

The University of Tennessee  
**REQUEST FOR QUALIFICATIONS (RFQ)**

**Programmer for**  
**Northwest Tennessee Arts Center and College of Business and Global Affairs Programming Project**  
**UT Martin**  
**September 23, 2021**

The University of Tennessee (Owner) issues this RFQ to qualified Programming Consultants interested in providing services for the development of two program statements on a renovation and addition for the Northwest Tennessee Arts Center and a new building for the College of Business and Global Affairs on the UT Martin campus. The Owner intends to enter into an agreement with a Consultant that will deliver the program statements. Qualifications Statements in response to this RFQ shall be submitted in accordance with the requirements provided herein.

**Summary of Project and Required Services**

This project will provide programming for two upcoming projects. The Northwest Tennessee Arts Center which house the Music and Visual Theater Arts Departments desires a renovation of the existing theater (15,000 sq. ft.) and an addition (66,000 sq. ft.) to the current Fine Arts Building. The College of Business and Global Affairs is seeking to demolish their existing Business Administration Building and constructing (100,000 sq. ft.).

Programming services for this project will include:

- A. Development of a program statement, the majority of spaces must be defined around HEIGS Taxonomies, the Tennessee Higher Education Commission (THEC) space guidelines, campus direction relative to functional utilization, and the respondent's experience for benchmarking similar space. The THEC space guidelines for instructional classrooms, laboratories, and office space must be consulted and utilized during the development process.
- B. The University is devoted to principals of universal design and the building must conform to all relevant ADA requirements.
- C. The overall building infrastructure, including network wiring, should be compiled in the finished product.
- D. The program statement will be developed to meet the Tennessee High Performance Building Requirements.
- E. The program statement must include site, landscape, Masterplan, and other University wide considerations and must comply with pertinent University design and construction guidelines and standards, Masterplans, and other related documents.
- F. The program statement will include for each space:
  - a. Name of space
  - b. Number of persons occupying the space
  - c. The net assignable square feet of the space, spaces which fall under the THEC guidelines, unless there is a compelling reason.
  - d. A unique space number

- e. A description of architectural features and services to include, but not limited to:
    - i. Relation to other spaces within the facility
    - ii. HVAC requirements
    - iii. Illumination requirements
    - iv. Electrical requirements
    - v. Plumbing requirements
    - vi. Communications (internet speed, parts, wireless)
    - vii. Audio Visual requirements – e.g. (Classrooms and Conference Rooms)
    - viii. Security and fire alarm
    - ix. Level and Quality of Finishes:
      - 1. Floors
      - 2. Walls and doors
      - 3. Ceilings
      - 4. Windows
  - f. A succinct but precise description of the work which will be performed in the space.
  - g. A description of equipment requirements, divided into elements of:
    - i. Major equipment to be housed within the space, with associated requirements for mechanical, electrical, plumbing, and the space around the unit/equipment (if applicable)
  - h. A complete list of all fixed and movable furniture and equipment to be in the space, with notation of which items are to be consolidated into the project budget (fixed and built-in, and movable equipment) and which will be supplied by the end user (example – scientific equipment). (if applicable)
  - i. Site and utility considerations
- G. Periodically meeting with a university committee comprised of faculty and staff concerning the development of the specific building program. This committee shall provide input and review the progress of the program document and ascertain any special requirements dictated by the end users.
- H. Deliver to the owner a package that can be submitted to the architectural firm assigned to the project. In addition, the programming firm shall be available to address questions originating from the architectural firm during the design process.
- I. The final product delivered to the campus shall be 4 hard copies 8-1/2" x 11" format and an executable electronic version that is approved by UT Knoxville, which can be revised and amended.
- J. The Contents of the final product will address item numbers listed above and incorporated into the following format.
- a. A project narrative which will provide information to external constituents, such as state government or federally funded research entities. The narrative will include a written description of the project goals, objective justifications, and relationship to the Campus Master Plan. The narrative will also contain philosophical criteria relative to facility design, sustainability, and historical significance, if applicable. Other issues may include project phasing, future projects, and any known externally imposed requirements.
  - b. Diagrams and drawings necessary to define functional relationships among individual spaces otherwise necessary to communicate design criteria.
  - c. Project site plans and diagrams.
  - d. Individual space definition sheets with criteria as shown

- e. Any specialized requirements or system descriptions
- f. Related site and utility requirements or system descriptions
- g. Any externally imposed requirements; in other words, federal requirements, or state and local stipulations.
- h. Conceptual project timeline
- i. Reconciliation of program to University Capital Budget (where applicable)

All Consultants must register with the Office of the State Architect to be able to enter into an agreement for this work.

<https://designerregistration.osa.tn.gov/WebForms/Home.aspx>

### Qualifications Statement Submittal Deadline and Tentative Schedule

Submittal Location: Qualifications Statements will be received at UT Office of Capital Projects.

The schedule below is tentative. Any events scheduled prior to the submission deadline may be modified at any time with changes issued in an addendum. Events scheduled after the deadline may be modified without notice.

| Event   | Date   | Time**                      |
|---|--|-----------------------------|
| RFQ Published to UT Facilities Planning Website   | September 23, 2021   |                             |
| <u>*Project Review Conference:</u> via Zoom – Zoom meeting invitation will be sent to firms requesting information from RFQ Coordinator by October 6 at 5:00 pm.      | October 7, 2021  | 11:00 am                    |
| <u>Deadline for Questions:</u> emailed to RFQ Coordinator   | October 13, 2021   | Received by 5:00 pm         |
| <u>Final issuance of Addenda:</u> posted to web site  | October 15, 2021   | Posted by 5:00 pm           |
| <b><u>Submittal Deadline:</u></b> Qualifications Statements will be received at UT Office of Capital Projects, 5723 Middlebrook Pike, Suite 201, Knoxville, TN 37921. | <b>October 21, 2021</b>  | <b>Received by 12:00 pm</b> |
| <u>Proposal Review Period</u>   | October 22 - 29, 2021  |                             |
| <u>Target Date for Notification of Short-listed Consultants for Interviews (Optional)</u>   | November 1, 2021   |                             |
| <u>Target Date for Interviews (Optional)</u>  | November 16, 2021  |                             |
| <u>Target Date to Award Contract</u>  | November 2, 2021(if not Interviews)<br>November 17, 2021(with Interviews)                    |                             |
| <u>Target time for Consultant Agreement Signing and Negotiation Period</u>  | November 3 - 17, 2021 (if no Interviews)<br>November 18 – December 3, 2021 (with Interviews) |                             |

\*Attendance is not a prerequisite for submission of Qualifications Statement.

\*\*All times noted above are Eastern Time unless noted otherwise

## **Qualification Statement Submittal Format**

Qualifications Statements shall be submitted as Seven bound copies and a single digital file copy in .pdf format on a flash drive. The digital file should not exceed 20 MB and should be named using the following format: Firm Name UTM NTAC and CBGA 2021-10-21.pdf.

Submitted packages should be clearly marked as follows:

Qualifications Statement

Northwest Tennessee Arts Center and College of Business and Global Affairs  
Programming Project

Submitted By: <<Respondent Name>>

Contact: <<Contact Person Name, Address, Telephone Number>>

The Qualifications Statement shall be on standard 8 1/2" x 11" paper (landscape or portrait). It shall not exceed 30 pages including pages with photos (used as dividers or section headers or otherwise), charts, spreadsheets, and appendices. Binding covers, a one-page transmittal letter, and table of content pages may be provided in addition to the maximum of 30 pages. Pages or sheets with print on both sides will be counted as two pages. All pages must be numbered. Follow the information structure provided herein with clear identification of each information section.

## **Request for RFQ Communications**

The Owner will convey all official communications and addenda pursuant to this RFQ to the interested parties from whom the RFQ Coordinator has received a Request for RFQ Communications in writing, by email, with the request clearly indicating the organization name and the name and title of a contact person with their telephone number and email address.

The Request for RFQ Communications shall be made no later than the date of the Project Review Conference detailed herein. Such request creates no obligation and is not a prerequisite for submitting a Qualifications Statement.

## **RFQ Communications Process**

Interested parties must direct all communications regarding this RFQ to the following RFQ Coordinator, who is the Owner's official point of contact for this RFQ.

Rebecca Douglas, RFQ Coordinator  
Office of Capital Projects  
The University of Tennessee  
5723 Middlebrook Pike, Suite 201  
Knoxville, TN 37921  
Telephone: (865) 974-2628  
Email: [designer@tennessee.edu](mailto:designer@tennessee.edu)

As specified above, if a respondent contacts anyone except the University's Solicitation Coordinator, the University may disqualify the Respondent. Communicating with anyone other than the Solicitation Coordinator is "ex parte" communication. The University's prohibition against ex parte communication ends only after the University issues a contract.

Only the Owner's official written responses and communications shall be considered binding with regard to this RFQ and will be issued as an addendum.

Each Respondent shall assume the risk of the method of dispatching any communication to the Owner. The Owner assumes no responsibility for delays or delivery failures resulting from the method of dispatch. "Postmarking" of a communication or proposal shall not substitute for actual receipt of a communication by the Owner.

## **Additional Information**

Exhibit 1 contains the terms and conditions that govern this solicitation

Exhibit 2 is a draft Agreement that would govern the University's final award. Exhibit 2 is only for informational purposes. Please note that responding to this RFQ does not guarantee the Proposer the offer of an agreement with the University. Also, please note that The University of Tennessee is an instrumentality of the State of Tennessee and, thus, does not have the ability to negotiate certain provisions.

Respondents acknowledge that this solicitation is for programming work only. The University will issue an award to one Respondent as a result of this solicitation. The Respondent to whom the University issues an award will not be eligible to provide design services to the University either the Northwest Tennessee Arts Center or College of Business and Global Affairs projects; however, the Respondent would be eligible to provide consulting services to any contractor who provides the design services to the University for either project.

## **Qualifications Statement Required Information and Scoring**

### **Consultant Forms of Business**

Any form of business arrangement with consultants or joint venture partners may be proposed. However, the Owner requires this to be a single contract and the respondent serve as the primary contact, project leader, administrative manager, and single source of responsibility, with any necessary business partners and consultants serving under their management.

A Qualifications Statement that is submitted by a Respondent with supporting partners or as a joint venture will be evaluated on the combined experiences of the individual member firms as performed through the previous joint venture agreement.

### **A. Consultant Information (Pass / Fail Scoring)**

A.1 Provide the Consultant's name, address, website address, number of years in business, legal structure (e.g., corporation, etc.), and FEIN.

A.2 Provide the name, e-mail address, mailing address and telephone number of a single primary contact of the respondent.

A.3 Provide any details of all past or pending litigation or claims filed against your company that would affect your company's performance under an Agreement with UT System.

A.4 Is Respondent's business currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the impact of both in organizational and directional terms.

A.5 Describe Respondent's hours of business.

A.6 Describe Respondent's experience transacting with state or local government agencies.

A.7 Provide a statement of whether the Consultant, its subconsultants or any individual who shall perform work under this contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict.

### **B. Qualifications and Experience (Maximum Score: 65 Total Points)**

B.1 Describe the Respondent's qualifications to deliver the services needed for this project in regard to the following. (Maximum of 5 points)

- The form of business and the general credentials of the Respondent.
- The proposed personnel experience who will be working together on the project.
- The firm's sustainable design capabilities including experience with State of Tennessee Sustainable Design Guidelines or The Tennessee High Performance Building Requirements, sustainable design credentials of personnel, and example sustainable design projects.
- Illustrate how the firm is familiar with the code requirements enforced in the state of Tennessee.

B.2 Provide information on up to five of the Respondent's projects where the team provided programming services that have been completed within the last five years and that are of similar type, scope, and complexity. Include the following information: (Maximum of 25 points)

- Extent of services provided for each project.
- A reference (by an Owner representative) for each project including contact name, address, telephone number, email address. The Owner may contact references as well as any other source available.
- Information, sample format and/or photographs for each project

B.3 Provide the resume of key respondent personnel who will be assigned to this project and describe their proposed role and time commitment to this project. (Maximum of 25 points)

Include resumes of all principals and technical associates who would be brought together as a staff, which would serve either as an implementation team and/or which would be responsible for overseeing the requirements of this RFQ. This information could include related technical and professional affiliations, related employment, accomplishments, and involvement in contracts of this size/complexity. Provide each individual's current position with the firm or consultant, years with the firm, education, licensing, professional credentials, and similar project experience.

B.4 Provide a matrix showing the relationship between the projects (B.2) and the Consultant and subconsultant's personnel (B.3). Show projects in columns and personnel in rows. (Maximum of 5 points)

B.5 Provide the Respondent and consultant office location(s) that will be supporting this project with the distance in miles to the project site. If the Respondent and consultants have multiple locations serving this project describe how personnel from each location are involved. (Maximum of 5 points)

### **C. Technical Services (Maximum Score: 35 Total Points)**

C.1 Describe how the Respondent team will approach and document various programming aspects of the project including planning, architectural and engineering, site analysis, Master Plan analysis, graphics, accessibility, data/A/V, cost estimating, sustainability, etc. Describe how you will adapt your approach to meet the unique qualities of this project. (Maximum of 15 points)

C.2 Describe the Respondent's experience in communicating with clients regarding programming, providing alternatives, value engineering options, etc. (Maximum of 5 points)

C.3 Provide an organizational chart for this project illustrating lines of authority and specific staff proposed. The chart and related explanations shall describe the responsibilities of the personnel (Consultants and subconsultants) and the lines of communication. (Maximum of 10 points)

- Clarity of responsibility and communication
- Completeness and inclusion of key personnel and design phase which they will be involved.
- List all personnel and roles as described in B.3 with scheduled time commitment

C.4 Provide a preliminary schedule for this project identifying the time appropriate for each phase/task. Demonstrate your approach to meeting the target schedule. Provide examples of experience in enabling Owners to meet aggressive project completion schedules. (Maximum of 5 points)

- Clarity in meeting the schedule
- Examples

**Total Maximum Score: 100 points**

**Scoring**

After the University has selected a qualified Respondent, the University will negotiate cost. Respondents must not include a cost proposal with their responses.

- A. The scoring committee will score each Respondent based on the criteria listed below.
- B. The University will average the scores given by each member of the committee.
- C. The University will use the following scoring criteria:

| Evaluation Criteria           | Maximum Points Possible |
|-------------------------------|-------------------------|
| Mandatory Requirements        | Pass/Fail               |
| Qualifications and Experience | 65 points               |
| Technical Services            | 35 points               |

- D. The University will award 1 Respondent.

End of Request for Qualification



The University of Tennessee

### **Exhibit 1 Terms Governing this Solicitation**

Terms Governing This Solicitation: The terms below govern this solicitation. Respondents may not request revisions to this section. If a Respondent objects to a provision in this Exhibit, Respondent must not propose.

- A. **Governing Law:** The laws of the State of Tennessee, without giving effect to its principles of conflicts of law, govern this solicitation. Any liability of the University is governed by the Tennessee Claims Commission Act. The venue for any claim against the University is the Tennessee Claims Commission.
- B. **Presentations:** The University may invite any Respondent, only certain Respondents, or all Respondents for presentations. Respondent hereby acknowledges that the University has sole and absolute discretion regarding presentation invitations.
- C. **Evaluation Process**
  - a. **Subjective Nature:** Respondent understands that its response to this solicitation will be evaluated by a scoring committee. Respondent acknowledges that the scoring committee will subjectively evaluate Respondent's technical proposal.
- D. **No Required Quantities or Spend; Non-Exclusive**
  - a. **No Required Quantities or Spend:** Respondent acknowledges that any agreement that results from this solicitation will not obligate the University to purchase any specific amount of goods or services from Respondent, nor will the University be obligated to spend a minimum amount of money with Respondent.
  - b. **Non-Exclusive:** Respondent acknowledges that any agreement that results from this solicitation will not be an exclusive agreement in which the University may procure goods or services only from Respondent. Respondent acknowledges that the University may purchase any goods or services, including the same or substantially similar goods or services, from sources other than Respondent.
- E. **Confidentiality**
  - a. **Introduction:** Tennessee law limits the University's ability to withhold records from disclosure. Respondents must assume that all documentation, including pricing, submitted to the University will be subject to disclosure.
  - b. **Prohibition Against Non-Disclosure Agreements:** The University will not sign non-disclosure agreements related to Respondent's response to this solicitation.
  - c. **Generally:** The University hereby notifies all potential respondents and respondents that placing confidentiality notices on documents submitted to the University does not make the documents confidential under Tennessee law. The University will ignore such notices. Moreover, the University will not agree to provide advanced notice of disclosure.
  - d. **Open File Period:** After the University issues an intent to award notice, Tennessee law deems all materials submitted by Respondents open for inspection by any Respondent for 7 calendar days.
  - e. **Public Records Act:** If the University issues a final award, all documents, including the final contract, are subject to disclosure to any Tennessee citizen.
  - f. **Routine Disclosures:** The University routinely discloses records to the State of Tennessee's agencies (including State Audit), and the Tennessee General Assembly.

- g. Disclosures: State law does not allow the University to place confidentiality obligations on records that are disclosed under applicable law.
- F. Response Preparation Costs: The University will not pay any costs that a Respondent incurs associated with the preparation, submittal, or presentation of a response. By responding, each Respondent waives any claim against the University for costs the Respondent incurs as a result of responding to this solicitation.
- G. Assistance to Respondents with a Disability: In the event that a respondent has a disability, the University will make reasonable accommodation to allow them to participate, provided that the individual requesting assistance contacts the Solicitation Coordinator no later than 10 days before the response deadline.
- H. Respondent Review; Waiver of Objections
  - a. Required Review: Each potential Respondent must carefully review this solicitation.
  - b. Questions: Any potential Respondent having questions, concerns, or comments regarding this solicitation must notify the University no later than the deadline stated in the timeline of events.
  - c. Waiver of Objections: Any Respondent who fails to submit questions, concerns, or comments before the deadline irrevocably waives their right to object to anything in this solicitation. Accordingly, any such Respondent's protest will be invalid in the event that the protest involves issues to which the Respondent could have objected but did not.
- I. Amendment; Cancellation; Re-Issue
  - a. University's Right to Amend: The University may amend this solicitation at any time before the response deadline. If the University amends this solicitation, the University will issue a written addendum.
  - b. University's Right to Cancel: The University may cancel this solicitation at any time. The University will have no liability to Respondents in the event of a solicitation cancellation.
  - c. University's Right to Re-Issue: In the event that the University cancels a solicitation, the University may re-issue a solicitation. In the event that the University re-issues a solicitation, the University has no obligation to provide notification to respondents other than through re-issuance of the solicitation.
- J. Unrestricted Right to Reject: The University may reject any response for any reason.
- K. Immaterial Defects: The University may waive minor variances from full compliance with this solicitation. If the University waives immaterial defects in a response, such a waiver does not modify this solicitation's requirements.
- L. Negotiation: The University may negotiate with the top-scoring respondents in the best interest of the University.
- M. Respondent's Right to Withdraw its Response
  - a. Withdrawal: Respondents may withdraw their response at any time before the deadline for responses. To withdraw a response, a Respondent must submit a written request signed by a representative authorized to legally bind the Respondent. Respondent must send withdrawal requests to the RFQ Coordinator.

- b. Resubmit: Respondents may resubmit a response at any time before the deadline for responses.
  - N. Late Responses: The University will not accept responses after the deadline listed in the RFQ.
  - O. University's Discretion
    - a. Generally: All decisions regarding this solicitation, including the award, are within the University's sole discretion.
    - b. Examples: Without limiting the University's unrestricted discretion, the University may:
      - i. Reject any response to this solicitation for any reason.
      - ii. Seek new proposals at any time before the response deadline
      - iii. Seek clarification of additional information from any individual Respondent.
      - iv. Modify the selection criteria.
      - v. Modify the time schedule.
      - vi. Conduct negotiations:
        - 1. The University may negotiate with qualified Respondents.
        - 2. The University may negotiate with only a single Respondent.
        - 3. The University may elect to conduct multiple negotiation rounds, and the University may structure the negotiations in the University's sole discretion.
        - 4. If the University determines costs and contract finalization discussion and negotiations are not productive, the University reserves the right to bypass the apparent best evaluated Respondent and enter into contract negotiations with the next apparent best evaluated Respondent.
- P. Dispute Resolution: In the event that a Respondent disputes anything related to this solicitation, the Respondent must first follow the University's protest procedures <https://universitytennessee.policytech.com/dotNet/documents/?docid=242&public=true> .
- Q. Waiver of Claims:
  - a. Irrevocable Waiver: By responding to this solicitation, Respondent hereby irrevocably waives any claims against the University's trustees, officers, and employees, or former employees. Respondent hereby covenants not to sue University employees in their individual capacity. This release and waiver applies to Respondent and Respondent's successors, heirs, and assigns.
  - b. Materiality: The University and Respondent state that this clause is material to this solicitation.
- R. University Policies
  - a. Non Solicitation: Respondents shall comply with the University's Vending and Solicitations on the University campus" policy: [http://policy.tennessee.edu/fiscal\\_policy/fi0325/](http://policy.tennessee.edu/fiscal_policy/fi0325/)
  - b. Gift Acceptance: Respondents shall comply with the University's "Employee Gift Acceptance Policy:" [http://policy.tennessee.edu/fiscal\\_policy/fi0717/](http://policy.tennessee.edu/fiscal_policy/fi0717/)

- S. Severability: The University and Respondent intend as follows:
- a. That if any provision of this solicitation is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;
  - b. That if an unenforceable provision is modified or disregarded in accordance with this section, then the rest of the solicitation will remain in effect as written; and
  - c. That any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.
- T. Compliance with Law: Respondent shall comply with applicable law.

**End of Exhibit 1**

The University of Tennessee

**Exhibit 2 Draft Agreement**

**AGREEMENT**

between

**THE STATE OF TENNESSEE**

**The University of Tennessee**

and

**(Consultant Name)**

This Agreement, by and between the State of Tennessee, **University of Tennessee**, hereinafter referred to as the OWNER and **(Consultant Name)** hereinafter referred to as the CONSULTANT, is for the provision of programming services, analysis, and related services, as further defined in the "SCOPE OF SERVICES", below.

The OWNER and the CONSULTANT, having agreed to the conditions outlined in Articles A through D below; hereby enter into the following Agreement:

**A. SCOPE OF SERVICES: Programming Consultant for UT**

1. The CONSULTANT shall provide such professional advice and assistance as the State may request regarding the development of Programming Statements which may include work associated with planning of potential capital projects. The development of the statements could involve incorporation of Tennessee Higher Education Commission (THEC) space guidelines for instructional classroom, laboratories, and office space visioning; compliance with applicable laws, including ADA; overall building infrastructure, including network wiring; conformance with the Tennessee High Performance Building Requirements; site, landscape, Master Plan, and other University wide considerations regarding design and construction guidelines and standards. Final program statements should be composed of unique space name and number, number of persons occupying space, net assignable square feet of the space, description of architectural and building system features, succinct description of the work being performed in the space, description of equipment requirements, workspace requirements, complete list of fixed and movable furniture, and site and utility considerations. Periodic meetings with University committee as required to ascertain the needs of the project. Final delivered product should be an executable electronic version that is approved by the UT Office of Capital Projects and any hard copies should be printed as requested along with consultant's final information being able to be presented to the architectural firm assigned to the project.
2. Any work to be done by the CONSULTANT shall be approved in writing by the Owner prior to the start of the work. Each Owner approved scope of work ("Service") and not to exceed price shall be set forth in writing by the Head of the State Procurement Agency (SPA) or their delegated appointee and referred to herein as a "Task Order". For the purposes of this Agreement, the CONSULTANT's Principal is *(Principal Name)* Principal, and the Head of the SPA is Austin Oakes, Assistant Vice President, Office of Capital Projects.

**B. PAYMENT TERMS AND CONDITIONS:**

1. For the Work performed under this Agreement, as defined in Section A, the CONSULTANT shall be compensated based upon the not to exceed amount set forth in the Task Order. This amount shall be the maximum amount for the work performed and the total compensation due the CONSULTANT for the Service and all of the CONSULTANT's obligations under such Task Order regardless of the difficulty, hours worked, or materials or equipment required. The Task Order price includes, but is not limited to, all applicable taxes, fees, site visitation and investigation, analysis, planning work, cost estimating, and overheads, profit, and all other direct and indirect costs incurred or to be incurred, by the CONSULTANT, except as noted in this Task Order.
2. The CONSULTANT shall furnish a monthly summary sheet of all Task Orders under this

Agreement, identifying each project expenditure, and the total expenditures to date for Work performed under this Agreement. The CONSULTANT's compensation for services is based on a multiple of Direct Personnel Expense (DPE), determined as follows

3. Time for all individuals providing services under this Agreement shall be billed at the individual's typical or standard rate, in dollars per hour, calculated as set forth below and not to exceed the hourly rate set forth in the Task Order.
  - a. The typical or standard hourly rate for any employees (not principals or owners) of CONSULTANT shall not exceed a multiple of two and forty-five one hundredths (2.45) times the individual's DPE. The term "Direct Personnel Expense" means the actual cost of the individual to the company, which may not exceed one hundred thirty nine percent (139%) of the individual's base salary. "Direct Personnel Expense" includes the cost of the individual's base salary and of mandatory and customary benefits such as statutory employee benefits, insurance, sick leave, holidays and vacations, pensions, and similar benefits.
  - b. The typical or standard hourly rate for any principals and owners of CONSULTANT shall not exceed the greater of (A) a multiple of two and forty-five one hundredths (2.45) times the individual's DPE or (B) the average of the highest typical or standard hourly rate charged by an employee under the employ of said principal or owner for services provided under this Agreement, and the maximum hourly rate permissible in Section B.3 *above*.
4. Invoices to the CONSULTANT for surveys, tests, reports or other outside professional services for work authorized under this Agreement, shall be paid to the CONSULTANT with a fee, where the total payment does not to exceed one and twenty-one hundredths (1.20) times the amount invoiced to the CONSULTANT.
5. The OWNER shall reimburse the CONSULTANT the actual verified cost of reproduction of drawings and specifications, computer services, renderings and models, and special supplies authorized by the OWNER.
6. The CONSULTANT shall not be reimbursed for any traveling or living expenses in connection with this Agreement, unless approved in writing in advance by the OWNER. If approved, compensation to the CONSULTANT for travel, meals, and/or lodging shall be in the amount of actual costs, subject to maximum amounts and limitations specified in the "University of Tennessee Travel Regulations," as they are amended from time to time.
7. The CONSULTANT shall submit all invoices, in a form acceptable to the OWNER with all of the necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices will be submitted monthly and shall include any reimbursement for travel expenses as defined under Paragraph 6 of this Section.
8. The Payment of an invoice by the OWNER shall not prejudice the OWNER's right to object to or to question any invoice or matter in relation thereto. Such payment by the OWNER shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the costs invoiced therein. CONSULTANT's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the OWNERS, on the basis of audits conducted in accordance with the terms of this Agreement, not to constitute allowable costs. Any payment shall be reduced for over-payments or increased for under-payments on subsequent invoices.

**C. TERM:**

1. Term. This Agreement shall be effective for the period commencing on the date of full and complete execution of this Agreement and ending on the date that is five (5) years after the date of the last signature on this Agreement. The CONSULTANT hereby acknowledges and affirms that the OWNER shall have no obligation for services rendered by the CONSULTANT which were not performed within this specified Agreement period.

2. In Process Work Term Extension. This Agreement shall be automatically extended for a period beginning at the end of the final term for the purpose of completing all Task Order activities associated with any authorized work initiated during the term of this Agreement.

**D. STANDARD TERMS AND CONDITIONS:**

1. The OWNER is not bound by this Agreement until it is approved by the appropriate State officials as indicated on the signature page of this Agreement.
2. This Agreement may be modified only by a written amendment which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement, upon submission of a thirty (30) day written notice.
3. The OWNER may terminate this Agreement by giving the CONSULTANT at least thirty (30) days written notice before the effective termination date. The CONSULTANT shall be entitled to receive compensation for the services in an amount which the State determines to be equitable compensation for any work which has been completed prior to the date of termination.
4. If the CONSULTANT fails to properly perform its obligations under this Agreement or violates any terms of this Agreement, the OWNER shall have the right to immediately terminate this Agreement and withhold payments in excess of fair compensation for completed services. The CONSULTANT shall not be relieved of liability to the OWNER for damages sustained by virtue of any breach of this Agreement by the CONSULTANT.
5. The CONSULTANT shall not assign this Agreement or enter into a sub-Agreement for any of the services performed under this Agreement without obtaining the prior written approval of the OWNER. If such sub-Agreements are approved by the OWNER they shall contain, at a minimum, Paragraphs D.6 and D.8 of this Agreement.
6. The CONSULTANT warrants that no part amounts under this Agreement shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation or gifts in exchange for acting as an officer, agent, employee, sub-contractor, or consultant to the CONSULTANT in connection with any work contemplated or performed relative to this Agreement.
7. The CONSULTANT shall maintain documentation for all charges against the OWNER under this Agreement. The books, records, and documents of the CONSULTANT, insofar as they relate this Agreement, shall be maintained for a period of five (5) years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State agency or the Comptroller of the Treasury, or their duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.
8. No person on the grounds of handicap, race, color, religion, sex, or national origin will be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement, or in the employment practices of the CONSULTANT. The CONSULTANT shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notices on non-discrimination.
9. Prohibition of Illegal Immigrants
  - a. The requirements of Public Acts of 2006, Chapter Number 878, of the State of Tennessee, addressing the use of illegal immigrants in the performance of any Agreement to supply goods or services to the State of Tennessee, shall be a material provision of this Agreement, a breach of which shall be grounds for monetary and other penalties, including termination of this Agreement.
  - b. The Consultant hereby attests, certifies, warrants, and assures that the Consultant shall not knowingly utilize the services of an illegal immigrant in the performance of this Agreement and shall not knowingly utilize the services of any sub-contractor or consultant who will utilize the services of any illegal immigrant in the performance of this Agreement. The Consultant shall affirm this attestation, in writing, by his signature on this Agreement.
  - c. The Consultant understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law provides for the prohibition of a Consultant from any sub-Agreement

with, or submitting an offer, proposal, or bid to Agreement with the State of Tennessee to supply goods or services for a period of one year after a Consultant is discovered to have knowingly used the services of illegal immigrants during the performance of this Agreement.

- d. For purposes of this Agreement, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a lawful permanent resident, or a person whose physical presence in the United States is authorized or allowed by the Department of Homeland Security and who, under Federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Agreement.
10. The CONSULTANT shall maintain insurance coverage with the limits set forth below. CONSULTANT's certificates of insurance, in a form acceptable to the OWNER, shall be provided to the OWNER before the date of this Agreement and thereafter upon written request. The certificate of insurance required by this paragraph shall contain a provision requiring notice of cancellation to the OWNER.
- a. Commercial General Liability

|                 |             |
|-----------------|-------------|
| Each Occurrence | \$1,000,000 |
| Aggregate       | \$1,000,000 |
  - b. Commercial Automobile Liability

|   |             |
|---|-------------|
| Any Auto – Each Accident, Combined Single Limit | \$1,000,000 |
|---|-------------|
  - c. Workers' Compensation as required by statute, including employer's liability with limits of:

|                        |            |
|------------------------|------------|
| Each Accident          | \$ 100,000 |
| Disease, each employee | \$ 100,000 |
| Disease, policy limits | \$ 500,000 |
  - d. Professional Liability Insurance

|                  |             |
|------------------|-------------|
| Each Claim       | \$1,000,000 |
| Annual Aggregate | \$1,000,000 |
11. The CONSULTANT agrees to pay all taxes incurred in performance of this Agreement.
12. The OWNER shall have no liability except as specifically provided in this Agreement.
13. The CONSULTANT shall comply with all applicable Federal and State laws and regulations in the performance of this Agreement.
14. This Agreement shall be governed by laws of the State of Tennessee.
15. Upon completion of the Contract, the documents provided by CONSULTANT to OWNER as instruments of professional services shall be the property of The OWNER and may be used again by CONSULTANT only for the benefit of the OWNER. Originals of these documents may remain in the files of CONSULTANT. CONSULTANT and CONSULTANT's subconsultants may reuse any portion of the work prepared for this Project for other projects. Except as set forth in the Contract or any subsequent agreements between CONSULTANT and The OWNER, CONSULTANT shall have no liability for any future use by The OWNER of the instruments of professional service provided by CONSULTANT under the Contract where CONSULTANT is not engaged to provide services for such future use.
16. Iran Divestment Act. The CONSULTANT certifies, under penalty of perjury, that to the best of its knowledge and belief the CONSULTANT is not on the list created pursuant to Tenn. Code Ann. § 12-12-106. The Consultant further certifies that it shall not utilize any subconsultant that is on the list created pursuant to Tenn. Code Ann. § 12-12-106
17. The CONSULTANT will not be eligible to provide design services to the OWNER for the programmed project if the project is approved through the Capital Budget Process; however, the CONSULTANT would be eligible to provide consulting services to any Designer who provides the design services to the OWNER for the programmed project.

This Agreement is entered into on this the XX day of MM 20YY.



**Consultant:**

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Date

**The University of Tennessee:**

\_\_\_\_\_  
Austin Oakes  
Assistant Vice President, Office of Capital Projects

\_\_\_\_\_  
Date

**Approved as to Form and Legality:**

\_\_\_\_\_  
C. Ryan Stinnett  
General Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Project Account Number**

**End of Exhibit 2**