

# **REQUEST FOR PROPOSAL**

## **COMPREHENSIVE AQUATICS FACILITY FEASIBILITY STUDY**

**City of Johnson City, TN**

**RFP # 6745**



**Proposal Due Date/Time**

***February 20, 2024***

**2:00 pm ET**

City of Johnson City  
Purchasing Department  
209 Water Street  
Johnson City, TN 37601

# RFP# 6745 – Aquatics Facilities Feasibility Study

## BACKGROUND AND PURPOSE

The City of Johnson City, TN features three different aquatics facilities, none of which complement one another to provide a well-rounded swimming experience for the community. Two of these facilities suffer from structural leaks and/or plumbing issues due to their age and lack of regular maintenance over their 49 to 64 year service life. Through community input sessions during the 2023 master planning process, it was identified that upgrading our Aquatics operations to include better recreational and competitive swimming opportunities was the number one priority. The City has a current population of 72,000 residents.

Freedom Hall Pool is a six-lane, 25-meter pool with a depth range of two and a half feet to ten feet. It features a low diving board and an offset shallow area. This facility is not adequate for the competitive aquatics needs of the community. Although it is used by the Science Hill High School swimming and diving team and the Barracudas Swim Club; it does not meet the current preferred standard length for competitive swimming of 25 yards or the proper depth for competitive diving due to the limited 10-foot depth. This facility was built in 1974 and the plumbing, specifically the returns and one of the two main drains are in disrepair. The facility as designed is best suited for learn-to-swim classes, lifeguard training, and lap swimming. Freedom Hall Pool operates year-round.

Legion Street Pool is a six-lane, 50-meter outdoor pool with a depth range of two and a half feet to 12 feet. It features a low diving board in the 12-foot diving well and a 25-meter cross-section. There are no starting blocks for competitive swimming or backstroke flag poles. This facility was built in 1959 and leaks a significant volume of water daily due to plumbing and structural leaks. There are no additional recreational features at this facility. It operates for 3 months out of the year and is best suited for recreational open swimming.

Memorial Park Community Center features three pools. A six-lane, 25-yard lap pool which is primarily used for lap swimming and water aerobics, a warm water therapy pool, and a warm water teaching pool for learn-to-swim classes. There are no starting blocks at this facility for competitive swimming and deck space is limited. This facility was built in 2012 and has been well maintained. Memorial Park Community Center is best suited for learn-to-swim classes, aerobics classes, warm water therapy, and lap swimming.

## PROJECT OBJECTIVE

The City of Johnson City, TN (“City”) is seeking proposals from qualified firms to complete a study to analyze the feasibility of building a new comprehensive aquatics facility to address the outdated and failing infrastructure of our existing aquatics operation in order to serve the growing competitive and recreational aquatic needs of the citizens in City of Johnson City. The study should contain a market analysis of local and regional demographics to identify existing and potential users. The study shall also include facility design concept and indicate operational costs, programming analysis, and a minimum of a three-year pro forma budget. Proposals shall include an estimated time frame to complete the assessment and provide a final report. More specifically, the feasibility study shall include all of the following elements:

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## **Section I: Scope of Services**

### ***A. Market Analysis***

The feasibility report shall include a demand analysis to determine whether there is sufficient need in the geographic area to construct a new comprehensive competitive and recreational aquatics facility. This analysis shall include a review of aquatic programming capacity in existing pool facilities within our aquatics operation as well as the surrounding geographic area. The study shall also include an analysis of local and regional demographics of the City of Johnson City to identify future potential pool users. The report shall also include the amount of anticipated revenues to be made from operating a new comprehensive competitive and recreational year-round facility.

### ***B. Operational Design, Location Options, and Cost Estimate***

The feasibility study shall include a plan to address the growing needs of the City of Johnson City through the development of a comprehensive aquatics facility that serves both competitive and recreational needs. It should also include potential locations and a cost estimate. The cost estimate shall include costs for the construction of a new facility, as well as the cost to acquire property if the City of Johnson City does not currently own potential locations. The costs shall also include the service life of the structure and a schedule of replacement costs.

### ***C. Financial Analysis***

This feasibility study shall include a minimum of a three-year pro forma operating budget. The budget shall include all facility operational and maintenance costs. Operational costs shall include programming costs such as staffing and equipment.

## **Section II: Submission of Proposals**

### **Proposal Submission:**

Proposers must submit a complete response to this RFP using the format provided. Proposer can submit electronically per link below or place submittal response in a sealed envelope plainly identified on the outside with vendor name and proposal name and number. If submitting paper copies, submit 4 color copies of entire response. **Note that the cost proposal form shall be submitted separately either as a separate electronic file (if submitting electronically) or in a separate envelope (if submitting paper copies).** Vendor responsible for delivery to Johnson City Purchasing Dept., Debbie Dillon- Director, 209 Water Street, Johnson City, TN 37601 on or before proposal deadline.

***[ELECTRONIC RESPONSES: CLICK HERE](#)***

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A list of respondents will be available the following business day at 8:00 a.m. on the Johnson City Purchasing website:

[https://www.johnsoncitytn.org/government/departments\\_and\\_divisions/purchasing.php](https://www.johnsoncitytn.org/government/departments_and_divisions/purchasing.php). Late submittals will not be considered. Telephone, facsimile or emailed offers will not be accepted.

Submittals must be signed by the agent authorized to bind the Proposer to its provisions. Unsigned offers will not be accepted and will be declared non-responsive. Electronic signatures are acceptable.

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

This request for proposal will neither commit the City to commence the award, nor in any way limit the discretion of the City in selecting a proposal.

Proposals shall remain valid for a period of at least ninety (90) days.

Solicitations will be opened publicly via a web conference and in-person, simultaneously.

Join Zoom Meeting:

[RFP# 6745 AQUATICS FACILITIES FEASIBILITY STUDY VIRTUAL PROPOSAL OPENING](#)

Meeting ID: 821 6839 8680

Passcode: 559496

If you do not have access to a webcam, or you have no audio with your system, you may call this number to join: (646) 518-9085. Any issues accessing the Zoom web meeting, please call (423) 975-2715 for assistance.

### **Section III: Content of Proposals**

Each proposal submitted to the City shall include, without limitation, the following information:

- A. Introduction and Description of Company  
Provide a letter of introduction with a brief description of your firm, indicating the location of the primary office for the performance of the study, the type of firm, areas of specialization, project lead, and any staff members who would participate in the analysis, meetings, and report.
- B. Proposed Work Plan  
Provide a detailed description of your firm's approach to providing the requested scope of services.

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### C. Timeline

Provide a proposed, detailed timeline outlining how much time the study will take and when you could complete the various phases.

### D. Budget

Detailed budget breakdown should be included as a lump sum. The City is exempt from all Federal and State taxes; proposals must quote prices that do not include sales tax.

### E. Key Personnel

Include the biographies of personnel who will work on the project and indicate what their roles will be. Provide a description of your firm's organization, team makeup, principals, associates, and other key staff proposed to provide services to the City of Johnson City and indicate how their skills and experience will be relevant to the project.

### F. Detailed Experience and References

Describe past projects that are similar to the proposed project that the company has completed. All proposals must include a completed copy of the enclosed reference sheet.

## **Section IV: Evaluation of Proposals and Selection Process**

Award of the consulting services will be based on the qualifications of the firm in consideration of the following factors:

1. Experience and Technical Expertise (20 points)
2. Availability of Qualified Personnel (20 Points)
3. Ability to Successfully Oversee Projects (20 points)
4. Record of Success on Similar Projects (20 points)
5. Familiarity with the Community's Improvement Needs (20 points)

The evaluation committee will evaluate proposals and will grade and rank all proposals with respect to the criteria set forth in the Request for Proposals, each Proposer's references, past project experience, and the proposed fee. The City will then select the top preferred Proposer, with whom a contract, on a form to be provided by the City, will be negotiated. The City Commission has the ultimate authority to approve any proposal and to authorize execution of the negotiated contract.

Consideration for award will go to the firm which demonstrated that it possesses the qualifications, experience and capability of fulfilling the requirements of the scope of the project as outlined in this RFP. Such determination will be made in the sole judgment of the City.

The City reserves the right to cancel this RFP, reject any or all proposals and to waive informalities, irregularities, and technicalities in the proposal process, determine the proposal that is best suited and most qualified to perform the work outlined in the RFP, supplement, amend or otherwise modify this RFP, issue additional solicitations for information and proposals and check references and qualifications for each proposal respondent;

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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.

### **Section V: Proposal Instructions**

#### Contacts:

Questions or requests for additional information should be directed to : Sam B. Miller III, Assistant Director, Parks and Recreation, 423.283-5820; sammiller@johnsoncitytn.org. Submittal questions please contact Debbie Dillon, Director of Purchasing, 423.975.2717, ddillon@johnsoncitytn.org.

Questions must be received by 4:00pm ET on February 6, 2024. All questions and responses will be compiled and submitted to all known potential respondents via an addendum by February 13, 2024 and posted on the City's Purchasing website at [www.johnsoncitytn.org/purchasing](http://www.johnsoncitytn.org/purchasing) .

#### Incurring Costs:

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

#### Withdrawal of Proposals:

#### Requirements for Bids, Request for Proposals, and Contracts....:

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.

#### Economy of Preparation:

Proposals should be prepared simply and economically, providing a straightforward and complete description of services, qualifications, cost range and associated options to meet city's requirements as outlined in this document. Emphasis should be on completeness and clarity of content. Proposal responses must include all requested information.

#### Proprietary/Confidential Information:

Proposers are hereby notified that all information submitted as part of, or in support of, proposals will be available for public inspection after opening of proposals in compliance with City Policy and Tennessee Statute.

#### Addenda:

In the event it becomes necessary to revise any part of this RFP, addenda will be provided from the City's Purchasing Department, in writing, to all known interested vendors who received the original proposal document. Any verbal communications are not binding

#### Rights and Options of City of Johnson City:

The City reserves the following rights and options:

- Determine those proposers who are most qualified;

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- Reject any or all proposals for any reason, waive irregularities in any proposal at its sole discretion Reject any or all Proposals, waive irregularities in any Proposal, accept or reject all or any part of any Proposal, waive any requirements of the Request, at its sole discretion and as may be deemed to be in the best interest of the City;
- Extend or otherwise revise the timeline for submittals;
- Supplement, amend, or otherwise modify this RFP;
- Request clarification and/or additional information from Proposers at any point in the Procurement process;
- Cancel this RFP with or without the submission of another RFP; and
- Issue additional solicitations for information and proposals, and conduct investigation's with respect to the qualifications of each respondent.

### Proposal Withdrawal:

Proposals may be withdrawn upon written request to the Purchasing department prior to the date and time of formal opening of all proposals.

### Insurance:

The attached Insurance Checklist (which includes a section for the Insurance agent to fill-out) and General Contract Form must be completed and returned with the proposal package. Successful vendor shall provide certificate of insurance, as specified, prior to contract award

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### PROPOSAL SUBMITTAL FORM

The Proposer certifies by signing this Proposal that to the best of his/her knowledge and belief this proposal to the City of Johnson City, Tennessee has not been prepared in collusion with any other person or agent. The offeror also certifies that the prices, terms and conditions of said proposal have been arrived at independently and have not been communicated by the undersigned to any other seller, proprietor or agent of similar services and will not be communicated prior to the official receipt date and time of this proposal. The offeror 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 a Contract.

The undersigned also declares that they have carefully examined the scope of work relating to the service herein referred to, and fully understands the nature of the obligations proposed.

LUMP SUM FEE \$ \_\_\_\_\_ (provide a detailed breakdown)

Company: \_\_\_\_\_

By: \_\_\_\_\_  
(signature of authorized agent)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Website: \_\_\_\_\_

Date: \_\_\_\_\_

**PROPOSAL MUST BE SIGNED AND RETURNED TO BE VALID**

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### **PROPOSAL COST FORM THIS FORM MUST BE SUBMITTED SEPARATELY**

The Proposer certifies by signing this Proposal that to the best of his/her knowledge and belief this proposal to the City of Johnson City, Tennessee has not been prepared in collusion with any other person or agent. The offeror also certifies that the prices, terms and conditions of said proposal have been arrived at independently and have not been communicated by the undersigned to any other seller, proprietor or agent of similar services and will not be communicated prior to the official receipt date and time of this proposal. The offeror 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 a Contract.

The undersigned also declares that they have carefully examined the scope of work relating to the service herein referred to, and fully understands the nature of the obligations proposed.

**LUMP SUM FEE \$ \_\_\_\_\_ (provide a detailed breakdown with any/all options listed).**

Company: \_\_\_\_\_

By: \_\_\_\_\_  
(signature of authorized agent)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Website: \_\_\_\_\_

Date: \_\_\_\_\_

**COST PROPOSAL MUST BE COMPLETED AND RETURNED SEPARATELY  
TO BE VALID**

# INSURANCE CHECKLIST

(Consultant Services – Aquatics Feasibility Study)

## REQUIRED COVERAGE (marked by "x")

## MINIMUM LIMITS

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
2. Commercial General Liability (including Premises/Operations) ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
3. Automobile Liability & Owned/Hired/Non-Owned Vehicles ..... \$500,000 BI/PD each accident, Uninsured Motorist
4. Independent Contractors ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
5. Products/Completed Operations ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
6. Contractual Liability ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
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
- 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 / Professional Liability ..... \$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
21. Carrier Rating shall be Best's Rating of B++V or better or its equivalent
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.
23. The City of Johnson City shall be named as Additional Insured on all policies except Worker's Compensation and Professional Liability. **Per Acord 25 (2009/01), policies must be endorsed to incl. on-going & completed operations; must submit copy of endorsement(s).** (Cert. Holder: City of Johnson City, Attn: Purchasing, P.O. Box 2150, Johnson City, TN 37605. Email: purchasing@johnsoncitytn.org.)
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: \_\_\_\_\_ AUTHORIZED (Printed): \_\_\_\_\_

Bid Number: \_\_\_\_\_

Bid or Project Name: \_\_\_\_\_

**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.**

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## 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 Professional 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 City of Johnson City, Dept. of Education (A.K.A “Johnson City Schools”).”

**1.4** The contractor shall provide insurance as specified in the Insurance Checklist contained in this document. In the event that Contractor obtains insurance coverage that is broader than the minimum required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits and any excess or umbrella coverages.

**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 statutes 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. Contractor's Insurance – Occurrence Basis:**

**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.
- **Professional Liability/Miscellaneous Errors and Omissions** insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render, professional services under the contract, in the amount shown in the Checklist.
- **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 three years for Professional Liability; two years for CGL and other Liability, 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 three years for Professional Liability; two years for CGL and other Liability) 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: \_\_\_\_\_

Authorized Representative (Printed): \_\_\_\_\_

Authorized Representative (Signature): \_\_\_\_\_

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**  
<http://www.johnsoncitytn.org/purchasing>  
**SEALED SOLICITATION**  
**GENERAL TERMS AND CONDITIONS**

**Read Carefully – if applicable or unless specifically noted otherwise in the solicitation documents**

**1. ACCEPTANCE, REJECTION AND POSTPONEMENT**

Issuance of a bid/rfp/rfq does not commit the City to make an award. The City reserves the right to postpone or reject any or all bids/rfps/rfqs, to waive informalities and to accept the bid/rfp/rfq judged to be in the best interest of the City. Any document superfluously provided and not requested in the solicitation document may not be considered.

**2. ADDENDA**

Addenda will be issued to all known interested parties and posted on the City's website (listed above). All addenda issued shall become part of the solicitation documents. It is the vendor's responsibility to determine and acknowledge all addenda issued for a solicitation. No addendum will be issued less than two (2) working days prior to the solicitation opening as per TCA, Title 12, Chapter 4, Part 1, as amended

**3. AWARD**

An award, if made, shall be to the lowest responsible, responsive bidder(s) or best solicitation 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. This includes value engineering with the low bidder if cost is over budget. The City also reserves the right to award this product/service based on other contracts in-place (state or cooperative contracts), as may be in our best interest.

**4. 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.**

**5. BID TABULATIONS/RFP/RFQ RESPONSES**

Bid tabulations and RFP/RFQ respondent's lists will be posted and available the next business day on our above website. Click on "awarded/opened solicitations".

**6. BRAND NAMES**

By referencing a product or service name as "or approved 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.

**7. 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.

**8. CONSTRUCTION DOCUMENTS**

If a fee is required for bid documents then only those bidders of record with the issuing office are eligible to bid.

**9. DEFAULT**

In case of contractor default or failure to provide material or service according to the solicitation, 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.

**10. DELIVERY**

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

**11. 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.

**12. 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.

**13. EVALUATION**

Bids/RFPs/RFQs will be evaluated according to the criteria set forth in the document with the degree of importance determined by the City.

**14. EXAMINATION OF BIDS/RFPs/RFQs**

Bids and associated documents may be examined at the opening. Only the name of the respondent is read aloud for RFPs/RFQs. All solicitations are closed for review and inspection during the evaluation period, prior to award.

**15. FOB (FREE-ON-BOARD) POINT**

All prices quoted shall be FOB destination, freight prepaid and allowed unless otherwise stated in the solicitation document. The seller pays and bears the freight charges and owns the goods while they are in transit. Title passes at the designated City location.

**16. 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.

**17. 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.

**18. INSURANCE**

The contractor shall maintain, at their expense, such insurance as required by the solicitation. Such insurance shall protect the City for claims of damages which may arise during operations under this contract whether such operations be by the Contractor or by any subcontractor or anyone directly or indirectly employed by either of them. Any required insurances shall be maintained for the term of the contract and beyond the term of the contract when so required in the solicitation.

**19. IRAN DIVESTMENT ACT**

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 City of Johnson City; if a person ceases its engagement in investment activities in Iran, it may be removed from the list. The State of Tennessee list is available here: <http://tennessee.gov/generalservices/article/Public-Information-library>

**20. 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 the contract.

**21. 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.

**22. NON-BOYCOTT OF ISRAEL ACT**

Pursuant to the Non-Boycott of Israel Act Tenn. Code Ann. § 12-4-119 requires that contracts of \$250,000+ to suppliers with 10 or more employees must certify that to the best of its knowledge and belief they are not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not during the full term of any award.

**23. 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.

**24. 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.

**25. 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

**26. PRE-BID MEETING ATTENDANCE**

If attendance is mandatory then only those firms whose names are listed on the pre-bid attendance roster are eligible to submit a solicitation.

**27. 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.

**28. PROPRIETARY/CONFIDENTIAL INFORMATION**

Vendors are hereby notified that all information submitted as part of, or in support of, bids/proposals will be available for public inspection after award, in compliance with Tennessee Statutes unless the vendor additionally identifies a specific area or scope of data or other materials to be protected and details the reasons protection is necessary.

**29. PROTEST PROCEDURE**

Any protest to the award of a contract by the City of Johnson City shall be submitted in writing to the Director of Purchasing with a copy to the City Manager and delivered not later than seven (7) calendar days from the date of the city's award decision. Such protest must include a protest bond in the amount of \$350 (cashier's check payable to the City of Johnson City) submitted to the Purchasing Director before the City will consider the protest. This protest bond will serve as a guarantee by the protester of the validity and accuracy of the protest. If the protest is denied by the City Manager the bond will be retained to cover costs associated with the protest.

**30. QUESTIONS**

Questions must be received by the City at least four (4) working days prior to the scheduled opening. 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, in the form of an addendum.

**31. SAFETY STANDARDS**

All manufactured items and fabricated assemblies shall comply with applicable requirements of OSHA/TOSHA and any related standards thereto.

**32. 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.

**33. SEALED SOLICITATION OPENINGS**

Bids will be read aloud at the specified date and time as stated in the document. RFP's/RFQ'S respondent names will be read aloud. All openings are public meetings. Bidders/proposers and interested persons are invited to attend. The City reserves the right to postpone any solicitation opening under circumstances warranting such action, including but not limited to instances when the City receives fewer than two responses.

**34. 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.

**35. SUBMITTAL OF SEALED BIDS/RFPS/RFQS**

Any forms furnished by the city must be completed and returned as specified in the solicitation, otherwise response will be considered as non-responsive. TELEPHONE, FACSIMILE OR E-MAIL RESPONSES WILL NOT BE ACCEPTED. Electronic receipt of bids/proposals is acceptable for those **eligible for online submittal** at: <https://vrapp.vendorregistry.com/Vendor/Register/Index/johnson-city-tn-vendor-registration>. **Paper submittals shall be sealed in an envelope.** No solicitation received after closing time shall be considered. The official time for paper submittals 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 submittals 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 solicitation response, the vendor is encouraged to complete the "Statement of Decline" form and return prior to the opening.

**36. 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.

**37. 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, or non-appropriation of funds, following written notification of intent.

**38. 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.

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 or limit 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 with or

without cause. In the event the City terminates with or 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 with or 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. The City, as the owner of real property that is the subject of or in any way connected to any bid, request for proposal, or contract, hereby grants to the successful bidder/proposer/contractor the general management of the real property during the time that work is being performed, and the City agrees to transfer information specified in OSHA regulations at 29 CFR §1926.1203(h)(1), so that TOSHA/OSHA shall treat the successful bidder/proposer/contractor as the host employer when working in confined spaces. This paragraph applies only to those areas where the successful bidder/proposer/contractor has access to and performs work within confined spaces as defined in federal OSHA regulations. The successful bidder shall comply with all federal OSHA and state TOSHA regulations, including those regarding confined spaces.

September, 2017



# STATEMENT OF SOLICITATION DECLINE City of Johnson City, Tennessee

**NOTE:** If you do not intend to respond to this solicitation, please complete and return this form on or before the stated deadline to Purchasing Department, 209 Water Street, Johnson City, TN 37601 or via e-mail: [purchasing@johnsoncitytn.org](mailto:purchasing@johnsoncitytn.org) . If you do not offer this product/service please remove from your vendor profile.

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

Solicitation No.: # \_\_\_\_\_

Solicitation Name: \_\_\_\_\_

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

- \_\_\_\_\_ Insufficient time to adequately prepare a response
- \_\_\_\_\_ Our company does not offer this product or service.
- \_\_\_\_\_ 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: \_\_\_\_\_