder/proposer must be initialed in ink by the person signing. No corrections may be made in pencil. Unit prices will prevail in case of an extension error. The City will correct math computation errors (unit price & totals). No bid may be altered or amended after bid opening time. Obvious mistakes will be given special consideration upon receipt of written request and full disclosure or evidence regarding pricing error.

4. BID/RFP OPENINGS
Bids/RFP's (paper & electronic) will be read aloud at the specified date and time as stated in the document. All openings are public meetings. All bidders/proposers and interested persons are invited to attend. The City reserves the right to postpone any bid/rfp opening under circumstances warranting such action, including but not limited to instances when the City receives fewer than two responses.

5. EXAMINATION OF BIDS/RFP'S
Bids/RFP's and associated documents may be examined at the opening. They are closed for review and inspection during the evaluation period prior to award.

6. COOPERATIVE PURCHASING:
Bidders/Proposers are to indicate whether it is permissible for other governments in Tennessee to purchase these items or services at the same price. Freight charges can be adjusted to reflect differences in delivery costs.

7. BID TABULATIONS/RFP RESPONSES
Bid tabulations and RFP respondent's lists will be posted and available the next business day on our website: http://www.johnsoncitytn.org then select Purchasing Department, Current Bid/Notices.

8. MULTIPLE ITEM BIDS
The City will determine the successful bidder(s) either on the basis of the individual line items or the total of all items. ALL OR NONE bids must be clearly identified on the bid form and will be considered only if in the City's best interest.

9. BID/RFP EVALUATION
Bids/RFP's will be evaluated according to the criteria set forth in the document with the degree of importance determined by the City.

10. ACCEPTANCE, REJECTION AND POSTPONEMENT
Issuance of a bid/rfp does not commit the City to make an award. The City reserves the right to postpone or reject any or all bids/rfp's, to waive informalities and to accept the bid/rfp judged to be in the best interest of the City.

11. AWARD
An award, if made, shall be to the lowest responsible, responsive bidder(s) or best proposal meeting quality and performance standards as described in the solicitation documents and whose bid/rfp is determined to be in the best interest of the City.

12. AWARD PERIOD
The City shall have 60 days to issue a contract. Any contract past that period must be mutually agreed upon by both parties.

13. FOB POINT
All prices quoted shall be FOB delivered to the using department, City of Johnson City, TN unless otherwise stated in the solicitation document. Risk of loss and/or damage shall be upon the Seller until such time as the goods have been physically delivered and accepted by the City.

14. DISCOUNT AND PAYMENT
Payment terms are Net 30 following receipt of the material or service and a correct invoice unless otherwise stated in the solicitation document. Discounts for prompt payment will not be considered in the bid evaluation for award. Partial payment will be allowed only if addressed in the solicitation.

15. TAXES
The City is exempt from Federal excise tax, State, and city sales tax. Contractors are not exempt from the use tax on materials and supplies used in the production of an item or in the performance of a repair or construction contract. Tax exemption certificates will be furnished upon request.

16. TERM OF CONTRACT
Unless otherwise stated, the City reserves the right to purchase like items at the same contract price for a period of one year from the award date subject to agreement of both parties. The City may cancel any contract for cause following written notification of intent.

17. ORAL INSTRUCTIONS
No oral interpretations or instructions given by any city employee or any other person shall apply. Changes relative to any solicitation will be in writing to all known interested parties and posted on the City's website. These addendums will originate either from the Purchasing Department or the issuing Architect.

18. DELIVERY
Delivery/completion schedule must be clearly identified and realistically stated, as this may be a determining factor in the award.

19. SAFETY STANDARDS
All manufactured items and fabricated assemblies shall comply with applicable requirements of OSHA and any related standards thereto.

20. BRAND NAMES

By referencing a brand name or equal, the City intends to establish a minimum level of quality by which alternate offers can be judged. If an alternate is offered, the vendor must include complete descriptive literature and specifications that clearly describe the item and how it differs from the referenced item. Vendor reference to literature previously submitted will not satisfy this provision. Unless specified otherwise, it is understood that the referenced product will be furnished. The City alone will determine whether an alternate is equivalent and meets the standards of quality and performance for the City's use. A sample or demonstration may be required at the expense of the vendor.

21. EQUAL OPPORTUNITY

It is the policy of the City of Johnson City to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, Part 21; related statutes and regulations to that end that no person shall be excluded from participation in or be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or any other funding source on the grounds of race, color, sex, national origin, or ancestry. By virtue of submitting a response to this solicitation, vendors agree to comply with the same non-discrimination policy.

22. SAMPLES

Samples will be furnished at no charge to the City. They will remain in the Purchasing Department for testing and evaluation until an award is made. Vendors are responsible for picking up their samples within two (2) weeks after the award. Samples not collected after that time shall become the property of the City. Samples from the successful vendor will be held until delivery is received and accepted as being equal to the sample.

23. CONDITION STANDARDS

It is understood and agreed that any item offered or shipped as a result of this solicitation shall be new and unused and the manufacturer's latest model unless otherwise called for in the solicitation.

24. INSPECTION

All supplies or materials purchased as a result of this solicitation are subject to inspection and rejection by the City. Rejected materials will be returned at the vendor's expense.

25. PARTS AND SERVICE

The successful vendor must be able to provide adequate parts and service for all items awarded. Service location and ability to perform may be a consideration in the award.

26. WARRANTY

Unless otherwise specified by the City, all items shall be guaranteed for a minimum period of one (1) year against defects in material and workmanship.

27. LICENSES, FEES, PERMITS

The contractor is responsible for furnishing the proper licenses, fees, and permits required by law to do business with the City of Johnson City in completion of the project. All work shall be done in accordance with the latest building codes, state and federal laws relative to public works contracts.

28. INSURANCE

The contractor shall maintain, at his expense, such insurance as will protect him from claims under Worker's Compensation Act and from claims of damages because of bodily injury, including death and damage to the property of others and claims for damages which may arise during operations under this contract whether such operations be by himself or by any subcontractor of anyone directly or indirectly employed by either of them. Any required insurances shall be maintained for the term of the contract.

29. INDEMNIFICATION

The vendor shall guarantee and certify by submitting a response to this solicitation that if successful, they shall indemnify and defend the City against any and all claims or legal actions arising as a result of their performance of the contract, whether or not such claims relate to damages or alleged damages sustained by physical injury to contractors personnel, subcontractors, city employees or other persons, or against any lawsuits arising from alleged or actual patent infringements, and shall hold the City, its various departments, employees, and any and all persons or entities acting on its behalf harmless from the same.

30. DEFAULT

In case of contractor default or failure to provide material or service according to the solicitations, the City may cancel this contract and acquire from another source and may recover any excess cost by (1) invoice; (2) deduction from an unpaid balance due; (3) collection against the bid and/or performance bond; or (4) a combination of the aforementioned remedies or other remedies provided by law. All costs associated with default will be borne by the contractor. The City reserves the right to remove a company in default from the active vendor list for a time period to be determined by the Director of Purchasing.

31. PENALTIES

Vendors may be removed from our active vendor system for any of the following:

- Failure to respond to three consecutive solicitations
- Failure to meet delivery requirements
- Failure to furnish items as a result of a solicitation
- Failure to provide service or material as a result of the award
- Offers of gratuities or favors to any City employee

32. NON-COLLUSION AGREEMENT

By submitting this solicitation, the agent representing all officers, partners, owners, representatives, employees or interested parties of the vendor's firm certifies to the best of his/her knowledge and belief this bid/proposal to the City of Johnson City, Tennessee has not been prepared in collusion with any other seller, proprietor, or manufacturer of similar products or services. The agent also certifies that the prices, terms and conditions of said bid/proposal have been arrived at independently and have not been communicated by the submitter, nor by any of the aforementioned firm associate to any other seller, proprietor, or manufacturer of similar products or services and will not be communicated prior to the official opening of said solicitation. The agent further states that no official or employee of the City of Johnson City has promised any personal, financial or other beneficial interest, either directly or indirectly, in order to influence award of this solicitation.

STATEMENT OF BID/RFP DECLINE
City of Johnson City, Tennessee

NOTE: **If you do not intend to respond to this solicitation, complete and return this form on or before the stated deadline to Purchasing Department, P. O. Box 2150, Johnson City, TN 37605 or via facsimile 423/975-2712.**

We value your feedback and ask that you complete the following:

Bid/RFP No. # _____
Bid/RFP Name _____

We, the undersigned, decline to submit on the above bid/proposal for the following reason(s):

_____ **Insufficient time to adequately prepare a response**

_____ **Our company does not offer this product or service. Remove us from the vendor list**

_____ **Our schedule will not permit us to perform in a timely manner**

_____ **We are unable to meet bond requirements**

_____ **We are unable to meet insurance requirements**

_____ **We are unable to offer comparable product or service**

_____ **We are unable to meet specifications (explain below)**

_____
_____
_____
_____

We understand that if this statement is not completed and returned, our company may be deleted from the City's solicitation list for this commodity or service.

Company Name: _____
Address: _____
_____
Signature: _____
Telephone: _____
E-mail: _____
Date: _____