

## Request for Quotation 883487

Title **Strategic Plan for Sidewalks and Bikeways Plan**  
 Preview Date **25-NOV-2015 10:22:17**      Open Date **25-NOV-2015 10:22:17**  
 Close Date **18-DEC-2015 13:00:00**      Award Date **Not Specified**  
 Time Zone **Central Time**

*Please submit your response to:*

Company **Metro Govt Of Nashville and Davidson County**  
 Buyer **TROUP, TERRI**  
 Location **Metro Govt Of Nashville and Davidson County**  
 Phone **Not Specified**  
 Fax  
 Email **Terri.Troup@nashville.gov**

*When submitting your response, please include the following information.*

Your Company Name	
Address	
Contact Details	
Response Valid Until	

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## 1 Header Information

### 1.1 General Information

Title	<b>Strategic Plan for Sidewalks and Bikeways Plan</b>		
Description	<b>Strategic Plan for Sidewalks and Bikeways Plan</b>		
Preview Date	<b>25-NOV-2015 10:22:17</b>	Open Date	<b>25-NOV-2015 10:22:17</b>
Close Date	<b>18-DEC-2015 13:00:00</b>	Award Date	<b>Not Specified</b>
Time Zone	<b>Central Time</b>	Buyer	<b>TROUP, TERRI</b>
Quote Style	<b>Sealed</b>	Email	<b>Terri.Troup@nashville.gov</b>
Outcome	<b>Contract Purchase Agreement</b>		

### 1.2 Terms

Effective Start Date	<b>Not Specified</b>	Effective End Date	<b>Not Specified</b>
Ship-To Address	<b>1 METRO SITE LOCATION   1590 1 METRO SITE LOCATION   1590 REFERENCE ADDR IN SOLICITATION United States</b>	Bill-To Address	<b>BILL TO: METRO PAYMENT SERVICES BILL TO: METRO PAYMENT SERVICES PO BOX 196301 NASHVILLE, TN 372196301 United States</b>
Payment Terms	<b>Net 30</b>	Carrier	
FOB	<b>Delivery</b>	Freight Terms	<b>Supplier Prepaid</b>
Currency	<b>USD (US Dollar)</b>	Price Precision	<b>Any</b>
Total Agreement Amount (USD)	<b>Not Specified</b>		

### 1.3 Requirements

<b>RFQ Solicitation A&amp;E (Selection) Method</b> <b>Request for Qualifications for A&amp;E Firms</b> <p>Pursuant to § 4.08.080 M.C.L., this solicitation document serves as the written determination of the Purchasing Agent, that this is a solicitation for qualified A&amp;E firms. Contracts for professional services, including architectural and engineering services, are awarded on the basis of recognized competence and integrity. The Purchasing Agent has secured the approval of a Review Board to conduct evaluations. The proposal process, the solicitation flexibility, and its limitations are governed by the Metro Code and related Procurement Regulations.</p> <p>Offers to Metro online solicitations are required to be submitted within the iSupplier online environment unless otherwise stated. Hard copy offers <b>will not</b> be considered except as required by law.</p> <p>Any response to this solicitation is a <b>formal waiver of any claims of confidentiality</b> regardless of what may be stated, printed, or implied in the submission and/or attachments submitted. All information is made a <b>Public Record</b> after an award is made.</p> <p>The only official position of Metro is found within this solicitation including answers provided in response to questions raised. The online discussion tool within iSupplier is the appropriate tool for all questions or communications concerning this solicitation.</p> <p>.....</p> <p>Type <b>No Response Required</b></p> <p><b>Solicitation Objective</b></p> <p>The objective of this solicitation is to enter into an indefinite delivery/indefinite quantity (IDIQ) contract.</p> <p>.....</p> <p>Type <b>No Response Required</b></p> <p><b>Solicitation Scope</b></p> <p><b>Scope Summary</b></p> <p>The Metropolitan Government of Nashville and Davidson County (Metro) is seeking qualifications from consulting engineering firms and/or project teams for the purpose of updating strategic sidewalk and</p>
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<b>Solicitation Scope</b>
bikeway plan.
.....
Target Value .
Type <b>No Response Required</b>
<b>Scope Detail</b>
<p style="text-align: center;"><b>Purpose</b></p>
<p>The purpose of Nashville's Strategic Plan for Sidewalks and Bikeways is to guide public investment in high quality bicycle and pedestrian facilities throughout Davidson County. It is one of four functional transportation plans in Nashville—including the Major and Collector Street Plan, the nMotion Transit Master Plan, and the Countywide Parks and Greenways Master Plan—that collectively implement the City's long range transportation plan, Access Nashville 2040. The plan will supersede the existing Strategic Plan for Sidewalks and Bikeways.</p>
<p>The recently adopted NashvilleNext general plan emphasizes Nashvillians' desire to live and work in a more walkable city with multimodal transportation options along high capacity transit corridors and supportive land uses in identified centers. Well designed, safe, and accessible sidewalks and bikeways can improve the health status of the community by permitting increased levels of physical activity. The Strategic Plan for Sidewalks and Bikeways provides an opportunity to implement actions identified in NashvilleNext, provide technical updates to sidewalk and bikeway implementation tools using current data and methodologies, evaluate the effectiveness of existing implementation strategies, and recommend a clear path forward to the walkable, bikeable Nashville envisioned in NashvilleNext.</p>
<p>Nashville's vision is to enhance transportation choices by developing a network of on-street and off-street bicycle and pedestrian facilities that provide connections to destinations throughout the city. The 2016 Strategic Plan for Sidewalks and Bikeways will take a comprehensive approach for planning, building and maintaining the sidewalk and bikeway asset classes, including:</p>
<ul style="list-style-type: none"> <li>(a) expanding the sidewalk and bikeway networks to achieve critical planning goals,</li> <li>(b) ongoing maintenance of the sidewalk and bikeway networks, including accommodating these modes during construction or repair activities,</li> <li>(c) adjustment of codes or regulations governing private sector investments in the sidewalk and bikeway networks,</li> <li>(d) ensuring sidewalks and bikeways are as accessible as possible for all users,</li> <li>(e) creation of a mechanism for ongoing evaluation and reporting of implementation progress,</li> <li>(f) recommendation of supportive educational, enforcement, or encouragement efforts to increase active transportation utilization and eliminate preventable active transportation related injuries and deaths, and</li> <li>(g) development of a Public-Private coordination plan among Metro departments, developers, citizens, and nonprofits to maximize efficiency of project planning and delivery.</li> </ul>
<p>The work will be performed by a combination of Metro staff and contract consultants funded primarily through the Sidewalk Program. The consultant team selected should have a good combination of local expertise and national perspective.</p>
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Target Value .
Type <b>No Response Required</b>
<p style="text-align: center;"><b>Tasks</b></p>
<p><b>Task 1 – Steering Committee, Public Input, and Engagement</b></p>
<p>Community input will guide the creation of the 2016 Strategic Plan for Sidewalks and Bikeways. The consultant shall report to a Steering Committee composed of Metro representatives, TDOT representatives and members of the public at a kickoff meeting, regularly scheduled project status meetings, and through ongoing discussion of project issues. Throughout the update process, the consultant will interview communities, and stakeholders from the public at large who represent all who live, work, invest, or govern in Davidson County. The consultant shall be responsible for developing a robust public input process with meetings, surveys, project representative attendance at community events, and other engagement opportunities to be identified in consultation with Metro departments. The consultant's engagement process should be modeled on lessons learned from engagement in NashvilleNext and nMotion 2015. The consultant shall create a project website for Metro and with content reviewed by Metro, use it to share</p>

<b>Solicitation Scope</b>
<p>project information throughout various phases of the update process and to collect feedback from the public. Heavy public engagement is anticipated in this scope.</p>
<p><b>Task 2 - Project Management</b></p> <p>Consist of general project management, administrative, and accounting activities for the project. Monthly invoices for work performed in the previous month shall be submitted in a form that provides all information requested by the Metro Public Works Project Manager. All charges must clearly be identified in sufficient detail to determine the type of charge, date and rate of the charge, and the task which was performed and against which the charges will be billed. Receipts and other requested documentation shall accompany the invoice. All travel, lodging, and per diem charges shall be in accordance with the Federal CONUS rate in effect at the time of charge. All invoices from sub-consultants shall be in the same format. The primary consultant will aggregate all sub-consultant invoices into a single invoice. Metro will provide a standard invoice format for use by the consultant. The consultant will provide a project point of contact for Metro, attend meetings with Metro staff, manage prime and sub consultant contracts, and maintain a project schedule. The consultant will submit monthly project update reports, attend monthly project update meetings with Metro staff, and prepare and distribute meeting minutes.</p>
<p><b>Task 3 – Evaluation of Peer Cities and Nashville's Sidewalks and Bikeways Program</b></p> <p>The consultant will review the current plans and methodologies used by Nashville and peer cities similar in size, population, and/or terrain, as well as aspirational peers that have significantly implemented high quality sidewalk and bikeway networks.</p> <p>The consultant will review the outcomes of implementation of the existing Strategic Plan for Sidewalks and Bikeways in Nashville. The consultant will also conduct a thorough review of all existing Metro, MPO, and State plans and policies. These plans and policies will include, but may not be limited to, the zoning code, subdivision regulations, Metro engineering details and specifications (standard drawings), NashvilleNext, the Major and Collector Street Plan, Access Nashville 2040, the nMotion Transit Plan, Parks and Greenways Master Plan, Community Plans, the Metro Nashville Multi-Modal Connectivity Study, the MPO's Regional Bicycle and Pedestrian Study, and the 2040 RTP.</p>
<p>.....</p>
<p><b>Type No Response Required</b></p>
<p><b>Continuation of Task 3</b></p> <p>The consultant will develop an interview methodology and interview other cities regarding their current sidewalk program, funding sources, financial responsibilities and other plans/programs/policies that are implemented in relation to public sidewalks and bikeways. The consultant will provide a work plan for peer city interviews, including target city selection criteria, list of all cities considered and recommended, interview methodology, and interview agenda.</p> <p>The consultant will provide Metro with a State of Nashville's Sidewalks and Bikeways report, including a Peer City Report, an analysis of the recent challenges in planning and building walking and bicycling infrastructure to meet the metropolitan region's demands (the final report shall include specific recommendations to surpass these challenges), and reports detailing current best practices in Sidewalk and Bikeway planning, design, implementation, and maintenance. These reports should be used to engage the Steering Committee and the public and to collect input on how to improve upon the existing Strategic Plan for Sidewalks and Bikeways. Based on this input, the consultant will provide recommendations to improve Metro policies to better align with recommended best practices.</p> <p><b>Task 4 - Data collection</b></p> <p>The consultant is responsible for a complete update of the current GIS inventory for Davidson County's Sidewalk and Bikeways Program. This inventory includes ADA compliance, lack of facilities, distress information, facility quality, facility type, and other data that may be necessary. All data must be collected by the consultant. The use of existing data will be allowed as approved by the project manager, or where historical data may be of use, as determined by consultation with Metro. The consultant is expected to provide data collection services, and the data collection staff must be listed in the proposal. The consultant shall develop a methodology for Metro to keep the sidewalk and bikeway data up to date as projects are implemented and as sidewalks or bikeways are improved through redevelopment. The data collected should be presented in a user friendly format on the project website in accordance with Nashville's Open Data policy.</p> <p><b>Task 5 - Analysis</b></p>

**Solicitation Scope**

The consultant will be responsible for reviewing the sidewalk matrix methodology for both new, ADA, and maintenance projects. The preparation of a revised sidewalk matrix evaluation methodology, or process similar in concept, will be required. The consultant must review and provide written comments and recommendations of the following: current determination of the types of data to be collected for sidewalks, calculation matrix for the collected data, and determination of the data collection methodology and update frequency, along with a review and recommendations for coordination with other departments and policies. The analysis will require pilot program sample areas to verify the update's accuracy. Meetings with Metro staff and public stakeholders will be required in the analysis phase.

The consultant shall develop a methodology to identify and prioritize bikeway infrastructure improvements that meet the needs of people of all ages and abilities and meaningfully allow people to use a bicycle for transportation purposes. The facilities identified in this analysis should significantly contribute to the development of a low stress network of bikeways that allows residents of Davidson County to access social and economic opportunities.

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**Type No Response Required**

**Continuation of Task 5**

The identified bicycle and pedestrian facilities should enhance access to transit and be well coordinated with Nashville MTA's existing services and expansion plans outlined in nMotion 2015.

Once a thorough analysis has been conducted, the consultant shall use the new methodologies to develop a five year program of recommended sidewalk and bikeway projects with anticipated costs. The consultant shall develop a strategic financing report for the list of recommended projects that identifies funding opportunities from local capital improvements funds, state and federal funds, grant programs, and other financing mechanisms used in peer cities. The analysis, list of projects, and financing report shall be presented to the Steering Committee and the public for feedback. Input from this stage will be used by the consultant to develop the final deliverable.

**Task 6 - Final Report with Recommendations** A comprehensive Strategic Plan for Sidewalks and Bikeways will be required as a final deliverable. An entirely new report will be required. Appending the changes and recommendations to the existing Strategic Plan for Sidewalks and Bikeways document will not be accepted. Twenty (20) bound copies must be submitted once the final draft is adopted as final by the Steering Committee and approved by the Planning Commission, along with a digital copy and electronic materials for posting on the project webpage. The 2016 Strategic Plan for Sidewalks and Bikeways will include a comprehensive approach to planning for the maintenance and improvement of the sidewalk and bikeways asset classes, including, but not limited to:

- (a) expanding the sidewalk and bikeway networks to achieve critical planning goals;
- (b) ongoing maintenance of the sidewalk and bikeway networks, including accommodating these modes during construction or repair activities;
- (c) adjustment of codes or regulations governing private sector investments in the sidewalk and bikeway networks,;
- (d) ensuring sidewalks and bikeways are as accessible as possible for all users;
- (e) mechanism for ongoing evaluation and reporting of implementation progress;
- (f) recommendation of supportive educational, enforcement, or encouragement efforts to increase active transportation utilization and eliminate preventable active transportation related injuries and deaths;
- (g) development of a Public-Private coordination plan among Metro departments, developers, citizens, and nonprofits to maximize efficiency of project planning and delivery

**Task 7 - Additional Services**

In addition to the tasks above, Metro reserves the right to request additional services that are related in nature to those being performed as part of this project. Task 7 is set aside to accommodate such request of the consultant by Metro. Any request for additional services will be made in and agreed upon in writing. Scope and fee for additional services will be agreed to prior to their performance.

Metro may request a proposal from the firm/team for additional services related to the scope of work throughout the duration of the contract.

**SCHEDULE**

Time is of the essence in this agreement. The consultant will be expected to meet or exceed the schedule set forth by Metro on this project assuming there are no major changes in scope. Given the notice to proceed, the consultant is expected to undertake the Scope of Service listed in Tasks 1 through 6 and

<p><b>Solicitation Scope</b></p> <p>complete the project in 12 months.</p> <p>.....</p> <p><b>Type No Response Required</b></p> <p>As indicated in the Inquiries Section below, all questions that are specific to the solicitation shall be submitted via iSupplier Online Discussion on or before <b>Thursday, December 10, 2015 at 4:00 PM Central Time</b>. Questions will be answered formally via Amendment to the solicitation soon after the deadline for submitting questions.</p> <p>You may contact Terri Troup at 615-862-6669 or <a href="mailto:terri.troup@nashville.gov">terri.troup@nashville.gov</a> with questions regarding iSupplier or you may email <a href="mailto:iSupplier@nashville.gov">iSupplier@nashville.gov</a>. All offerors are encouraged to sign in to the iSupplier system as soon as possible to view the solicitation and ensure all login information is correct.</p> <p>Finally, please have your offer loaded in the iSupplier system well in advance of the deadline for submission of offers to avoid any last minute functionality issues. While Metro makes every attempt to assist suppliers with entering their offers, there is not sufficient time to trouble shoot functionality issues within one hour of the deadline for submission of offers.</p> <p>.....</p> <p>Target Value .</p> <p><b>Type No Response Required</b></p> <p><b>Information Security Agreement</b></p> <p>Metro is committed to the responsible use of the information entrusted to it and to protecting the confidentiality, integrity and availability of that information. However, information security is not an absolute and Metro cannot absolutely guarantee the security of the information that it handles. Metro aspires to fully protect citizen information through the use of multiple information security controls, including technical, administrative and physical controls.</p> <p>Metro requires that any external party, vendor, etc., exercises the same or greater level of due diligence with regards to the protection of Metro information, information technology assets and information processing facilities that are accessed, processed, communicated to, or managed by external parties or where external parties add products or services.</p> <p>Complete the ISA Questionnaire and review the ISA Matrix and ISA Terms and Conditions found at <a href="http://www.nashville.gov/Information-Technology-Services/Information-Security/Doing-IT-Business-With-Metro.aspx">http://www.nashville.gov/Information-Technology-Services/Information-Security/Doing-IT-Business-With-Metro.aspx</a>. Compare your firm's completed ISA Questionnaire to the ISA Matrix to determine the ISA Terms and Conditions applicable to your company.</p> <p>Please acknowledge if your company accepts the ISA Terms and Conditions. Failure to accept ISA Terms and Conditions or attach your completed ISA Questionnaire may result in your offer being deemed non-responsive.</p> <p>If any exceptions are taken to the ISA Terms and Condition, provide them as part of your offer along with the completed ISA Questionnaire. Please note that if exceptions are not stated at this time, they will not be granted after the contract is awarded. Exceptions taken after the award will result in the withdrawal of the intent to award and offeror's firm suspended from upcoming solicitations.</p> <p>.....</p> <p>Target Value <b>ISA Questionnaire Attached and ISA Terms and Conditions Accepted</b></p> <p>.....</p> <p>Provide your answer below</p> <p>.....</p> <p><b>Standard Solicitation Requirements</b></p> <p><b>Inquiries</b></p> <p>All inquiries must be submitted by <b>Thursday, December 10, 2015 at 4:00 PM Central Time</b> using the online discussions feature of the iSupplier system.</p> <p>Offerors must clearly understand that the only official answer or position of Metro will be the one stated in</p>
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<p><b>Standard Solicitation Requirements</b></p> <p>writing by Division of Procurement staff.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Pre-Offer Meeting</b></p> <p>A pre-offer meeting will be held for this solicitation at <b>Thursday, December 3, 2015 at 9:00 AM Central Time at Metro Purchasing, 730 2nd Ave South, Lindsley Hall, Nashville, TN 37219, University Conference Room.</b></p> <p>If you are unable to attend the pre-offer meeting, you <b>may</b> participate through signing into GoToMeeting by clicking <a href="https://global.gotomeeting.com/join/765072045">https://global.gotomeeting.com/join/765072045</a> from computer, tablet, or smartphone. You may also call into the meeting at 1-312-757-3121 (Access Code: 765-072-045).</p> <p>If you are attending through GoToMeeting, you must email the buyer, Terri Troup at <a href="mailto:terri.troup@nashville.gov">terri.troup@nashville.gov</a>, your name, email address, phone number, and the name of the company you are representing within an hour of the meeting conclusion. This information will be added to the official pre-offer meeting sign-in sheet. You will not receive credit for attending the meeting if you do not send this information to the buyer.</p> <p>Metro <b>urges</b> all prospective offerors to attend planned pre-offer meetings.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Accurate Information</b></p> <p>Failure to provide complete and accurate information in an offer to this solicitation may result in your offer being deemed nonresponsive. Metro may institute debarment proceedings against the offeror and/or terminate any contract or purchase order that has been awarded based on inaccurate information.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Extraneous Information</b></p> <p>Offers should be brief and concise. Information provided beyond the requirements described in this solicitation may be considered extraneous and as a result discarded.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Minor Irregularities</b></p> <p>Metro reserves the right to waive minor irregularities in offers, provided that such action is in the best interest of Metro. Any such waiver shall not modify any remaining solicitation requirements or excuse the offeror from full compliance with the solicitation specifications and other contract requirements if the offeror is awarded a contract.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Ambiguity, Conflict or Other Errors in the Solicitation</b></p> <p>Offeror is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in this solicitation prior to submitting their offer, or it shall be waived. Claims of ambiguity after submission of the offer shall not serve as grounds for a protest.</p> <p>If an offeror discovers any ambiguity, conflict, discrepancy, omission, or other error in the solicitation, they shall immediately request modification or clarification using the online discussion feature of iSupplier. Required modifications or clarifications will be issued by solicitation amendment.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>



<p><b>Standard Solicitation Requirements</b></p> <p><b>Validity of Offers</b>  All offers shall be valid for a period of one-hundred and twenty (120) days from the closing date of the solicitation unless another timeframe is agreed to by all parties. Submission of an offer does not afford rights to the offeror nor obligate Metro in any manner.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p> <p><b>Offer and Presentation Costs</b>  Metro will not be liable for any costs incurred by an offeror in the preparation of its response to a solicitation, nor for the presentation of its offer and/or participation in any clarifications, discussions, negotiations, or protests.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p> <p><b>Rejection of Offers</b>  Metro reserves the right to accept or reject, in whole or in part, any offers submitted. The failure of an offeror to promptly supply information in connection with, or with respect to, reasonable requests may be grounds for a determination of non-responsibility.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p> <p><b>Subcontractors/Subconsultants</b>  Offeror must enter <u>all</u> subcontractors/subconsultants on the appropriate form provided as part of the solicitation. The form should identify any Small and/or Service-Disabled Veteran (SBE/SDV) owned and Minority and/or Woman (MWBE) owned subcontractors/subconsultants and/or suppliers who will perform a portion of this project. The file should be attached to your response in Excel format and named "Subcontractor/Subconsultant Form".</p> <p>.....</p> <p>Target Value <b>Attached Subcontractor/Subconsultant Form</b></p> <p>.....</p> <p>Provide your answer below</p>
<p><b>Assistance to Small (SBE) and/or Service-Disabled Veteran (SDV) Owned Businesses</b>  The Metro Procurement Code (§ 4.44) and Regulations (§§ R4.44.020.04) provide options for the Purchasing Agent to maximize the participation and performance of Metro approved SBE/SDV businesses.</p> <p>Assistance is provided to offerors who are SBE/SDV, or who need assistance in locating potential SBE/SDV subcontractors or suppliers. For assistance, offerors are encouraged to contact the BAO by email at BAO@Nashville.gov or call the BAO at (615) 880-2814. For more information and the forms go to the following website:  <a href="http://www.nashville.gov/Finance/Procurement/Minority-and-Women-Business-Assistance/SMWBE-Lists-and-Forms.aspx">http://www.nashville.gov/Finance/Procurement/Minority-and-Women-Business-Assistance/SMWBE-Lists-and-Forms.aspx</a>.</p> <p>If the Offeror is a SBE/SDV business, Metro considers the work the SBE/SDV firm commits to self-perform. If the work is subcontracted or otherwise procured, only the work performed by a Metro approved SBE/SDV subcontractor or supplier may be considered for the purposes of award incentive. All SBE/SDV businesses included in offers must be registered online with Metro and approved by the BAO prior to the solicitation closing date.</p> <p>.....</p>

<p><b>Standard Solicitation Requirements</b></p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p> <p>Several ways that SBE/SDV participation may be promoted in individual solicitations are described below.</p> <p><b>Cost Incentive</b> - The Metro Procurement Code (§ 4.44) and Regulations (§§ R4.44.020.04) provide options for the Purchasing Agent to provide a cost incentive to maximize SBE/SDV participation. If this solicitation includes a cost incentive for the participation of approved SBE/SDV business, the methodology for evaluating the SBE/SDV participation is described in the regulations found at <a href="http://www.nashville.gov/Portals/0/SiteContent/Finance/Purchasing/Regulations%2020140206.pdf">http://www.nashville.gov/Portals/0/SiteContent/Finance/Purchasing/Regulations%2020140206.pdf</a></p> <p><b>Set-Aside</b> - Some solicitations are the result of an SBE/SDV set-aside. In those cases only approved SBE/SDV firms may submit an offer. The solicitation will state in the opening description if it is an SBE/SDV set-aside solicitation.</p> <p><b>Threshold</b> - If the solicitation has a SBE/SDV threshold, only offers that meet the established threshold will be eligible for SBE/SDV cost incentives. Incentive consideration, if included, is calculated on a pro rata basis for those offers in excess of the established threshold.</p> <p><b>Requirement</b> - If the solicitation states a required SBE/SDV participation level, then only those offerors committing to achieve or exceed the established amount will be considered responsive to the solicitation. The solicitation will not contain an SBE/SDV cost incentive.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p> <p><b>SBE/SDV Participation and Misrepresentation</b></p> <p>Offerors must acknowledge that they understand the SBE/SDV participation expectations described in the next paragraph.</p> <p><b>Respondent acknowledges that during the execution of any resulting agreement, a minimum of 20% of the contract value must be spent with Small and/or Service Disabled Veteran owned Businesses. Respondent further acknowledges that it has included on the Subconsultant Form, a preliminary list of Metro approved SBE/SDVs which it intends to use to meet this requirement.</b></p> <p>Offeror also acknowledges that they understand the consequences of failing to comply with their SBE/SDV participation commitments. If Contractor fails to comply with their SBE/SDV businesses participation commitments, or it is determined that their SBE/SDV status or the SBE/SDV status of any subcontractor/subconsultant/supplier, is shown to be false; Metro may terminate the Contract and charge Contractor for any costs incurred by Metro as a result of the misrepresentation. Misrepresentation may result in debarment.</p> <p>Contractor shall enter payments to SBE/SDV and MWBE subcontractors/subconsultants/suppliers into iSupplier as instructed by Metro. Failure to do so may impact payments to Contractor.</p> <p>.....</p> <p>Target Value <b>Acknowledge Participation Expectations and Consequences of Misrepresentation</b></p> <p>.....</p> <p>Provide your answer below</p> <p>.....</p> <p><b>Americans with Disabilities Act</b></p> <p>Contractor shall ensure Metro that all services provided through this resulting contract shall be completed in full compliance with the 2010 Americans with Disabilities Act ("ADA") enacted by law on March 15, 2012 and adopted by Metro. Contractor will ensure that participants at public meetings with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.</p>
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Standard Solicitation Requirements
<p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Contractor Personnel Requirements</b></p> <p>Subsequent to submission of an offer and prior to award of a contract, key personnel identified in the offer shall not be changed without the approval of Metro. Any changes in key personnel without Metro approval may result in the offer being rejected and not considered for award.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Unauthorized Work</b></p> <p>The successful offeror shall not begin work until Metro issues a Notice to Proceed or Purchase Order. Any unauthorized work shall be deemed non-compensable and the offeror will have no recourse against Metro.</p> <p>.....</p> <p>Target Value .</p> <p>Type <b>No Response Required</b></p>
<p><b>Good Faith Efforts</b></p> <p><b>Procurement Nondiscrimination Program (PNP) Requirements</b></p> <p>The consideration and contact of minority-owned and/or woman-owned business enterprises (MWBE) with a significant presence in the Nashville MSA, is required for a responsive offer. Offerors must complete and attach to their response the Statements of Interested, Notified, and Successful Subcontractors Form indicating that written notice has been delivered to at least three (3) MWBEs in an appropriate field of work. Offerors should attach the written responses from the three (3) MWBEs. MWBE firms included in offers must be registered with Metro and certification received by BAO prior to the solicitation closing date. <b>Failure to comply with PNP requirements may result in the offer being deemed nonresponsive.</b></p> <p>In the event an offeror submits to use a Metro approved MWBE, a letter of intent signed by both parties must be submitted to BAO by the end of the second business day following issuance of the intent to award notification.</p> <p>See attached PNP forms for A&amp;E Projects. For PNP information, go to <a href="http://www.nashville.gov/Finance/Procurement/Minority-and-Women-Business-Assistance/SMWBE-Lists-and-Forms.aspx">http://www.nashville.gov/Finance/Procurement/Minority-and-Women-Business-Assistance/SMWBE-Lists-and-Forms.aspx</a>.</p> <p>Attach the PNP Form and outreach documentation to your response as one PDF document named "PNP Documentation".</p> <p>.....</p> <p>Target Value <b>Attached PNP Documentation</b></p> <p>.....</p> <p>Provide your answer below</p> <p>.....</p> <p>I/We have made efforts to include MWBE's, certified by certifying entities recognized by the Metropolitan Government, in the procurement process and to ensure that businesses are not discriminated against on the basis of race, ethnicity or gender. <b>Failure to select "Yes" may result in your response being deemed nonresponsive.</b></p> <p>.....</p> <p>Target Value <b>Yes, we have.</b></p> <p>.....</p> <p>Circle one from the response values below:</p>

<b>Good Faith Efforts</b>
Yes, we have. No, and are non-responsive.
I/We have delivered written notice to three available MWBEs certified by certifying entities recognized by the Metropolitan Government for each potential subcontracting or supply category in the Contract AND all potential subcontractors or vendors which requested information on the Contract. <b>Failure to select "Yes" may result in your response being deemed nonresponsive.</b>
..... Target Value <b>Yes, we have.</b>
..... Circle one from the response values below: Yes, we have. No, and are non-responsive.
I/We have provided all potential subcontractors or vendors with adequate and timely information as to the plans and specifications of this project as well as information necessary to provide a bid or quote as well as and the last date and time for receipt of price quotations. <b>Failure to select "Yes" may result in your response being deemed nonresponsive.</b>
..... Target Value <b>Yes, we have.</b>
..... Circle one from the response values below: Yes, we have. No, and are non-responsive.
<b>Additionally, we have made the following Good Faith Efforts to include MWBEs as subcontractors or joint venturers on this project.</b>
..... Target Value . Type <b>No Response Required</b>
I/We have attended a special meeting called to inform business and individuals of subcontracting or supply opportunities.
..... Type <b>Optional</b>
..... Circle one from the response values below: Yes No
I/We have, in accordance with normal industry practices, divided the contract into economically feasible segments that can be performed by a MWBE.
..... Type <b>Optional</b>
..... Circle one from the response values below: Yes No
I/We have provided a written explanation for rejection of any potential subcontractor or vendor to the BAO, included the name of the firm proposed to be awarded the subcontract or supply agreement, where price competitiveness is not the reason for rejection.
..... Type <b>Optional</b>
..... Circle one from the response values below: Yes

<b>Good Faith Efforts</b>
No
I/We have actively solicited, through sending letters or initiating personal contact, MWBEs in all feasible and appropriate categories providing subcontracting opportunities for the contract under consideration.
Type <b>Optional</b>
Circle one from the response values below: Yes No
I/We have utilized the services of available community organizations and associations, contractors' groups, and trade associations known to publicize contracting and procurement opportunities, for the purpose of obtaining assistance in the contacting and recruitment of MWBEs for the Metropolitan Government contract under consideration.
Type <b>Optional</b>
Circle one from the response values below: Yes No
I/We have advertised in publications of general circulation in the Nashville Metropolitan Statistical Area ("MSA"), trade publications and other media owned by, or otherwise focused or marketed to MWBEs, and the advertisement identifies and describes the specific subcontracting or other opportunity in reasonable detail.
Type <b>Optional</b>
Circle one from the response values below: Yes No
I/We have conducted discussions with interested MWBEs in good faith, and provided the same willingness to assist MWBEs as has been extended to any other similarly situated subcontractor.
Type <b>Optional</b>
Circle one from the response values below: Yes No
I/We have taken steps to ensure that all labor supervisors, superintendents, and other on-site supervisory personnel are aware of and carry out the obligation to maintain a nondiscriminatory work environment, free of harassment, intimidation, and coercion at all construction sites, offices and other facilities to which employees are assigned to work.
Type <b>Optional</b>
Circle one from the response values below: Yes No
<b>Insurance Requirements</b>
Any offeror receiving an award shall be required to provide a Certificate of Insurance prior to execution of a contract.
The "Description" section must read as follows: <b>Metropolitan Government of Nashville and Davidson County, its officials, officers, employees, and volunteers are named as additional insureds per general liability additional insured endorsement and automobile liability additional insured endorsement.</b>

<b>Insurance Requirements</b>
In the "Certificate Holder" section it must read as follows: <b>Purchasing Agent, Metropolitan Government of Nashville and Davidson County, Metro Courthouse, Nashville, TN 37201.</b> The following insurance(s) shall be required:  ..... Target Value . Type <b>No Response Required</b>
· General Liability Insurance in the amount of one million (\$1,000,000.00) dollars (if the supplier will be making on-site delivery)  ..... Target Value . Type <b>No Response Required</b>
· Professional Liability Insurance in the amount of one million (\$1,000,000.00) dollars  ..... Target Value . Type <b>No Response Required</b>
· Automobile Liability Insurance in the amount of one million (\$1,000,000.00) dollars (if supplier will be making on-site deliveries)  ..... Target Value . Type <b>No Response Required</b>
· Worker's Compensation Insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars, as required by the laws of Tennessee. (Workman's Comp Insurance is not required for companies with fewer than five (5) employees.)  ..... Target Value . Type <b>No Response Required</b>
<b>Affidavits</b>
Enter your City  ..... Target Value .  ..... Provide your answer below
Enter your County  ..... Target Value .  ..... Provide your answer below
Enter your State  ..... Target Value .

Affidavits
<p>.....</p> <p>Provide your answer below</p> <p>.....</p>
<p>Enter your Zip Code</p> <p>.....</p> <p>Target Value .</p> <p>.....</p> <p>Provide your answer below</p> <p>.....</p>
<p>Affiant states that Offeror has all applicable licenses, including business licenses. Affiant also states that offeror is current on its payment of all applicable gross receipt taxes and personal property taxes. M.C.L. 4.20.065</p> <p>.....</p> <p>Target Value <b>Yes, I so affirm.</b></p> <p>.....</p> <p>Circle one from the response values below:</p> <p>Yes, I so affirm.</p> <p>No and are non-responsive.</p>
<p>Affiant affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age or sex, and are not in violation of, and will not violate, any applicable laws concerning the employment of individuals with disabilities. M.C.L. 4.28.020</p> <p>.....</p> <p>Target Value <b>Yes, I so affirm.</b></p> <p>.....</p> <p>Circle one from the response values below:</p> <p>Yes, I so affirm.</p> <p>No and are non-responsive.</p>
<p>Affiant affirms that in consideration of the privilege to submit offers in response to this solicitation, we hereby consent, covenant, and agree as follows: To adopt the policies of the Metropolitan Government relating to equal opportunity in contracting on projects and contracts funded, in whole or in part, with funds of the Metropolitan Government; - To attempt certain good faith efforts to solicit Minority-owned and Woman-owned business participation on projects and contracts in addition to regular and customary solicitation efforts; - Not to otherwise engage in discriminatory conduct; - To provide a discrimination-free working environment; - That this Covenant of Nondiscrimination shall be continuing in nature and shall remain in full force and effect without interruption; - That the Covenant of Nondiscrimination shall be incorporated by reference into any contract or portion thereof which the Supplier may hereafter obtain; and - That the failure of the Supplier to satisfactorily discharge any of the promises of nondiscrimination as made and set forth herein shall constitute a material breach of contract. M.C.L. 4.46.070</p> <p>.....</p> <p>Target Value <b>Yes, I so affirm</b></p> <p>.....</p> <p>Circle one from the response values below:</p>

<b>Affidavits</b>
Yes, I so affirm No, and am non-responsive
Affiant affirms that the offeror nor utilized temporary staffing service employs any person who is not a legally authorized to work in the United States. Any contractor who knowingly violates the provisions of this section is subject to debarment or suspension. M.C.L. 4.40.060
..... Target Value <b>Yes, I so affirm.</b>
..... Circle one from the response values below: Yes, I so affirm. No and are non-responsive.
It is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Metro contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned Affiant states that the Offeror has not retained anyone in violation of the foregoing. M.C.L. 4.48.080
..... Target Value <b>Yes, I so affirm.</b>
..... Circle one from the response values below: Yes, I so affirm. No and are non-responsive.
<b><i>And Further Affiant Sayeth Not:</i></b> Name of Company Officer: ..... Target Value . ..... Provide your answer below
Title: ..... Target Value . ..... Provide your answer below
<b><i>The provision of false information is a material breach.</i></b> ..... Target Value <b>Acknowledged.</b>
..... Circle one from the response values below: Acknowledged. Our offer is non-responsive
<i>If the principal officer cannot so attest, the offer will be determined non-responsive.</i>



<b>Affidavits</b>
.....
Target Value .
Type <b>No Response Required</b>
<b>RFP Evaluation Criteria for A&amp;E</b>
<b>All submitted proposals should include the following on every page as a header and/or footer</b>
· <b>RFQ Number</b>
· <b>RFQ Title</b>
· <b>Proposer Name</b>
· <b>Evaluation Criteria Section Title</b>
· <b>Page Numbers</b>
<b>Each PDF document should be named the Evaluation Criteria Section Title</b>
·
.....
Type <b>No Response Required</b>
<b>EVALUATION CRITERIA</b>
.....
Type <b>No Response Required</b>
<b>Solicitation Acceptance</b>
Offeror must acknowledge acceptance of the attached contract, general terms and conditions, requirements of the RFP, bonding requirements (if noted in the RFP/contract), and insurance requirements for this solicitation.
.....
Target Value <b>Acknowledge Acceptance of Solicitation</b>
.....
Provide your answer below
.....
<b>Contract Acceptance</b>
Offeror must indicate your acceptance of the attached contract for this solicitation.
If any exceptions are taken, attach a PDF file to your quote identifying the exceptions and labels as Contract Exceptions. If no exceptions to the contract are stated, they will not be granted after the contract is awarded. Exceptions taken after the award will result in the withdrawal of the intent to award and offeror's firm suspended from upcoming solicitations.
If exceptions to the contract are stated, evaluation scores will reflect Metro's assessment of the exceptions. Contract exceptions may result in the rejection of the proposal as non-responsive; if, in the sole evaluation of Metro, the requested changes are unacceptable.
.....
Target Value <b>Accept Contract as Presented</b>
.....
Provide your answer below
.....
<b>Experience on Similar Contracts (35 Points)</b>

**RFP Evaluation Criteria for A&E**

The proposal shall indicate all experience of the firm or team on contracts of similar size and scope within the past five (5) years. Specifics should be given to demonstrate successful performance on those contracts and the firm's or team's understands of the requirements. Consideration will be given to submittals from consultants familiar with Metro codes and regulations, and State and Federal regulations governing this type of work. If subconsultants or a joint-venture is proposed, indicate past working relationships (specifically on similar projects).

Provide the following minimum information for each project:

- Project name, geographical location and prime consultant
- Owner/client for which the work was performed
- Dates of project
- Brief scope of project and how it is similar to proposed scope of work
- Brief statement as to successes of project, problems encountered and resolution, and general assessment of how well your firm/team performed
- Owner/Client reference name, current phone number and email address. References should have been directly involved in management of the project.
- Type of project (planning, design or design/build)

Metro reserves the right to check any and/or all references for projects submitted.

**The file should be attached to your response in a PDF format and named "Experience on Similar Contracts".**

.....  
Target Value **Attached Experience on Similar Contracts**  
.....

Provide your answer below

**Methodology/Business Plan (30 Points)**

Describe in detail how this project will be approached, including major tasks and sub-tasks to be accomplished. Include the members of the proposed contract team by name, the role to be played by each member of the team and how the team will be organized and managed. An organization chart should be provided to demonstrate team relationships.

Describe any innovative or progressive approaches that would be used in this project that will reduce costs, decrease time to completion or improve the value of the finished project. (The methodology or business plan should clearly show why the Proposer would be superior to other proposing firms or teams in delivery of the scope of services.)

Provide the guaranteed maximum calendar day duration in which your firm will provide the services described in this RFP. The relative calendar day duration guaranteed in a Proposer's proposal will determine a portion of the points it receives in this category. Include a schedule of completion for the project, including major tasks and sub-tasks to be accomplished.

**The file should be attached to your response in a PDF format and named "Methodology/Business Plan".**

.....  
Target Value **Attached Methodology/Business Plan**  
.....

Provide your answer below

RFP Evaluation Criteria for A&E
<p><b>Specialized Expertise of Team Members (23 Points).</b></p> <p>The proposal shall list key individuals who will be used on the contract. Explain how the specialized knowledge and experience of the team members will be utilized in the project.</p> <p>One-page resumes for persons for each required discipline are required. This includes subconsultants to be used as well. Include in each resume a description of how the individual is qualified for this project. List the Tennessee Professional Engineer registration number and expiration date where applicable.</p> <p><b>The file should be attached to your response in a PDF format and named "Specialized Expertise of Team Members".</b></p> <p>.....</p> <p>Target Value <b>Attached Specialized Expertise of Team Members</b></p> <p>.....</p> <p>Provide your answer below</p>
<p><b>Firm Size and Organizational Capacity (10 Points).</b></p> <p>Offeror shall list the number of full-time professional employees and disciplines for their Nashville Office and provide another list for their offices in other locations that may be drawn upon for this contract. Key personnel of subconsultants should be identified as such. The proposal shall indicate the availability of proposed team members to complete this project in a timely, efficient and quality manner and shall include an organization chart (see above) for the project.</p> <p><b>The file should be attached to your response in a PDF format and named "Firm Size and Organizational Capacity".</b></p> <p>.....</p> <p>Target Value <b>Attached Firm Size and Organizational Capacity</b></p> <p>.....</p> <p>Provide your answer below</p>
<p><b>Firm Size and Organizational Capacity (Continued)</b></p> <p>Offeror must indicate if their office is located in one of the following areas:</p> <ul style="list-style-type: none"> <li>· Inside Davidson County</li> <li>· Outside Davidson County but Inside Nashville MSA</li> <li>· Outside Nashville MSA</li> </ul> <p>.....</p> <p>Target Value <b>Chose an Office Location from Dropdown Box</b></p> <p>.....</p> <p>Circle one from the response values below:</p> <p>Inside Davidson County</p> <p>Outside Davidson County but Inside Nashville MSA</p> <p>Outside Nashville MSA</p>
<p><b>Sustainability (2 points)</b></p> <p>The purpose of the Green Procurement Initiative (GPI) is to assist Metro with implementation strategies to prevent waste and pollution by considering environmental impacts along with price, performance, product safety, and availability when evaluating solicitation offers.</p>

**RFP Evaluation Criteria for A&E**

Describe your firms policies for ensuring that this project will be environmentally friendly.

Describe in detail your plans to promote sustainability practices in the performance of this contract.

**The file should be attached to your response in a PDF format and named "Sustainability".**

.....  
Target Value **Attached Sustainability**

.....  
Provide your answer below

**1.4 Attachments**

Name	Data Type	Description
Subconsultant AE Form	File	
PNP Forms - A&E Projects	File	

**1.5 Response Rules**

*This negotiation is governed by all the rules displayed below.*

- ☐ Negotiation is restricted to invited suppliers
- ☐ Suppliers are allowed to view other suppliers' contract terms, notes and attachments
- ☒ Suppliers are allowed to provide multiple responses
- ☐ Buyer may close the negotiation before the Close Date
- ☒ Buyer may manually extend the negotiation while it is open

## Contract Terms and Conditions

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## Terms and Conditions

### 1. ARCHITECTURAL AND ENGINEERING CONTRACT

#### 1.1. Heading A&E

This Contract is initiated by and between **The Metropolitan Government of Nashville and Davidson County** ("METRO") and Enter Legal Name ("CONSULTANT") located at Address, City, St. ZIP. This Contract consists of the following documents:

- *Any properly executed contract amendment (most recent with first priority),*
- *This document, including exhibits, Exhibit A (Tasks), Exhibit B (Rates), Exhibit C (Information Security Terms & Conditions)*
- *The solicitation documentation for RFQ# 883487 and affidavit(s) (all made a part of this contract by reference),*
- *Purchase Orders (and PO Changes),*
- *CONTRACTOR's response to the solicitation,*
- *Procurement Nondiscrimination Program forms (incorporated by reference).*

In the event of conflicting provisions, all documents shall be construed in the order listed above.

Where this Contract references "CONTRACTOR" in **all caps**, it is understood to be the CONSULTANT.

### 2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

#### 2.1. Duties and Responsibilities

CONTRACTOR agrees to provide for the strategic sidewalk and bikeways plan as outline in the tasks shown in Exhibit A using the rates in Exhibit B.

#### 2.2. Metro's Responsibilities

METRO will:

Use its best efforts to provide CONSULTANT with available information pertinent to a project if that information is necessary, exists, and is available without significant cost to METRO. METRO does not represent, warrant or guarantee the accuracy or completeness of any information provided to CONSULTANT related to the project either in whole, in part, implicitly, or explicitly, or at all, and shall have no liability therefore.

Provide access to the project site so CONSULTANT can enter upon public and private lands, if possible and necessary to complete the project.

Give thorough consideration to all reports, cost estimates, drawings, specifications, and other documents presented by CONSULTANT and inform CONSULTANT of all decisions within a reasonable time.

Designate, in writing, a single person to act as METRO's project manager for the project.

Acquire property rights, including, but not limited to, easements, in METRO's name, as necessary, and provide

services related to the property acquisition.

Obtain required authorizations and approvals excluding the building permit and other permits or fees required of CONSULTANT by this Contract or customarily the responsibility of CONSULTANT. Upon request, CONSULTANT shall assist Metro with filing and preparing documents related to the project and required by governmental authorities.

Will not provide clerical assistance to CONSULTANT for the project and METRO personnel will not be asked to undertake surveys, analyses, tabulations, summaries, etc. of CONSULTANT produced data or documentation.

### **2.3. Duties of the CONSULTANT**

CONSULTANT agrees to provide, and METRO agrees to purchase, professional architectural and/or engineering services completed under the project solicitation. Project shall reference this Contract by number and include the terms and conditions of this Contract.

CONSULTANT must make every effort to maximize the use of sustainable building materials and energy efficient products. Additionally, design and construction methods should be geared toward the completed project being environmentally-friendly from both the construction and continuous operation standpoint.

The parties agree upon a work schedule for this project. CONSULTANT's failure to satisfactorily complete work assigned within the time specified, without prior written approval from METRO, is a material breach of this Contract and METRO may terminate CONSULTANT and seek to recover damages sustained as a result of the breach.

### **2.4. CONSULTANT Responsibilities**

**Professional Services.** CONSULTANT shall perform all necessary professional services in a satisfactory and proper manner, consistent with METRO's requirements. CONSULTANT shall perform all services using prudent practices in accordance with current professional standards and all laws, codes, regulations, and other applicable standards including, but not limited to, those listed below in the Design Standards Section.

**Pre-Design Study.** CONSULTANT shall conduct studies, as appropriate, that serve as pre-design information for decision-making and determining the design approach and scope. This responsibility includes, but is not limited to, the following:

- Development of the study approach and methodology;
- Securing METRO approval of the approach and methodology;
- Conducting the study; and,
- Preparation and presentation of the study and reports.

**Design.** CONSULTANT shall furnish design services, as appropriate, including all planning, surveying, geotechnical investigations, studies, engineering, preparation of legal descriptions necessary for easements, and cost estimating in accordance with a work program for the individual project that shall include the following phases:

- **Planning Phase**
  - o Preparation of planning phase studies, evaluations, reports, exhibits, programs, and concept designs.
- **Design Phase**
  - o Preparation of construction documents including all drawings, specifications, and details necessary for construction purposes;
  - o Preparation of detailed construction cost estimates;



- o Review and recommendations of studies, evaluations, reports, and construction documents for completeness, technical adequacy, and optimum construction feasibility and economy; and,
  - o Assistance with preparation of bidding materials and serving as a resource during evaluation of responses, if needed, for an individual project.
- **Construction Phase**
  - o Review of shop drawings, product data, samples, or other construction contractor submittals for approval, recommendation, or other appropriate action;
  - o Provide construction monitoring in accordance with the individual project's work program, adjustments to construction cost estimates, and inspection services for the duration of the construction; and,
  - o Assemble project closeout documents.

If METRO orders changes or alterations in the work to be performed by CONSULTANT, METRO will hold a scoping conference to outline the CONSULTANT's change in services. Following the scoping conference, CONSULTANT shall, within seven (7) business days, provide a written proposal including a description of the services, as altered, a proposed time for completion, personnel to be employed on the assignment, and a detailed derivation of the proposed price. The price shall be the product of the agreed number of hours required for performance of the assignment and the accepted hourly rates for the disciplines involved, as set forth in CONSULTANT's fee schedule negotiated for this project.

All original documents, such as plans, tracings, specifications, drawings, maps, and other documents illustrating the scale and relationship of the individual project components that are prepared by CONSULTANT and form a part of CONSULTANT's services (the "Design Documents") shall become the property of METRO and shall be delivered to METRO upon completion of an individual project. CONSULTANT shall be responsible for the protection and/or replacement of any Design Documents in CONSULTANT's possession. METRO shall receive all original Design Documents and CONSULTANT shall retain a reproducible copy when the individual project is complete. Such documents may only be used by METRO as reference materials. Basic design notes and sketches, charts, computations and other data prepared or obtained under this Contract shall be made available, upon request, to METRO without restriction or limitation on their use.

Upon completion of the Design Documents, CONSULTANT shall deliver to METRO the originals of the Design Documents complete and ready for reproduction, along with ten (10) bidding sets. Reproduction of additional bidding sets will be by METRO and at METRO's expense.

CONSULTANT shall provide drawings and specifications for METRO's review and comments upon completion of schematic and design development stages. Construction documents shall be provided to METRO for review and comments at thirty percent (30%), sixty percent (60%), ninety percent (90%), and one hundred percent (100%) of project completion or at other intervals specified by METRO. Five (5) sets of each document shall be provided by CONSULTANT at specified times.

CONSULTANT is responsible for obtaining at least three (3) copies of items such as training and operating manuals, operating instructions, maintenance information and instructions, drawings, bonds, warranties, guarantees, etc. and maintaining them in a central file (electronically and/or in hard copy) until the project is complete.

Upon final completion of an individual project, CONSULTANT will turn over, in a format acceptable to METRO, all training manuals, operating manuals, operating instructions, maintenance information, instruction manuals, drawings, bonds, warranties, guarantees, photos or videos made during an individual project, at least three (3) complete sets of hard copy as-built drawings for the completed individual project, at least three (3) electronic copies of as-built drawings, and all other record documents and things customarily or expressly required to be provided by CONSULTANT ("the Closeout Documents"). The Closeout Documents shall be provided to METRO at CONSULTANT's expense. **Metro's receipt of the Closeout Documents is a condition precedent to the closeout of each individual project and to CONSULTANT being entitled to receive final payment.**

## **2.5. Errors and Deficiencies**

CONSULTANT shall, without additional compensation, correct or revise any errors, deficiencies, or incomplete, inaccurate, or defective work in its designs, drawings, specifications, and other services. Defective work includes, but is not limited to, erroneous tabulations, incomplete surveys, maps, or reports, and incorrectly assembled reports, plans, specifications, or similar documents caused by CONSULTANT's error or omission. METRO's acceptance of closeout documents, design documents, required studies, reports, designs, or other similar documentation, shall not relieve CONSULTANT from the obligation to correct any defective work, whether previously or subsequently noted.

METRO's review, approval, acceptance of, or payment for, the services required under this Contract shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract. CONSULTANT shall remain liable to METRO in accordance with applicable law for all damages to METRO caused by CONSULTANT's negligent performance of any of the services furnished under this Contract. The rights and remedies of METRO provided for under this Contract are in addition to any other rights and remedies provided by law. Neither payment to CONSULTANT by METRO, nor any other act or omission by METRO, shall be interpreted or construed as an acceptance of any work of CONSULTANT not strictly in compliance with this Contract.

## **2.6. Design Standards**

### *Professional Standards*

CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished under this Contract. CONSULTANT's services shall be performed with the same skill and care that would be exercised by a qualified professional design consultant performing similar services. All aspects of professional services shall be performed or supervised by a licensed architect and/or engineer who is registered in the State of Tennessee. The seal of that architect and/or engineer shall be affixed to all related documentation that includes, but is not limited to, the following: construction plans, engineering studies, and reports. All aspects of required surveying services shall be performed or supervised by a land surveyor who is registered in the State of Tennessee. The seal of that land surveyor shall be affixed to all related documentation including, but not limited to, the following: boundary surveys; right-of-way surveys; legal descriptions; topographical surveys; and, surveys related to construction.

### *Applicable Specifications*

In general, designs, as they apply to an individual project, shall conform to the current edition requirements of:

AASHTO Policy on Geometric Design of Highways and Streets,

METRO's Subdivision Specifications for Streets and Roads,

Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction,

Manual on Uniform Traffic Control Devices,

METRO Fire Code,

Tennessee Department of Health and Environment Design Criteria for Water Works,

Tennessee Department of Health and Environment Design Criteria for Sewerage Work,

METRO Stormwater Management Regulations,

Southern Building Code (SBC),

METRO Building Codes: Electrical, Mechanical, and Plumbing,  
Americans with Disabilities Act (ADA),  
Occupational Safety and Health Administration (OSHA),  
National Fire Protection Association,  
METRO Department of Water and Sewerage Services Standards,  
Architectural and Transportation Barriers Compliance Board: 36 CFR, Part 119,  
Normally accepted construction practices, and  
Any other applicable codes and design standards.

## **2.7. Construction Monitoring Services**

CONSULTANT will determine, in general, if the work is proceeding in a manner that is likely to result in the completed work conforming to the design concept and design documents and will keep METRO informed of the progress of the work.

CONSULTANT shall not supervise, direct, control, have authority over, or be responsible for the individual project contractor's acts or omissions, means, methods, techniques, sequences, procedures of construction, safety precautions and programs, or any failure of the contractor to comply with applicable laws and regulations related to the furnishing or performance of the work. Likewise, CONSULTANT will not be responsible for any subcontractors, materialmen, suppliers, or other persons performing or furnishing contractor's work.

CONSULTANT's authority is limited as set forth in this Contract and the same limitations shall apply to any of CONSULTANT's subconsultants, assistants, and subcontractors.

CONSULTANT will review all requests for payment, change orders, maintenance and operating instructions, schedules, guarantees, warranties, active bonds, current certificates of insurance, certificates of inspection, tests, approvals and other documentation required to be delivered by this Contract, to determine general compliance with the design documents' requirements.

The CONSULTANT shall provide a review of construction progress in accordance with the work program and as follows:

**Site Visit Requirements.** CONSULTANT shall visit the project site at intervals prescribed by METRO, but, in any event, at least weekly, to verify the progress and quality of the work and to determine if work is in compliance with design documents, the schedule for construction, and applicable laws, building codes, rules, and regulations of public authorities having jurisdiction over the work. Each on-site inspection shall be conducted by CONSULTANT or an experienced and qualified representative who is knowledgeable about the project and competent in the disciplines having trade activities in progress at the time of the inspection. CONSULTANT shall promptly report to METRO, in writing, the results of each inspection, including defects and deficiencies in the work, and shall recommend appropriate corrective action, if any is necessary. Upon request, if needed for the project, METRO may require on-site detailed inspection of the work.

**Clarifications and Interpretations.** CONSULTANT shall have seven (7) days to review, certify, approve, reject, or take other appropriate action on all submittals such as shop drawings, product data, and samples and return them to the project contractor. CONSULTANT shall not approve any such submittals unless they conform to the individual project design concept, the design documents, and the project budget. CONSULTANT shall issue, with reasonable promptness, such written clarifications or interpretations of the requirements of CONSULTANT's work product (in the form of drawings or otherwise) as necessary, which shall be consistent with the intent of and reasonably inferred by the CONSULTANT's work product.

**Authorized Variations In Work.** With METRO's approval, CONSULTANT may authorize minor variations from the requirements of the design documents if the adjustments are compatible with the design concept and do not involve adjustment in the Contract Price or schedule.

**Rejecting Defective Work.** CONSULTANT shall have the authority and responsibility to reject defective work and work that is not in compliance with the individual project design concept. METRO shall be immediately notified, in writing, when work is rejected.

**Determinations for Unit Price.** CONSULTANT shall verify actual and appropriate quantities and classifications of the unit price work performed by the individual project contractor. CONSULTANT shall provide written documentation supporting the decision to accept or deny unit pricing and classifications.

**Dispute Analysis.** CONSULTANT will be the initial interpreter of the requirements of the design documents and determine the acceptability of the work. The individual project contractor may challenge the CONSULTANT's interpretations by notifying both the CONSULTANT and METRO in writing. Written notice of each such challenge shall be delivered within thirty (30) days of the CONSULTANT's determination. METRO will be the final arbitrator of the challenge and will determine the appropriate resolution.

## **2.8. Withholding of Salaries**

If, in the performance of this Contract, there is any underpayment of salaries by CONSULTANT or by any subconsultant, Metro may withhold from payments due CONSULTANT an amount sufficient to pay underpaid employees. This amount shall be established by the difference between the salaries required to be paid and the salaries actually paid such employees for the total number of hours worked. The amount withheld may be disbursed by METRO to the respective employees to whom it is due, for and on account of CONSULTANT or subconsultant.

## **2.9. Representations of CONSULTANT**

In order to induce METRO to execute this Contract and recognizing that METRO is relying upon the following express representations, CONSULTANT makes the following express representations to METRO:

CONSULTANT is fully qualified to act as architectural and/or engineer consultant for the project and has, and shall maintain, any and all licenses, permits or other authorizations necessary to perform as the architect and/or engineer for the project;

Before responding to a solicitation on a project, CONSULTANT will become familiar with the project site and the local conditions under which the project is to be constructed and operated;

CONSULTANT shall review and carefully examine all of the documents which make up the project and shall verify that they adequately convey the terms and conditions for designing and constructing the project; and

CONSULTANT shall access the project site for examinations, explorations, tests and studies, and shall rely exclusively upon CONSULTANT's own estimates, investigations, and expertise to fully and completely respond to a project solicitation.

## **2.10. Stormwater Management Design**

All activities performed in under this contract shall be conducted in full compliance with Metro Code of Law §§ 15.64 et al (Stormwater Management) including §§ 15.64.205

(<http://www.nashville.gov/Water-Services/Pollution-Prevention/Illicit-Discharge-Ordinance.aspx>).

This requirement pertains to Unlawful/Prohibited Discharges to the Metro Storm Sewer System/Community Waters. It requires that "wastewater" and/or "non-stormwater" discharges such as wash water, process wastewater, etc. shall not be discharged into the Municipal Storm Sewer System (MS4) or into Community Waters. Any questions relating these provisions should be routed to the Metro Water Services NPDES Office at (615) 880-2420. This requirement shall apply to all Metro construction projects in the service area which includes areas outside Davidson County.

The consultant shall be held responsible for any/all designs that cause MWS to violate project regulatory permits and/or Federal, State, and/or local environmental regulations. Such permits and regulations may include, but are not limited to:

- U.S. Army Corps of Engineers 404 Permits
- TDEC Aquatic Resource Alteration Permits
- TDEC Construction General Permits
- Any State or Federal permits/approvals related to Threatened and Endangered Species
- Metro Individual NPDES permits
- Metro Code §15.64.205 - Metro Illicit Discharge Ordinance
- Metro Stormwater Management Manual

Consultant's responsibility shall include, but not be limited to, payment of any/all fines, assessments and/or civil penalties incurred due to design and payment for any mitigation measures required due to the violation and cleanup associated with any violation.

### **3. CONTRACT TERM**

#### **3.1. Contract Term**

The Contract Term will begin on the date this Contract is approved by all required parties and filed in the Metropolitan Clerk's Office. The Contract Term will end sixty (60) months from the date of filing with the Metropolitan Clerk's Office.

In no event shall the term of this Contract exceed sixty (60) months from the date of filing with the Metropolitan Clerk's Office.

#### **3.2. COMPENSATION**

##### **3.2.1. Contract Value**

This Contract has an estimated value of \$[Agreement Amount]. The pricing details are included in Exhibit A and are made a part of this Contract by reference. CONTRACTOR shall be paid as work is completed and METRO is accordingly, invoiced.

##### **3.2.2. Other Fees**

There will be no other charges or fees for the performance of this Contract. METRO will make reasonable efforts to make payments within 30 days of receipt of invoice but in any event shall make payment within 60 days. METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

### **3.2.3. Payment Methodology**

Payment in accordance with the terms and conditions of this Contract shall constitute the entire compensation due CONTRACTOR for all goods and/or services provided under this Contract.

METRO will compensate CONTRACTOR in accordance with Exhibit A of this Contract. Subject to these payment terms and conditions, CONTRACTOR shall be paid for delivered/performed products and/or services properly authorized by METRO in accordance with this Contract. Compensation shall be contingent upon the satisfactory provision of the products and/or services as determined by METRO.

### **3.2.4. Electronic Payment**

All payments shall be effectuated by ACH (Automated Clearing House).

### **3.2.5. Invoicing Requirements**

CONTRACTOR shall invoice METRO no more frequently than once a month or for the satisfactorily and accurately delivered/performed products and/or services, whichever is less frequent. Invoices shall detail this Contract Number accompanied by any necessary supporting documentation. CONTRACTOR shall submit all invoices no later than ninety (90) days after the products and/or services have been delivered/performed.

Payment of an invoice by METRO shall not waive METRO's rights of revocation of acceptance due to non-conformity or the difficulty of discovery of the non-conformance. Such revocation of acceptance shall occur within a reasonable time after METRO discovers or should have discovered the non-conforming product and/or service but prior to any substantial change in condition of the products and/or services caused by METRO.

### **3.2.6. Subcontractor/Subconsultant Payments**

When payment is received from METRO, CONTRACTOR shall within fourteen (14) calendar days pay all subcontractors, subconsultants, laborers, and suppliers the amounts they are due for the work covered by such payment. In the event METRO becomes informed that CONTRACTOR has not paid a subcontractor, subconsultant, laborer, or supplier as provided herein, METRO shall have the right, but not the duty, to issue future checks and payments to CONTRACTOR of amounts otherwise due hereunder naming CONTRACTOR and any such subcontractor, subconsultant, laborer, or supplier as joint payees. Such joint check procedure, if employed by METRO, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit METRO to repeat the procedure in the future. If persistent, this may be determined to be a material breach of this Contract.

## **4. TERMINATION**

### **4.1. Notice**

METRO may terminate this Contract at any time upon thirty (30) days written notice to CONTRACTOR. Should METRO terminate this Contract, CONTRACTOR shall immediately cease work and deliver to METRO, within thirty (30) days, all completed or partially completed satisfactory work, and METRO shall determine and pay to CONTRACTOR the amount due for satisfactory work.

#### **4.2. Breach**

Should CONSULTANT fail to fulfill in a timely and proper manner its obligations under this Contract, or if it should violate any of the terms of this Contract, METRO may offer the CONSULTANT a period and expectations for cure. However, METRO reserves the right to immediately terminate this Contract. Such termination shall not relieve CONSULTANT of any liability to METRO for damages sustained by virtue of any breach by CONSULTANT.

#### **4.3. Lack of Funding**

Should funding for this contract be discontinued, METRO shall have the right to terminate the contract immediately upon written notice to CONSULTANT.

### **5. NONDISCRIMINATION**

#### **5.1. Metro's Nondiscrimination Policy**

It is the policy of the METRO not to discriminate on the basis of age, race, sex, color, national origin, sexual orientation, gender identity, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

#### **5.2. Nondiscrimination Requirement**

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of race, creed, color, national origin, age, sex, disability, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORS. **CONTRACTOR certifies and warrants that it will comply with this nondiscrimination requirement.** Accordingly, all offerors entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

#### **5.3. Procurement Nondiscrimination Program Requirement**

The consideration and contact of minority-owned and/or woman-owned business enterprises is required for a responsive offer to most solicitations. The provision of the Procurement Nondiscrimination Program documents shall be part of each applicable solicitation response and incorporated herein by reference. CONTRACTOR agrees to comply with the Procurement Nondiscrimination Program, if applicable, in the execution of this Contract.

#### **5.4. Covenant of Nondiscrimination**

All offerors have committed to the Covenant of Nondiscrimination when registering with METRO to do business. To review this document, go to METRO's website.

#### **5.5. Americans with Disabilities Act (ADA)**

CONTRACTOR assures METRO that all services provided shall be completed in full compliance with the Americans with Disabilities Act ("ADA") 2010 ADA Standards for Accessible Design, enacted by law March 15, 2012, as has been adopted by METRO. CONTRACTOR will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

### **6. INSURANCE**

#### **6.1. Proof of Insurance**

During the term of this Contract, for any and all awards, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract, including any extension(s), the types and amounts of insurance identified below. Proof of insurance shall be required naming METRO as additional insured and identifying either the project name, RFQ, Purchase Order, or Contract number on the ACORD document.

#### **6.2. Automobile Liability Insurance**

In the amount of one million (\$1,000,000.00) dollars (if CONTRACTOR will be making on-site deliveries)

#### **6.3. Worker's Compensation Insurance (if applicable)**

CONTRACTOR shall maintain workers' compensation insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars, as required by the laws of Tennessee (Not required for companies with fewer than five (5) employees).

#### **6.4. General Liability Insurance**

In the amount of one million (\$1,000,000.00) dollars.

#### **6.5. Professional Liability Insurance**

In the amount of one million (\$1,000,000.00) dollars.

#### **6.6. Such insurance shall:**



Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

For any claims related to this Contract, CONTRACTOR's insurance coverage shall be primary insurance with respects to METRO, its officials, officers, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

Automotive Liability insurance shall include vehicles owned, hired, and/or non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.

CONTRACTOR shall maintain Workers' Compensation insurance (if applicable) with statutory limits as required by the State of Tennessee or other applicable laws and Employers' Liability insurance. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's Workers' Compensation insurance coverage.

#### **6.7. Other Insurance Requirements**

Prior to commencement of services, CONTRACTOR shall furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

**DEPARTMENT OF LAW  
INSURANCE AND RISK MANAGEMENT  
METROPOLITAN COURTHOUSE, SUITE 108  
PO BOX 196300  
NASHVILLE, TN 37219-6300**

Provide certified copies of endorsements and policies if requested by METRO in lieu of or in addition to certificates of insurance.

Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage and to provide evidence of renewal may be treated by METRO as a material breach of this Contract.

Said insurance shall be with an insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.

Require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall require subcontractor's to have all necessary insurance and maintain the subcontractor's certificates of insurance.

Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by METRO **prior to the commencement of services.**

If CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the

primary policy and the deductible features of the excess policies.

## **7. GENERAL TERMS AND CONDITIONS**

### **7.1. Taxes**

METRO shall not be responsible for any taxes that are imposed on CONTRACTOR. Furthermore, CONTRACTOR understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to METRO.

### **7.2. Warranty**

CONTRACTOR warrants that for a period of one year from date of delivery and/or installation, whichever is later, the goods provided, including software, shall be free of any defects that interfere with or prohibit the use of the goods for the purposes for which they were obtained.

During the warranty period, METRO may, at its option, request that CONTRACTOR repair or replace any defective goods, by written notice to CONTRACTOR. In that event, CONTRACTOR shall repair or replace the defective goods, as required by METRO, at CONTRACTOR's expense, within thirty (30) days of written notice.

Alternatively, METRO may return the defective goods, at CONTRACTOR's expense, for a full refund. Exercise of either option shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of CONTRACTOR's breach of warranty.

### **7.3. Software License**

CONTRACTOR warrants and represents that it is the owner of or otherwise has the right to and does hereby grant METRO a license to use any software provided for the purposes for which the software was obtained or proprietary material set forth in METRO's solicitation and/or the CONTRACTOR's response to the solicitation.

### **7.4. Copyright, Trademark, Service Mark, or Patent Infringement**

CONTRACTOR shall, at its own expense, be entitled to and shall have the duty to defend any suit that may be brought against METRO to the extent that it is based on a claim that the products or services furnished infringe a Copyright, Trademark, Service Mark, or Patent. CONTRACTOR shall further indemnify and hold harmless METRO against any award of damages and costs made against METRO by a final judgment of a court of last resort in any such suit. METRO shall provide CONTRACTOR immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable CONTRACTOR to do so. No costs or expenses shall be incurred for the account of CONTRACTOR without its written consent. METRO reserves the right to participate in the defense of any such action. CONTRACTOR shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon METRO unless approved by the METRO Department of Law Settlement Committee and, where required, the METRO Council.

If the products or services furnished under this Contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing CONTRACTOR's obligation to satisfy the final award, CONTRACTOR

may at its option and expense:

- Procure for METRO the right to continue using the products or services
- Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to METRO, so that they become non-infringing
- Remove the products or discontinue the services and cancel any future charges pertaining thereto

Provided; however, that CONTRACTOR will not exercise the Remove option above until CONTRACTOR and METRO have determined that the Procure and/or Replace options are impractical. CONTRACTOR shall have no liability to METRO; however, if any such infringement or claim thereof is based upon or arises out of:

- The use of the products or services in combination with apparatus or devices not supplied or else approved by CONTRACTOR;
- The use of the products or services in a manner for which the products or services were neither designated nor contemplated; or,
- The claimed infringement in which METRO has any direct or indirect interest by license or otherwise, separate from that granted herein.

### **7.5. Maintenance of Records**

CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery. Breach of the provisions of this paragraph is a material breach of this Contract.

All documents and supporting materials related in any manner whatsoever to this Contract or any designated portion thereof, which are in the possession of CONTRACTOR or any subcontractor or subconsultant shall be made available to METRO for inspection and copying upon written request from METRO. Said documents shall also be made available for inspection and/or copying by any state, federal or other regulatory authority, upon request from METRO. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the procurement and/or performance of this Contract. Said records expressly include those documents reflecting the cost, including all subcontractors' records and payroll records of CONTRACTOR and subcontractors.

### **7.6. Monitoring**

CONTRACTOR's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by METRO, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

### **7.7. METRO Property**

Any METRO property, including but not limited to books, records, and equipment that is in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of this Contract. All goods, documents, records, and other work product and property produced during the performance of this Contract are deemed to be METRO property. All documents

which make up this Contract; all other documents furnished by METRO; all conceptual drawings, design documents, closeout documents, and other submittals by CONTRACTOR; and, all other original works of authorship, whether created by METRO or CONTRACTOR embodied in any tangible medium of expression, including, without limitation, pictorial, graphic, sculptural works, two (2) dimensional works, and three (3) dimensional works.

CONTRACTOR may keep one (1) copy of the aforementioned documents upon completion of the contract; provided, however, that in no event shall CONTRACTOR use, or permit to be used, any portion of the documents on other projects without METRO's prior written authorization.

#### **7.8. Modification of Contract**

This Contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

#### **7.9. Partnership/Joint Venture**

This Contract shall not in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among any of the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall become liable for any representation, act, or omission of any other Party contrary to the terms of this Contract.

#### **7.10. Waiver**

No waiver of any provision of this Contract shall affect the right of any Party to enforce such provision or to exercise any right or remedy available to it.

#### **7.11. Employment**

CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this Contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

#### **7.12. Compliance with Laws**

CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations.

#### **7.13. Taxes and Licensure**

CONTRACTOR shall have all applicable licenses and be current on its payment of all applicable gross receipt taxes and personal property taxes.

#### **7.14. Ethical Standards**

CONTRACTOR hereby represents that CONTRACTOR has not been retained or retained any persons to solicit or secure a METRO contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this Contract, a breach of ethical standards, which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

#### **7.15. Indemnification and Hold Harmless**

CONTRACTOR shall indemnify and hold harmless METRO, its officers, agents, and employees from:

- A. Any claims, damages, costs, and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, in connection with the performance of the contract.
- B. Any claims, damages, penalties, costs, and attorney fees arising from any failure of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- C. In any and all claims against METRO, its officers, agents, or employees, by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any subcontractor under workers' compensation acts, disability acts, or other employee benefit acts.
- D. METRO will not indemnify, defend, or hold harmless in any fashion CONTRACTOR from any claims arising from any failure, regardless of any language in any attachment or other document that CONTRACTOR may provide.
- E. CONTRACTOR shall pay METRO any expenses incurred as a result of CONTRACTOR's failure to fulfill any obligation in a professional and timely manner under this Contract.

#### **7.16. Attorney Fees**

CONTRACTOR agrees that in the event either party takes legal action to enforce any provision of this Contract or to obtain a remedy for any breach of this Contract, and in the event METRO prevails in such action, CONTRACTOR shall pay all expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable attorney fees for METRO.

#### **7.17. Assignment--Consent Required**

The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to CONTRACTOR under this Contract, neither this Contract nor any of the rights and obligations of CONTRACTOR hereunder shall be assigned or transferred in

whole or in part without the prior written consent of METRO. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.

NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

**METRO'S CHIEF ACCOUNTANT**

**DIVISION OF ACCOUNTS**

**DEPARTMENT OF FINANCE**

**PO BOX 196300**

**NASHVILLE, TN 37219-6300**

Funds Assignment Requests should contain complete contact information (contact person, organization name, address, telephone number, and email) for METRO to use to request any follow up information needed to complete or investigate the requested funds assignment. To the extent permitted by law, METRO has the discretion to approve or deny a Funds Assignment Request.

#### **7.18. Entire Contract**

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

#### **7.19. Force Majeure**

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

#### **7.20. Governing Law**

The validity, construction, and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that CONTRACTOR may provide.

#### **7.21. Venue**

Any action between the Parties arising from this Contract shall be maintained in the courts of Davidson County, Tennessee.

#### **7.22. Severability**

Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.

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