

**NOTICE TO CONSULTING FIRMS REGARDING A REQUEST FOR QUALIFICATIONS FOR THE
BELTLINE GREEN INFRASTRUCTURE PROJECT
CONCEPT DESIGN SERVICES**

RFQ #21001



City of Memphis, Tennessee

Addendum 2

Addendum 2 to RFQ #21001 - NOTICE TO CONSULTING FIRMS REGARDING A REQUEST FOR QUALIFICATIONS FOR THE BELTLINE GREEN INFRASTRUCTURE PROJECT, CONCEPT DESIGN SERVICES contains the following:

1. Responses to Written Questions Received Before 5:00 PM February 18, 2021.
2. Master Professional Services Sub-Consultant Agreement which supersedes the Master Professional Services Teaming Partner Agreement which was included in the original RFQ.

Response to Written Questions Received Before 5:00PM February 18, 2021

Question Number	Question	Response
1	Regarding Section 5.1 of the Teaming Partner Agreement below (p. 12 of RFQ), we would like to know what are the indemnification obligations under the Prime Agreement? The Prime Agreement was not attached. Is it possible to get a copy or can you post it?	Reference to the Prime Agreement has been removed. Please see Article 5 - Liability and Indemnification in attached Master Professional Services Sub-Consultant Agreement.
2	Is it possible to reduce the margin size of the 20 pages from 1-inch down to 3/4-inch (or even 1/2-inch) to give a bit more space?	Yes, 1/2 - inch margin is acceptable.
3	What level of design completion (60%, 75%, etc) does the City expect in the "Concept Design" deliverable?	The Program Manager expects design to be at 30% completion for this Concept Design deliverable. The goal of carrying the design to this point is to establish a proposed Outcome Metric(s), for example stormwater detention volume captured, that will not deviate substantially from final design. This information is necessary to secure financing for the project to move forward.
4	If the concept plans are used for permitting, are they expected to be signed and sealed?	As the Concept Plans may be the final work product, subject to contract amendment through final design, the plans should be signed and sealed. The Concept Plans may be used to initiate discussions with permitting agencies. These plans may be marked "Not for Construction".
5	Can a copy of the Cypress Creek Drainage Basin Study be provided?	The Cypress Creek Drainage Basin Study report is available upon request for use solely in relation to this project. Requests should be made to MSO2Procurement@allworldmail.com .
6	Who will be setting the EIB metrics that must be considered in the conceptual design process?	It is expected that "Outcome Metrics" will be developed collaboratively between the selected design consultant and the "Green Infrastructure Working Group" identified in the RFQ. Final metrics must include a description of methodology to establish them (how the target numbers are calculated) and a methodology for confirming them post-construction.
7	I had previously been able pull up pdfs the Drainage Master Plan Studies from the City of Memphis Engineering website, however I have been unable to do so recently – the links appear to not be working. Would it be possible to receive copies of them?	The Cypress Creek Drainage Basin Study report is available upon request for use solely in relation to this project. Requests should be made to MSO2Procurement@allworldmail.com .
8	Is the 20 page limit inclusive of the cover letter?	No. The 20 page limit is for the SOQ. A cover letter (Letter of Interest) of no more than one page does not count in the 20 page limit.
9	Are copies of the previously completed drainage basin studies in the area available for review?	The Cypress Creek Drainage Basin Study report is available upon request for use solely in relation to this project. Requests should be made to MSO2Procurement@allworldmail.com .
10	Is there an advantage if your firm completed the drainage basin study for the project area?	Firms will be selected based on the evaluation criteria outlined in the RFP.
11	Is there a bike route plan that has already been developed for the area? If so, can it be made available for review?	An overview of the regional bicycle route plan is available in the Memphis MPO: Walk & Roll: Memphis Region Pedestrian and Bicycle Master Plan. Specific access to the neighborhood and Liberty Park development will need to be developed as part of the project.

12	In the 4 th paragraph on page 9, it is suggested, if awarded, the contract could be amended thru 100% design and possible thru construction services. Should construction services capabilities be part of this SOQ?	Optional. If construction services capabilities are submitted with this SOQ, they will be reviewed. Firms will be selected based on the evaluation criteria outlined in the RFP.
13	Under QUALIFICATIONS CRITERIA on page 9 please expand on "Plan for co-production of the concept design...". What is the definition of co-production?	For purposes of this program, co-production is defined as collaboration with the City of Memphis "Green Infrastructure Working Group" – including representatives from the Divisions of Planning and Development, Public Works, Engineering and the City's Program Manager, along with additional consultants selected for portions of this assignment. This may, but not exclusively, include virtual meetings, bi-monthly or monthly updates, seeking dialogue and building a shared understanding of how these projects will impact resident's quality of life rather than simply address stormwater capture. This process will be guided and coordinated through Division of Planning and Development staff.
14	Has an answer been given to the question regarding whether or not the teams will need a PR component to them?	See Addendum 1 Q&A: "Stakeholder engagement will be managed by the Program, however, the selected Design Firm will need to provide relevant figures and information to support this engagement. As specified in the scope, the Design Firm will also engage with the City's 'Green Infrastructure Working Group' throughout the Concept Design Phase." Further, the Program Manager will handle PR so that outreach for all the program components is coordinated. The Program Manager will require input and participation from design team members in internal meetings and public presentations.
15	The RFQ requests a Letter of Interest in addition to an SOQ. Can you please confirm that the Letter of Interest will not count against the 20 page limit?	The 20 page limit is for the SOQ. A cover letter (Letter of Interest) of no more than one page does not count in the 20 page limit.
16	The RFQ requests that all addenda become a part of the SOQ and the Respondent acknowledge receipt of all addenda in their Response. Can you please confirm that the addenda and acknowledgement are not part of the 20 page limit?	Acknowledgment of each addendum should be provided on a separate page immediately following the cover letter and will not be part of the 20 page limit for the SOQ.
17	Is the Project Concept Design Schedule (Discussion, Gantt Chart Schedule, and Description of Quality Assurance Plan) to be submitted as its own section, or is this information included in Section 4-Project Understanding and Approach?	This should be submitted as a part of Section 4. There was a typo on page 10 of the RFQ. The sentence "Project Concept Design Schedule. Include a discussion and Gantt chart schedule based on the project approach indicating start and finish times and total duration of the work proposed as part of this contract" should have been labeled as subsection iii. Quality Assurance plan should have been labeled as subsection iv.
18	Resumes are noted as not counting toward the page count. Should resumes be included at the end of the proposal as an appendix, or included within Section 2- Staff Expertise & Availability?	As an appendix.
19	Are the concept design deliverables 1-9 as identified on page 8 of the RFQ all required to be completed in the May-August 2021 timeline in concurrence with public outreach efforts?	Yes. Concerning Public Outreach effort, please see Question Number 14 (above).
20	For the demonstrated project experience within the response, are projects that are currently under construction acceptable to show?	Yes.
21	Will an electronic version of the SWMM model be made available to the proposing or selected teams?	The SWMM model will be provided to the selected team(s) as a part of scoping. All hydraulic modeling associated with the program shall be completed in the SWMM platform.

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MASTER PROFESSIONAL SERVICES SUB-CONSULTANT AGREEMENT

THIS AGREEMENT (Agreement) is by and between Allworld Project Management, LLC (Prime), a Tennessee corporation and _____ (Sub-Consultant).

WITNESSETH:

WHEREAS, Prime has entered into an agreement dated _____, 2020 (Prime Agreement), with City of Memphis, Tennessee (Owner), related to the Development and Implementation of a Stormwater Management Program (the Project); and,

WHEREAS, Prime requires certain services in connection with the Project and Sub-Consultant is prepared to provide such Services.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, Prime and Sub-Consultant agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this Agreement shall be _____, 2021. The Term of this Agreement commences on the Effective Date and shall be, if not terminated earlier, pursuant to the other provisions of this Agreement, for a period of _____.

ARTICLE 2 - SERVICES TO BE PERFORMED BY SUB-CONSULTANT

Sub-Consultant shall supply all labor, services, resources, and consultation necessary to perform the Scope of Services required by this Agreement (Services). The Scope of Services is generally described in Attachment A to this Agreement. The Services shall be performed pursuant to written Task Orders issued by Prime. There is no obligation for Prime or its affiliates to authorize or issue any Task Orders under this Agreement.

Sub-Consultant recognizes that the services of Prime and others involved in the Project are dependent upon the timely, complete, and accurate performance of Sub-Consultant's Services. In the event of a conflict or ambiguities in any of the documents which form part of this Agreement, the terms which impose the higher or more stringent standard shall govern. All provisions required by the Agreement to apply to Sub-Consultant 's and/or sub-consultants.

Specifications, drawings, schedules, and other materials pertinent to Sub-Consultant's Services under this Agreement will be furnished to Sub-Consultant as they become available to Prime. Time is of the essence.

All materials that Sub-Consultant develops rendering the Services hereunder, including without limitation any inventions or copyrightable work products, shall become the sole and exclusive property of Prime without limitation at the time of their creation. All such materials shall be delivered to Prime by Sub-Consultant at the completion, suspension, or termination of this Agreement, unless otherwise directed by Prime. Sub-Consultant agrees to execute all documents and to take all steps that Prime deems necessary or desirable to protect Prime's ownership of and property rights in these materials and hereby assigns all such rights to Prime.

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ARTICLE 3 - COMPENSATION

3.1 Method of Payment. Prime shall pay Sub-Consultant in accordance with Attachment B, Compensation as specified in each respective Task Order.

Sub-Consultant shall pay all taxes, duties, and assessments of every nature due in connection with the Services and shall make any and all payroll deductions required by law and hereby indemnifies and holds harmless, Prime, its affiliates and Owner from any and all liability on account of any and all such truces, levies and duties, assessments, and deductions.

3.2 Time of Payment. Sub-Consultant shall submit monthly statements by the 5th day of each calendar month, for Services rendered. If Prime objects to any statement submitted by Sub-Consultant, Prime shall so advise Sub-Consultant in writing giving reasons therefore within ten (10) days from the submittal of the invoice.

Prime shall bill Owner on account of Sub-Consultant's Services and shall pay Sub-Consultant within fifteen (15) days of the time Prime receives payment from Owner on account thereof. It is intended that payments to Sub-Consultant will be made as Prime is paid by Owner. Payments to the Sub-Consultant will be reduced by any amounts withheld by the Owner, including without limitation, retainage. Upon the release to Prime of any amount that includes payments due Sub-Consultant, Prime will forward to Sub-Consultant its portion of such payment.

ARTICLE 4 - STANDARD OF CARE

Sub-Consultant's completeness of Sub-Consultant's Services hereunder in utilizing the results of such Services. All services by Sub-Consultant shall be performed in compliance with the specified requirements, and pursuant to the governing rules, practices, regulations, and "Standard of Care" of the industry for the type of work performed under this Agreement.

Sub-Consultant shall effectively and efficiently coordinate with Prime's designated personnel and third-party Sub-Consultants to identify project tasks, present current status reports, and identify potential issues with regards to the Services rendered hereunder and associated herewith.

Sub-Consultant is responsible for managing and successfully performing, completing, and delivering the Scope of Services, subject to the overall direction of Prime and with the cooperation and support of Prime, all as specified in this Agreement.

ARTICLE 5 - LIABILITY AND INDEMNIFICATION

5.1 Indemnification. Sub-Consultant shall indemnify, defend (until or unless determined by court that Sub-Consultant is not at fault), save and hold harmless the Prime, the Owner and its officers, agents and employees from and against any and all claims, losses, demands, suits, actions, penalties, damages (consequential or otherwise), settlements, costs, expenses, or other liabilities of any kind and character, including without limitation attorney fees and litigation expenses, arising out of or in connection with the performance of this Agreement by Sub-Consultant, its employees, Sub-Consultants, or agents or the breach of this Agreement by Sub-Consultant, its employees, Sub-Consultants or agents. This obligation shall survive the expiration or termination of this Agreement. Neither Sub-Consultant nor any employees of Sub-Consultant shall be liable under this section for damages arising out of injury or damage to persons or

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property directly caused by the negligence of the Prime, the Owner or any of its officers, agents, or employees.

Sub-Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Sub-Consultant shall in no way limit Sub-Consultant's responsibility to indemnify, defend (until or unless determined by court that Sub-Consultant is not at fault), save and hold harmless the Prime, the Owner or its elected or appointed officials, officers, employees, agents, assigns, and instrumentalities as herein required.

The Prime and the Owner reserve the right to appoint their own counsel regarding any matter defended hereunder. Sub-Consultant acknowledges that the Prime and the Owner have no obligation to provide legal counsel or defense to Sub-Consultant, its employees or Sub-Consultants in the event that a suit, claim or action of any character is brought by any person not a party to this Agreement against Sub-Consultant as a result of or relating to obligations under this Agreement. The Prime and the Owner shall have no obligation for the payment of any judgments or the settlement of any claims asserted against Sub-Consultant or its Sub-Consultants or employees as a result of or relating to Sub-Consultant's obligations hereunder.

Sub-Consultant shall immediately notify the Prime, of any claim or suit made or filed against Sub-Consultant or its Sub-Consultants regarding any matter resulting from or relating to Sub-Consultant's obligations under this Agreement and agrees to cooperate, assist and consult with the Prime and the Owner in the defense or investigation thereof.

5.2 Employee Claims. To the fullest extent permitted by law, Sub-Consultant shall defend, indemnify and hold harmless Owner, Prime, their related and affiliated companies and the officers, directors, partners, shareholders, agents, employees and representatives of each against liability for all claims, losses, damages, and expenses, including without limitation, attorneys' fees and reasonable costs of any successful enforcement of this Article by the indemnitees, arising out of claims by Sub-Consultant's employees.

5.3 Intellectual Property. To the fullest extent permitted by law, Sub-Consultant shall defend, indemnify, and hold harmless Prime, Owner, their related companies, and their directors, shareholders, officers, partners, employees, and agents from and against any claim, loss, damage, expense or liability (including reasonable attorneys' fees, and reasonable costs of any successful enforcement of this Article by the indemnitees) arising from actual or asserted infringement, improper appropriation or use of trade secrets, proprietary information or property, know-how, copyrights, or patents.

5.4 Notwithstanding anything to the contrary herein, except as set forth in Section 5.1, Section 5.2 and Section 5.3 herein, neither Sub-Consultant nor Prime shall be liable to the other or the other's affiliates, parents, subsidiaries or partners for any indirect, special, incidental, or consequential losses or damages, including but not limited to loss of profits, loss of use, loss of financing, or loss of revenue, arising from the services provided under this Agreement and regardless of legal theory such damages are alleged, whether in contract, warranty, tort (including negligence), strict liability, or otherwise.

ARTICLE 6 - INDEPENDENT SUB-CONSULTANT

Sub-Consultant undertakes performance of the Services as an independent Sub-Consultant and not as an employee or agent of Prime. Sub-Consultant shall be wholly responsible for the means and methods of its performance. Prime shall be the general administrator and coordinator of Sub-Consultant's Services and shall facilitate the exchange of information among the independent Sub-Consultants employed by Prime as necessary for the coordination of their services. Owner and Prime shall have the right to observe

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performance of the Services. Inspections or lack thereof by Prime shall not be deemed a waiver of any of its rights under Sub-Consultant's guarantees or of its right to subsequently reject defective Services or require reperformance of such. All communications with Owner shall be through the Prime.

Prime shall not withhold income or social security taxes and Sub-Consultant agrees to pay such taxes directly to the appropriate taxing authorities. Similarly, Prime shall not provide worker's compensation benefits or insurance, or other benefits customarily furnished to employees. Nothing herein shall create an employment relationship between Sub-Consultant or any of its employees and Prime.

ARTICLE 7 - COMPLIANCE WITH LAWS

In performance of the Services, Sub-Consultant shall comply with all applicable regulatory requirements including without limitation, federal, state, and local laws, rules, regulations, orders, codes, criteria, and standards. Sub-Consultant shall procure the permits, certificates, and licenses necessary to allow Sub-Consultant to perform the Services. Sub-Consultant shall not be responsible for procuring permits, certificates, and licenses required for any construction unless such responsibilities are specifically assigned to Sub-Consultant in Attachment A, Scope of Services.

ARTICLE 8 - INSURANCE

Sub-Consultant shall maintain the following insurance during the performance of any Services under this Agreement and shall provide updated certificates to Prime at least annually or more frequently upon Prime's request:

- (1) General Liability Insurance, with a combined single limit of not less than \$1,000,000 for each occurrence and not less than \$1,000,000 in the aggregate.
- (2) Automobile Liability Insurance, with a combined single limit of not less than \$1,000,000 for each person and not less than \$1,000,000 for each accident.
- (3) Worker's Compensation Insurance in accordance with statutory requirements and Employers' Liability Insurance with limits of not less than \$500,000 for each occurrence.
- (4) Professional Liability Insurance with limits of not less than \$1,000,000 each occurrence and in the aggregate.

Sub-Consultant shall furnish Prime, prior to performing any Services under this Agreement, certificates of insurance which shall include a provision that such insurance shall not be canceled or materially changed without at least thirty days' written notice to Prime. Sub-Consultant shall include Prime, Owner, their related and affiliated companies, and the officers, directors, partners, shareholders, employees, agents, and representatives of each as additional insureds (Additional Insureds) on the general and automobile liability insurance policies required by this Agreement.

The automobile and commercial general liability policies required herein shall be considered primary as respects any other insurance that the Additional Insureds may carry, including without limitation, deductibles and self-insured retentions, and any other insurance that the Additional Insureds may carry shall be considered excess insurance only and shall not be required to contribute with the insurance required under this Agreement. All required policies, except professional liability, shall include a waiver subrogation against the Additional Insureds and Sub-Consultant hereby waives its rights against the Additional Insureds for any losses, damages, claims, and expenses covered under such policies.

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ARTICLE 9 - PRIME'S RESPONSIBILITIES

Prime shall perform the following:

- (1) Provide criteria and information pertinent to Sub-Consultant's Services as to Owner's and Prime's requirements for the Project, including design objectives and constraints, space, capacity, and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner and Prime will require to be included in the drawings and specifications to be furnished by Sub-Consultant under this Agreement, if any.
- (2) Make available to Sub-Consultant drawings, specifications, schedules, and other information, interpretations, and data which are prepared by Prime, or by others, which Prime knows are reasonably available to Prime, and which Prime and Sub-Consultant consider pertinent to Sub-Consultant's responsibilities under this Agreement.
- (3) Request Owner to arrange for access to and make all provisions for Sub-Consultant to enter upon public and private property as required for Sub-Consultant to perform the Services under this Agreement.
- (4) Give prompt notice to Sub-Consultant whenever Prime observes or otherwise becomes aware of any development that affects the scope or timing of Sub-Consultant's Services.

The information and services to be provided by Prime under this Article will be without cost to Sub-Consultant.

ARTICLE 10 - TERMINATION AND SUSPENSION

10.1 Prime shall have the unrestricted right to terminate for convenience further performance of all or any part of the Services under any Task Order upon written notice to Sub-Consultant. In such case, Sub-Consultant shall immediately discontinue performance of the Services on the date specified in such notice and shall preserve work in progress pending disposition instructions by Prime.

Sub-Consultant shall recover from Prime, as complete and full accord and satisfaction, for such terminated Services, the actual costs of all Services satisfactorily executed to the date of termination, subject to approval and payment by Owner on account thereof.

10.2 In the event that Sub-Consultant shall default in the performance of any obligation to be performed by it under this Agreement and shall fail to correct such default within five (5) working days following written notice thereof from Prime, Prime may, without prejudice to any other rights or remedies Prime may have, hold in abeyance further payments to Sub-Consultant and/or terminate this Agreement by written notice to Sub-Consultant specifying the date of termination. In the event of such termination, Prime may take over and finish the Services by whatever method Prime may deem expedient at Sub-Consultant's sole expense. Sub-Consultant shall be liable to Prime for all damages suffered by Prime due to Sub-Consultant's default.

10.3 Sub-Consultant waives any and all claims for anticipated profits or lost overhead arising out of termination for any reason whatsoever, whether arising under breach of warranty or contract, tort, negligence, strict liability, or other theory of legal liability.

ARTICLE 11 - NONDISCLOSURE OF CONFIDENTIAL INFORMATION

11.1 Sub-Consultant shall consider all information provided by Prime and Owner, and all drawings, reports,

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studies, design calculations, specifications, and other documents resulting from the Sub-Consultant's performance of the Services to be proprietary and confidential. Sub-Consultant shall not publish or disclose proprietary and confidential information for any purpose other than the performance of the Services without the prior written authorization of Prime. Such information and materials may include, but are not limited to, the discovery, invention, research, improvement, or implementation of products or services, or sales, costs, profits, pricing methods, organization, employee lists, software diagnostic techniques, customer lists, or processes ("Information"). Sub-Consultant agrees to hold all Information it obtains in strictest confidence, not to reproduce any of the Information without consent, not to use such Information, other than for the performance of the Services, and to cause any of its employees or Sub-Consultants to whom such Information is transmitted to be bound to the same obligation of confidentiality to which Sub-Consultant is bound. Each party agrees that it will accept and hold confidential information obtained from each other in confidence at all times during and after termination of this Agreement. A party shall neither use nor disclose such information, except as provided in this Agreement or as required by law, without the prior written permission of affected party.

Subject to the open record laws of the State of Tennessee, each party acknowledges and agrees that a breach of this section may cause the affected party irreparable injury and damage; therefore, each party expressly agrees that the affected party shall be entitled to seek injunctive or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement. Each party agrees that it will disclose confidential information only to those employees who have a right and need to know, and shall require its employees, agents, and Sub-Consultants to comply with the requirements of this provision and the requirements of the provisions herein titled "Public Statements" and "Rights in Data."

11.2 The preceding restriction shall not apply to information which is in the public domain, was previously known to Sub-Consultant, was acquired by Sub-Consultant from others who have no confidential relationship to Prime with respect to same, or which, through no fault of Sub-Consultant, comes into the public domain. Sub-Consultant shall resist any subpoena, court order, or legal process for any disclosure of such proprietary and confidential information.

ARTICLE 12 - CONFLICT OF INTEREST

Neither party shall engage in any conduct or activity in the performance of this Agreement that constitutes a conflict of interest under applicable federal, state or local laws, rules and regulations. Sub-Consultant covenants that it has no public or private interest, and shall not acquire any interest, directly or indirectly, which would conflict in any manner with the performance required under this Agreement, and Sub-Consultant covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Sub-Consultant or any agent or representative of Sub-Consultant, to any officer, official, agent or employee of the Owner, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement. Sub-Consultant warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the Owner as wages, compensation, or gifts in exchange for acting as officer, agent, employee, Sub-Consultant, or consultant to Sub-Consultant in connection with anything contemplated or performed relative to this Agreement. For breach or violation of this provision, the Owner shall have the right to recover or withhold the full amount of such gratuities.

ARTICLE 13 - SERVICE MARKS

Sub-Consultant agrees that it shall not, without Owner's prior written consent, use the name, service mark or trademarks of the Owner.

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ARTICLE 14 – PUBLIC STATEMENTS

The Sub-Consultant shall not make any announcement, release any information, or authorize or participate in any interview concerning this Agreement and the Services rendered hereunder, without first obtaining written consent from the Prime. The Sub-Consultant shall require its employees, agents, and Sub-Consultants to comply with the requirements of this provision. This provision shall survive the expiration or termination of this Agreement.

ARTICLE 15 - RECORDS

Sub-Consultant shall make and keep as the same legally enforceable, full and complete financial books, documents, accounting records and other evidence, that specifically relate to this Agreement, in accordance with generally accepted accounting principles. Sub-Consultant shall retain such records and shall make same available to the Owner except for records related to profits and margin, upon reasonable request, during the term of this Agreement, and for a minimum period of seven (7) full years after completion of the contract obligations or from the date of final payment under this Agreement, whichever is later. In the event any litigation, claim or audit is instituted prior to the expiration of the required five-year retention period, such records shall be retained until such litigation, claim or audit finding has been resolved.

Sub-Consultant's activities conducted pursuant to this Agreement shall be subject to monitoring and evaluation by the Owner, the state, the federal government or their duly appointed agents or employees. Upon reasonable written notice, Sub-Consultant shall permit the Owner, any other governmental entity, any agency participating in the funding of this Agreement, or any of their duly authorized representatives, to enter Sub-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 Sub-Consultant except for records related to profits and margins. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places.

ARTICLE 16 - OWNERSHIP OF DOCUMENTS

Upon payment in full for all amounts due hereunder, all data collected by the Sub-Consultant, and all documents, notes, drawings, tracings and files collected or prepared in connection with the services rendered hereunder, except the Sub-Consultant's personnel and administrative files, shall be delivered to the Prime and in turn the Owner and become the property of the Owner, and the Owner shall not be restricted in any way whatsoever in its use of such material, provided, however, that any reuse or misuse of these documents by Prime or Owner, without the prior written consent of the Sub-Consultant, for purposes other than was originally intended by the parties hereto, shall be at the Owner's sole risk and without any liability on the part of the Sub-Consultant.

ARTICLE 17 - PUBLIC RECORDS

Notwithstanding anything to the contrary contained herein or within any other document supplied to the Prime and in turn the Owner by Sub-Consultant, Sub-Consultant understands and acknowledges that the Owner is a governmental entity subject to the State of Tennessee Public Records Act, and any reports, data or other information supplied to the Owner regarding services performed hereunder may be subject to disclosure as a public record in accordance with the laws of the State of Tennessee.

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ARTICLE 18 - ENDORSEMENTS

The Sub-Consultant shall seal final plans, and specifications, and drawings, and applicable reports and be Engineer of Record for their respective project designs.

ARTICLE 19 – RIGHTS IN DATA / SOFTWARE

Sub-Consultant agrees that all reports, studies, plans, models, drawings, specifications, and any other information or data of any type relating to its activities under this Agreement, whether or not the same is accepted or rejected by Owner, shall remain the property of Owner and shall not be used or published by Sub-Consultant or any other party without the express prior consent of Owner. Software development, if any, specifically developed as part of this Agreement shall be the intellectual property of Owner. Sub-Consultant recognizes that said data including software development, if any, specifically developed as part of this Agreement shall be the intellectual property of Owner and is the exclusive property of the Owner and that the Owner reserves the right to use, market, license, or sell it to others.

Sub-Consultant shall obtain assurances similar to those contained in this subsection from persons, Sub-Consultants and Sub-Consultants retained by Sub-Consultant. Sub-Consultant acknowledges and agrees that a breach by Sub-Consultant of the provisions of this section will cause the Owner irreparable injury and damage. Sub-Consultant, therefore, expressly agrees that the Owner shall be entitled to injunctive or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.

ARTICLE 20 - COMMUNICATIONS

Any communication required by this Agreement shall be made in writing to the address specified below:

Prime:

Allworld Program Management, LLC
60 North BB King
Memphis, TN 38013
Attn: Brent Hooks

Sub-Consultant:

All Project communications shall be made through or with the prior written approval of the Prime. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Prime and Sub-Consultant.

ARTICLE 21 - REPORTS

Upon request, Sub-consultant shall prepare and submit reports of its activities, funded under this Agreement, to the originating department of the Owner. The reports shall include an itemization of the use of the Owner's funds, inclusive of specific services delivered by Contractor. Any such reports provided to the Owner shall be prepared with the understanding that the Owner may make such reports

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available to the public.

In addition, Sub-consultant shall submit and, as necessary, update subcontractor information (including but not limited to payments thereto), for any and all subcontractors used on City project(s) via the purchase of services, in the Owner's compliance tracking software, B2GNow. The Owner shall have the right to withhold future disbursement of funds under this Agreement and any future agreements until the requirements of this provision have been met.

ARTICLE 22 - DELAY IN PERFORMANCE

Neither Prime nor Sub-Consultant shall be considered in default of this Agreement for delays in performance to the extent caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances are the same as set forth in the Prime Agreement.

Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party, describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 23 - WAIVER

A waiver by either Prime or Sub-Consultant of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 24 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. Prime and Sub-Consultant further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

ARTICLE 25 - INTEGRATION

This Agreement including without limitation its attachments and its Task Orders represents the entire and integrated agreement between the Prime and Sub-Consultant. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be amended only by a written instrument signed by both the Prime and Sub-Consultant.

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ARTICLE 26 - SUBCONTRACTING

Sub-Consultant shall not employ independent Sub-Consultants, associates, or Sub-Consultants to assist in the performance of Sub-Consultant's Services without the prior written consent of Prime. Any such purported subcontract without Prime's prior written consent shall be null and void and Prime shall have no obligation to pay for such Services, nor shall Sub-Consultant be relieved of performing such Services at its sole cost.

ARTICLE 27 - GOVERNING LAW

The terms and conditions of this Agreement 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. In accordance herewith, the parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

ARTICLE 28 - SUCCESSORS AND ASSIGNS

Prime and Sub-Consultant each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Agreement and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all provisions of this Agreement.

ARTICLE 29 - ASSIGNMENTS

Sub-Consultant shall not assign any rights or duties under this Agreement without the prior written consent of Prime. Any such purported assignment without Prime's prior written consent shall be null and void. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the Sub-Consultant from any obligation under this Agreement. Upon request of the Prime, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the transfer. At any time, Prime may, in its sole discretion, revoke its prior approval of a Sub-Consultant and direct Sub-Consultant to replace such Sub-Consultant or perform the services that were being performed by such Sub-Consultant itself if the Prime finds in its reasonable judgment that (i) such Sub-Consultant's performance is materially deficient or otherwise unacceptable to Prime; (ii) good faith doubts exist concerning the Sub-Consultant's ability to render future performance because of changes in the Sub-Consultant's ownership, management, financial condition, or otherwise; or (iii) there have been one (1) or more material misrepresentations by or concerning the Sub-Consultant. The Prime reserves the right to terminate the Agreement if Sub-consultant, in whole or in part, is acquired by another entity during the term of this Agreement. In the event Sub-consultant is allowed to sublet any part of the Agreement, Sub-consultant shall be as fully responsible to the Prime for the acts and omissions of the Sub-Consultant and the Sub-Consultant's employees, as Sub-consultant is responsible for the acts and omissions of Sub-consultant own employees.

ARTICLE 30 - EMPLOYMENT OF CITY WORKERS

The Sub-Consultant shall not engage or employ, on a full, part-time or any other basis during the term of this Agreement and for a period of one year after the contract termination or expiration, any professional or technical personnel who are or have been at any time during the term of this Agreement in the employ of the Owner without the explicit written consent of the Owner.

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ARTICLE 31 - RELATIONSHIP OF PARTIES

This Agreement does not and shall not be construed to create a partnership or joint venture between the parties hereto. Sub-Consultant is performing its obligations hereunder as an independent contractor and not as Prime's agent or employee. Sub-Consultant will not hold itself out contrary to the terms of this paragraph and Prime will not become liable for any representation, act, or omission of Sub-Consultant contrary to the provisions hereof.

ARTICLE 32-THIRD PARTY RIGHTS

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Owner, Prime, and Sub-Consultant.

ARTICLE 33 - SAFETY

33.1 Sub-Consultant shall be solely and exclusively responsible for its compliance, and compliance by its agents, employees, and Sub-Consultants, with all safety requirements of Prime and Owner.

33.2 The possession, use, manufacture, distribution or dispensation of any illegal drug or controlled substance is prohibited on Prime's or Owner's property. In addition, Sub-Consultant's personnel working on Prime's or Owner's property shall report to work in proper condition and not under the influence of alcohol or any controlled substance.

33.3 The Sub-Consultant agrees that for any work performed at or on the property of Prime or Owner, it shall furnish only those personnel who understand the requirements of this Article and who will comply.

33.4 Violation of this Article shall be a material breach of this Agreement and subject the Sub-Consultant to termination for default, as well as all other remedies available at law or equity.

33.5 Sub-Consultant agrees to conduct its operations so as to provide maximum safety and shall, while on Prime's or Owner's premises, at a minimum, comply with the safety programs and regulations of Prime and/or Owner, if any.

33.6 Sub-Consultant shall, while on Prime's or Owner's premises, at its own expense, comply with and shall cooperate in enforcing Prime's and Owner's site procedures and regulations, including, if applicable, the Jobsite drug detection and prevention program.

33.7 Sub-Consultant shall have full responsibility for the conduct of all its agents, employees, and Sub-Consultants, and shall employ and cause to be employed, and shall retain and permit to be retained in employment, only such agents, employees, and Sub-Consultants as will be orderly and will in all respects cooperate and work in harmony with other employees while on Prime's or Owner's premises. Sub-Consultant, at no additional cost to Prime, shall immediately remove or cause to be removed from Prime's or Owner's premises, whenever requested to do so by Prime or Owner, any representative considered by Prime or Owner to be incompetent or unfit, and such person shall not again be employed at the location, and shall replace any incapacitated representative unable to provide services. No representative shall be removed or replaced by Sub-Consultant

Sample Contract

without prior written consent of Prime.

33.8 If Work is performed on Prime's or Owner's premises, Sub-Consultant shall provide at all times during the course of such Work, a qualified, competent, and responsible representative, fluent in the English language.

33.9 Sub-Consultant shall be solely and exclusively responsible for compliance with all safety requirements and for the safety of all persons and property. Sub-Consultant shall comply, and shall secure compliance by its agents, employees, and Sub-Consultants, with all applicable health and safety laws and regulations, including without limitation, Federal OSHA and equivalent OSHA state regulations, City and County ordinances and codes, uniform fire codes, and DOT regulations.

33.10 When necessary, at least one person with each work crew shall be fluent in both English and the language of the work crew to facilitate the accurate and timely compliance with safety instructions.

ARTICLE 34 - DISPUTE RESOLUTION

34.1 The terms and conditions of this Agreement 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. In accordance herewith, the parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

Each party irrevocably submits to the jurisdiction of such Court and waives any and all objections to such venue. To the extent Prime or Sub-Consultant prevails against the other party on such claim, reasonable dispute resolution costs including attorney fees shall be recoverable from the losing party.

34.2 In the event of any dispute, controversy, or claim arising out of or relating to this Agreement or the breach thereof, the parties 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 Agreement between Sub-Consultant and the Owner shall be referred in successive order for resolution, first to the Owner's Chief Procurement Officer/Purchasing Agent, second to the Owner's Chief Legal Officer/City Attorney, and thirdly to the Mayor of the City of Memphis, whose decision regarding the Owner's position as to the same shall be final.

34.3 The initiation of claim and dispute resolution under Article 34.2 shall stay dispute resolution under this Agreement on any claim or issue related to the dispute under Article 34.2. Sub-Consultant shall be bound by all decisions, interpretations, findings of fact or Law, whether express, implied, interim, or final (herein "Decisions") arising out of the claim and dispute resolution process to the extent: (1) such Decisions relate to or affect the work or services subcontracted to Sub-Consultant; or (2) any claim by Owner against Prime involves the performance of Sub-Consultant; or (3) any claim of Sub-Consultant gives rise to a claim by Prime against Owner.

34.4 To the extent Sub-Consultant will be bound as set forth in paragraph 34.2 Prime consents to Sub-Consultant's participation in such claim and dispute resolution process. Sub-Consultant and Prime shall each bear the costs associated with its own claims and shall give the other company reasonable assistance to the extent their claims are not in conflict. Sub-Consultant may request Prime to appeal

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any Decision pursuant to the dispute resolution procedure set forth in Article 34.2 to the extent Sub-Consultant is bound by the Decision.

34.5 Pending resolution of any claim or dispute, Sub-Consultant shall continue to perform as directed by Prime without prejudice to Sub-Consultant's rights.

ARTICLE 35 - NOTICE OF AFFIRMATIVE ACTION

Sub-Consultant shall not discriminate in recruitment or employment conditions because of race, religion, color, sex, national origin, veteran status, or other status as defined by all applicable federal, state and local laws, regulations and orders, including but not limited to, Executive Order 11246, 41 CFR 60-250.4, 41 CFR 60-741.4(F) and 41 CFR 60-1.4(a), all of which are hereby incorporated by reference.

Sub-Consultant IN WITNESS WHERE OF, Prime and Sub-Consultant have executed this Agreement as of the date first written above.

Allworld Project Management, LLC.

By: _____

By: _____

By: _____
(Name Printed)

By: _____
(Name Printed)

Title: _____

Title: _____

Date: _____

Date: _____

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ATTACHMENT A SCOPE OF SERVICES

Owner: City of Memphis, Tennessee
Prime: Allworld Project Management, LLC.
Sub-Consultant: _____
Project: Stormwater Program Management Service

I. PROJECT DESCRIPTION

This Project consists of consulting to assist with program management and administration associated with Storm Water Program Management Services for the City of Memphis, Tennessee.

- A. Sub-Consultant shall provide program management, services to assist with program administration and management as directed by Prime pursuant to each Task Order. Sub-Consultant-provided personnel supporting the program, functional roles and responsibilities, and anticipated level of effort, will be mutually agreed-upon and approved by the Prime prior to Sub-Consultant providing any Services. Prime may at its discretion modify terms of the engagement as the Stormwater Program Management Services is implemented. Any such modification shall be in writing and provide Sub-Consultant 30-day's notice of such change.
- B. Responsibilities of Sub-Consultant shall include all items, equipment, training, safety protocol, etc. required for the safety and welfare of its employees while performing the Services. Sub-Consultant shall comply with any Safety programs or procedures required by Owner, Prime, Program Manager or Owner's other Sub-Consultants while on site.
- C. From time to time, Prime may issue additional Task Orders to Sub-Consultant to expand or modify Sub-Consultant's Scope of Work.

II. BASIC SERVICES

The Sub-Consultant will be tasked to perform services generally described as Design Services, including without limitation the Scope of Services set forth in this agreement. Sub-Consultant will provide personnel as required to accomplish the Scope of Services.- Personnel provided, and the level of effort committed in providing the Services for the Project will be mutually agreed upon and will be subject to revisions as the Project progresses. Prime will provide direction on a monthly basis regarding the type and level of support required from the Sub-Consultant. When requesting additional staff not previously committed to providing Services, Prime will provide Sub-Consultant up to 30-days to identify mutually agreeable staff to perform the Services, what their anticipated role will be, where the Services will be performed, and the level of effort expected.

The Sub-Consultant's Services shall be performed within the period of performance identified in the respective Task Order.

END OF ATTACHMENT A

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ATTACHMENT B COMPENSATION

Owner: City of Memphis, Tennessee
Prime: Allworld Project Management, LLC.
Sub-Consultant: _____
Project: Stormwater Program Management Services

For the services covered by this Agreement, the Prime agrees to pay the Sub-Consultant as follows as set forth below in accordance with this Attachment B, the Agreement and the respective Task Order:

I. COMPENSATION

- A. It is understood and agreed that the maximum amount to be paid Sub-Consultant for the entire aggregate Scope of Services defined in Attachment A for the entire Term of the Agreement, including without limitation all Task Orders entered into at any time during or prior to the expiration of the Term of the Agreement (whether the time for or the actual performance of such Task Orders extends beyond the Term of the Agreement) shall not exceed the total sum of \$--,---. Notwithstanding the foregoing sentence, Prime makes no commitments hereunder to issue Task Orders totaling this amount. Sub-Consultant shall be paid in accordance with Article 3 of the Agreement.
- B. Prime shall compensate Sub-Consultant for labor hours spent working directly on this Project in accordance with the Sub-Consultant's billing rates as provided in Table 1.

Actual direct expenses incurred by Sub-Consultant directly related to Sub-Consultant's performance under this Agreement shall be paid for at cost with no mark-up, consisting of the following:

- Travel, subsistence and incidental costs for non-Memphis based personnel in accordance with the latest City Travel Policy;
 - Use of motor vehicles on a monthly rental basis for vehicles assigned to the project.
 - Use of vehicles on a mileage basis or rental cost basis for vehicles used for short periods. Mileage basis shall be in accordance with the latest City Travel Policy approved rate per mile.
 - Reproduction costs for reports, drawings, specifications, and other documents required as deliverables to City, Sub-Consultants, or other agencies that are not reproduced in-house.
 - Rental charges for use of equipment, at customary rates.
- C. Sub-Consultants are not to be used without prior written approval. Sub-Consultants shall be paid at invoiced cost with no mark-up. Hourly Billing Rates set forth in Table 1 below are set for the entire Term of this Agreement and apply to all labor for all Task Orders issued during and prior to the expiration of the Term of this Agreement regardless of when such labor costs shall be incurred, even if after the expiration of the Term of this Agreement.

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TABLE 1
BILLING RATES

Schedule of Hourly Billing Rates				
Personnel Grade	Present thru 06/30/2021	07/01/2021 thru 06/30/2022	07/01/2022 thru 06/30/2023	07/01/2023 thru 06/30/2024

- D. A list of personnel, their job classifications and hours billed, whose time are billed to this Project and copies of all direct expenses and outsourced or subcontracted billing costs shall be submitted with the appropriate invoice.
- E. Direct Costs shall be reimbursed at invoiced cost with no mark-up:
 - a. Sub-Consultant costs
- F. Invoices submitted shall follow the example provide in Table 2.

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Table 2

Sub-Consultant Invoice Example

GENERAL INFORMATION AND REQUIREMENTS

- A. The Prime's project name, project number, and project phase number shall appear on all Sub-Consultant monthly invoices as follows:

AWPM Project Name: Stormwater Program Management Services

AWPM Project No.: 1704804

The following information is required on every invoice submitted. Invoices that do not contain this information will be returned unpaid.

Billing Summary

Total to Date	\$
% Complete of Task Order	%
Previously Invoiced	\$
Current Invoice Due	\$
Bal. of Task Orders	\$

Invoices shall be submitted by hardcopy to the address below or electronically to the email address listed. Invoices not directed to one of these locations will be returned unpaid.

Regular Mail:

Allworld Project Management, LLC.
60 North BB King
Memphis, TN 38103
Attn: Kimbra Bernard

FedEx or Overnight Service:

Allworld Project Management, LLC.
60 North BB King
Memphis, TN 38103
Attn: Kimbra Bernard

Email: kbernard@allworldmail.com

END OF ATTACHMENT B

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ATTACHMENT C TASK ORDER TEMPLATE

Pursuant to the terms and conditions of the Sub-Consultant Agreement between the Allworld Project Management, LLC and _____, for Program Management Services related to the development and implementation of the City of Memphis Stormwater Management Program executed and made effective as of the ____ day of _____, 2020, by and between Allworld Project Management, LLC ("PRIME") and _____. ("SUB-CONSULTANT"), PRIME and SUB-CONSULTANT hereby agree to the following:

A: Services or Work:

B: Sub-Consultants:

C. Commencement Date:

D. Estimated Completion Date:

E. Estimated Cost:

F. Compensation:

SUB-CONSULTANT shall be paid on the following basis: Time and Material

G. Additional Provisions applicable to this Task Order:

H. Billing:

Commencing by the 5th day of each calendar month following execution of this Agreement, and monthly thereafter unless agreed more frequently, SUB-CONSULTANT shall furnish PRIME with an invoice in accordance with the Compensation as set forth above incurred during the previous month under this Agreement.

Payments of invoices will be made within fifteen (15) days after the Prime has been paid by the Owner.

This Task Order and the above-referenced Agreement constitute the complete understanding of the parties with respect to the Services and Work specified herein. Terms and conditions contained in purchase orders, work orders, or other documents issued by PRIME with respect to the Services and/or Work shall be of no force and effect.

IN WITNESS WHEREOF, the parties have executed this Task Order effective upon the date of the execution of the last party to execute as indicated below.

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(PRIME)

(SUB-CONSULTANT)

By: _____

By: _____

By: _____
(Name Printed)

By: _____
(Name Printed)

Title: _____

Title: _____

Date: _____

Date: _____

END OF ATTACHMENT C

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