



Request for Qualifications (“RFQ”)

UT Programming Consultants Pool

The University of Tennessee System

November 19, 2024

RFQ COORDINATOR:

Rebecca Douglas

The Department of Capital Projects

505 Summer Place – UT Tower 9th Floor

Knoxville, TN 37902

865.974.2628; designer@tennessee.edu

<https://capitalprojects.tennessee.edu/fp/>

Section A: Introduction and Basic Information

1. **Purpose and Scope:** The University of Tennessee (University) issues this RFQ to identify qualified Programming Consultants interested in providing services for the development of programming statements for potential capital projects. The University intends to create a list of three pre-qualified consultants for each type of project function:
 - Classroom/Lab/Research
 - Medical/Health/Science
 - Music/Performing Arts
 - Office/Administration
 - Site/Infrastructure
 - Dining/Housing
 - Athletics/Recreation
 - Agriculture/BioSystems

Once a project has been identified the University would solicit the pre-qualified list for exact qualification depending on type of function and schedule. Once the qualifications are reviewed and selected by the University, a contract with a Consultant will be executed following fee negotiations.

Consultants interested in responding to this RFQ must submit Qualifications Statements in accordance with the requirements provided below.

Summary of Project and Required Services

This project will provide programming to enable the design and construction of potential capital projects.

Programming services for these types of projects usually includes the following activities:

- A. Development of a program statement, the majority of spaces must be defined around Postsecondary Education Facilities Inventory and Classification Manual (FICM), 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. Development in compliance with applicable laws, including the ADA. 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, must 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 includes 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. Program statements must include for each space:
 - 1) Name of space.
 - 2) Number of persons occupying the space.
 - 3) The net assignable square feet of the space, spaces which fall under the THEC guidelines, unless there is a compelling reason.
 - 4) A unique space number.
 - 5) A description of architectural features and services to include, but not limited to:
 - a. Relation to other spaces within the facility
 - b. HVAC requirements
 - c. Illumination requirements
 - d. Electrical requirements
 - e. Plumbing requirements
 - f. Fume hood requirements (if applicable)
 - g. Vibration requirements (if applicable)
 - h. Sound attenuation and acoustical requirements (if applicable)
 - i. Gas use requirements (if applicable)
 - j. Compressed air requirements (if applicable)
 - k. Recirculating water system requirements (if applicable)
 - l. Communications (internet speed, parts, wireless)
 - m. Security and fire alarm
 - n. Level and Quality of Finishes:
 - i. Lab bench surface (if applicable)
 - ii. Floors
 - iii. Walls and doors
 - iv. Ceilings
 - v. Windows
 - 6) A succinct, but precise, description of the work which will be performed in the space.
 - 7) A description of equipment requirements, divided into elements of:
 - a. Major equipment to be housed within the space, with associated requirements for electrical, plumbing, shielding, and the space

- around the unit/equipment (if applicable)
 - b. Workstation requirements – describing the type of bench or workstation, along with associated chairs or stools (if applicable)
 - 8) 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).
 - 9) 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 University 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 hard copies 8-1/2" x 11" as requested and formatted in an executable electronic version that is approved by UT Department of Capital Projects, 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)

2. **Communications:**

The following University office is managing this solicitation:

The University of Tennessee
Department of Capital Projects
505 Summer Place – UT Tower 9th Floor
Knoxville, TN 37902

Regarding the subject matter of this solicitation, respondents may only communicate with the RFQ Coordinator. The primary contact person for this solicitation is listed below:

Name: Rebecca Douglas
Title: RFQ Coordinator
Phone: 865.974.2628
Email: designer@tennessee.edu

If a respondent contacts anyone except the University's staff member listed above, the University may disqualify the respondent.

3. **Term:**

- The initial term for the pre-qualified consultants is active for 5 years.
- The term of each individual contract will be based on agreed upon schedule resulting from each individual project.

4. **Number of Awards:** The University intends to award this solicitation for up to 24 respondents, unless the University deems it to be in its best interest to award to fewer, or more, respondents. A respondent can be awarded for multiple project functions. The University retains sole discretion over this decision.

5. **Extension of the Award:** Other university departments, agencies with the State of Tennessee and other Tennessee public universities may also purchase goods and/or services from this award, if the winning respondent is agreeable. It should be noted that these entities are not required to use this agreement. If any of them elect to participate under the terms and conditions of this resulting award, the University of Tennessee reserves the right to re-negotiate favorable incentive with the successful consultant that are reflective of the additional volume. Note: The offer to extend the award to these other entities is at the discretion of the winning respondent and they should not be extended if it would affect your ability to offer the most favorable terms to The University of Tennessee.

6. **Non-Exclusive:** Although it is the University's hope that most projects will utilize the consultant pool from this award, this is not a solicitation for an exclusive agreement and campuses will still have the option of soliciting other consultants in accordance with our procurement policies. The University does not guarantee that all programming statement solicitations for the type of services available under these qualifications will be made

exclusively from the pre-qualified consultants.

7. **Pre-Proposal Conference:** Project review conference will be held on Monday, November 25, 2024, at 11:00 a.m. Eastern Time via Zoom. Zoom meeting invitation will be sent to firms requesting information from RFQ Coordinator by November 22nd, at 5:00 pm. Meeting information will be sent the morning of November 25th. Attendance is not a prerequisite for submission of Qualifications Statement.
8. **Schedule:** Note the University reserves the right to change these dates. All times are quoted in Eastern Time.

Publication Date	November 19, 2024
Pre-Proposal Conference	November 25, 2024, at 11:00 am ET
Deadline for Questions	December 3, 2024
Issue Addenda	December 9, 2024
Deadline to Contact RFQ Coordinator for Instructions on Uploading Proposal	December 10, 2024
Bidder Submission Due Date	December 17, 2024, at 12:00 pm (Noon) ET
Notice of Intent to Award	January 10, 2025
Open File Period / Protest Period	January 10 – January 20, 2025

Section B: Instructions and Evaluation Criteria

1. **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.
2. **Qualifications Submission**: Qualification Statements will be received by the UT Department of Capital Projects, via TEAMS Portal.

Qualifications Statements shall be submitted as a single digital file copy in .pdf format. The digital file should not exceed 20 MB and should be named using the following format: Designer Name UT Programming Consultant Pool 2024-11-19.pdf. Proposers who intend to submit a qualification should contact the RFQ Coordinator no later than the time specified above to receive instructions on uploading submission to assigned portal. The subject line of the email should be clearly marked as follows:

Qualifications Statement for UT Programming Consultant Pool

In the body of the email please include the following:

Submitted By: <<Designer Name>>

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

The Qualifications Statement shall be formatted to standard 8 1/2" x 11" (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. Hyperlinks and QR Codes should not be included in any proposal. All pertinent information should be clearly and concisely documented within 30 pages allowed. 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
University of Tennessee System
Attn Department of Capital Projects
505 Summer Place – UTT 9th Floor
Knoxville, TN 37902
Telephone: (865) 974-2628
Email: designer@tennessee.edu

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

Each Proposer 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 shall not substitute for actual receipt of a communication by the Owner. Follow the information structure provided herein with clear identification of each information section.

3. **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.
4. **Confidential Information:** Any proprietary or confidential materials contained in the qualification statements will be subject to the Tennessee Public Records Act, TCA 10-7-503. All responses, inquiries, or correspondence relating to or in reference to this solicitation, and all other documentation submitted by the respondents will become the property of the University when received. All qualification statement material submitted and evaluation documents will remain confidential, as provided by law, until after the University announces the notice of intent to award to the successful respondent. The University will not agree to provide advance notice of disclosure and placing confidential notices on documents is meaningless. After the notice to award, all materials submitted are open for inspection.
5. **Qualification Statement Preparation Costs:** The University will not pay any costs in the preparation or submission of a proposal. Respondent is responsible for its preparation costs.
6. **Withdrawal of Qualification Statement:** A submitted qualification statement may be withdrawn by sending a written request to the Solicitation Coordinator before the solicitation due date. Qualification Statements may be withdrawn and resubmitted in the

same manner, if done prior to the submission deadline. Withdrawals or modifications offered in any other manner will not be considered.

7. **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
8. **Acceptance and Rejection of Qualification Statements:** The University may accept or reject any qualification statement that, in its opinion, is in the best interests of the University. The University may re-solicit qualification statements, or to continue with the current consultant for these services. The University may also waive minor variances or immaterial defects in a response. The University may also accept any item in the proposal, unless otherwise specified by the Respondent.
9. **Late Responses:** The University will not accept responses after the deadline listed in the RFQ.
10. **Addenda:** The University will make reasonable efforts to ensure that all respondents have the same material information. Accordingly, if a respondent asks a question that the University considers, in its sole discretion, to be material, the University will issue an addendum to this solicitation. The University will communicate all addenda to all respondents who have requested communications.
11. **Evaluation of Technical Responses:**
 - A. Proposal Evaluation Guide
 - 1) The Owner will be guided in the evaluation of proposals by the process described herein. The evaluation process is designed to award the contract to the Proposer with the best Total Score derived by adding the median scores from Section B - Qualifications and Experience and Section C – Technical Services while also taking regional preferences and total workload across the state into consideration. The Owner intends to generally follow the process outlined in the Office of the State Architect Designer Selection Process (“OSA Process”), provided, however, that, as the Owner will have final authority in selection for projects that fall under this process: (i) references in the OSA Process to “SPA” shall mean “Owner”; (ii) no information shall be submitted to the Office of the State Architect or the Executive Sub-Committee of the State Building Commission; and (iii) Sections F.4 and F.5 shall not be applicable. Additionally, the following provisions shall also be applicable in the selection process.
 - 2) Selection Process
 - a. After the Proposal Deadline the RFQ Coordinator will open and review each Proposer’s Qualifications for compliance with “Pass or Fail” criteria detailed in

Section A. Designer Information and the following proposal format and content requirements.

- b. Received on or before the Proposal Deadline.
- c. Submitted and packaged as required.
- d. Formatted as required and does not exceed size or page number limits.
- e. If the RFQ Coordinator makes a “Fail” determination on one or more of the “Pass or Fail” criteria or the Proposal format and content requirements, the Evaluation Team will review that proposal and make its own determination, documented in writing, of whether (1) the proposal does meet requirements and the proposal will be eligible for further evaluation or (2) clarifications or corrections are needed to enable further evaluation or (3) proposal is non-responsive to the RFQ and rejected.
- f. The RFQ Coordinator on behalf of the Owner reserves the right to contact references provided by the Proposer and any other source available for reference information.
- g. Each Evaluation Team member will independently evaluate and assign points for each Proposer’s Qualifications in accordance with the established evaluation criteria outlined in the RFQ and associated possible points for each.
- h. The Owner, as communicated by the RFQ Coordinator, reserves the right, at its sole discretion, to request the Proposer clarify submittals or conduct clarification discussions with any or all Proposers. Any such clarification or discussion shall be limited to specific sections of the proposal identified by the Owner. The subject Proposer shall put any resulting clarification in writing and submit to the RFQ Coordinator as may be required by the Owner.
- i. Using the points assigned to a Proposer by each Evaluation Team member, the RFQ Coordinator will develop a Total Score and Summary for the top three (3) Proposers in each category and submit to the Assistant Vice President (AVP), Department of Capital Projects for final award. The AVP reserves the right to make an award to any of the Proposers listed after considering factors such as geographical balance, current work capacity and quality and quantity of workload over the past several years.
- j. The RFQ Coordinator will notify all Proposers of the intent to award to the selected Proposer. After the RFQ Coordinator issues the notice of intent to award, the Procurement file will be open for Public Inspection. Such notification shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

B. Protest Period Process

- 1) The Owner will allow seven calendar days after the AVP’s disposition of proposals for consideration of protests from a Proposer. Written protests shall be submitted to the Executive Director of Policy, Finance and Administration (Executive Director) who will evaluate the merits of the protest. If the Executive Director denies a

protest, then the final award will proceed. A Proposer may appeal its denied protest to the Senior Vice President/Chief Financial Officer (SVP/CFO) for further review. The appeal shall be submitted to the SVP/CFO within seven (7) calendar days of notification of a denied protest. The SVP/CFO determination of a protest is final action. If the SVP/CFO's review through appeal concurs with the Executive Director and denies the protest, then the final award process proceeds. If, after review of the protest through appeal, the SVP/CFO decides in favor of the protest then the result may be RFQ cancellation or other resolution.

- 2) Proposers may not protest the Owner's cancellation of an RFQ, even if the Owner cancels an RFQ after the Owner issues a notice of intent to award.
 - 3) Only Proposers who submit a proposal may protest the Owner's award.
 - 4) Proposers who violated the terms of a RFQ are ineligible to protest.
 - 5) Proposers who attempt to influence the outcome of a selection by communicating with Owner's officials other than the RFQ Coordinator are ineligible to protest and are immediately disqualified from the RFQ.
 - 6) Proposers may raise one or more of the items below as the basis of their protest, and no others (if a Proposer raises other issues as the basis of protesting, the Owner may disqualify the protest):
 - a. The procurement process was conducted contrary to Owner's policy or state law.
 - b. The Evaluation Team did not follow the terms of the RFQ, and such failure to follow the terms of the RFQ materially affected the Owner's decision to award to a particular bidder.
 - c. The procurement process involved responses that were not independently arrived at in open competition, were collusive, or were submitted in bad faith.
 - d. The applicable RFQ Coordinator or the Evaluation Team made a material error or mathematical mistake during the evaluation process.
 - e. The award was arbitrary, capricious, an abuse of discretion, or exceeded the authority of the AVP.
 - 7) The Owner assumes that a protesting Proposer has the relevant procurement file. Protesting Proposers are responsible for requesting any information that the protesting Proposer believes is missing.
 - 8) The written protest filed by a Proposer must enumerate and detail all grounds for the protest in accordance with these rules.
 - 9) All protest documentation is a public record.
- C. Protest Bond
- 1) To be eligible to protest an award, the protesting Proposer must include a bond with their protest.
 - 2) The protesting Proposer's bond must be an original negotiable instrument made payable to the Owner.
 - 3) The protesting Proposer must communicate only with the RFQ Coordinator.

- 4) The protesting Proposer must file their protest with the RFQ Coordinator.
- 5) A protest bond must be in the amount of 5% of the designer's fee associated with the RFQ. The Owner may return the protest bond to the Proposer within 15 days from the date the Owner issued a final response to the protesting bidder.
- 6) The Owner may retain and deposit the protest bond if the Owner determines that the protesting Proposer submitted the protest:
 - a. In bad faith, or
 - b. Submitted the protest in an attempt to delay the Owner's process, or
 - c. To harass an Owner staff member
 - d. The Owner suffers monetary losses based on the filing of the protest that should be recoverable as reasonably determined by the Owner.

12. **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

13. **Award:** This solicitation does not commit the university to make an award or to procure or contract for services described in this solicitation. The University will make individual project assignment awards that the University determines to be in its best interest. The University reserves the right to negotiate terms and alter the specifications with the selected respondent, however, if they are unable to reach mutually agreeable terms and conditions, the University reserves the right to reject the proposal and negotiate terms of an agreement with the next respondent. If the agreement with the successful respondent is terminated for any reason prior to the agreement termination date, the university may elect to substitute the next respondent, if they are agreeable to the terms and schedule. The Department of Capital Projects of the University of Tennessee is the only office authorized to award a purchase order for the required services.

14. **Notice of Intent to Award:** After the evaluation process is completed, the University will issue a formal notice of intent to award notifying all respondents of the identity of the winning respondents.

Section C: Technical Response

Registration: All Consultants must register with the Office of the State Architect to be able to enter into a contract for this work:

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

Instructions: Respondents must write and organize their responses in the same order as listed below. The University may deem a response non-responsive if the respondent does not comply.

Part A: Mandatory Requirements (Pass / Fail scoring)

The University will assess each criteria below on a pass/fail basis: respondents must pass each criteria to qualify.

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

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 sub-consultants 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.

A.8 List project function type(s) Respondent is submitting for consideration. Project function types include:

- Classroom / Lab / Research
- Medical / Health /Science
- Music / Performing Arts
- Office / Administration

- Site / Infrastructure
- Dining / Housing
- Athletics / Recreation
- Agriculture / BioSystems

A.9 Respondents acknowledge that this solicitation is for programming work only. The Respondent to whom the University issues an award for any individual project will not be eligible to provide design services for that project; however, the Respondent would be eligible to provide consulting services to any contractor who provides the design services to the University.

Part B: Qualifications and Experience (Maximum Score: 500 points)

B.1 Describe the Respondent’s qualifications to deliver the services needed for this solicitation in regard to the following.

- 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 program function type. Include the following information:

- Extent of services provided for each project.
- A reference (by a University representative) for each project including contact name, address, telephone number, email address. The University may contact references as well as any other source available.
- Include staff, which are listed in B.3 if applicable.
- Information, sample format and/or photographs for each project

B.3 Provide the resume of key respondent personnel who will be assigned to these services and describe their proposed role and time commitment once a project is underway.

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 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.

Part C: Technical Services (Maximum Score: 500 points)

C.1 Describe how the Respondent team approach and document various programming aspects of the project including planning, architectural and engineering, site analysis, Master Plan analysis, graphics, accessibility, date/A/V, cost estimating, sustainability, etc.

C.2 Describe the Respondent's experience in communicating with clients regarding programming, providing alternatives, value engineering options, etc.

Exhibit A: Draft Master Agreement

This Exhibit A contains a draft master agreement. The University will enter into negotiations with respondents that are selected for individual project. The University provides this draft to help expedite the negotiation process. Please note that this draft is subject to change at the University's discretion, and the draft is for review purposes only.

Exhibit A

AGREEMENT

between

THE STATE OF TENNESSEE

The University of Tennessee

and

Firm Name

SBC Project No. 540/000-XX-2024

This Agreement, by and between the State of Tennessee, **University of Tennessee**, hereinafter referred to as the STATE and **Firm 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 STATE 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 Department 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 State prior to the start of the work. Each STATE 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 **Name of Principal, Title of Principal**, and the Head of the SPA is Austin Oakes, Associate Vice President for the 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 STATE 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 STATE.
 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 STATE. If approved, compensation to the CONSULTANT for travel, meals, and/or lodging shall be subject to the amounts and limitations specified in the "University of Tennessee Travel Regulations," as they are amended from time to time or be subject to an agreed amount per person per day between the CONSULTANT and STATE.
 7. Intentionally deleted.
 8. The CONSULTANT shall submit all invoices, in a form acceptable to the STATE 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.
 9. The Payment of an invoice by the STATE shall not prejudice the STATE's right to object to or to question any invoice or matter in relation thereto. Such payment by the STATE 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 STATE, 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 STATE shall have no obligation for services rendered by the CONSULTANT which were not performed within this specified Agreement period.
2. Intentionally Deleted.
3. 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 STATE 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 STATE 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 STATE 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 STATE 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 STATE. If such sub-Agreements are approved by the STATE, 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 STATE 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. Pursuant to Tenn. Code Ann. § 12-4-119, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract, engage in a boycott of Israel, as defined by Tenn. Code Ann. § 12-4-119(a)(1).
11. The CONSULTANT shall maintain insurance coverage with the limits set forth below. CONSULTANT's certificates of insurance, in a form acceptable to the STATE, shall be provided to the STATE 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 STATE.
 - 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
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 - 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
12. The CONSULTANT agrees to pay all taxes incurred in performance of this Agreement.
13. The STATE shall have no liability except as specifically provided in this Agreement.
14. The CONSULTANT shall comply with all applicable Federal and State laws and regulations in the performance of this Agreement.
15. This Agreement shall be governed by laws of the State of Tennessee.
16. Upon completion of the Contract, the documents provided by CONSULTANT to STATE as instruments of professional services shall be the property of The STATE and may be used again by CONSULTANT only for the benefit of the STATE. 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 STATE, CONSULTANT shall have no liability for any future use by The STATE of the instruments of professional service provided by CONSULTANT under the Contract where CONSULTANT is not engaged to provide services for such future use.
17. 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
18. The CONSULTANT will not be eligible to provide design services to the STATE 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 STATE for the programmed project.

This Agreement is entered into on this the **XX** day of **Month, Year**.

Consultant:

Name of Principal
Title of Principal

Date

The University of Tennessee:

Austin Oakes
Associate Vice President, Department of Capital Projects

Date

Approved as to Form and Legality:

C. Ryan Stinnett
General Counsel

Date

Professional Programming
Consultants

Project Name