



CITY OF MEMPHIS

REQUEST FOR PROPOSAL

#28436

Police Promotional Testing Services

Human Resources Division

Date Issued: May 16, 2017

Proposal Submission Deadline: June 16, 2017

CONTENTS

1. OVERVIEW	3
1.1 GENERAL CONDITIONS	4
1.2 PROJECT OBJECTIVE	5
2. SCOPE OF SERVICES	5
2.1 SCOPE OF WORK	5
2.2 ROLES AND RESPONSIBILITIES OF PROPOSER AND CITY.....	8
2.3 DURATION	9
2.4 MISCELLANEOUS PROVISIONS	9
3. PROPOSAL RESPONSE	10
3.1 COVER LETTER	11
3.2 EXECUTIVE SUMMARY	11
3.3 PROJECT METHODOLOGY	12
3.4 RELEVANT EXPERIENCE	12
3.5 QUALIFICATIONS OF PERSONNEL.....	13
3.6 PROJECT MANAGEMENT PLAN / TIME SCHEDULE	14
3.7 INVOLVEMENT IN LEGAL ACTIONS.....	14
3.8 PRICING / COST PROPOSAL	15
3.9 NON-COLLUSION AFFIDAVIT	15
3.10 QUALIFICATION STATMENT	15
3.11 PROPOSAL SUBMITTAL CHECKLIST	15
4. INSTRUCTIONS ON RFP PROCESS	16
4.1 USE OF INFORMATION	16
4.2 PRINCIPAL CONTACT AND INFORMATION REQUESTS	16
4.3 SCHEDULE OF ACTIVITIES	16
4.4 PRE-SUBMITTAL CONFERENCE.....	17
4.5 INITIAL QUESTIONS SUBMISSION, FINAL QUESTIONS SUBMISSION	17

4.6	PROPOSAL SUBMISSIONS.....	17
4.7	FINALIST SELECTIONS (OPTIONAL)	20
4.8	RECIPIENT PRESENTATIONS (OPTIONAL)	21
4.9	CONTRACT AWARD	21
4.10	PROTESTS	21
4.11	MODIFICATION OR TERMINATION OF RFP PROCESS	22
4.12	SUPPLEMENTAL INFORMATION.....	22
4.13	NO REPRESENTATIONS OR WARRANTIES	22
4.14	PROPOSAL PREPARATION COSTS	22
5.	EVALUATION MODEL	23
5.1	QUALIFYING PROPOSALS	23
5.2	EVALUATION OF QUALIFYING PROPOSALS	23
6.	RFP TERMS AND CONDITIONS	24
	EXHIBITS.....	27
	EXHIBIT 1 – PROPOSER QUESTIONS TEMPLATE	27
	EXHIBIT 2 – NON-COLLUSION AFFIDAVIT	28
	EXHIBIT 3 – QUALIFICATION STATEMENT.....	31
	EXHIBIT 4 – PROPOSAL SUBMITTAL CHECKLIST	34
	EXHIBIT 5 – CITY OF MEMPHIS SERVICE AGREEMENT SAMPLE CONTRACT	35

1. OVERVIEW

The City of Memphis (City) through its Human Resources Division (HRD) is requesting proposals from qualified management consultants (licensed Industrial/Organizational Psychologists), hereinafter the “Proposer,” to provide promotional examination development, testing, and assessment services for the competitive ranks of Sergeant, Lieutenant, Major, and Lieutenant Colonel in the Memphis Police Department (MPD). The current eligibility lists for these ranks will expire between May 2018 and October 2018.

1.1 GENERAL CONDITIONS

The following data are intended to form the basis for submission of proposals to provide promotional examination development, testing, and assessment services to the City. The purpose of this proposal is to obtain a contract with a management consultant(s) capable of providing qualified professional services as specified within this RFP. This material contains general conditions for the procurement process, the scope of service requested, contract requirements, instructions for submissions of proposals, and submission forms that must be included in the proposal. The RFP should be read in its entirety before preparing the proposal. All materials submitted pursuant to this RFP shall become the property of the City of Memphis.

To the extent permitted by law, all documents pertaining to this Request for Proposals shall be kept confidential, to the extent necessary for review, until the proposal evaluation is complete. No information about any submission of proposals shall be released until the process is complete, except to the members of the Evaluation Committee established by the City and other appropriate designated City staff. All information provided shall be considered by the Evaluation Committee in making a recommendation to enter into an agreement with the selected consultant.

Any inquiries, suggestions or requests concerning interpretation, clarification or additional information pertaining to the RFP shall be made **in writing and be in the hands of the Purchasing Agent on or before May 25, 2017 at 5:00 p.m. CDT**. Questions must be submitted by email to Eric.Mayse@memphistn.gov. Subject line must read "Questions – Police Promotional Testing Services." The City of Memphis is not responsible for oral interpretations given by any City employee, representative, or others. The issuance of written addenda is the only official method whereby interpretation, clarification, or additional information can be given. Any questions or concerns not submitted by the stated time and date will be deemed waived.

If any addenda are issued to this Request for Proposals, the Purchasing Division will post them to the City's website at <http://www.memphistn.gov/Business.aspx/RFPsRFQs.aspx>. Submitting organizations are strongly encouraged to view this website often to see if addenda are posted. Failure of any proposer to receive such addendum or interpretation shall not relieve such Proposer from any obligation under his proposal as submitted. All addenda so issued shall become part of the Contract Documents.

The City of Memphis reserves the right to (a) accept or reject any and/or all submissions of proposals; (b) to waive irregularities, informalities, and technicalities; and (c) to accept any alternative submission of proposals presented which, in its opinion, would best serve the interests of the City. The City shall be the sole judge of the proposals, and the resulting negotiated agreement that is in its best interest, and its decision shall be final. The City also reserves the right to make such investigation as it deems necessary to determine the ability of any submitting entity to perform the work or service requested. Information the City deems necessary to make this determination shall be provided by the submitting entity. Such information may include, but is not limited to, current financial statements by an independent CPA, verification of availability of equipment and personnel, and past performance records.

1.2 PROJECT OBJECTIVE

The City of Memphis is seeking to acquire the services of a qualified vendor to provide promotional testing instruments and assessment processes for the ranks of Sergeant, Lieutenant, Major, and Lieutenant (LT) Colonel in the Memphis Police Department. The vendor will be responsible for the design and implementation of a promotional process for each rank while working in conjunction with the City Human Resources Department (HRD) representatives for oversight and compliance. The selected vendor will be required to perform job analyses, examination development, examination administration and examination/assessment validation, complete with final validation reports for all ranks. The City estimates that the number of personnel eligible to compete per rank is 1250 Sergeant candidates, 243 Lieutenant candidates, 188 Major candidates, and 31 LT Colonel candidates.

All work conducted for this project must be in accordance with the professional standards outlined in the Federal Uniform Guidelines on Employee Selection Procedures. The selection process must be fair, valid, non-discriminatory, and legally defensible.

2. SCOPE OF SERVICES

2.1 SCOPE OF WORK

The selected vendor will provide the following services in fulfilling the promotional testing processes for the City of Memphis:

- 2.1.1 Organize and conduct a comprehensive job task analysis for the ranks of Police Sergeant, Lieutenant, Major and LT Colonel. This will include conducting on-site work activity observations of incumbents and data collection. Analyze the collected data and produce job analysis summary reports. A description of the methodology for completing the job analyses shall be included in the proposal. The use of internal subject matter experts (SMEs) is permitted in the job analysis phase of the project.
- 2.1.2 Present job analyses findings to City Human Resources designees and recommend the most appropriate strategy for validation of the test instruments and the test plan for this project.
- 2.1.3 Design, develop, and prepare objective, job-related, valid, and defensible assessments to be used in the promotional process for the positions of Sergeant, Lieutenant, Major, and LT Colonel. This may include, but are not limited to written examinations, assessment center exercises, and oral presentations. Proposer will determine the validity and feasibility of including a behavioral-based interview in the testing process. A behavioral-based interview would need to tie into the City HRD core competencies and the MPD competency levels for each rank. As a past practice, candidates for Sergeant and Lieutenant have been required to participate in all test components and have not been eliminated regardless to performance on a single component of the assessment process.

- 2.1.4 If an assessment center is proposed, describe specific methods for conducting assessments and how candidates' performances will be captured/recorded and scored, including the types of equipment, hardware, and software that will be used. Audiovisual taping of candidates' performances (as a minimum) is preferred. Proposer will also indicate, in the cost proposal, the costs involved (equipment and personnel) with the specific methods proposed.
- 2.1.5 Determine study guide list or list of source materials for candidates to study in order to prepare for the exam. Internal SMEs are permitted in assisting the selected vendor with determining the proper study materials. Source materials must be known and advertised to prospective testing candidates not less than forty-five (45) days prior to the administration of the first testing component for the ranks of Sergeant and Lieutenant.

If there are study materials identified by Proposer that are not already available within the MPD, Proposer must provide City HRD ample notice so that the materials can be made available to candidates prior to the beginning of 45-day study period.

- 2.1.6 Develop and conduct candidate orientation and/or pre-test training sessions to prospective testing candidates for each rank. This includes preparing any orientation materials or handouts to be given to candidates. Proposer should be prepared to conduct multiple orientation sessions over a three or four day period in order to accommodate MPD's shift schedules. Proposer must also provide for audiovisual recording of one (1) orientation session of each promotional rank for the potential need of administering a make-up examination.
- 2.1.7 Work together with the City HRD to administer the examination(s) in accordance with procedures developed by the Proposer and approved by the City HRD. Proposer will be responsible for transporting all examination materials to and from the examination facility. Proposer will recommend the most time-efficient and cost-effective test administration methods which also take into account a quality customer service experience for the candidates.
- 2.1.8 Proposer must fully describe all scoring methodologies to be used in the testing process for each rank. The use of cut-off scores and banding are not permitted as scoring methodologies for the ranks of Sergeant or Lieutenant. The use of banding is preferred for the ranks of Major and LT Colonel.
- 2.1.9 Score the examinations and provide the results in a reasonable timeframe to be determined by the Proposer and the City. Recruit and select assessors needed for test development and/or test scoring. Proposer will identify the criteria which will be used in the selection of the assessors. Schedule and coordinate all assessor activities, including travel arrangements, lodging, and food. Develop and administer training to all assessors. All costs associated with assessors and the assessor scoring location(s) will be the responsibility of the Proposer and should be included in its proposal. The scoring process is not required to be conducted in Memphis.

2.1.10 Develop procedures to provide written feedback to candidates (i.e. candidate feedback reports or score reports) and responses to challenges of test questions. Describe in detail the proposed test review and appeals process for candidates and the data that will be provided in the candidate feedback reports. Proposer may be required to be present or available during test review/appeals sessions.

2.1.11 Develop and finalize a promotional list of candidates for each promotional rank in various MS Excel formats and present the lists to City HRD designee. The rank-order lists will include such information as the candidate names, the score for each test component, overall scores, and any weighted scores.

Proposer must be able to present the final promotional lists to City HRD no later than the following scheduled dates:

- Police Lieutenant - May 15, 2018
- Police Sergeant - June 26, 2018
- Police LT Colonel - August 10, 2018
- Police Major - October 8, 2018

2.1.12 In all phases of the testing process, Proposer will recommend and utilize, where feasible, the best technology methods for assessing, administering, evaluating, and scoring test instruments, and providing orientation and feedback to candidates.

2.1.13 Prepare written validation (technical) reports for each promotional rank that document the projects in detail, if requested. The reports will include the results of the project methodology, the job analyses, the procedures used in the development, administration and scoring of the selection devices, the process by which the scores were weighted and validated, and any other relevant test data. Proposer will orally present results of validation reports immediately after the reports are completed. The written reports will be maintained by the vendor and will be made available to the City HRD upon request.

2.1.14 Proposer will retain all records, test results, score sheets, rater records, correspondence, emails, or other documents received or generated by them (or anyone on their behalf) relating to the services provided by the Proposer to the contract for a period of three (3) years following the completion/availability of validation reports to the City HRD or the expiration of any litigation that may arise out of the selection process for either rank or the Proposer's work done pursuant to the contract, whichever period is longer.

2.2 ROLES AND RESPONSIBILITIES OF PROPOSER AND CITY

2.2.1 Proposer will be responsible for providing the following services, some of which are included in the Scope of Work (Section 2.1):

- [a] Conduct a comprehensive job analysis for each of the MPD ranks listed in this RFP.
- [b] Present job analyses findings and recommend appropriate validation strategies to the City HRD designees.
- [c] Develop and administer valid and defensible assessment components for each rank. Proposer is responsible for printing and transporting all test materials.
- [d] Determine source materials for candidates to study and prepare for the exams. Confirm that the source materials are readily available.
- [e] Develop and conduct on-site orientation sessions which includes preparing, printing, and transporting all orientation materials for each rank. Provide an audiovisual recording of one orientation for each rank.
- [f] Assist City HRD in preparing information bulletins/correspondence to candidates announcing the various testing phases.
- [g] Work with City HRD to administer the examinations including Proposer's assigned project manager and designated staff on-site during test administration of written and assessment center tests. Provide training to City HRD staff and/or proctors at least one day prior to the administration of a test component(s).
- [h] Determine scoring methodologies to be used and score test components for each rank. Make all arrangements for scoring including scoring location and food. Recruit, select, and train assessors used in the test administration and/or scoring. Schedule, coordinate, and handle billing for all assessor activities, travel, food, and lodging.
- [i] Include details of test equipment needs and costs in proposal. If Proposer is providing own audiovisual equipment to use in orientation sessions and/or testing components, Proposer is responsible for transporting, setting up, and breaking down its own equipment or including these additional services in its cost proposal.
- [j] Provide a formal test review and appeals process to candidates. Develop procedures to provide written feedback to candidates regarding their test scores and performance.
- [k] Present to City HRD the final promotional lists of candidates for each tested rank according to the City time schedule outlined in this RFP.
- [l] Prepare written validation reports for each tested rank that document the projects in detail.
- [m] Retain all records and test results for three years following completion of validation reports pending no litigation. The validation reports will be maintained by Proposer and will be made available to City HRD upon request. All test materials relating to this project will remain proprietary to Proposer.
- [n] Provide expert consultation, upon request from City, to address legal matters, appeals, grievances, EEOC complaints, litigation and any other issue or challenge arising from the services in this project. A maximum of 50 hours of this expert consultation shall be provided by Proposer as a part of the contract price.

- [o] Recommend and utilize the best technology methods in all phases of the testing process.
- [p] Recommend the most time-efficient and cost-effective test administration methods which take into account a quality customer service experience for candidates.
- [q] Submit invoices and supporting receipts in a timely manner and adhere to City travel policy. City HRD designees will discuss proper invoicing procedures at beginning of project.
- [r] Provide progress reports to City HRD designee(s) with details regarding updates and issues at all phases of the project.

2.2.2 City HRD will provide the following services:

- [a] Arrange project kick-off meeting with City HRD and MPD staff to discuss the project management plan and expectations.
- [b] Provide selected vendor with current job descriptions for and relevant information and materials about each of the four ranks.

2.2.3 Proposer shall include in its proposal what its expectations are from the City HRD. Proposer shall also describe, in detail, what administrative costs are included in its services and what these administrative costs cover.

2.3 DURATION

A contract will be negotiated for the period beginning on or about August 30, 2017 and ending August 30, 2019. The City of Memphis through its Human Resources Division may extend a contract for services related to this RFP process for two (2) additional 12-month periods upon mutual consent of the parties and contingent upon the availability of funding and successful contract performance of the vendor.

2.4 MISCELLANEOUS PROVISIONS

a. Litigation

In the event of any appeals, grievances, EEOC complaints, litigation, and any other issue or challenge arising out of the selection process or the vendor's work done in pursuant to the contract, the vendor must provide a maximum of 50 hours of expert consultation to the City or its designee regarding legal matters related hereto or arising from the services described herein as a part of the contract price. Additional expert consultation may be required and will be charged at a negotiated hourly rate.

b. Temporary Staff

The selected vendor shall provide all temporary staff at his/her expense. This does not include test staff needed to proctor the exam administration(s).

c. Copyrighted Materials

The selected vendor and the City shall represent and warrant that all test materials are proprietary to the vendor. The vendor shall agree that he/she will not disclose any information pertinent to the Contract without prior approval of the City, unless required to by law.

d. Test Administration

Due to concerns with test security, the City has required vendors to administer each testing component in one day (i.e. written test in one day, assessment center exercise(s) in one day, etc.). When large numbers of candidates are being tested, the City will allow staggered check-ins and/or multiple test sessions in the same day as long as the candidates are sequestered.

e. Use of Subject Matter Experts

In order to maintain the integrity of the testing process, the use of internal (City of Memphis) subject matter experts (SMEs) by the vendor during the test development phase of any kind (i.e. developing test questions) of the positions is not permitted. Internal SMEs can be used during the job analysis phase of the project and to assist the vendor with determining the appropriate study materials needed for the testing processes. Internal SMEs can also be used on the actual day of testing to review the test items with the vendor (in a sequestered location) at the same time that the examination is being administered to candidates.

f. Duplication of Test Materials

The selected vendor will be responsible for the duplication of all exercises, tests, answer sheets, materials used by candidates during the test, candidate orientation packets and handouts, and other similar test-related items. The cost of this duplication should be included in the Proposer's total contract price.

3. PROPOSAL RESPONSE

This Section describes the contents of Proposer's Proposal and provides an outline of how the Proposer should organize it. Proposer's Proposal will not be considered responsive unless it fully complies with the requirements in this Section, as well as, the additional instructions provided in Section 4.6 regarding the required Proposal formats and submission process.

Specifically, Proposer's Proposal shall include each of the sections referenced in the table below. The preferred method of submittal is in a three-ring binder with tabbed sections. The requirements for each of these Proposal sections are described in more detail in this Section.

PROPOSER'S PROPOSAL WILL BE DISQUALIFIED FROM THIS RFP PROCESS IF THE PROPOSER FAILS TO CONFORM TO THE PROPOSAL INSTRUCTIONS IN THIS SECTION.

Sections and Topics
Section 1 – Cover Letter
Section 2 – Executive Summary
Section 3 – Project Methodology
Section 4 – Relevant Experience
Section 5 – Qualifications of Personnel
Section 6 – Project Management Plan / Time Schedule
Section 7 – Involvement in Legal Actions
Section 8 – Pricing / Cost Proposal
Section 9 – Non Collusion Affidavit
Section 10 – Qualification Statement
Section 11 – Proposal Submittal Checklist

3.1 COVER LETTER

Section 1 of Proposer’s Proposal shall contain a cover letter acknowledging Proposer's understanding of the RFP process and requirements set forth in this RFP, including its commitment to its Proposal. The cover letter shall be signed by an authorized representative of Proposer's company.

Provide company’s name, address, web address, telephone and fax numbers. Please include name, title and e-mail address of the individual who will serve as company’s primary contact.

3.2 EXECUTIVE SUMMARY

Section 2 of the Proposal shall include an Executive Summary providing a brief overview of Proposer’s products and services as specified in the Scope of Work (Section 2.1). The Executive Summary (limit of 3 pages) should include:

- 3.2.1 Background information about Proposer including its legal name, headquarter address, principal place of business, additional facilities and locations, its legal form (corporation, partnership, etc.), the names of its principals/partners, number of employees (categorized by full-time, part-time, temporary), and the number of years the Proposer has been providing the services specified in this RFP

- 3.2.2 Statements explaining Proposer’s understanding of the City’s intent and objectives specified in this RFP and Proposer’s approach/plan to achieving those objectives
- 3.2.3 A brief description of Proposer’s knowledge and relevant experience in providing similar services to other municipal, local government, and public sector clients
- 3.2.4 A brief summary of the qualifications, experience, and background of the project team and its committed key personnel

3.3 PROJECT METHODOLOGY

In Section 3 of the Proposal, Proposer should provide a detailed description of the services to be provided as set forth in this RFP. The description should include, but not be limited to, the discussion of the following:

- a. An introduction with an overview of Proposer’s understanding of the scope of work and services to be provided.
- b. The proposed services and the methodology / approach that will be used to accomplish the tasks identified in the Scope of Work section. Proposer should discuss their job analysis methodology and how their team will analyze, develop, validate, administer, and score the test(s). The project management plan should include the delineation of roles and responsibilities, a detail of team assignments, and project delivery approach.
- c. A statement regarding how the Proposer is prepared to respond promptly to unexpected issues, potential problems, or any changes in the scope of work.
- d. The methods Proposer will use to protect the confidentiality and integrity of the test and test materials (i.e. security measures).
- e. Any requirement or need for City-furnished personnel (i.e. proctors), materials, equipment, or facilities for each proposed test component/administration should be detailed in this section.

3.4 RELEVANT EXPERIENCE

In Section 4 of the Proposal, Proposer should provide a concise description of backgrounds and experience as it relates to the scope of work outlined herein. The description should include, but not be limited to, the following:

- a. Experience in the areas of job analysis, test development, validation, administration of written, oral, and assessment center exercises. The number of years Proposer has been providing these services.
- b. Experience record in providing successful comparable services (specifically Police Services) to municipalities, local government, public sector, and other organizations similar in size and

demographics to the City of Memphis. Proposer should include the name of organization, type of contract, contract date (year), and number of candidates tested.

- c. Experience record in providing successful comparable services to large municipalities and/or government agencies testing large public safety candidate pools of 1000 or more individuals such as Police Sergeant. Proposer should include the name of organization, type of contract, contract date (year) and the number of candidates tested.
- d. Brief list of some of the clients the Proposer has provided comparable services in the past five years.
- e. Provide five (5) references (not including the City of Memphis) of similar public safety projects that Proposer has developed and delivered in the past five years. For each reference, include:
 - i. Name of Organization / Municipality
 - ii. Address of Organization / Municipality
 - iii. Type of Contract (i.e. Promotional testing for Police SGT, Fire LT, etc.)
 - iv. Name, title, address, email address, and telephone number of the contract contact person
 - v. Number of years/contracts the proposer provided that organization / municipality
 - vi. Brief summary of the scope of services provided to the organization / municipality

3.5 QUALIFICATIONS OF PERSONNEL

In Section 5 of the Proposal, Proposer should describe the qualifications and skills of their company/organization to provide the services as set forth in this RFP. The description should include, but not be limited to, the following:

- a. Names, qualifications, credentials, and resumes of specific team members who will be committed to the essential work on this project and the delineation of their roles and accountability for the completion of work at each phase of this project. The description should also include the team members' direct experience and specific roles on similar projects within the last five years.
- b. Proposer shall include an organizational chart outlining the reporting structure for the team members specifically assigned to this project. If different principals and pertinent staff will be assigned to each rank, Proposer should reflect this in separate organizational charts.
- c. Name the principals and pertinent staff members who are licensed Industrial/Organizational (I/O) psychologists. Identify the role of the I/O psychologist(s) and whether he/she will act as the overseer of the project (i.e. give directives, make final decisions, accept responsibility for the project, etc.). State whether the principals and pertinent staff will be directly involved in the actual performance of the contract.

- d. Name the principals and pertinent staff members who are licensed attorneys. Identify the role and responsibilities of the licensed attorney(s) as it relates to this project.
- e. If Proposer intends to subcontract any part of the work under this contract, indicate the services to be subcontracted and the subcontractor (s) to provide the services.

3.6 PROJECT MANAGEMENT PLAN / TIME SCHEDULE

In Section 6 of the Proposal, Proposer should provide a description of the project management plan that Proposer intends to follow. The project management plan should include project objectives and success criteria, deliverables, roles and responsibilities, internal communication protocols, accountability methods, document control, cost management, schedule management and quality control plans. The management plan should support all project requirements and illustrate how Proposer will accomplish the scope of work and meet the City's project schedule.

Proposer should present a proposed time schedule / timeline for completion of each phase of the project (i.e. days, weeks, months) as it relates to Proposer's project management plan. The schedule should include project tasks/phases, their duration, and their relationship to each other and the completion of the project.

The time schedule should be clear, well thought out, realistic, and reflective of an understanding of the scope of the project.

Proposer should outline in detail how their team will complete work on the project by the scheduled dates outlined in Section 2.1 (Scope of Work).

3.7 INVOLVEMENT IN LEGAL ACTIONS

In Section 7 of the Proposal, Proposer shall identify any pending and past litigation, challenges, or legal actions related to consulting services provided by or tests developed by Proposer's company within the past ten (10) years. This includes any litigation against a client based on services provided by Proposer. Proposer shall state the project giving rise to the litigation and explain the issues and outcome.

Proposer shall include a statement of its financial condition demonstrating whether it is fiscally able to provide the services requested in this RFP. Any litigation pertaining to or filing of bankruptcy, reorganization, debarment, and/or insolvency shall be identified and explained in Proposer's proposal.

3.8 PRICING / COST PROPOSAL

Section 8 of the Proposal shall include Proposer's pricing which will be evaluated separately; therefore, the cost proposal must be submitted sealed and under separate cover.

Proposer's cost proposal must include the overall total project cost. The total cost should include the Proposer's professional fees for each phase of the project and the Proposer's estimated related expenses. The detailed pricing should include:

- A. Itemized costs at each phase of the project (i.e. professional fees and estimated related expenses)
- B. Miscellaneous project costs (i.e. testing equipment, testing staff, test/scoring supplies and materials, printing, duplicating, videotaping, shipping, etc.)
- C. Administrative costs for conducting and/or attending candidate orientation or pre-test training sessions (not including facility rental fees), job analysis sessions, proctor training sessions, etc.
- D. Assessors' costs for travel, lodging, food (see City Travel Policy for travel expense limits)
- E. Proposers' personnel costs for travel, lodging, food (see City Travel Policy)
- F. Any additional charges associated with the design, preparation, or administration of the test components and/or assessment services
- G. Costs for developing, administering, and scoring one (1) military make-up examination for each rank. This cost should include professional fees and estimated related expenses (i.e. travel, lodging, food, etc.)

3.9 NON-COLLUSION AFFIDAVIT

Please use the form provided in Exhibit 2.

3.10 QUALIFICATION STATEMENT

Please use the form provided in Exhibit 3.

3.11 PROPOSAL SUBMITTAL CHECKLIST

Please use the form provided in Exhibit 4.

4. INSTRUCTIONS ON RFP PROCESS

4.1 USE OF INFORMATION

All correspondence about this RFP and the Initiative should be limited to the Principal Contact described in Section 4.2 or other designated City personnel or agents.

4.2 PRINCIPAL CONTACT AND INFORMATION REQUESTS

Eric Mayse is the single point of contact (the “Principal Contact”) for all matters relating to this RFP. Proposer should direct all inquiries to the Principal Contact at:

eric.mayse@memphistn.gov

Proposer should not, under any circumstances, contact any City personnel (including senior City management or City employees with whom Proposer has an existing business or personal relationship) to discuss this RFP without the Principal Contact’s prior written consent. Utmost discretion is expected of Proposer and all other RFP recipients. Any recipient attempting to circumvent this process will risk elimination from further participation in the bidding process.

4.3 SCHEDULE OF ACTIVITIES

- In order to accelerate the business transformation, service improvements and cost savings the City anticipates, the City has developed an estimated timeline for this Initiative. The City will move as quickly and efficiently as possible to determine the feasibility of each Proposer’s Proposal and to move forward with term sheet discussions and ultimately conclude an agreement accordingly.
- As a result, the City requests that Proposer make a dedicated team available to participate in the proposal development and evaluation processes as necessary to participate in the activities and meet the deadlines provided in the table below.
- It is the City’s option to conduct interviews with finalists. However, in no way is the City obligated to interview finalists.
- The City reserves the right to modify or update this schedule at any point in time.

In no event shall the deadline for submission of the proposal be changed except by written modification by the City of Memphis Purchasing Department.

Activity	Date
Publish RFP	May 16, 2017
Proposer Questions Deadline	May 25, 2017 by 5:00 p.m.
City Response to Questions	June 2, 2017 by 5:00 p.m.
Proposal Submission Deadline	June 16, 2017 by 2:00 p.m.
Finalist Selections – Optional	June 2017
Finalist Presentations – Optional (City’s Discretion)	July 10 - 14, 2017
Negotiations	July 2017
Agreement Finalization	July 2017

Several of the activities identified in the above table are described in more detail in the remainder of this Section 4.

4.4 PRE-SUBMITTAL CONFERENCE

No Pre-Submittal Conference is scheduled for this RFP.

4.5 INITIAL QUESTIONS SUBMISSION, FINAL QUESTIONS SUBMISSION

Proposer may submit an initial set of questions based on its review of this RFP, by completing the template provided at Exhibit 1 (Proposer Questions Template) and sending it via email by May 25, 2017 by 5:00 pm CDT. Questions received after 5:00 p.m. will not be answered. This email should be sent to the individual(s) described in Section 4.2, with the subject heading: “Questions – Police Promotional Testing Services.” The City will post the responses to the questions on the City’s web site on or before June 2, 2017 by 5:00 pm CDT. To ensure the fair and consistent distribution of information, no individual answers will be given. The only official answer or position of the City will be the one posted via the City's website. Any questions or concerns not submitted by the stated time and date will be deemed waived.

4.6 PROPOSAL SUBMISSIONS

PROPOSAL SUBMISSION AND DUE DATE

Proposer shall submit, in a sealed packet, the technical proposal as detailed below. The Proposer shall also submit, in a sealed packet, a cost proposal as detailed below.

A. Technical Proposal

1. One (1) original (clearly marked on outside as “ORIGINAL”) with original signatures; and
2. Seven (7) complete printed copies of the original proposal (including the signed cover letters and all attachments); and
3. One (1) digital copy (flash drive). The digital copy shall be submitted in pdf format and organized in the same format as the original submission.

B. Cost Proposal

2. One (1) original (clearly marked on outside “ORIGINAL”) with original signatures and seven (7) complete printed copies shall be submitted in a separate, sealed envelope (pages not folded) marked “Cost Proposal” with the Proposer’s company name, address, RFP name, RFP# and RFP due date.

Proposer shall submit the sealed technical proposal and cost proposal on or before **June 16, 2017 at 2:00 p.m. CDT**, to the addressee provided below:

**City of Memphis Purchasing Department
125 N. Main Street, Room 354
Memphis, TN 38103**

The label should identify the contents as:

**Your company name & address.
Police Promotional Testing Services
RFP #28436**

PROPOSALS SUBMITTED AFTER THE DEADLINE OR WHICH STATE THAT INFORMATION WILL BE PROVIDED ‘AT A LATER DATE’, OR WHICH ARE OTHERWISE INCOMPLETE OR FAIL TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS RFP WILL BE DISQUALIFIED FROM PARTICIPATION IN THIS RFP PROCESS.

Proposals may not be amended after the submission deadline.

Notwithstanding any legends on the proposal or any other statements to the contrary, all materials submitted in connection with proposer’s response to this RFP will become the property of the City and may be returned only at the City’s option.

PROPOSAL FORMAT

The City expects the Proposal to be a compilation of various documents, in particular because Proposer’s Proposal must utilize the RFP response templates, if provided, set forth in the Exhibits in this RFP.

Proposer shall use Microsoft Office file formats in preparing its Proposal to the maximum extent possible. All pages should be formatted to print on 8 ½" x 11" paper, unless another format is provided by the response template. Proposer responses should be specific, factual, brief and to the point. Elaborate or expensive art work, paper, bindings, visual presentations, and brochures are not necessary and are strongly discouraged by the City.

Each page of the submission must be numbered in a manner so that it is uniquely identified. Proposals must be typed using a font no smaller than 11-point with one-inch margins, printed single-sided, and bound on the left-hand side.

PROPOSAL EXPIRATION DATE

Proposals in response to this RFP shall remain valid for six (6) months from the Proposal due date. The City may request an extension of time if needed.

PROPOSER DATA

The confidentiality of information and data contained in the firm of contractor's Proposal shall be subject to and governed by the Open Records Act and any other Public Records laws with which the City is legally obligated to comply (including a Freedom of Information Act Request under "FOIA").

Deadline Extension

The City reserves the right to extend the submission deadline, if such action is considered necessary by the City.

Ambiguity, Conflict, or other Errors in the RFP

If a Proposer discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify, in writing e-mail, the City of such error and request modification or clarification of the document. The Proposer shall include the RFP number, page number and the applicable paragraph title. The City will issue/post any revisions to the RFP on the City's website (www.memphistn.gov). The Proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposals prior to submitting the proposal or any ambiguity, conflict, discrepancy, etc. shall be waived.

Failed Competition

The City reserves the right to reject any or all proposals which are not responsive to the specifications of this Request for Proposal (RFP). Competitive negotiation requires that at least two responsive proposals for the same scope of work and service area be received in response to the RFP. A competition is considered failed if only one responsive proposal is received. If a competition has been declared failed, the City then has the option to reopen the procurement or enter into a non-competitive procurement.

Withdrawing or Amending a Proposal

At any time prior to the scheduled deadline for receipt of proposals, the Proposer may withdraw or amend its proposal by submitting a written request from the authorized representative whose name and signature appears on the proposal. A written request to withdraw or amend the proposal must be submitted to the individual and address to whom/which the proposal was submitted in accordance with the section above titled "PROPOSAL SUBMISSION AND DUE DATE."

Acceptance/Rejection of Proposals

The City reserves the right to accept or reject, in whole or in part, any or all proposals submitted. The City shall reject the proposal of any Proposer that is determined to be non-responsive.

Informalities/Minor Irregularities

The City reserves the right to waive minor irregularities or informalities in a Proposer's proposal when the City determines that it will be in City's best interest to do so. Any such waiver shall not modify any remaining RFP specifications or excuse the Proposer from full compliance with the RFP specifications and other contract requirements if the Proposer is awarded the contract.

Proposer indebted to the City

No contract will be knowingly awarded to any organization which, in the City's sole discretion, is in arrears to the City of Memphis upon any debt or contract, or which is a defaulter as surety or otherwise under any obligations to the City of Memphis, or which has failed to perform faithfully on any previous contract with the City of Memphis.

Tax Payments

The City of Memphis is exempt from federal excise, state and local taxes on all purchases and will issue tax exemption certificates, upon request.

4.7 FINALIST SELECTIONS (OPTIONAL)

The City may or may not select a number of the RFP respondents who will be asked to give an oral presentation of its proposal to the City. However the City is not obligated to interview any finalist. If interviews are conducted, these providers will be selected based on an evaluation of their Proposals against the criteria described in Section 5 of this RFP. RFP recipients that are not selected to progress to the oral presentations likely will be excluded from further consideration.

For this reason, Proposer is strongly encouraged to make as complete and compelling a Proposal as possible. The RFP recipient who fails to comply risks being dropped from further consideration without having an opportunity to improve its offer.

4.8 RECIPIENT PRESENTATIONS (OPTIONAL)

Details pertaining to the oral presentation phase of the RFP process will be confirmed after Proposal submission, however the presentations are tentatively scheduled to begin in July 2017.

If Proposer is one of the RFP recipients asked to give an oral presentation, Proposer should prepare a comprehensive presentation that concentrates on the business and technical aspects of the Proposal, and should not be marketing discussions. **PROPOSER'S PROPOSAL WILL NOT BE ALTERED OR ENHANCED DURING THE ORAL PRESENTATION.**

Appropriate visual and written materials are expected, but the format will be left to the discretion of the Proposer. A soft copy of all presentation materials must be delivered to the Principal Contact at least one business day before the beginning of the presentation. Proposer should also bring a sufficient number of printed copies of the materials for the City attendees at the presentation.

The City may provide a last minute agenda or other direction for the Proposer's presentation based on the City's initial review of the Proposals.

4.9 CONTRACT AWARD

The award of contract will be made on the basis of the best proposal, as solely determined by the City, which meets the requirements and criteria set forth in the solicitation. The City will only accept proposals for the services requested. The proposal submitted in response to this solicitation is not a legally binding document; however, the contract, which will be based on information provided in the proposal, becomes legally binding once all parties have signed it. Any contract resulting from this RFP shall be subject to the City of Memphis General Terms and Conditions set forth in this solicitation and any additional terms imposed by City. The successful Contractor shall be required to execute the contract originated by the City of Memphis and satisfy all contract requirements as specified by the City. **One or more contracts may be awarded under this RFP**, and any contract awards and amounts are subject to the availability and appropriation of funds.

4.10 PROTESTS

Any protest of award must be filed in writing with the Purchasing Agent within five (5) calendar days of the award announcement at the following address:

City of Memphis Purchasing Agent:
125 North Main, Room 354, Memphis, Tennessee 38103.

4.11 MODIFICATION OR TERMINATION OF RFP PROCESS

Subject to the rules and regulations of the City's Procurement Office, including with respect to providing notification and, where applicable, providing the opportunity to revise proposals, the City reserves the right to, in its sole discretion, discontinue, amend, supplement, or otherwise change this RFP, the Initiative, the process used for evaluation, and the expected timeline at any time and for any reason, and makes no commitments, implied or otherwise, that this process will result in a business transaction with any provider.

4.12 SUPPLEMENTAL INFORMATION

If, subsequent to issuance of this RFP, additional relevant material is produced by or becomes available to the City, such material will (where appropriate) be transmitted to all RFP participants for their consideration. The City will make modifications by issuing a written addendum, which will be posted on the City's website. Any revisions to the solicitation will be made only by an addendum issued by the City. It is the responsibility of the Proposer to check the website for possible addenda and should consider such information in its Proposal. The City will assume that all changes or additional requirements transmitted have been taken into account in Proposer's Proposal (including with respect to pricing), unless otherwise specified.

4.13 NO REPRESENTATIONS OR WARRANTIES

The City makes no representations or warranties regarding the accuracy or completeness of the information contained in this RFP or otherwise provided by the City through the RFP process. Proposer is responsible for making its own evaluation of information and data contained in this RFP or otherwise provided by the City, and for preparing and submitting responses to the RFP. The City has attempted to validate the information provided in this RFP, but it is possible that Proposer may detect inconsistencies or potential errors. While Proposer should identify these potential issues in its questions or in an appendix to its Proposal, Proposer should use the information provided on an "as-is" basis for its initial Proposal. Information regarding the City and the Initiative may be revised or updated, and republished for inclusion in a final response.

4.14 PROPOSAL PREPARATION COSTS

Proposer will be responsible for all costs it incurs in connection with this RFP process (including but not limited to Proposal preparation, personnel time, travel-related costs, and other expenses) and any subsequent agreement negotiations.

5. EVALUATION MODEL

5.1 QUALIFYING PROPOSALS

City will review each submitted Proposal to determine whether it is a Qualifying Proposal. A Qualifying Proposal is one that meets all of the criteria set forth below. All Proposals that ARE NOT a Qualifying Proposal will be disqualified from this RFP process. A Qualifying Proposal is a Proposal that:

- Was submitted (in the form and format required) by the due date as specified in Section 4.6.
- Conforms to the requirements of the RFP (as outlined in Section 3).

5.2 EVALUATION OF QUALIFYING PROPOSALS

An evaluation team composed of representatives of the City will evaluate proposals on a variety of quantitative and qualitative criteria. Upon receipt of proposals, the City will review to determine whether the proposal is acceptable or non-acceptable based on the criteria outlined below.

The criteria, and their associated weights, upon which the evaluation of the proposals will be based on the following:

- Project Methodology, Project Management Plan, Time Schedule, and Involvement in Legal Actions** – Proposer demonstrates understanding of the scope of work and services to be provided and whether the proposed methodology is feasible and applicable; proposal includes a project management plan that supports all project requirements; proposal clearly details the timeframes for completion of each phase of the project and the ability to realistically meet the City's time schedule; and proposal details Proposer's involvement in past or current litigation related to test development, administration, assessment, scoring, security, and other test-related services (35 percent)
- Relevant Experience and Qualifications of Personnel** – proposal describes relevant experience and demonstrated ability to fulfill the requirements of the proposal as listed in the scope of work, and clearly describes relevant qualifications and experience of the personnel who will be assigned to the project (35 percent)
- Pricing / Cost Proposal** – costs and fees are detailed, appropriate, and reasonable for the services being provided (30 percent)

Total Points for Evaluation Criteria - 100 points

6. RFP TERMS AND CONDITIONS

The City of Memphis seeks proposals from firms who have the expertise to provide the products and/or services as is in accordance with this RFP document. This is a Request for Proposal that may be modified by the City in the selection process.

THE CITY OF MEMPHIS ENCOURAGES THE PARTICIPATION OF SMALL, MINORITY AND WOMEN-OWNED BUSINESSES IN THE PURCHASING PROCESS.

The City of Memphis is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age, or handicap status in employment or in the provision of services.

This procurement may be subject to the requirements of Ordinance No. 5114 which establishes a local preference for local businesses located within the City of Memphis. A copy of your current Memphis and Shelby County Tennessee Business Tax Receipt must accompany the proposal for consideration of this ordinance.

Any protest of award must be filed in writing with the Purchasing Agent within five (5) calendar days of the intent to award announcement at the following address: City of Memphis Purchasing Agent; 125 North Main, Room 354; Memphis, Tennessee 38103. Notice will be posted on the City's website and outside Council Chambers, located on the lobby floor of City Hall. The intent to award notification shall be deemed publicly announced on the date specified on the notice.

Only proposals submitted on the provided form(s) with no changes, additions or deletions to the terms and conditions will be considered. Proposals containing terms and conditions other than those contained herein may be considered nonconforming.

No objections with regard to the application, meaning, or interpretation of the specifications will be considered after the opening of the subject proposals. If there are questions or concerns regarding any part of plans, terms, specifications or other proposed documents, a written request for interpretation thereof may be submitted to the City Purchasing Agent prior to the deadline date. The organization submitting the request shall be responsible for the prompt delivery of the request. Any interpretation in response to the written request will be made only by addendum duly issued, and a copy of such addendum will be mailed or delivered to each organization receiving a set of such documents and/or posted on the City's website. The City of Memphis will not be responsible for any other explanation or interpretation of the proposed documents. By submission of its proposal, a proposer shall be deemed to have understood fully the contents and meaning of the RFP.

All proposals must be signed by an authorized representative of your organization. Unsigned proposals will be considered nonconforming.

Any contract resulting from the proposals received in response to this solicitation shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this

Agreement shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee without regard to conflicts of laws principles.

By order of the Mayor of the City of Memphis, Tennessee.

JIM STRICKLAND, MAYOR

Eric Mayse, City Purchasing Agent

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INSTRUCTIONS TO PROPOSERS

Proposers shall submit their signed proposal in a sealed envelope INDICATING ON THE OUTSIDE: THE COMPANY NAME and THE REQUEST FOR PROPOSAL NUMBER.

Proposers must comply with all applicable licensing requirements. Pursuant to the City of Memphis Charter, Article 71, Section 777 et seq., it is unlawful to operate a business within the limits of the city of Memphis without possessing a Memphis and Shelby County business license, excepting non-profit organizations that qualify as tax exempt under Sec. 501(c)(3) of the Internal Revenue Code. Upon award notification and prior to the City issuing a properly executed purchase order or entering into a contract with the proposer, the successful proposer, whose principal business address is located within the limits of the city of Memphis, will be required to submit, along with the required insurance and other required documentation, a copy of (1) the tax-exempt ruling or determination letter from the Internal Revenue Services; or (2) its current Memphis and Shelby County Business Tax Receipt/License.

Issuance of this RFP does not obligate the City to contract, in whole or in part, for services specified herein. The City of Memphis reserves the right to cancel this solicitation, in whole or in part, or to reject, in whole or in part, any and all proposals. Cancellation of this RFP or any subsequent award will be posted on the City's website: www.memphistn.gov under the section titled "Government News."

Any firm receiving a mailed solicitation on the above subject and not bidding will be electronically removed from the City's mailing list used for the above-referenced subject after 3 consecutive non-responses or no bids.

For additional information concerning this solicitation, please contact: Eric Mayse via e-mail at Eric.Mayse@memphistn.gov. Subject line must read "Questions – Police Promotional Testing Services."

This solicitation shall be in accordance with the City of Memphis Ordinances and Purchasing Policies and Procedures, which may be amended from time to time.

All materials submitted pursuant to this RFP shall become the property of the City of Memphis.

To the extent permitted by law, all proposals submitted in response to this RFP shall be kept confidential until the proposals have been evaluated and the intent to award is announced. Until the intent to award is announced, no information regarding any proposal will be released to anyone, except members of the Evaluation Committee who are responsible for evaluating the proposals and other appropriate City staff. All information provided by the Proposer in response to this RFP will be considered by the Evaluation Committee in evaluating the proposal and making an award recommendation to the City.

The Mayor of the City of Memphis is the only individual who can legally sign contracts on behalf of the City. Costs chargeable to the proposed contract shall not be incurred before receipt of a fully executed contract.

EXHIBITS

EXHIBIT 1 – PROPOSER QUESTIONS TEMPLATE

RFP Section	QUESTION

EXHIBIT 2 – NON-COLLUSION AFFIDAVIT

The Proposer, by its officers and its agents or representatives present at the time of filing this Proposal, being duly sworn on their oaths say, that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other Proposer, or with any officer of the Owner or Owner’s representative whereby such affiant or affiants or either of them has paid or is to pay such other Proposer or officer any sum of money, or has given or is to give to such other Proposer or officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other free competition into the letting of the contract sought for by the attached prices that no inducement of any form or character other than that which appears on the face of the Proposal will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the Proposal or awarding of the Contract, nor has this Proposer any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the Contractor sought by this Proposal.

Submitted By:

Firm Name _____

Authorized Signature _____

Date _____

SIGNATURES

If PROPOSER is:

A. An Individual

By _____

(SEAL)

(Individual's Name)

Doing business as

Business Address:

Phone Number: _____

B. A Partnership

By _____

(SEAL)

(Firm Name)

(General Partner)

Business Address:

Phone Number: _____

C. A Corporation

By _____

(SEAL)

(Corporation Name)

(State of Incorporation)

By _____

(Name of Person Authorized to Sign)

Title _____

Attest _____

(Secretary)

Business Address:

Phone Number: _____

D. A Joint Venture

By _____
(Name)

Business Address:

By _____
(Name)

Business Address:

Each joint venture member must sign. The manner of signing for each individual partnership and corporation that is party to joint venture should be in manner indicated above.

EXHIBIT 3 – QUALIFICATION STATEMENT

This statement will provide information which will enable the City to evaluate the qualifications of Proposer and project personnel with regard to the requirements of this Request for Proposal.

Complete this form in its entirety and submit it (in the number of copies requested) along with the other required proposal documents. If a request in the Qualification Statement is contained in the proposal, indicate the section in the proposal where that information can be found.

(PRINT)

FIRM NAME: _____

ADDRESS: _____

CITY STATE ZIP: _____

AUTHORIZED REPRESENTATIVE: _____

TITLE: _____

AUTHORIZED SIGNATURE: _____

PHONE: _____ FAX: _____

E-MAIL ADDRESS: _____

1. TYPE OF BUSINESS

___ CORPORATION ___ INDIVIDUAL

___ PARTNERSHIP ___ JOINT VENTURE

OTHER: _____

2. TYPE OF LICENSE & LOCATION

3. TYPE OF SERVICE TO BE PROVIDED FOR RFP: _____

4. NUMBER OF YEARS IN BUSINESS: _____

5. ON A SEPARATE SHEET PROVIDE A BRIEF HISTORY OF PROPOSER'S COMPANY, STAFF SIZE AND EXPERIENCE. SUBMIT A RESUME FOR THE PROJECT MANAGER AND EACH KEY PERSONNEL TO BE ASSIGNED TO THIS PROJECT.

6. WHAT OTHER NAME(S) HAS YOUR COMPANY OPERATED UNDER: _____

7. HAS PROPOSER OR ITS COMPANY EVER FAILED TO COMPLETE ANY WORK AWARDED TO IT? _____ YES _____ NO IF "YES", EXPLAIN: _____

8. HAS ANY PRINCIPAL OR PARTNER OF PROPOSER'S COMPANY EVER BEEN A PRINCIPAL OR PARTNER OF ANOTHER ORGANIZATION THAT FAILED TO COMPLETE A CONTRACT WITHIN THE LAST TEN (10) YEARS? _____ YES _____ NO

IF "YES", EXPLAIN: _____

9. HAS PROPOSER'S COMPANY OR ANY PARTNERS OR PRINCIPALS EVER BEEN INVOLVED IN BANKRUPTCY ACTION? _____ YES _____ NO IF "YES", EXPLAIN: _____

10. IS PROPOSER, ITS COMPANY, ANY PARTNERS, OR PRINCIPALS PRESENTLY INVOLVED IN ANY LITIGATION WITH ANY ORGANIZATION OR GOVERNMENT AGENCY?

_____ YES _____ NO IF "YES", EXPLAIN THE LITIGATION AND STATE THE

CURRENT STATUS / OUTCOME: _____

11. BANK REFERENCE: _____

ADDRESS: _____

CONTACT NAME: _____ PHONE: _____

12. LIST THREE (3) SIMILAR PROJECTS FROM LAST FIVE (5) YEARS – INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT), CONTACT NAME, ADDRESS, TELEPHONE NUMBER(S), E-MAIL ADDRESS.

NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

13. LIST CURRENT SIMILAR PROJECTS UNDER CONTRACT – INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT), CONTACT NAME, ADDRESS, TELEPHONE NUMBER(S), E-MAIL ADDRESS.

NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

**14. LIST ANY SUB-CONTRACTORS TO BE USED FOR THIS PROJECT:
INCLUDE NAME, ADDRESS, TELEPHONE NUMBER, TYPE OF WORK**

IF ADDITIONAL INFORMATION IS PROVIDED ON A SEPARATE SHEET FOR ANY OF THE ITEMS, CLEARLY SPECIFY WHERE IT CAN BE LOCATED IN PROPOSER'S PROPOSAL.

EXHIBIT 4 – PROPOSAL SUBMITTAL CHECKLIST

Submittals: The following submittals must be completed and submitted with each proposal.

Item #	Check (√)	Proposal Submittal Checklist
1.		Cover Letter
2.		Executive Summary
3.		Project Methodology
4.		Relevant Experience
5.		Qualifications of Personnel
6.		Project Management Plan / Time Schedule
7.		Involvement in Legal Actions
8.		Pricing/ Cost Proposal (Sealed and under separate cover)
9.		Non-Collusion Affidavit
10.		Qualification Statement

SAMPLE SERVICE AGREEMENT

This Agreement (the "Contract") is made and entered into this ____ day of _____, 20____ by and between **CITY OF MEMPHIS**, a municipal corporation of the State of Tennessee, through its Human Resources Division, hereinafter referred to as the "City" and [CONTRACTOR NAME], hereinafter referred to as "Consultant."

WITNESSETH

WHEREAS, the City has a need for [SERVICES TO BE PROVIDED]; and

WHEREAS, the Consultant has the knowledge and expertise to provide such services; and

WHEREAS, the parties desire to enter into a contract setting forth the terms and conditions under which the Consultant will provide said services.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

I. SCOPE OF WORK

1. The Consultant shall provide the services associated with the Scope of Work more specifically described in EXHIBIT ____ attached hereto and incorporated herein (the "Services").

2. The City shall provide a Project Lead who, with input from the Consultant, shall prescribe the parameters for the performance of the Services.

II. TERM AND COMPENSATION

1. This Contract shall not be binding upon the parties until it has been signed first by the Consultant and then by the authorized representatives of the City in accordance with applicable ordinances, laws, and regulations. The term of this Contract (the "Term") will commence on the date of final execution and continue for [OPTION PERIOD]. The Contract may be amended or extended upon mutual agreement of the parties.

2. The City agrees to compensate the Consultant for the provision of Services for an estimated cost of [CONTRACT AMOUNT]. The City will pay the Consultant for approved expenses only at cost. This price includes up to 50 hours of expert witness testimony/assistance with respect to any litigation, or threatened litigation, arising out of [SCOPE OF WORK] or any other Services performed pursuant to this Contract. The Consultant's cost listing is more specifically described in EXHIBIT ____ which is incorporated herein as if stated verbatim within this Contract.

3. a. The Consultant shall submit original invoices or copies of original invoices as certified as such by the Consultant, on the Consultant's letterhead and in form and substance acceptable by the City and with all necessary supporting documentation, to the City. The invoice

shall describe the Services performed, shall reflect any applicable terms of payment, and must show the contract number to which it relates. Unless the contract number is shown on the invoice, it may be returned to the Consultant. The Consultant shall submit invoices on a monthly basis for Services performed during the preceding month. Invoices shall be submitted in duplicate to the address set forth in Section III – General Conditions, Paragraph 31 of this Contract, to the attention of the Talent Management Service Center. The City shall pay such invoices, up to the Contract amount as specified in Paragraph 2 above, within thirty (30) days of its receipt and approval of said invoices.

b. The City is not obligated to pay, and will withhold from payment, any amounts the City has in dispute with the Consultant based on the Consultant's non-performance, unsatisfactory performance, or negligent performance of any of the Services under this Contract.

4. In the event of any litigation arising out of the selection process for the position of Police Sergeant or any other Services performed pursuant to this Contract, the Consultant agrees to provide the City with expert testimony/assistance with respect to the defense of such litigation. After the initial 50 hours of expert testimony/assistance referred to in Paragraph 2 above, any expert testimony/assistance provided by the Consultant will be billed at the rate of _____ per hour, plus reasonable expenses.

Notwithstanding the previous sentence, City will reimburse Consultant for fees for expert testimony in court or in depositions that require travel outside Consultant's office at the rate of _____ per eight (8) hour day of testimony or any part thereof. If the day extends beyond an (8) hour timeframe, fees are billed at the rate of _____ for each additional hour. Fees for deposition testimony not requiring travel outside of Consultant's office are _____ per hour. All flights for legal assistance will be billed at non-restrictive coach fare from _____ to Memphis, Tennessee and hotels will be billed at regular business class rates based upon the provisions in the City's Travel Policy, which may be amended from time to time, attached hereto and incorporated herein as EXHIBIT _____. Expert witness assistance or litigation services from other employees or contractors of the Consultant will be billed at an hourly rate of _____ per hour, plus reasonable expenses, pursuant to the City's Travel Policy. Airfare for other staff members will be billed at the least expensive, non-restrictive coach fare and hotels will be billed at regular business class rates based upon the provisions in the City's Travel Policy.

III. GENERAL CONDITIONS

The parties further agree as follows:

1. STANDARD OF PERFORMANCE

All Services by the Consultant will be performed in a manner satisfactory to the City, and in accordance with the generally accepted business practices and procedures of the City and pursuant to the governing rules and regulations of the industry, based on the type of services performed hereunder.

2. CONSULTANT'S PERSONNEL

a. The Consultant certifies that it presently has adequate qualified personnel to perform all Services required under this Contract. All work performed during the Term of this

Contract will be supervised by the Consultant. The Consultant further certifies that all of its employees assigned to serve the City have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Consultant who, in the opinion of the City, is incompetent, or whose conduct becomes detrimental to the Services, shall immediately be removed from association with the Services under this Contract per the City's request. Upon such request, the Consultant shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

b. The Consultant shall be solely liable and responsible for providing to, or on behalf of, all persons performing Services pursuant to this Contract, all employee compensation and benefits. The City shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, health, welfare and disability benefits, Federal and local taxes, or other compensation, benefits or taxes for any personnel provided on behalf of the Consultant. In addition, the Consultant shall be solely liable and responsible for any and all workers' compensation benefits to any person as a result of injuries arising from or connected with any Services performed by or on behalf of the Consultant pursuant to this Contract.

3. INDEPENDENT STATUS

a. Nothing in this Contract shall be deemed or construed to represent that the Consultant, or any of the Consultant's employees or agents, are the agents, representatives, or employees of the City. The Consultant acknowledges that it is an independent contractor over the details and means for performing the Services under this Contract. Anything in this Contract which may appear to give the City the right to direct the Consultant as to the details of the performance of the Services under this Contract or to exercise a measure of control over the Consultant is solely for purposes of compliance with local, state and federal regulations and means that the Consultant will follow the desires of the City only as to the intended results of the scope of this Contract.

b. It is further expressly agreed and understood by Consultant that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the City; that Consultant has been retained by the City to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for the Services performed (not wages) and that invoices submitted to the City by Consultant for the Services performed shall be on the Consultant's letterhead.

4. TERMINATION OR ABANDONMENT

a. It shall be cause for the immediate termination of this Contract if, after its execution, the City determines that:

i) Either the Consultant or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead *nolo contendere* or has pled or been found guilty of a criminal violation, whether state or federal, involving governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or

ii) The Consultant has subcontracted, assigned, delegated, transferred its rights, obligations or interests, voluntarily or involuntarily, under this Contract without the City's consent or approval; or

iii) The Consultant has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of Consultant's assets.

b. The City may terminate the Contract upon five (5) days written notice by the City or its authorized agent to the Consultant for Consultant's material breach of the Services specified under this Contract.

c. The City may, in its sole discretion, suspend and/or terminate this Contract for convenience upon giving thirty (30) days written notice to Consultant, before the effective date of termination (the "Termination Date"). In the event of such termination, the Consultant shall be entitled to receive just and equitable compensation, as determined by the City, for any satisfactory authorized work performed in accordance with the Contract as of the Termination Date; however, but in no event shall the City be liable to the Consultant for expenses incurred after the Termination Date. All Services performed by Consultant prior to the Termination Date shall be documented and all tangible work documents shall be provided to the City prior to payment for the Services rendered. Such termination by the City shall not be deemed a breach of contract by the City, and the Consultant shall not be compensated for any anticipatory profits, or other damages of any description, that have not been earned as the Termination Date.

d. Notwithstanding the above or any section herein to the contrary, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by Consultant and the City may withhold any payments to Consultant limited to a reasonable amount equivalent to the offset reasonably calculated to compensate for any damages caused by the material breach.

5. SUBCONTRACTING, ASSIGNMENT OR TRANSFER

a. The Consultant shall not subcontract, assign, delegate or transfer all or part of its rights, responsibilities, or interest under this Contract without the prior written consent of the City. Any purported assignment, transfer, or delegation in violation of this Section shall be voidable by the City. No subcontracting, assignment, delegation or transfer shall relieve the Consultant from performance of its Services under this Contract. The City shall not be responsible for the fulfillment of the Consultant's obligations to its transferors or subcontractors.

b. Upon the request of the City, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

6. CONFLICT OF INTEREST

Neither party shall engage in any conduct or activity in the performance of this Contract that constitutes a conflict of interest under applicable federal, state or local laws, rules and regulations.

The Consultant covenants that it has no public or private interest, and will not acquire directly or indirectly any interest, which would conflict in any manner with the performance of the Services required under this Contract. The Consultant covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant, to any officer, official, agent or employee of the City, in an effort to secure the Contract or favorable treatment with respect to any determinations

concerning the performance of the Contract. The Consultant warrants that no part of the total Contract Fee shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the Consultant in connection with any Services contemplated or performed relative to this Contract. The Consultant also warrants that is has no family member within the employ of the City of Memphis wherein the execution of this Contract would trigger a conflict of interest or a violation of local, state or federal conflict of interest laws.

7. COVENANT AGAINST CONTINGENT FEES

The Consultant warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the City will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

8. EMPLOYMENT OF CITY WORKERS

The Consultant shall not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or have been at any time during the Term of the Contract in the employ of the City.

9. SUBJECT MATTER EXPERTS

The use of local Subject Matter Experts (SMEs) by Consultant is not permitted except upon express approval of the Chief Human Resources Officer or his designee for the City of Memphis. At no time will police personnel be allowed by Consultant, its representatives or agents to access or observe any test content prior to official test administration by Consultant absent prior authorization by City. Consultants shall require appropriate nondisclosure and confidentiality agreements to be executed by SMEs, prohibiting unauthorized disclosures.

10. RECORDS AND AUDITS

The Consultant shall make and keep as the same accrue, full and complete books, documents, papers, accounting records, and other evidence, that specifically relate to this Contract, in accordance with generally accepted accounting principles. The Consultant shall retain such records, and shall make such materials available to the City, upon reasonable request, during the Term of this Contract and for a minimum period of three (3) full years after completion of the Contract obligations or from the date of final payment under this Contract, whichever is later. In the event any litigation, claim or audit is instituted prior to the expiration of the required three-year retention period, such records shall be retained until such litigation, claim or audit finding has been resolved. Copies of said records shall be furnished to the City upon request.

Upon reasonable notice, the Consultant shall permit the City, any other governmental entity, any agency participating in the funding of this Contract, or any of their duly authorized representatives, to enter the Consultant's offices, during regular business hours, to interview employees and to inspect and/or copy said records and books of accounts together with any and all documents pertaining hereto that may be kept, maintained or possessed by the Consultant. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places.

11. DISPUTE RESOLUTION

In the event of any dispute(s), controversy, or claim arising out of or relating to this Contract or the breach thereof, the parties shall agree that they shall first use their best efforts in an attempt to settle the dispute through negotiations involving themselves or their representatives as they each deem appropriate.

Any dispute concerning a question of fact in connection with this Contract between the Consultant and the City shall be referred to the Mayor, City Attorney, Purchasing Agent or a duly authorized representative, whose decision regarding same shall be final. Notwithstanding the foregoing, neither party shall be precluded from seeking remedies available at law or equity in the event of failed resolution of disputed claims.

12. FORCE MAJEURE

The City shall not be deemed in default hereunder, nor shall the City be responsible for any delay, interruption, or cessation in the performance of its obligations under this Contract where such failure of performance is the result of any force majeure event, including, but not limited to, acts of God, riots, wars, strikes, epidemics, acts, governmental authorities, or acts of nature or other similar cause.

13. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

a. The Consultant shall indemnify, defend, save and hold harmless the City, its elected and appointed officials, officers, agents, and employees from and against any and all suits, claims, demands, actions, penalties, liabilities (consequential or otherwise), settlements, costs, expenses, losses or damages — including, but not limited to, Title VII and 42 U.S.C. Section 1983 prohibited acts — brought for bodily injury or damage to property (including attorneys' fees) that arise or are alleged to have arisen as a result of any conduct, whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the Services hereunder, whether performed by the Consultant, its subcontractors, agents, or employees. This indemnification shall survive the expiration or termination of this Contract. The provisions of this paragraph shall not apply to any loss or damage caused solely by the acts, errors, or omissions of the City or any of its officers, agents, or employees. Contracts for third party service providers should include indemnity provisions that protect the City from any liability arising out of the Consultant's loss of City's sensitive information.

b. The Consultant expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Consultant shall in no way limit the Consultant's responsibility to indemnify, defend, save and hold harmless the City or its elected

or appointed officials, officers, employees, agents, assigns, and instrumentalities as herein required.

c. The City reserves the right to appoint its own counsel regarding any matter defended hereunder. The Consultant acknowledges that the City has no obligation to provide legal counsel or defense to the Consultant, its employees or its subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this Contract against Consultant as a result of or directly relating to performance of the Services under this Contract.

d. Except as expressly provided herein, the City shall have no obligation for the payment of any judgments or the settlement of any claims against Consultant or its subcontractors or employees as a result of or directly relating to the Consultant's performance of the Services under this Contract.

e. The Consultant shall immediately notify the City c/o City Attorney; 125 North Main, Suite 336, Memphis, TN 38103, of any claim or suit made or filed against the Consultant or its subcontractors regarding any matter resulting from or directly relating to the Consultant's performance of the Services under this Contract and agrees to cooperate, assist and consult with the City, if applicable, in the defense or investigation thereof.

14. COMPLIANCE WITH LAWS AND PROFESSIONAL STANDARDS

a. The Consultant certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.

b. The methodologies, testing, assessments, services, and systems to be provided by the Consultant shall also be used, developed implemented, and administered in compliance with the applicable requirements of: a) Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended; b) the Tennessee Human Rights Act, Tenn. Code Ann. § 4-21-101, et seq., as amended; c) the most current version of the Equal Employment Opportunity Commission's Uniform Guidelines on Employee Selection Procedures; d) the most current version of the Society of Industrial and Organizational Psychologists' Principles for the Validation and Use of Personnel Selection Procedures; e) the most current version of the American Psychological Association's Standards for Education and Psychological Testing, and f) any other applicable laws, rules, regulations, or professional standards governing the Consultant's duties or responsibilities under this Contract. In the event of a conflict between any legal requirements and non-legal professional requirements, the legal requirements shall control. In the event of a conflict between any of the professional standards set forth in items c) through e), the personnel assigned by the Consultant to carry out this Contract shall use their best professional judgment and use the standard that most accurately reflects the current state of psychological testing requirements.

c. The Consultant is assumed to be familiar with and shall observe and comply with all applicable federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services under this Contract. The preceding shall include, but are not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA), and laws prohibiting the employment of illegal immigrants. The

Consultant shall promptly notify the City of any conflict discovered between this Contract and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict.

d. This Contract shall be interpreted in accordance with and governed by the laws of the State of Tennessee. By execution of this Contract, the Consultant agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

15. NON-DISCRIMINATION

The Consultant hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal, state, or local laws prohibiting discrimination, which provide in whole or in part, that no person shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Consultant on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The Consultant shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places available to all employees and applicants notices of non-discrimination. In the event the Consultant fails to comply with the City's non-discrimination policy and any and all other laws prohibiting discrimination, the Contract may be cancelled, terminated or suspended in whole or in part by the City.

The City reserves the right to investigate any claims of illegal discrimination by the Consultant and in the event a finding of discrimination is made and upon written notification thereof, the Consultant shall take all necessary steps to cure and rectify such action to the reasonable satisfaction of the City. The Consultant's failure or refusal to do so shall be cause for termination of this Contract in accordance with the terms of this Contract.

16. ENTIRE AGREEMENT

This Contract contains the entire Contract between the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral contracts between the parties.

17. MODIFICATION AND AMENDMENT

Any changes, modifications or amendments to this Contract shall not be considered agreed to or binding on the other party, unless such modification(s) have been agreed to in writing and approved by the appropriate City officials in accordance with applicable laws and regulations and are signed by both parties.

18. SEVERABILITY

If any term or provision of this Contract is held to be illegal, invalid or unenforceable under any present or future laws, such provision shall be fully severable, and the remaining provisions of this Contract shall remain in full force and effect and continue to be binding and

shall not be affected by such provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible.

19. NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and, no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure of the City to enforce any right or provision in this Contract or in any document executed pursuant hereto shall operate as a waiver or relinquishment of the City's right to subsequently enforce and compel strict compliance with such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

20. HEADINGS

The titles and headings of the several sections, subsections, and paragraphs set forth in this Contract are inserted for convenience of reference only and shall be disregarded completely in the interpretation and the validity of this Contract or any of its terms.

21. SUBJECT TO FUNDING

This Contract is subject to availability and annual appropriation of funds by the Memphis City Council. In the event sufficient funds for this Contract are not appropriated by the Memphis City Council for any of its fiscal periods during the Term hereof, then the City shall immediately terminate this Contract upon written notice to the Consultant. In the event of such termination, the Consultant shall be entitled to receive just and equitable compensation for any satisfactory Services performed as of the Termination Date. Such termination by the City shall not be deemed a breach of contract by the City, and the Consultant shall have no right to any actual, general, specific, incidental, consequential, or any other damages whatsoever of any description or amount.

22. PROJECT DELAYS

Delays may occur on the part of the City due to unforeseen circumstances (i.e. litigation, court injunctions, etc.). If such delays occur and require additional work to be performed by the Consultant, the City shall be charged at a rate agreed to by both parties and shall be evidenced by a written amendment to the Contract signed by both parties.

23. INCORPORATION OF OTHER DOCUMENTS

The Consultant shall provide Services pursuant to this Contract and in accordance with the terms and conditions set forth in EXHIBITS_____. It is understood and agreed between the parties that, in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Consultant's

proposal, the terms and conditions of this Contract, as well as any amendment, shall take precedence and control the relationship and understanding of the parties.

24. INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

25. DISCLOSURE OF REPORTS, DATA OR OTHER INFORMATION

Notwithstanding anything to the contrary contained herein or within any other document supplied to City by Consultant, the Consultant understands and acknowledges that City is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to City by Consultant and arising from Services performed pursuant to this Contract may be subject to disclosure as a public record in accordance with the laws of the State of Tennessee, except to the extent that these reports, data or other information contain Consultant's trade secret information. Both parties represent and warrant that all test materials and Consultant's trade secrets are proprietary to the Consultant.

26. CONFIDENTIAL INFORMATION

While performing work under this Contract, the Consultant and the City may gain access to proprietary and/or confidential information that, if disclosed to third parties, may be damaging to either party. The City agrees to make available to the Consultant such information as is necessary for the fulfillment of the Contract. It is understood that such information may include materials considered by the City to be confidential information, as a matter of law (e.g., personnel records).

Confidential Information shall also include (i) all materials in any form developed or created by the City related to funding, financial and business information, and (ii) or any other information that the Consultant has been advised by the City is confidential, privileged, or proprietary. Confidential Information, as used in this Contract, shall not include (i) information in the Consultant's possession prior to disclosure by the City, (ii) information generally available to the public, or that becomes available to the public through a source other than the City, or (iii) information that was rightfully obtained by the Consultant from a third party who is under no obligation of confidentiality to the City with respect to such information.

The Parties agree to accept and hold Confidential Information obtained from either party in confidence at all times during and after the termination of this Contract for a period of up to 5 years after termination of this Contract. The Parties shall neither use nor disclose or communicate such information, except as provided in this Contract, or as required by law, without prior written permission of the respective party. The Consultant agrees to require its employees, agents, and sub-contractors to be bound by the provisions of this Section III, Paragraph 26.

Notwithstanding the foregoing provisions, the Parties acknowledge that the City is a governmental entity subject to the requirements of the Tennessee Public Records Act which may require the release of information that is not designated as confidential or proprietary under the law.

27. OWNERSHIP AND USE OF DOCUMENTS

The Consultant warrants that all work produced under this Contract, whether in written or electronic form, shall be the original work of the Consultant and be owned by the Consultant, and not a Work For Hire, unless otherwise stated explicitly in writing. To the extent permitted by law, documents delivered may be possessed by the City and used for the limited purposes of this Contract as stated herein but will at all times remain the property of the Consultant. The City is expressly prohibited from providing the work of the Consultant to a competing Consultant or other third party for purposes of competing with the Consultant on any follow-up work for the City or any other entity.

28. PUBLIC STATEMENTS

Neither the Consultant nor any entity over which the Consultant has control or supervision shall make any public announcements, release any information to or authorize or participate in any interview with the media or any other representative thereof, concerning this Contract and the Services, without first obtaining written consent from the City. The Consultant shall require its employees, agents, and subcontractors to comply with the requirements of this provision. This provision shall survive the expiration or termination of this Contract.

29. ORGANIZATION STATUS AND AUTHORITY

a. The Consultant represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the State of Tennessee, as well as has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

b. The execution, delivery and performance of this Contract by the Consultant has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Consultant, any provision of any indenture, agreement or other instrument to which the Consultant is a party, or by which the Consultant's respective properties or assets are bound, in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any such properties or assets.

c. Each person executing this Contract represents that: he/she is lawfully authorized to sign the Contract on behalf of the party he/she represents and execution of the Contract was duly and regularly authorized by the party's governing body.

30. INSURANCE REQUIREMENTS

The Company shall not commence any work under this contract until it has obtained and caused its subcontractors to procure and keep in force all insurance required. The Company shall require all subcontractors to carry insurance as outlined below, in case they are not protected by the policies carried by the Company. The Company is required to provide copies of the insurance policies upon request. The Company shall furnish the Risk Manager a Certificate of Insurance and/or policies attested by a duly authorized representative of the insurance carrier evidencing that the insurance required hereunder is in effect. All insurance companies must be acceptable to the City of Memphis and licensed in the state of Tennessee with a Best Insurance

Rating of A and Class VII or better and authorized to do business in the state where the work is performed.

If any of the Insurance Requirements are non-renewed at the expiration dates, payment to the company may be withheld until those requirements have been met, or at the option of the City. The City may pay the renewal premiums and withhold such payments from any monies due the Company.

The Company shall indemnify, defend, save and hold harmless the City, its officers, employees, and agents, from and against any and all claims, demands, suits, actions, penalties, damages, settlements, costs, expenses, or other liabilities of any kind and character arising out of or in connection with the breach of this Agreement by Company, its employees, subcontractors, or agents, or any negligent act or omission of Company, its employees, subcontractors, or agents, which occurs pursuant to the performance of this Agreement, and this indemnification shall survive the expiration or earlier termination of this Agreement. The provisions of this paragraph shall not apply to any loss or damage caused solely by the acts, errors, or omissions of the City, its officers, employees and agents. Contracts for third party service providers should include indemnity provisions that protect the City from any liability arising out of the Company's loss of City's sensitive information.

Each certificate or policy shall require and state in writing the following clauses:

Company shall provide notice to the City within three (3) business days following receipt of any notice of cancellation or material change in Company's insurance policy from Company's insurer. Such notice shall be provided to City by registered mail, to the following addresses:

City of Memphis

Attn: Risk Management

170 North Main, Room 524

Memphis, TN 38103

City of Memphis

Attn: Purchasing Agent

125 North Main, Room 354

Memphis, TN 38103

The Certificate of Insurance shall state the following: "The City of Memphis, its officials, agents, employees and representatives shall be named as additional insured on all liability policies." The additional insured endorsements shall be attached to the Certificate of Insurance and the Certificate of Insurance shall also state: "The additional insured endorsement is attached to the Certificate of Insurance."

WORKERS COMPENSATION:

The Company shall maintain in force Workers' Compensation coverage in accordance with the Statutory Requirements and Minimum Limits of the State of Tennessee and shall require all subcontractors to do likewise.

Employer's Liability	\$100,000	Each Accident
	\$500,000	Disease-Policy Limit
	\$100,000	Disease-Each Employee

AUTOMOBILE LIABILITY:

Covering owned, non-owned, and hired vehicles with Minimum Limits of:

\$1,000,000 Each Occurrence – Combined Single Limits

COMMERCIAL GENERAL LIABILITY:

Comprehensive General Liability Insurance, including Premises and Operations, Contractual Liability, Independent Contractor's Liability, and Broad Form Property Damage Liability Coverage with Minimum Limits of:

\$2,000,000	General Aggregate
\$1,000,000	Products-Completed Operations
\$1,000,000	Personal and Advertising Injury
\$1,000,000	Each Occurrence (Bodily Injury & Property Damage)
\$ 50,000	Fire Damage any One Fire
\$ 5,000	Medical Expense any One Person

ERRORS & OMISSIONS / PROFESSIONAL LIABILITY:

For losses caused by errors and omissions made in professional roles.

The Company shall warrant that the RETROACTIVE date applicable to this coverage shall precede the effective date of this contract, and shall maintain such coverage for at least three (3) years from the termination or expiration of this agreement.

With Minimum Limits of:

\$2,000,000 Each Claim / Aggregate

“NETWORK SECURITY AND PRIVACY” LIABILITY: (CYBER):

For losses arising out of the following areas:

- Privacy Liability
- Network Security Liability
- Media Liability
- Cyber Extortion
- Privacy Breach Response
 - Customer Notification Expense
 - Credit Monitoring Expense

- Business Interruption
- Regulatory Defense and Penalties including PCI Fines/Penalties if applicable
- Social Engineering

The Company shall warrant that the RETROACTIVE date applicable to this coverage shall precede the effective date of this contract, and shall maintain such coverage for at least three (3) years from the termination or expiration of this agreement.

With Minimum Limits Of:

\$ 2,000,000 Each Claim / \$2,000,000 Aggregate

UMBRELLA LIABILITY:

With Minimum Limits of:

\$2,000,000 Each Occurrence / Aggregate

PROPERTY INSURANCE:

The Company shall be responsible for maintaining any and all property insurance on their own equipment and shall require all subcontractors to do likewise. The Company shall require all sub-contractors to carry insurance as outlined above, in case they are not protected by the policies carried by the Company.

The Company is required to provide copies of the insurance policies upon request.

31. NOTICE

Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered in person with signed receipt to the City's authorized agent; or delivered by a nationally recognized overnight courier; or mailed via certified U.S. mail, postage prepaid and return receipt requested, to the appropriate party at the addresses listed below, or to such other person or address as either party may designate in writing and deliver as provided herein. Such notice should retain a postmarked receipt for certified mail as evidence of the mailing date.

CITY:

City of Memphis

Human Resources Division

125 N. Main Street, Room 406

Memphis, Tennessee 38103

Attn: Alexandria Smith, Chief Human Resources Officer

and Copy to:

City of Memphis Law Division

Attn: Bruce McMullen, City Attorney/Chief Legal Officer

125 N. Main Street, Room 336

Memphis, Tennessee 38103

City of Memphis

Human Resources Division / Talent Management

125 N. Main Street, Room 1B-25

Memphis, Tennessee 38103

CONSULTANT:

[CONTRACTOR NAME]

[CONTRACTOR ADDRESS]

IN WITNESS WHEREOF, the parties, by and through their duly authorized representatives, have executed this PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF MEMPHIS AND [CONTRACTOR NAME], FOR [SERVICES TO BE PROVIDED] as of the date above written.

CITY OF MEMPHIS

[CONTRACTOR NAME]

BY: _____

BY: _____

JIM STRICKLAND, MAYOR

[CONTRACTOR]

DIVISION OF HUMAN RESOURCES

BY: _____

ALEXANDRIA SMITH,
Chief Human Resources Officer

APPROVED AS TO FORM:

BRUCE MCMULLEN
City Attorney/Chief Legal Officer

ATTESTED TO:

Purchasing Agent