

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, entered into and effective on _____ ("Effective Date"), by and between the City of Joliet, Illinois, an Illinois Municipal Corporation, (hereinafter called the "City") and _____, (hereinafter called the "Consultant"), collectively referred to as the "Parties" herein, is an AGREEMENT for professional services.

NOW, THEREFORE, the City and the Consultant in consideration of the mutual covenants hereinafter set forth agree as follows:

SECTION 1 – SERVICES AND OBLIGATIONS OF THE CONSULTANT

- 1.1 The Project scope of work is defined in the attached EXHIBIT.
- 1.2 The City and the Consultant, by mutual agreement, shall determine the detailed schedule of interim milestones.
- 1.3 The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by Consultants in their line of work. The Consultant will use their best professional judgment in the course of the work. Design criteria, guidelines and other standards shall be supplemented by the professional judgment of the Consultant. Deviations from design criteria, guidelines and other standards shall be called to the attention of the City's representative.
- 1.4 The Consultant shall execute the attached Business Status of Bidder Affidavit.
- 1.5 The Consultant shall comply with the attached Bid Rigging and Bid Rotating EXHIBIT.
- 1.6 The Consultant shall not be in arrears to the City of Joliet, Illinois, in any debt or contract, or has failed to execute in whole or in part, in a satisfactory manner, any contract with the City of Joliet, or is a defaulter as to surety or otherwise upon any obligation to the City of Joliet, Illinois.
- 1.7 The City of Joliet has adopted a Responsible Bidder Ordinance (Article XIII, §2-440). In addition to any other requirement, unless otherwise expressly stated in a bid solicitation or an award of contract, or applicable state or federal law or regulation states otherwise, all bidders must comply with the requirements of the Responsible Bidder Ordinance (Article XIII, §2-440), as applicable, in order to submit a bid or be awarded a contract with the City.
- 1.8 The Consultant shall comply with all requirements of the Illinois Drug Free Workplace Act, as applicable.
- 1.9 Tax Compliance:

The Consultant, on behalf of the entity making the foregoing proposal certifies that neither the undersigned nor the entity is barred from contracting with the City of Joliet because of any delinquency in the payment of any tax administered by the State of Illinois, Department of

Revenue, unless the undersigned or the entity is contesting, in accordance with the procedures established by the appropriate revenue act, liability of the tax or the amount of tax.

The Consultant understands that making a false statement regarding delinquency in taxes is a Class A Misdemeanor and in addition, voids the AGREEMENT and allows the municipality to recover all amounts paid to the individual or entity under the AGREEMENT in a civil action.

1.10 Unless specifically addressed in the Project scope of work, EXHIBIT, or herein, the Consultant shall be responsible for obtaining applicable approvals, consents, and licenses from all governmental authorities having jurisdiction over the work, and from such other individuals or bodies as may be necessary for completion of the work under this AGREEMENT.

SECTION 2 – THE CITY'S RESPONSIBILITIES

The City will:

2.1 Provide full information as to the requirements for the Project in a timely manner in which the Consultant may reasonably rely on with regard to its completeness and accuracy.

2.2 Designate in writing a person to act as the City's representative with respect to the work to be performed under this AGREEMENT; and such person shall have complete authority to transmit instructions, receive information, interpret, and define the City's policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by this AGREEMENT.

2.3 Guarantee access to and make all provisions for the Consultant to enter upon the City's facilities as required for the Consultant to perform their work under this AGREEMENT.

2.4 Examine all studies, reports and other documents presented by the Consultant and shall render decisions pertaining thereto within ____ calendar days from receipt so as not to delay the work of the Consultant.

SECTION 3 – PAYMENTS TO THE CONSULTANT

3.1 The City will pay the Consultant for the professional services performed under SECTION 1, in an amount not to exceed the attached EXHIBIT.

3.2 Invoices for payment shall be submitted by Consultant to the City, together with reasonable supporting documentation. The City may require such additional supporting documentation as City reasonably deems necessary or desirable. Payment to Consultant shall be made in accordance with the Illinois Local Government Prompt Payment Act, after City's receipt of an invoice and all such supporting documentation.

3.3 Payment to the Consultant for expenses associated with direct costs or reimbursable expenses, as dictated by the AGREEMENT and/or Scope of Services, shall be made upon presentation of receipts for costs or expenses.

SECTION 4 – TIME OF COMPLETION

4.1 The Consultant shall complete their obligations as outlined in the EXHIBIT, subject to time extensions to such schedule arising from delays beyond Consultant's control. To the extent Consultant is impacted by such delays, Consultant shall be entitled to an adjustment to its schedule for performance.

4.2 Time is of the essence for this AGREEMENT.

4.3 The Consultant shall commence work as outlined in the AGREEMENT or such other time mutually agreed to by the Parties in writing.

4.4 The Consultant may request an extension to complete the scope of work, and the City may grant such extension in a subsequent amendment to the AGREEMENT.

SECTION 5 – RIGHTS TO DELIVERABLES

5.1 Deliverables, as defined in the Scope of Work, shall become the City's permanent property upon payment by the City to the Consultant.

5.2 Consultant shall not use photographs of the Deliverables for project competition, awards of any nature, project testimonials, presentations, advertising, proposals, professional papers, public display, or any other use without obtaining prior written approval from the City's representative. Any photographs taken of City property in the execution of the Consultant's work may not be re-used by the Consultant for social media, project competition, awards of any nature, project testimonials, advertising, proposals, presentations, professional papers, public display, or any other use without obtaining prior written approval from the City's representative.

SECTION 6 – REMOVAL AND REPLACEMENT OF PERSONNEL

6.1 Consultant (for the duration of the term of the AGREEMENT) will not, without obtaining the City's prior written consent, not to be unreasonably withheld, replace, or alter the assignment of its lead personnel, to the extent their respective availability is reasonably within the Consultant's control.

6.2 Consultant shall promptly remove any person assigned to perform the Services in the event of notification by the City that he/she is no longer acceptable, irrespective of any prior City consent. Replacement of lead personnel, prior to assignment, will be subject to the City's approval, which shall not be unreasonably withheld.

6.3 A violation by Consultant of paragraph 6.1 and/or 6.2 may be considered a substantial and material breach of the AGREEMENT, for which termination and damages otherwise provided by Law or the AGREEMENT may be claimed.

6.4 The City's right to request the removal of Consultant's personnel from the Services as set forth in paragraph 6.2 does not expressly or implicitly create an employer-employee relationship

between the City and personnel assigned by Consultant. Such a relationship is expressly denied herein by Consultant and the City.

SECTION 7 – INSURANCE

The Consultant shall maintain for the duration of the AGREEMENT, insurance purchased from a company, or companies lawfully authorized to do business in the State of Illinois and having a rating of at least A-VIII as rated by A.M. Best Ratings. Such insurance will protect the Consultant from claims set forth below which may arise out of or result from the Consultant's operations under the AGREEMENT and for which the Consultant may be legally liable, whether such operations be by the Consultant or by a SubConsultant or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Worker's Compensation Insurance covering all liability of the Consultant arising under the Workers' Compensation Act and Occupational Diseases Act; limits of liability not less than statutory requirements.

Employers Liability covering all liability of Consultant as employer, with limits not less than: \$1,000,000 per injury – per occurrence; \$1,000,000 per disease – per employee; and \$1,000,000 per disease – policy limit.

Comprehensive General Liability in a broad form on an occurrence basis, to include but not be limited to, coverage for the following where exposure exists; Premises/Operations, Contractual Liability, Products/Completed Operations for two (2) years following final payment, Independent Consultant's coverage to respond to claims for damages because of bodily injury, sickness or disease, or death of any person other than the successful proposers employees as well as claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Consultant, or (2) by another person and claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use there from; Broad Form Property Damage Endorsement The coverage provided by the additional insured endorsement shall be primary without right of contribution by any coverage carried by City of Joliet and its subsidiaries, affiliates, officers, directors and employees. The policy shall include a waiver of subrogation endorsement in favor of City of Joliet and its subsidiaries.

General Aggregate Limit	\$ 2,000,000
Each Occurrence Limit	\$ 1,000,000

Automobile Liability Insurance shall be maintained to respond to claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle. This policy shall be written to cover any auto whether owned, leased, hired, or borrowed. The coverage provided by the additional insured endorsement shall be primary without right of contribution by any coverage carried by City of Joliet and its subsidiaries, affiliates, officers, directors and employees. The policy shall include a waiver of subrogation endorsement in favor of City of Joliet and its subsidiaries.

Each Occurrence Limit	\$1,000,000
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Umbrella Liability Coverage, excess of general liability, auto liability and employers liability in an amount of at least \$5,000,000 per occurrence with defense outside the limit.

Professional Liability Insurance shall be maintained to respond to claims for damages due to the Consultant's errors and omissions. Coverage must be maintained for a period of two (2) years after final completion of the work.

Errors and Omissions	\$1,000,000
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Consultant agrees that with respect to the above required insurance:

1. The CGL policy shall be endorsed for the general aggregate to apply on an annual basis.
2. To provide separate endorsements: to name the City of Joliet and its officers and employees as additional insured as their interest may appear, and to provide 30 days' notice, in writing, of cancellation or material change.
3. The Consultant's insurance shall be primary and non-contributory in the event of a claim.
4. The City of Joliet shall be provided with Certificates of Insurance and endorsements evidencing the above-required insurance, prior to commencement of an AGREEMENT and thereafter with certificates evidencing renewals or replacements of said policies of insurance at least thirty (30) days prior to the expiration of cancellation of any such policies.
5. A Certificate of Insurance that states the City of Joliet and its officers and employees have been endorsed as an "additional insured" by the Consultant's general liability and automobile liability insurance carrier. Specifically, this Certificate must include the following language: "The City of Joliet and its officers and employees are, and have been endorsed, as an additional insured under the above reference policy number _____ on a primary and non-contributory basis for general liability and automobile liability coverage for the duration of the contract term."

The Consultant shall also indemnify and save harmless the City from any claims against, or liabilities incurred by the Consultant of any type or nature to any person, firm or corporation arising from the Consultant's wrongful or negligent performance of the work covered by the AGREEMENT.

FAILURE TO COMPLY:

In the event the Consultant fails to obtain or maintain any insurance coverage required under this AGREEMENT, the City of Joliet may purchase such insurance coverage and charge the expense thereof to the Consultant. Such insurance shall be maintained in full force and effect during the life of the AGREEMENT and shall protect the Consultant, its employees, agents and representatives from claims for damages, for personal injury and death and for damage to property

arising in any manner from the negligent or wrongful acts or failures to act by the Consultant, its employees, agents and representatives in the performance of the work covered by the AGREEMENT.

SECTION 8 – SUCCESSORS AND ASSIGNS

The City and the Consultant each binds himself and his partners, successors, executors, administrators and assigns to the other party of this AGREEMENT and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this AGREEMENT; except as above, neither the City nor the Consultant shall assign, sublet or transfer his interest in this AGREEMENT without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any employee, officer or agent of any public body or the Consultant which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Consultant.

SECTION 9 – NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

The Consultant agrees that in all hiring or employment made possible or resulting from this AGREEMENT, there shall be no discrimination against any employee, applicant for employment, or in connection with any apprenticeship or other training program, because of sex, age, race, color, religion, national origin or ancestry, marital status, order of protection status, citizenship status, physical or mental disability unrelated to ability, sexual orientation, military status or unfavorable discharge from military service.

The Consultant shall comply with all requirements under the Illinois Human Rights Act and the Rules and Regulations of the Illinois Department of Human Rights published at 44 Illinois Administrative Code Section 750, *et seq.*

Any violation of this provision shall be considered a violation of a material provision of this AGREEMENT and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the AGREEMENT by the City.

SECTION 10 – REQUIRED SEXUAL HARASSMENT POLICY

Illinois law requires all parties to a public contract and all eligible bidders to have a written sexual harassment policy covering their employees and applicants for employment. This requirement applies regardless of the number of persons employed or the dollar value of any public contract. A copy of the policy shall be provided to the City upon request. According to Section 2-105(A) (4) of the Illinois Human Rights Act, each sexual harassment policy must contain the following elements:

- A statement that sexual harassment is illegal.
- The definition of sexual harassment under the Illinois Human Rights Act.
- A description of the acts that constitutes sexual harassment, with examples.
- The employer's internal complaint procedure, including penalties.

- The legal recourse, investigative, and complaint process available through the Illinois Department of Human Rights (IDHR) and the Illinois Human Rights Commission (IHRC).
- Information as to how a person can contact IDHR and IHRC.
- Information regarding the protection against retaliation under Section 6-101 of the Illinois Human Rights Act.

SECTION 11 – COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

The Consultant shall comply with the Americans with Disabilities Act and the Joliet Accessibility Code (Article XII), and certify that services, programs and activities provided under this AGREEMENT are and will continue to be in compliance with the Joliet Accessibility Code, as applicable.

SECTION 12 – MODIFICATION OR AMENDMENT

This AGREEMENT constitutes the entire AGREEMENT of the Parties on the subject matter hereof and may not be changed, modified, discharged, or extended except by written amendment duly executed by the Parties. The Consultant agrees that no representations or warranties shall be binding upon the City unless expressed in writing herein or in a duly executed amendment hereof, or authorized or approved Change Order as herein provided.

The terms of this AGREEMENT will take precedence in the event of a conflict of terms with the Consultant's proposal, scope of services and/or any other document referenced in this AGREEMENT. In the event of a conflict between the terms of any Order Form, addendum, attachment, or any other AGREEMENT or communication between the City and the Consultant, this AGREEMENT shall supersede, govern and control to the extent of the inconsistency, unless expressly stated otherwise.

SECTION 13 – APPLICABLE LAW AND DISPUTE RESOLUTION

13.1 This AGREEMENT shall be deemed to have been made in and shall be governed by and construed in accordance with the laws of State of Illinois. The Parties shall submit to the jurisdiction and venue of the state courts of Will County, Illinois for any dispute arising out of or related to this AGREEMENT.

13.2 Any controversy, claim or dispute arising out of or relating to the interpretation, construction, or performance of this AGREEMENT, or breach thereof, shall be referred to the American Arbitration Association (the "AAA") for a voluntary, non-binding mediation in the municipality where the Services are provided and to be conducted by a mutually acceptable single mediator, in accordance with then applicable Construction Industry Mediation Rules, prior to resorting to litigation to any State or Federal Court located nearest to where the Services are provided. Neither party shall be liable for any indirect, incidental, or consequential damages of any nature or kind resulting from or arising in connection with this AGREEMENT. The Parties shall share the cost of the mediator's services equally.

WITH RESPECT TO ANY SUCH LITIGATION, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND WILLINGLY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE BETWEEN OR AMONG ANY OF THE PARTIES HERETO, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF, CONNECTED WITH, RELATED OR INCIDENTAL TO THIS AGREEMENT, THE TRANSACTION(S) CONTEMPLATED HEREBY AND/OR THE RELATIONSHIP ESTABLISHED AMONG THE PARTIES HEREUNDER.

SECTION 14 – TERMINATION OF THE AGREEMENT

14.1 TERMINATION BY THE CONSULTANT

If the Work is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction, through no fault of the Consultant, or if the City has not made timely Payment thereon as set forth in this AGREEMENT, then the Consultant may upon twenty-one (21) days written notice (from postmark) to the City, terminate the AGREEMENT.

14.2 TERMINATION BY THE CITY

In the event of any breach of this AGREEMENT by the Consultant, the City may, at its option, serve the Consultant with a written seven (7) day notice (from postmark) with the Consultant's option to cure the breach, or the City may engage the services of another Consultant to complete the work and deduct the cost of such completion from any amount due the Consultant hereunder, or the City may either pause or terminate the AGREEMENT.

14.3 TERMINATION FOR CONVENIENCE

This AGREEMENT may be terminated by either party with thirty (30) days' written notice (from postmark) to the other party.

14.4 FORCE MAJEURE EVENTS

Neither Party to this AGREEMENT shall be liable for failing to fulfill any obligation under this AGREEMENT to the extent any failure is caused by any event beyond the Party's control, and which event is not caused by the Party's fault or negligence. Events shall include but not be limited to acts of God, acts of war, fires, lightning, floods, or epidemics.

SECTION 15 – COMPLIANCE WITH LAWS AND CITY OF JOLIET CODE OF ORDINANCES

ARTICLE XVI – INSPECTOR GENERAL:

15.1 It is the duty of any Consultant and/ or subcontractor, and all officers, directors, agents, partners and employees of any Consultant, to cooperate with the Inspector General of the City of

Joliet in any investigation or hearing undertaken pursuant to Article XVI – Inspector General, of the City of Joliet Code of Ordinances.

The parties referenced in Section 15.1 agree to abide by all applicable provisions of Article XVI of the City of Joliet Code of Ordinances. The Consultant must inform their subcontractors of this provision and require understanding and compliance with the Ordinance.

ARTICLE X, SECTION 2-333 *et seq.* – ETHICS ORDINANCE:

15.2 The City of Joliet has an Ethics Ordinance which prohibits any appointed or elected official of the City of Joliet, or any employee of the City of Joliet from receiving or soliciting anything of value to influence that City official or employee in carrying out his or her official duties. The Consultant shall cooperate by refraining from offering any official or employee anything, item, service, or favor of value to influence that person's decision on any City business. The Consultant shall immediately report any violation of the Ethics Ordinance to the Inspector General, including any solicitation of a thing of value by a City official or employee. The Consultant's participation or encouragement in the violation of the Ethics Ordinance may result in the rejection of a bid, termination of AGREEMENT, or declaration of ineligibility to bid on future contracts.

15.3 The Parties shall comply with all local, state and federal laws, statutes, ordinances, rules, and regulations applicable to this AGREEMENT.

SECTION 16 – SEVERABILITY

Should all or any part of this AGREEMENT be held unenforceable or invalid for any reason, the remaining portions of provisions shall be unaffected.

SECTION 17 – COUNTERPARTS

This AGREEMENT may be executed in multiple counterparts, each of which when so executed and delivered will be deemed to be an original agreement and all of which when taken together will constitute one and the same agreement.

SECTION 18 – ELECTRONIC SIGNATURES

This AGREEMENT may be executed through the use of electronic signatures. Electronic signatures and signatures scanned and transmitted via email will be deemed original signatures for purposes of this AGREEMENT.

SECTION 19 – NOTICE

All notices or other communications to or upon the respective Parties shall be in writing, delivered by email, or a reputable overnight mail service such as UPS or FED EX, and shall be effective for all purposes upon delivery of the e-mail, or one day following the deposit of the mailed notice with the overnight carrier to the City of Joliet, Attention: City Manager, 150 W. Jefferson, Illinois 60432, or to Consultant at its address listed in the EXHIBIT or as otherwise designated by Consultant.

SECTION 20 – AUTHORIZATION

The signatories to this AGREEMENT represent and warrant that they have full authority to sign this AGREEMENT on behalf of the Party for whom they sign. If a Party signs this AGREEMENT but fails to date its signature, the date that the last of the other Parties receives the signing Party's signature on this AGREEMENT will be deemed to be the date that the signing Party signed this AGREEMENT.

The undersigned parties hereby execute this AGREEMENT as of the Effective Date first written above.

CITY OF JOLIET

By: _____

H. Elizabeth Beatty, City Manager

Date: _____

ATTEST:

By: _____

Lauren O'Hara, City Clerk

Date: _____

