



**EXPLOREJCTX  
REQUEST FOR PROPOSALS  
MARKETING / CREATIVE / MEDIA BUYING / PUBLIC RELATIONS SERVICES**

Bids Due: January 10, 2025 at 3 p.m. CST  
303 E. Pecan Dr. (Physical)  
P.O. Box 369 (Mailing)  
Johnson City, Texas 78636  
(830) 868-7111 (830) 868-7718 fax

## EXPLOREJCTX

### MARKETING & PUBLIC RELATIONS SERVICES – REQUEST FOR PROPOSALS

The City of Johnson City, Texas requests that each firm provide a written presentation outlining the firm's qualifications for marketing, creative, media buying, and public relations services.

### BACKGROUND

The City of Johnson City, Texas (the "City") is a Type A General Law Municipality located within the Texas Hill Country. Incorporated in 1944, Johnson City seeks to promote tourism and the convention / hotel industry through marketing research, advertising, and public relations efforts, all in accordance with the proposed Professional Services Agreement for Marketing Services attached hereto as Exhibit "A".

Each respondent shall furnish the information required in the Scope of Services. Responses submitted in any other format may be rejected at the sole discretion of the City.

It is the respondent's responsibility to ensure that responses are received by the City, 303 E. Pecan Dr. (Physical), P.O. Box 369 (Mailing), Johnson City, Texas 78636, no later than the closing deadline stated on the cover page. Responses received after the closing deadline will not be accepted or considered. No telegraphic or facsimile responses will be considered.

All responses must be submitted with one (1) original and two (2) copies. The original and copies must include the Request for Proposals cover page, the signature section, any section on which annotations are required or exceptions are taken, and any supporting documentation or literature being submitted with the response.

It will be the responsibility of the respondent to contact the City prior to submitting a response to ascertain if any addenda have been issued, to obtain all such addenda, and to return executed addenda with their response.

The winning respondent will report directly to the Chief Administrative Officer (CAO) on its activities in accordance with other policy. The winning respondent will be required to present updated materials, ideas, and designs to the City Council pursuant to Exhibit A.

The winning respondent will assume responsibility for the performance of all required services, whether or not subcontractors are involved. The City will consider the winning respondent to be the sole point of contact with regard to all materials and will not maintain contacts with any subcontractors. The winning respondent will specify any subcontractors it intends to use and what their function(s) will be.

All materials, ideas, designs, and layouts developed for the City under this contract are the property of the City, may not be used for any other purpose without prior written consent, and

will remain the sole property of the City regardless of termination of services for any reason. If subcontractors are used, the winning respondent shall obtain all necessary releases to ensure all materials, ideas, and layouts are the property of the City.

#### RESPONSE AND SIGNATURE SECTION

The City reserves the right to reject any or all responses, without recourse, to waive technicalities, or to accept the response which, in its judgement, best serves the interests of the City. Respondent's submittal costs are considered an operational cost of respondents and shall not be passed on to or be borne by the City.

The City reserves the right to request any additional information needed for clarification from any respondent(s) during the evaluation period of the responses.

Failure to comply with these instructions may be cause of disqualification of your response.

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

RFP responses and any questions regarding this RFP should be addressed and submitted to:

**Rick A. Schroder, Chief Administrative Officer**

**303 E. Pecan Dr. (Physical)**

**P.O. Box 369 (Mailing)**

**Johnson City, Texas 78636**

**(830) 868-7111 (830) 868-7718 fax**

**rschroder@johnsoncitytx.org**

#### GENERAL PROVISIONS

Any contract resulting from this RFP is deemed effective only to the extent of funds available, and it shall contain the following provisions. At the time of contracting services, materials, equipment, or other items, other provisions may be added, as determined by the City.

Any permits, licenses, or fees required will be the responsibility of the respondent and no separate payment will be made for same.

All documents and other materials made or received in conjunction with this project will be subject to the public records disclosure requirements of State Law, unless exempted therein. Responses will become part of the public domain upon opening and respondents shall not submit information or pages either marked "proprietary" or otherwise restricted in any way.

**Special Provision** – There are two (2) exhibits to this RFP. Exhibit B and is to be attached with the completed RFP by respondent. **Exhibit B – Insurance and Risk Management Requirements**

## SCOPE OF SERVICES

The purpose of the RFP is to obtain the service of an agency qualified to handle the City of Johnson City, Texas and its goal to promote tourism and the convention / hotel industry. The City is seeking a full-service marketing / creative / media buying / public relations firm with extensive experience in destination marketing.

Advertising, promotions, and public relation efforts are targeted to, but not limited to, major domestic markets throughout the State of Texas and North America.

The winning respondent shall be the principal provider and / or advisor to the City for the services contained within Section III *Scope of Services and Project Schedule* of Exhibit A.

The City requires unique, innovative concepts and strategies that will produce quantifiable results.

The winning respondent will work with City Staff and should be able to suggest strategies to expand the impact of a branding and marketing campaign, while allowing for the broadest possible exposure. Such strategies may include maximizing the use of cooperative advertising, as well as identifying promotional and public relations opportunities.

## RESPONSE FORMAT

Response must be submitted on paper (numbered, typed, with headings, sections, and sub-sections identified appropriately).

All respondents shall submit all required information at the time of the submission of responses. Failure to provide the required information will affect the evaluation of the response.

1. **Transmittal Letter**

The letter must be on official business letterhead of the organization proposing to become the winning respondent. The letter is to transmit the RFP and shall identify all material and enclosures being forwarded.

2. **Organization Ownership and Management**

- a. Provide the name, address, and telephone number of the legal entity with whom the contract will be written and all trade names used.
- b. Provide the name, address, and telephone numbers of the organization's principal officers and other owners, as well as subcontractors identified in the proposal.
- c. Identify type of business (sole proprietorship, partnership, corporation, etc.).
- d. If respondent is a corporation, provide copy of the certification from Texas Secretary of State verifying respondent's status and good standing.
- e. Provide FEIN (Federal Employer Identification Number) of respondent or SSNs (Social Security Number) in the case of sole proprietorship or partnerships.

### 3. Organization's Structure and Experience

- a. Provide an organizational chart of the organization, including contact points between the organization and the City. Include all subcontractors to be employed on the project.
- b. Disclose the organization's total number of employees, both full and part time.
- c. Provide a short history of the organization and include a history of subcontractors to be employed on these projects.
- d. Disclose the name(s) of the person(s) in the organization management who will work on the account and how much of his or her time will be spent on the account.
- e. Provide a summary noting the qualifications and experience of each person who will work on the account, as well as any subcontractors.
- f. Provide hours of operation and staffing availability.
- g. Describe the organization's experience in tourism, or directly related field. Include tourism experience of all subcontractors.
- h. Identify any accounts the organization is handling which may be perceived to be in competition with the City or which may pose a conflict of interest.
- i. Provide examples of work developed by your creative team in each medium: online, social media, print, television, radio, collateral, direct mail, and, if available, interactive media. Work examples should include standard objectives, target audience, strategy, and results of each medium.
- j. Any additional information that respondent considers pertinent for consideration should be included in a separate section of the response.

### 4. Proximity to and Familiarity with the City of Johnson City, Texas

Describe the respondent's familiarity with the City of Johnson City, Texas, or similar city.

### 5. Client Information for each Area of Concentration (Marketing / Creative, Media Buying, Public Relations, Website Creation/Management / Hosting)

- a. List your current clients in declining order of size and the years you have worked for them.
- b. Name the two most recent past clients. Have any of these terminations been due

to agency non-performance? If so, explain.

- c. Provide names of any travel / tourism clients you now serve.
- d. Provide a list of accounts gained in the past two years and comment on why your organization was chosen to service these new accounts.

6. Billing

- a. Provide methodology and options for pricing all projects that may be assigned through the contract term as it relates individually to advertising, creative, public relations, marketing services, and website creation, maintenance, and hosting.
- b. Identify percent (%) commission on media buys.

7. Additional Information

Any additional information that respondent considers pertinent for consideration should be included in a separate section.

## CONSIDERATION OF RESPONSES AND EVALUATION

### SELECTION PROCESS

The Chief Administrative Officer will receive responses from potential respondents in response to this RFP. Based on the responses to the criteria listed in the RFP, the Chief Administrative Officer will short list respondents for further consideration.

Short-listed respondents will be invited to make formal presentation(s) to the City Council. The City Council will evaluate the responses and rank the respondents with whom negotiations shall be pursued. Negotiations will begin with the most responsive / responsible respondent until a mutually-agreeable contract is reached with one of the ranked respondents. The proposed contract shall be submitted to the City Council for approval.

## EXHIBIT A – PROFESSIONAL SERVICES AGREEMENT FOR MARKETING SERVICES



**PROFESSIONAL SERVICES AGREEMENT  
FOR MARKETING SERVICES  
BETWEEN  
\_\_\_\_\_ AND  
THE CITY OF JOHNSON CITY, TEXAS**

STATE OF TEXAS           §  
                                      §  
COUNTY OF BLANCO     §

This Agreement is entered into by and between the City of Johnson City, a Texas Municipal Corporation ("City"), acting by and through its Chief Administrative Officer, and \_\_\_\_\_ ("Consultant"), both of which may be referred to herein singularly as "Party" or collectively as the "Parties."

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

**I. DEFINITIONS**

As used in this Agreement, the following terms shall have meanings as set out below:

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"Consultant" is defined in the preamble of this Agreement and includes its successors.

"Chief Administrative Officer" shall mean the Chief Administrative Officer and/or his designee.

**II. EFFECTIVE DATE AND TERM**

2.1 The term of this Agreement is for twelve (12) months, beginning \_\_\_\_\_, 2025.

2.2 The City may, at its discretion, extend or renew this Agreement on the anniversary date for additional three (3) one (1) year terms upon approval by City Council.

a. Any renewal extension is subject to and contingent upon the annual fiscal year hotel occupancy tax budget appropriation by the City Council.

b. Contracted compensation for the renewal term shall be subject to the annual budget appropriation.

c. On renewal, duties outlined herein shall be subject to amendment to reflect and in accordance with project progress and/or new projects.

**III. SCOPE OF SERVICES AND PROJECT SCHEDULE**

Consultant's services shall encompass the following:



3.1 Develop a marketing campaign to promote the City as not only an overnight destination, but also a year-round leisure tourism destination;

3.2 Design and implement advertising campaigns with regional, state, and national coverage featuring the City as an attractive tourism location;

3.3 Create and develop strategic marketing campaigns consisting of digital, social, and print media;

3.4 Create marketing promotions to support local events which draw and create overnight visitors;

3.5 Develop content for website pages and materials on the City's Visitor Center website;

3.6 Develop a Pay to Play program, subject to approval by the City and Consultant, outside the City's extraterritorial jurisdiction and within Blanco County for the purpose of collecting fees from short-term rentals, wineries, and other related businesses, enabling those businesses to be included on explorejctx.com and in marketing materials. The Pay to Play fee would offset invoicing sent by the Consultant to the City; and

3.7 Promote the Visitor Information Center as a point of contact for inquiries and information to attract visitors to the City's lodging facilities.

3.8 Duties. Consultant shall perform and complete all necessary evaluation, design, and related functions required as outlined in the City's *Request for Proposals Marketing/Creative/Media Buying/Public Relations Services* attached hereto as "Exhibit A" and incorporated fully herein, ("RFP").

3.9 Collaborate with the Visitor Information Center Specialist in performing marketing services, website maintenance, and social media content management, for the purpose of enabling Specialist to manage more tasks over a period of time.

3.10 Deliverables. Consultant shall provide, subject to the approval of the City as provided below, the following deliverables:

#### Website Maintenance Services:

##### 1. Regular Updates and Backups:

- Monthly security updates and patches for robust website security.
- Routine backups to safeguard valuable data and ensure quick recovery in the event of unforeseen issues.

##### 2. Content Management:

- Timely uploading of fresh content.

- ☐ Three new Itineraries created and uploaded Quarterly.
- ☐ Short-term Stay Rental inventory updated monthly.

☐ Active businesses updated monthly (e.g., restaurants, retail, activities, libations).

- Precision in formatting to enhance the overall user experience.

3. Performance Monitoring:

- Continuous monitoring of website performance to identify and address any issues affecting speed or functionality promptly.

4. Plugin and Theme Updates:

- Timely updates for all plugins and themes to ensure seamless compatibility and enhanced security.

5. Monitoring & Oversight of Event Calendar

- Regular updates and maintenance of the event calendar, ensuring accuracy and consistency.
- Continuous promotion and user assistance for local businesses to utilize Event Calendar.

6. Website Newsletter

- A monthly newsletter showcasing upcoming happenings in Johnson City the following month.
- Newsletter subscribers sign up via Web Form on the website.

7. Photography

- Limited photography for website content.
- Photography ownership use agreements with local businesses as needed.

Social Media Content Management:

1. Content Creation:

- Developing engaging and relevant content tailored to the brand and target audience.
- Creation of graphics, images, and other media assets for social media.

2. Content Scheduling:

- Strategic planning and scheduling of posts at optimal times for maximum reach and engagement to include:

- ☐ One original, non-shared post per day (Facebook & Instagram).
- ☐ Collaborator posts/reels/stories based on applicable business collaboration.

3. Photography

- Limited photography for social media content.
- Photography ownership use agreements with local businesses as needed.

4. Community Engagement:

- Proactive responses to comments and messages on social media platforms.
- Building and fostering a positive online community around the brand.

5. Performance Analytics:

- Regular reporting on social media metrics to provide valuable insights into campaign success and identify areas for improvement.

Additional Services:

1. Ongoing collaboration and support of Visitor's Center staff

- Assist in tourism brand promotion through brand recognition and consistency within the Visitor's Center.
- Collaborate with Visitor's Center staff on upcoming events, new businesses, short-term rentals coming online, interests, and feedback conveyed by visitors.

2. Maintenance of Miscellaneous Online Platforms

- Monthly maintenance and necessary updates to Google My Business.
  - ☐ Limited photography for Google My Business content.
  - ☐ Photography ownership use agreements with local businesses as needed.

3.11 Additional Duties.

- Consultant shall submit to the City Council a monthly progress report of services performed and social media/website analytics.
- Consultant shall be available and participate in any public involvement activities related to this Agreement.

3.12 Notice to Proceed on Approval. Consultant shall not initiate any project or perform any work on a project without the City authorizing such work.

#### IV. PERFORMANCE CRITERIA AND STANDARD

4.1 Specifications and Accuracy. Consultant shall be responsible for the completeness and accuracy of all designs, drawings, and specifications submitted by the Consultant, including appropriate grammar and punctuation, and compliance with all applicable codes, ordinances, regulations, laws, and statutes.

4.2 Completeness and Compatibility. All design work shall be complete and include all components necessary to function properly in electronic, paper, and/or other pertinent medias.

4.3 Regulations and Trademark Infringement. Consultant's work shall comply with all applicable state, local, and federal rules, regulations, and standards for marketing and public relations services. City shall not be deemed liable for trademark infringement by Consultant.

4.4 Professional Standards. Consultant shall exercise a degree of care and diligence in the performance of all services under this Agreement and shall perform all responsibilities under the standard of care and skill ordinarily exercised by members of the public relations and marketing profession performing similar services. Consultant's services shall be performed as expeditiously as is consistent with said standards and the orderly progress of the Projects.

4.5 Review and Approval. All work by Consultant shall be performed to the satisfaction of the City. Any services or products not accepted by the City due to nonconformance with these requirements must be corrected or reworked by Consultant at no charge to the City and within a reasonable time as agreed to by the Parties. Failure by Consultant to produce and provide acceptable and suitable services or products in accord with this Agreement shall serve as grounds for termination of this Agreement. Determination on acceptance by the City is final, binding, and conclusive, and shall be in writing.

## **V. COMPENSATION TO CONSULTANT**

5.1 Compensation. The total compensation amount for services performed shall not exceed \$\_\_\_\_\_ per month for the term of this Agreement. Consultant shall be responsible for payroll and related taxes.

5.2 Invoice; Payment. Consultant shall submit a monthly invoice to the City detailing the services and related charges. Upon review and approval, City shall remit payment within thirty (30) days of receipt payable to Consultant at the respective address provided herein.

5.3 Exclusions. The total compensation does not include costs for photography, print costs, or ad placement. Such costs shall require City approval.

5.4 Additional Costs. No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by the City unless approved by the City pursuant to a duly authorized change order. The Parties agree that all compensable expenses of Consultant have been provided for in the total compensation to Consultant, as specified above. Total payments to Consultant cannot exceed that amount without written prior approval and agreement of the Parties..

## **VI. OWNERSHIP OF DOCUMENTS**

6.1 City Ownership. All writings, documents, drawings and photographs, information and/or source files in whatsoever form and character produced by Consultant pursuant to the Agreement shall be the exclusive property of the City. No such writings, documents, information, or source files shall be subject to any copyright, trade marking, or proprietary claim by Consultant or independent third party. Consultant understands and acknowledges that, the City, as the exclusive owner of any such writings, documents, information, and source files, has the right to use all such writings, documents, information, and source files as the City desires without restriction.

6.2 Retention. Consultant shall maintain all documents and shall retain said documents for a period of ten (10) years after termination of this Agreement. Consultant shall provide electronic files or documents to the City upon request and at no additional cost to the City.

6.3 City Use Only. Reproductions of such records, information, materials, and other work products in whole or in part may not be used for any other purpose outside of this Agreement by Consultant.

6.4 Information Requests. Public information requests for documents made to Consultant shall be referred to the City for processing and disposition.

6.5 Survival. This obligation shall survive termination of this Agreement.

## VII. TERMINATION

7.1 Basis. This Agreement may be terminated:

- a. By either Party for convenience upon 30-day advance notice to the other Party;
- b. By either Party for cause upon notice setting forth the basis for the termination and failure by the recipient party to cure the default or to initiate cure of the default described in the notice within ten business (10) days after the date of the notice;
- c. By the City for failure by Consultant to produce and provide acceptable and suitable services or products in accordance with the standards of this Agreement; or
- d. In the event of Consultant's bankruptcy or discontinuance of its business.

7.2 Compensation on Termination. Upon termination in either of these circumstances, compensation shall be paid to Consultant for services provided up to the date of termination; except compensation shall be based at hourly rate of \$\_\_\_\_\_/hour where termination is based on unsatisfactory and/or disapproved services. Consultant shall submit to the City for approval within thirty (30) days of the date of termination an itemized invoice of time and services performed, and shall deliver to the City all plans and documents of work performed up to the date of termination. Compensation shall issue upon receipt of these items.

## VIII. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. Mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either Party may from time to time designate in writing.

If intended for City, to:

City of Johnson City  
Attn: Rick A. Schroder

Chief Administrative Officer  
P.O. Box 369  
Johnson City, Texas 78636

If intended for Consultant, to:

## **IX. INSURANCE**

9.1 Required. Consultant shall procure and maintain, at its expense, for the term of this Agreement vehicular, operational, professional, and contractual liability insurance with an insurance company authorized to transact business in the State of Texas.

9.2 Amounts. Said insurance shall be in amounts as follows:

- a. Commercial General Liability insurance with limits of not less than \$2,000,000 general aggregate limit and \$1,000,000 each occurrence, combined single limit;
- b. Professional liability errors and omissions: not less than \$1,000,000 each claim/annual aggregate;
- c. Workers Compensation at statutory requirements.

9.3 Certificates. The certificates of insurance shall name the City as Additional Insureds and shall also contain a statement requiring a minimum of thirty (30) days advance written notice of cancellation, non-renewal, or material restriction of coverage terms or limits, to be provided to the City from the insurance company by signed receipt delivery at the address listed herein.

9.4 To the City. Consultant shall provide evidence of insurability to the City prior to initiation of provision of services.

## **X. INDEPENDENT CONTRACTOR; NO JOINT VENTURE OR THIRD-PARTY RIGHTS**

Consultant is an independent contractor and shall not be considered an employee or agent of the City. Consultant shall be responsible for the acts and omissions of its employees and/or subcontractors. This Agreement shall not be deemed or construed by the Parties or by any third person to create the relationship of principal and agent, partnership, joint venture, or any other association between the Parties, other than the relationship described herein. This Agreement is not intended to confer any, rights, privileges, or causes of action upon any third party. The City shall not be obligated or liable under this Agreement to any party, other than to the Consultant, for the payment of any monies or the provision of any goods or services.

## **XI. SOCIAL MEDIA AND WEBSITE POLICY**

Consultant understands that while considered an independent contractor, Consultant, in its duties as City marketer/promoter, serves as a representative of the City. As such, Consultant agrees to abide by the following rules of conduct regarding the use of social media and websites and relating to the City and City business:

11.1 Disclaimer. In postings on social media accounts or websites, Consultant shall state clearly that “the views expressed on this site are Consultant’s (name of affiliated individual) personal views only, and they do not reflect the views of the City of Johnson City, its staff, or its officials.” This statement shall be placed as a disclaimer and should be included along with any post that would otherwise violate this section;

11.2 Personal Accounts. Consultant’s personal social media accounts or websites may not be designated in a way that would cause users to believe that the site is administered or endorsed by the City, including the unauthorized use of City logos or City trademarks;

11.3 Prohibited Postings. Consultant is prohibited from posting on personal or social media accounts or websites sexually explicit images, videos, cartoons, jokes, messages, or other material that would be considered derogatory to the City; and

11.4 Security For online safety, Consultant shall not provide personally identifiable information within social media accounts or websites, including addresses, telephone numbers, or e-mail addresses.

## **XII. INDEMNIFICATION**

**12.1 CONSULTANT AGREES TO, AND SHALL, INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY AND CITY’S ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, DAMAGES, SUITS, COSTS, INCLUDING ATTORNEY’S FEES, AND CAUSES OF ACTION OF ANY NATURE WHICH ARISE OUT OF CONSULTANT’S PERFORMANCE OF THE DUTIES AND ACTIVITIES UNDER THIS AGREEMENT INCLUDING ANY ACTS OR OMISSIONS OF CONSULTANT, ANY AGENT, OFFICER, EMPLOYEE, OR SUBCONTRACTOR OF CONSULTANT.**

**12.2 IN ADDITION, CONSULTANT AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY AND CITY’S ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL DAMAGES, INCLUDING ATTORNEY’S FEES AND COURT COSTS, SUFFERED, OR INCURRED BY THE CITY ARISING FROM ANY TRADEMARK INFRINGEMENT OR CLAIM OF TRADEMARK INFRINGEMENT RESULTING FROM CONSULTANT’S PERFORMANCE IN CONNECTION WITH THIS AGREEMENT.**

12.3 Employee Litigation – In any and all claims against any Party indemnified hereunder by any employee of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONSULTANT or any subcontractor under worker’s compensation or other employee benefit acts.

12.4 Force Majeure - City agrees that the CONSULTANT is not responsible for damages arising from any circumstances such as strikes or other labor disputes; severe weather disruptions, natural disasters, fire or other acts of God; riots, war or other emergencies; pandemics; or failure of any third-party governmental agency to act in timely manner not caused or contributed to by CONSULTANT.



**12.5 NOTHING CONTAINED IN THIS AGREEMENT SHALL BE CONSTRUED AS A WAIVER OF OR RELINQUISHMENT OF GOVERNMENTAL OR SOVEREIGN IMMUNITY BY THE CITY.**

**12.6 THE INDEMNITY PROVIDED HEREIN SHALL SURVIVE TERMINATION AND/OR EXPIRATION OF THIS AGREEMENT.**

### **XIII. WAIVER OF RIGHTS**

The rights and remedies provided by this Agreement are cumulative. The use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of limitation to that Party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

### **XIV. LAW APPLICABLE**

**14.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BLANCO COUNTY, TEXAS.**

**14.2 Venue for any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in a court of competent jurisdiction in Blanco County, Texas.**

### **XV. ASSIGNMENT**

This Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the parties.

### **XVI. CONFLICT OF INTEREST**

**16.1 Consultant acknowledges that it is informed that the City prohibits a City officer or employee, as those terms are defined in the Texas Local Government Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a Party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.**

**16.2 Pursuant to the subsection above, Consultant warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Consultant further warrants and certifies that it will comply with the City's Code of Ordinances.**

**16.3 Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, or any subsequent changes thereto requiring City Council approval, the City may not accept or enter**

into a contract until it has received from Consultant a completed, signed, and notarized TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. Consultant understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering into this Agreement. Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 must be provided to the City prior to the award of the contract. The City does not have the ability to verify the information included in a TEC Form 1295, and does not have an obligation or undertake responsibility for advising Consultant with respect to the proper completion of the TEC Form 1295.

## **XVII. AMENDMENTS**

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Consultant, and, if applicable, subject to formal approval by the City Council.

## **XVIII. SEVERABILITY**

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Code of Ordinances, or ordinances of the City of Johnson City, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

## **XIX. LICENSES/CERTIFICATIONS**

Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

## **XX. COMPLIANCE**

Consultant shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

## **XXI. NONWAIVER OF PERFORMANCE**

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option

herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either Party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVII. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

## **XXII. LEGAL AUTHORITY**

The signer of this Agreement for Consultant represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Consultant and to bind Consultant to all of the terms, conditions, provisions and obligations herein contained.

## **XXIII. PARTIES BOUND**

This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

## **XXIV. CAPTIONS**

The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

## **XXV. INCORPORATION OF EXHIBITS**

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be incorporated herein for all purposes:

**Exhibit A** – City of Johnson City Request for Proposals/Marketing/Creative/Media Buying/Public Relations Services

## **XXVI. ENTIRE AGREEMENT**

This Agreement, together with its authorizing ordinance and its Exhibits, if any, constitute the final and entire agreement between the Parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the Parties, in accordance with Article XVII. Amendments.

## **XXVII. MISCELLANEOUS CITY CODE PROVISIONS**

**27.1 Representations and Warranties by Consultant.** If Consultant is a corporation, partnership or a limited liability company, Consultant warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas.

**27.2 Franchise Tax Certification.** Consultant certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the Consultant is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

**27.3 Eligibility Certification.** Consultant certifies that the individual or business entity named in the Agreement is not ineligible to receive payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

**27.4 Payment of Debt or Delinquency to the State or Political Subdivision of the State.** Consultant agrees that any payments owing to Consultant under the Agreement may be applied directly toward any debt or delinquency that Consultant owes the City of Johnson City, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

**27.5 Texas Family Code Child Support Certification.** Consultant certifies that they are not delinquent in child support obligations and therefore are not ineligible to receive payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

**27.6 Texas Government Code Mandatory Provision.** The City of Johnson City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Consultant hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Consultant hereby verifies that it does not boycott energy companies, and agrees that, during the term of this Agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Consultant hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this Agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Further, Consultant hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

*(Signature Page Follows.)*

**IN WITNESS WHEREOF**, the Parties, by their authorized representative, agree and execute this Agreement to be effective as of the last date indicated below.

**CITY OF JOHNSON CITY, TEXAS – “CITY”**

\_\_\_\_\_  
Rick Schroder, Chief Administrative Officer  
City of Johnson City  
P.O. Box 369  
303 E. Pecan Drive  
Johnson City, Texas 78636

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Whitney Walston, City Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_ - **“CONSULTANT”**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

**EXHIBIT A**  
City of Johnson City  
Request for Proposals  
Marketing / Creative / Media Buying / Public Relations Services

## EXHIBIT B – INSURANCE REQUIREMENTS

Respondent shall provide the following described insurance, except for coverage specifically waived by the City, on policies with insurers acceptable to the City.

The insurance requirements shall not limit the liability of the respondent. The City does not represent that these types and amounts of insurance are sufficient or adequate to protect respondent's interests or liabilities, but are merely minimums.

Respondent's insurance policies shall be endorsed to name the City as an additional insured to the extent of the City's interests arising from any contract or agreement between the City and respondent.

Respondent waives its right of recovery against the City to the extent permitted by its insurance policy limits.

- Workers' Compensation insurance in accordance with the laws of the State of Texas.
- Commercial General Liability insurance with limits of not less than:
  - \$2,000,000 General Aggregate Limit; and
  - \$1,000,000 Each Occurrence, combined single limit.
- Professional Liability and Errors and Omissions insurances with limits not less than \$1,000,000 each claim/annual aggregate.