

# **CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT**

(City of Franklin Contract No. 2017-0292)

THIS PROCUREMENT AGREEMENT ("AGREEMENT") is by and between the City of Franklin, Tennessee ("CITY"), and Waypoint Analytical, Inc. of Memphis, Tennessee ("VENDOR"), who mutually agree as follows:

1. CITY issued (a) on October 5, 2017 Purchasing Office Solicitation No. 2018-001 through 2018-002, a procurement solicitation for bids for performance upon demand of each of the following wastewater treatment laboratory contract services for the specified term of award: (A) industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. 2018-001), and (B) aquatic toxicity (bio-monitoring) testing (2018-002), each being bid independently; and (b) on October 18, 2017 Addendum No. 1 to Purchasing Office Solicitation No. 2018-001 through 2018-002 (collectively, "SOLICITATION").
2. In response to CITY's SOLICITATION, VENDOR submitted a bid dated October 23, 2017 ("SUBMITTAL"), a copy of excerpts from which is attached hereto as Attachment No. 1 and hereby incorporated by reference as if fully set forth herein.
3. VENDOR included in SUBMITTAL CITY's Standard Procurement Terms and Conditions with VENDOR's contact information inserted ("CITY'S TERMS"), a copy of which is attached hereto as Attachment No. 2 and hereby incorporated by reference as if fully set forth herein.
4. VENDOR has now also submitted two Certificates of Insurance, one for coverage expiring in 2018 and one for coverage expiring in 2019 ("CERTIFICATES OF INSURANCE"), copies of which are attached hereto as Attachment No. 3 and hereby incorporated by reference as if fully set forth herein, that meet or exceed CITY's Insurance Requirements as specified in SOLICITATION.
5. If and when insurance coverage documented by CERTIFICATES OF INSURANCE referenced above expires before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this AGREEMENT, then VENDOR shall immediately suspend work or supply and delivery unless and until it provides one or more unexpired replacement certificates of insurance that indicates the new date(s) of insurance coverage expiration and that meets or exceeds CITY's Insurance Requirements as specified in SOLICITATION.
6. In the event that insurance coverage documented by CERTIFICATES OF INSURANCE referenced above is materially modified or canceled before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this AGREEMENT, then VENDOR shall, immediately upon learning of any such material modification or cancelation, suspend work or supply and delivery and shall, within three (3) calendar days of such learning, notify CITY of any such material modification or cancelation.
7. VENDOR agrees to impose CITY's insurance requirements upon any subcontractors it utilizes for this procurement. Use of any particular subcontractor for this procurement shall have been approved by CITY in advance of that subcontractor commencing work for this procurement.
8. VENDOR has now also submitted CITY's Indemnification Agreement, executed for VENDOR ("INDEMNIFICATION AGREEMENT"), a copy of which is attached hereto as Attachment No. 4 and hereby incorporated by reference as if fully set forth herein.

# CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2017-0292)

9. CITY awarded on November 28, 2017 to VENDOR the purchase of the following wastewater treatment laboratory contract services: aquatic toxicity (bio-monitoring) testing (Solicitation No. 2018-002), pursuant to SOLICITATION and SUBMITTAL.
10. Products shall be delivered and services shall be rendered to the satisfaction of CITY within timeframes specified in CITY's SOLICITATION unless a later delivery / rendering was indicated as an exception in VENDOR's SUBMITTAL or has otherwise been authorized in writing by CITY. Failure by VENDOR to meet the delivery / rendering schedule shall constitute grounds for CITY to consider VENDOR to be in breach of contract.
11. The term of award shall be three (3) years, shall commence upon execution of this AGREEMENT and shall terminate on December 31, 2020. At any time after commencement but before or as soon as practicable after the expiration of this term of award, CITY and VENDOR may, by mutual consent, exercise not more than two (2) options to extend the term of award, each time for up to one (1) additional year, for a maximum possible term of award of five (5) years total, provided: (a) that both parties consent to such an extension at that time; (b) that the decision to exercise such an extension is memorialized in writing and is executed by authorized representatives of each party (in the case of CITY, either CITY's City Administrator or CITY's Purchasing Manager, after consultation with the director of the Water Management Department of CITY, is so authorized); (c) that the same terms and conditions that apply to the original term of award shall also apply to such an extension, including pricing; and (d) that if VENDOR chooses not to consent to an extension to the term of award, then it shall notify CITY of that decision a minimum of six (6) months in advance of the scheduled expiration of the term of award. Note that CITY and VENDOR each specifically retain the non-exclusive right, with or without cause, not to extend the term of award.
12. In the event of a conflict between the following documents, the order of precedence shall be as follows: (a) this AGREEMENT; (b) CITY's TERMS; (c) INDEMNIFICATION AGREEMENT; (d) SOLICITATION; and (e) SUBMITTAL.

EXECUTED THIS 27 DAY OF March 2018

For VENDOR:



(signature of VENDOR's authorized representative)

TITLE: Chairman/Exec-VP

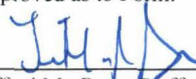
For CITY:



(signature of CITY's authorized representative)

TITLE: City Administrator

Approved as to Form:



Tiffani M. Pope, Staff Attorney for City of Franklin

**CITY OF FRANKLIN, TENNESSEE  
PROCUREMENT AGREEMENT**

*(City of Franklin Contract No. 2017-0292)*

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**Attachment No. 1**

Excerpts from SUBMITTAL



## Bid Submittal Form

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the  
**City of Franklin, Tennessee**

Purchasing Office Solicitation No.: 2018-001 through 2018-002

Vendor's name, street address, and mailing address (if different):	Waypoint Analytical, Inc. 2790 Whitten Road Memphis, TN 38133
Vendor's contact person's name (printed), title, telephone number and e-mail address:	Nathan Pera Chairman/Exec-VP 901-213-2446 npera@wpacorp.com
Does the bidder take any exceptions to the City's procurement solicitation?	<input type="checkbox"/> Yes, see enclosed. <input checked="" type="checkbox"/> No, bidder takes no exceptions.
Are exceptions, if any, to the City's procurement solicitation listed separately, described, compared to the City's intention as expressed and implied by the City's solicitation documents and submitted?	<input type="checkbox"/> Yes, see enclosed. <input checked="" type="checkbox"/> No, bidder takes no exceptions.
Total quoted all-inclusive estimated bid price for all specified services for a twelve (12) month period (vendors are invited to bid on either or both of the specified contract services):	
Industrial pretreatment sampling and testing, and Water Reclamation Facility influent and effluent testing (City of Franklin Purchasing Office Solicitation No. 2018-001):	\$ 39,553.00
Aquatic toxicity (biomonitoring) testing (City of Franklin Purchasing Office Solicitation No. 2018-002):	\$ 6,640.00
Are the City's preferred delivery terms (FOB destination, freight prepaid and allowed) acceptable to bidder?	<input checked="" type="checkbox"/> Yes. <input type="checkbox"/> No, bidder requests the following delivery terms: _____
Are the City's preferred payment terms (net 30 days from date of delivery or date of invoice, whichever is later) acceptable to bidder?	<input checked="" type="checkbox"/> Yes. <input type="checkbox"/> No, bidder requests the following payment terms: _____
Last date (no sooner than December 31, 2017) that bid and associated pricing is valid and may be accepted by the City:	05/01/18

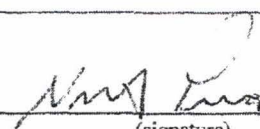
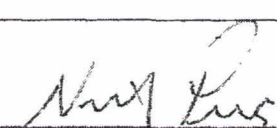


## Bid Submittal Form

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the

### City of Franklin, Tennessee

Purchasing Office Solicitation No.: 2018-001 through 2018-002

<b>Vendor's name:</b>	<u>Waypoint Analytical, Inc.</u>
<b>Method of payment</b> – The City's default method of payment is by electronic means, either by direct deposit (i.e., "ACH" or "Electronic Funds Transfer"), or by Visa credit card, rather than by conventional check. Which electronic payment method would the bidder prefer?	<input checked="" type="checkbox"/> ACH or Electronic Funds Transfer. <input type="checkbox"/> Visa credit card.
<b>Are the following components included with this Bid Submittal Form in the bid submittal?</b> <ul style="list-style-type: none"> <li>Detailed vendor-supplied description of bid product(s) and/or service(s);</li> <li>City of Franklin specifications for this procurement, marked by the bidder as to compliance therewith as per the instructions therein;</li> <li>Detailed vendor-supplied identification, listing and description of any exceptions to the written specifications as per the instructions therefor;</li> <li>Vendor-supplied contact information for minimum of three references;</li> <li>City of Franklin Standard Procurement Terms and Conditions, with the vendor's contact information inserted;</li> <li>Vendor's proposed terms and conditions, if any, that are not inconsistent with the City's Standard Procurement Terms and Conditions;</li> <li>City of Franklin Affidavit of Non-Collusion, executed in full;</li> <li>City of Franklin Affidavit of Title VI Compliance, executed in full; and</li> <li>If bidder employs not less than five employees, then City of Franklin Affidavit of Drug-Free Workplace, executed in full.</li> </ul>	<input checked="" type="checkbox"/> Yes, see enclosed.  <input type="checkbox"/> No, bidder chooses <u>not</u> to include all of these components (WARNING: doing so may cause the City to deem the bid non-responsive).
<b>Acknowledge any and all issued addenda to this solicitation:</b> <small>(Prior to submitting its bid, it is the responsibility of each potential bidder to determine whether any addenda to this procurement solicitation have in fact been issued by the City.)</small>	<input checked="" type="checkbox"/> Addendum No. <u>1</u> <input type="checkbox"/> Addenda Nos. _____ <input type="checkbox"/> No addenda.
<b>Subscription and affirmation of bidder's authorized representative:</b> By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tennessee Code Annotated § 12-12-106.	<div style="text-align: center;">               _____              (signature)         </div>
<b>Signature of bidder's authorized representative:</b> I affirm that I am authorized by the bidder to sign this Bid Submittal Form as well as any and all companion forms and documents included herewith. I have obtained and read, and do understand and consent, to all instructions, terms and conditions, including those imposed by reference, which apply to this procurement solicitation and compliance with which is required as a condition precedent to consideration of the bid submitted herewith.	<div style="text-align: center;">               _____              (signature)         </div>
<b>Title of bidder's authorized representative:</b>	<u>Chairman/Exec VP</u>
<b>Date of signatures:</b>	<u>10/23/17</u>



2790 Whitten Road, Memphis, TN 38133  
Main 901.213.2400 • Fax 901.213.2440  
[www.waypointanalytical.com](http://www.waypointanalytical.com)

October 24, 2017

City of Franklin Purchasing Office  
Franklin City Hall, Suite 107  
109 3rd Ave. South  
Franklin, TN 37064

REF: Solicitation No: 2018-001 through 2018-002

Waypoint Analytical, Inc. is pleased to offer the enclosed proposal for the above solicitations.

- All necessary containers, preservatives, coolers, pre-printed chain-of-custodies, pre-printed container labels, ice and transportation to the laboratory.
- All method requirements for quality control (i.e. matrix spikes) as well as any verifications are included in the pricing.
- Dioxin analysis (Method 1613) will be subcontracted to Pace Analytical (Minneapolis, MN).
- Industrial Categorical Parameters – Price includes all charges associated with flow proportional sampling.
- Industrial Non-Categorical Parameters - Price includes all charges associated with flow proportional sampling.
- Water Reclamation Facility Influent / Effluent Parameters- Price includes lab courier service to transport samples to the laboratory.
- Water Reclamation Facility Influent / Effluent Parameters – As an alternative to lab courier (and associated costs) Waypoint can provide for shipping (\$25 per cooler) from City of Franklin to our Jackson, TN location for the weekly testing. However, Waypoint would recommend courier service for the semi-annual sampling due to the number of tests/containers required.
- Water Reclamation/River Samples – Our proposal assumes that sampling for these sites can be coordinated to occur on the same day of the week which would allow a single trip. Additional trips, if required, would be billed at the courier rate.
- Results and invoices to be provided within 7 to 10 working days after receipt of sample via email as a PDF. Samples received at the end of the sampling period will be completed and reported prior to deadlines associated with the City's reporting deadlines (i.e. State required reporting deadlines.)
- Biomonitoring - Results and invoices to be provided within 14 days after receipt of sample.

Waypoint appreciates the opportunity to submit this proposal and is open to discussion/negotiation on any line item within this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan A. Pera, IV".

Nathan A. Pera, IV  
Chairman/Exec-VP  
Senior Project Manager  
Waypoint Analytical, Inc.



2269 Dr. F.E. Wright Drive, Jackson, TN 38305  
Main 731.423.5330 ° Fax 731.423.5326  
www.waypointanalytical.com

**Quotation for Analytical Services**

10/24/2017

2269 Dr. F.E. Wright Drive  
Jackson, TN 38305  
TEL: 731-423-5330  
FAX: 731-423-5326

**Lab Contact**

Lab Project Manager

**Company**  
**Contact** City of Franklin Purchasing Office  
**Address** Franklin City Hall, Suite 107  
Franklin, TN 37064  
**Phone** - -  
**Fax** - -

**Quote ID** 00102-10242017-002  
**Project** City of Franklin - 2018-002  
Aquatic Toxicity Testing  
2018-002

**TAT** 10 Working Days

#	Sample ID/Info	Matrix	Test Method	Description	# Samp	Unit Price	Test Total
1	11.3.1.1.1 Biomonitoring	Aqueous		Bioassay 7-Day C. Dubia Chronic Toxicity	4	\$ 600.00	\$ 2,400.00
2	11.3.1.1.1 Biomonitoring	Aqueous	EPA-Bioassay	Bioassay 7-Day Fathead Chronic Toxicity	4	\$ 600.00	\$ 2,400.00
<b>Subtotal for 11.3.1.1.1 Biomonitoring</b>							<b>\$ 4,800.00</b>
3	Lab Courier Services	Aqueous		Lab Courier Services	8	\$ 230.00	\$ 1,840.00
<b>Subtotal for Lab Courier Services</b>							<b>\$ 1,840.00</b>
						<b>Total</b>	<b>\$ 6,640.00</b>

**Sample Kits** Provided at no additional charge.  
**Shipping to Client** Included with Sampling Services  
**Return Shipping to Laboratory** Included with Sampling Services  
**QC Level** Level1  
**Reporting Limit** Report MQL  
**EDD Required**  
**Terms** Net 30 - Please refer to enclosed Price Schedule Terms



# City of Franklin, Tennessee Specifications

**Purchasing Office Solicitation No.: 2018-001 through 2018-002**

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1. Solicitation identified: These specifications apply to the following procurement:  
performance upon demand of each of the following wastewater treatment laboratory contract services for the specified term of award: (A) industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. 2018-001); and (B) aquatic toxicity (bio-monitoring) testing (2018-002); each being bid independently.

**Purchasing Office Solicitation No.: 2018-001 through 2018-002**

2. Notice to Bidders publication date: **October 5, 2017**
3. Solicitation release date: **October 5, 2017**
4. Deadline for optional submittal in writing of questions seeking to revise or clarify any aspect of this procurement solicitation: **October 17, 2017, 2:00 p.m. Central Time**
5. Bids submittal deadline and scheduled opening: **October 24, 2017, 2:00 p.m. Central Time**
6. Tentative date of release of City's tabulation of bids received and notice of intent to award: **November 10, 2017**
7. Tentative date of award: Meeting of Board of Mayor and Aldermen at which is tentatively scheduled to be awarded the selection of the lowest and best responsive and responsible bid: **November 28, 2017**
8. Objective: To secure, by means of a competitive procurement process, the selection of the lowest and best responsive and responsible bid from a vendor to furnish all labor, materials and means necessary to supply and perform for the City of Franklin Water Management Department the following two (2) specified wastewater treatment laboratory contract services for the specified term of award:
- a. industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. 2018-001); and
  - b. aquatic toxicity (bio-monitoring) testing (Purchasing Office Solicitation No. 2018-002).

Both of the specified contract services are being bid out simultaneously, but each specified contract service is being bid out separately from and independently of the others. Vendors are invited to submit bids for either or both of the specified contract services. See the accompanying Instructions for Bidders for additional information and instructions.

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# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

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9. Exceptions:

- a. In order to avoid the need to take an exception to a specification, potential bidders may request revisions to the specifications before the deadline for optional submittal in writing of questions seeking to revise or clarify any aspect of the specifications. See the accompanying Instructions for Bidders for contact information.
- b. Any deviation or variance from the City's specifications shall be considered to be an exception.
- c. Any exceptions to the City's specifications shall be identified by the bidder on the City's specifications document as well as listed and described in detail, along with any other exceptions to this procurement solicitation, in a separate written document to be prepared and submitted by the bidder, referencing any subsection number. Such listing shall include a description of exactly how such exceptions deviate from the City's expectations as expressed and implied by the procurement solicitation, and shall indicate why such exceptions should be judged by the City to meet or exceed those expectations. Any and all exceptions to this procurement solicitation which the City, in its sole discretion, deems not to meet or exceed the City's intention as expressed and implied by the procurement solicitation may be considered by the City as a factor in evaluating the bid.

10. General terms and conditions:

- a. Bid price. The bid price shall include the cost of all equipment, labor, insurance coverages, materials and delivery and/or freight charges, and any required trade and/or contractor license fees, business license fees and construction and/or building permit(s), necessary to render the specified service(s).
- b. Licenses and permits. The successful bidder shall obtain all required licenses and permits, in accordance with applicable state and local codes, necessary to render the specified service(s), and shall pay any fees therefor, including but not limited to: trade and/or contractor licenses; state, county and/or city business licenses; and construction and/or building permits.
- c. Delivery terms. As a matter of practice, the City expects the successful bidder to ship any and all deliverables FOB destination, freight prepaid and allowed. The City's preferred delivery terms, as described in the preceding sentence, are offered to the bidder or proposer as a condition of award. If the City's preferred delivery terms are unacceptable to the bidder or proposer, then the bidder or proposer shall indicate on the Submittal Form its preferred delivery terms. Delivery terms may be a factor in the City's selection criteria. Delivery terms are non-negotiable after award is made.
- d. Payment terms. As a matter of practice, the City pays for goods and/or services only after receipt and acceptance by the City of all such goods and/or services as ordered, and only after receipt of an accurate, proper, complete and itemized invoice for all such goods and/or services as ordered, net thirty (30) calendar days from date of delivery and/or completion/installation/rendering or date of invoice, whichever is later. The City's preferred payment terms, as described in the preceding sentence, are offered to

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# City of Franklin, Tennessee Specifications

## Purchasing Office Solicitation No.: 2018-001 through 2018-002

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the bidder or proposer as a condition of award. If the City's preferred payment terms are unacceptable to the bidder or proposer, then the bidder or proposer shall indicate on the Submittal Form its preferred payment terms. Payment terms may be a factor in the City's selection criteria. Payment terms are non-negotiable after award is made.

- e. Applicable laws and regulations. All applicable federal and state laws, city ordinances, orders, rules and regulations of all authorities having jurisdiction over the specified service(s) shall apply to the quoted purchase price, and they will be deemed to be included in these specifications the same as though they are written out in full herein.
- f. Use of subcontractors. The successful bidder may subcontract any portion of the award but only with the prior consent of the City. Requirements for references and insurance shall apply to any subcontractor.
- g. Safe work area. The successful bidder will be expected to utilize best practices to minimize the risk of personal injury to the public, City personnel and employees of the bidder and/or the bidder's subcontractors, if any.
- h. Other documents to be required of successful bidder. See the accompanying "Instructions for Bidders" for a listing of other documents to be required of the successful bidder.
- i. Damages. The successful bidder shall be responsible for any damages it causes in the course of performing the specified service(s), including to existing utilities, underground irrigation, concrete, asphalt, buildings, or grounds, and shall repair or replace any damaged property to the satisfaction of the City at the successful bidder's own expense and at no additional charge to the City.
- j. Standard Procurement Terms and Conditions. By submitting its bid, the vendor certifies that it has read and accepts all terms, conditions and requirements of this solicitation, including the terms and conditions identified and listed in the City's Standard Procurement Terms and Conditions attached hereto and hereby incorporated by reference.
- k. Refusal to honor submittal. If and after an award is made by the City, if the vendor refuses to execute an agreement or contract or in any other way honor the terms and conditions of its submittal, the City shall be entitled to seek compensation for its damages, which may include the cost of conducting a new solicitation.
- l. Confidential and/or proprietary information; trade secrets. All contents of all submittals are subject to public disclosure and shall not contain any confidential and/or proprietary information and/or trade secrets. Further, by submitting its bid, the vendor indemnifies and holds the City of Franklin harmless against any loss or damage, including reasonable attorney fees, it may incur as a result of the City's reliance upon the vendor's representation that materials supplied by the vendor do not contain trade secrets or proprietary information which is not subject to public disclosure.
- m. Drug-free workplace. The City is requiring bidders for this procurement solicitation who employ five (5) or more employees to include, as a required component of a complete bid submittal, the City's Affidavit of Drug-Free Workplace, executed in full,

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## City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

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and to attest that the bidder operates a drug-free workplace program or other drug or alcohol testing program with requirements at least as stringent as that of the program operated by the City. The City operates, at the time of issuance of this procurement solicitation, a drug-free workplace program that is certified under T.C.A. § 50-9-101 et seq. The City's drug-free workplace program may be described as follows:

The City of Franklin is covered under the Drug and Alcohol Testing for the Omnibus Transportation Employee Testing Act of 1991 with regard to the drug and alcohol testing of certain employee groups. In accordance with the Omnibus Transportation Employee Testing Act of 1991 (the Act) through the Federal Highway Administration (FHWA), the City of Franklin will conduct pre-employment, reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol and controlled substances testing of City employees who perform safety-sensitive functions (i.e., operating a commercial motor vehicle with a GVW of 26,001 which requires a commercial driver's license or requires a CDL as part of the job description). For other safety-sensitive positions that do not require a commercial driver's license, the City of Franklin follows the TN Drug Free Workplace guidelines. This includes all full-time, part-time, occasional and leased staff, and independent contractors.

11. Detailed specifications: Please note:

- Bidders are required to submit with their bid a detailed description of all bid products, items and/or services.
- Bidders are required to mark with a "C" the blank line next to any specification below to which their bid COMPLIES. (Specifications without a blank line are for context and need not be marked.)
- Bidders are required to mark with an "E" the blank line next to any specification below to which their bid takes EXCEPTION. (Specifications without a blank line are for context and need not be marked.)
- Any exceptions to the City's specifications shall be identified by the bidder on the City's specifications document as well as listed and described in detail, along with any other exceptions to this procurement solicitation, in a separate written document to be prepared and submitted by the bidder, referencing any subsection number. Such listing shall include a description of exactly how such exceptions deviate from the City's expectations as expressed and implied by the procurement solicitation, and shall indicate why such exceptions should be judged by the City to meet or exceed those expectations.
- Bidders are required to submit with their bid these Specifications for this procurement, marked by the bidder as to compliance herewith as per the instructions above.

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# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

- 11.1. Notes pertaining to the provision of both or either of the two (2) contract services specified below:
- 11.1.1. C The contract services specified below are required by the City for the routine operation of the City's wastewater treatment system. Contract services as bid shall be designed to meet the needs of the City according to industry standards for this intended purpose, all in conformance with applicable US EPA, State of Tennessee and City of Franklin rules and procedures.
- 11.1.2. C The City seeks bids for the following two (2) specified wastewater treatment laboratory contract services for a three-year term of award, to commence on or about January 1, 2018 and to terminate on or about December 31, 2020:
- 11.1.2.1. industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. 2018-001); and
- 11.1.2.2. aquatic toxicity (biomonitoring) testing (Purchasing Office Solicitation No. 2018-002).
- 11.1.3. C At any time after commencement but before or as soon as practicable after the expiration of this term of award, including any extensions to the term of award made pursuant to this provision, the City and the vendor may, by mutual consent, exercise an option to extend the term of award up to two (2) times, each time for up to one (1) additional year, provided: (a) that both parties consent to such an extension at that time; (b) that the decision to exercise such an extension is memorialized in writing and is executed by authorized representatives of each party; (c) that the same terms and conditions that apply to the original term of award shall also apply to such an extension, including pricing; and (d) that if the vendor chooses not to consent to an extension to the term of award, then it shall notify the City of that decision a minimum of six (6) months in advance of the scheduled expiration of the term of award. Note that the City and the vendor each specifically retain the right, with or without cause, not to extend the term of award.
- 11.1.4. C Both of the specified contract services are being bid out simultaneously, but each specified contract service is being bid out separately from and independently of the others. Vendors are invited to bid on either or both of the specified contract services.

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# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

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- 11.1.5. C The frequencies of each of the contract services are indicated below. For each of the two (2) respective contract services for which the bidder intends to compete, bidders are to quote one all-inclusive estimated price for all specified services for a twelve (12) month period. Bidders shall prepare and submit along with the Bid Submittal Form an itemized explanation of how it determined the all-inclusive estimated price for all specified services. The itemized explanation shall list estimated quantities, unit prices and extended prices (quantity multiplied by unit price) for each item for a twelve (12) month period. The unit prices shall be inclusive of all costs to the vendor of providing the specified services. The sum of the extended prices shall equal the all-inclusive estimated price for all specified services for a twelve (12) month period. The unit prices indicated on the itemized explanation shall be binding for the term of the award.
- 11.1.6. C Products shall be delivered and/or services shall be rendered to the satisfaction of the City within timeframes consistent with industry standards unless specified herein. Failure by the successful bidder to meet this delivery / rendering schedule shall constitute grounds for the City to consider the successful bidder to be in breach of contract.
- 11.1.7. C The successful bidder shall offer authorized personnel of the City password-protected secure online access to any of the City's own historic data, if measured, recorded and reported by or for the successful bidder, including laboratory results, for at least the most recent twelve (12) months.

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# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

**11.1.8.** Insurance requirements:

**11.1.8.1.** C Before award of the procurement by the City, the successful bidder (that is, the vendor who is recommended be awarded the purchase) shall provide one or more unexpired certificates of insurance providing evidence of the following minimum types and limits of insurance coverage:

Type of Coverage	Limits of Coverage	Certificate of Insurance
Commercial General Liability	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate \$1,000,000 Personal and Advertising Injury \$2,000,000 Products-Completed Operations Aggregate	Certificate of Insurance shall indicate Certificate Holder* as Additional Insured with Additional Insured endorsement attached
Automobile Liability (Owned, Non-Owned, and Hired Vehicles)	\$1,000,000 Combined Single Limit Each Accident	Certificate Holder* only
Workers Compensation (not required of an individual or of a firm with fewer than five (5) persons)	Statutory limits	Certificate Holder* only
Employers Liability (not required of an individual or of a firm with fewer than five (5) persons)	\$1,000,000 Bodily Injury Each Accident \$1,000,000 Policy Limit Bodily Injury by Disease \$1,000,000 Each Employee Bodily Injury by Disease	Certificate Holder* only
Professional liability (environmental testing)	\$1,000,000 Combined Single Limit	Certificate Holder* only

\*Certificate Holder shall be listed as follows:

City of Franklin  
109 3<sup>rd</sup> Ave. South  
Franklin, TN 37064

**11.1.8.2.** C If and when insurance coverage documented by the certificate(s) of insurance referenced above expires before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this procurement solicitation, then the successful bidder shall immediately suspend work or supply unless and until it provides one or more unexpired replacement certificates of insurance that indicates the new date(s) of insurance coverage expiration and that meets or exceeds the insurance requirements as specified above.

NAP

# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

- 11.1.8.3. C In the event that insurance coverage documented by the certificate(s) of insurance referenced above is materially modified or canceled before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this procurement solicitation, then the successful bidder shall, immediately upon learning of any such material modification or cancellation, suspend work or supply and shall, within three (3) calendar days of such learning, notify the City of any such material modification or cancellation.
- 11.1.8.4. C The successful bidder agrees to impose the City's insurance requirements upon any subcontractors it utilizes for this procurement. Use of any particular subcontractor for this procurement shall have been approved by the City in advance of that subcontractor commencing work for this procurement.
- 11.2. **Industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. 2018-001)**
- 11.2.1. **Specified services for Purchasing Office Solicitation No. 2018-001:**
- 11.2.1.1. C Industrial pretreatment sampling and testing:
- 11.2.1.1.1. C Minimum Industrial Categorical Parameters (once per every six months): Molybdenum, Copper, Total Chromium Nickel, Cadmium, Lead, Mercury, Silver, Zinc, Arsenic, Selenium, Cyanide, Phenol (total), Phthalates<sup>1</sup>, T.T.O., pH, CBOD5, TSS, Ammonia as Nitrogen, Oil and Grease, Xylene, and Flow.
- 11.2.1.1.2. C Minimum Industrial Non-Categorical Parameters (once per every six months): Molybdenum, Copper, Chromium, Nickel, Cadmium, Lead, Mercury, Silver, Zinc, Arsenic, Selenium, Cyanide, Phenol (total), Phthalates<sup>1</sup>, pH, CBOD5, TSS, Ammonia as Nitrogen, Oil and Grease, Flow, Benzene, Carbon Tetrachloride, Chloroform, Trans-1,2-Dichloroethylene, Ethyl benzene, Methylene Chloride, Tetrachloroethylene, Toluene, Trichlorethylene, 1,1,1-Trichloroethane, Naphthalene, and Xylene.

<sup>1</sup> Total phthalates is the sum of: (1) Bis (2-Ethylhexal) phthalate; (2) Butylbenzylphthalate; (3) Di-N-butylphalate; and (4) Diethyl Phthalate.

NAP

# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

- 11.2.1.2. Minimum Water Reclamation Facility Influent / Effluent Parameters:
- 11.2.1.2.1. C Once per every six months: Molybdenum, Copper, Chromium, Nickel, Cadmium, Lead, Low-Level Mercury, Silver, Zinc, Arsenic, Selenium, Cyanide, Phenol (total), Phthalates<sup>1</sup>, pH, CBOD5, TSS, Ammonia as Nitrogen, Oil and Grease, Benzene, Carbon Tetrachloride, Chloroform, Trans-1, 2-Dichloroethylene, Ethylbenzene, Methylene Chloride, Tetrachloroethylene, Toluene, Trichloroethylene, 1,1,1-Trichloroethane, Naphthalene, Xylene, Acetone, and COD.
- 11.2.1.2.2. C Once per every six months: T.T.O.
- 11.2.1.2.3. C A once-per-every-two-week influent composite sample for the total nitrogen.
- 11.2.1.2.4. C A once-per-week influent composite sample for total Phosphorus.
- 11.2.1.2.5. C A once-per-week effluent composite sample for phosphate, ortho.
- 11.2.1.2.6. C A once-per-week influent composite sample for phosphate, ortho.
- 11.2.1.2.7. C A once-per-week effluent composite sample for total Phosphorus
- 11.2.1.2.8. C A once-per-every-two-week effluent composite sample for the total nitrogen.
- 11.2.1.2.9. C Total nitrogen and phosphorous shall be analyzed for three (3) river points on a once-per-every-two-week basis year-round.
- 11.2.2. **Notes pertaining to the provision of the services of Purchasing Office Solicitation No. 2018-001:**
- 11.2.2.1. C Any and all necessary containers, preservatives, coolers, ice and transportation shall be supplied by the successful bidder.
- 11.2.2.2. C All sample results shall be submitted within a ten (10) day turn-around.
- 11.2.2.3. C Analysis verification shall be provided at no additional cost to the City.
- 11.2.2.4. C All EPA verification samples (spike) shall be analyzed at no additional cost to the City.
- 11.2.2.5. C Any analysis not directly analyzed by bidder must be denoted in original bid. Permission must be granted by the City of Franklin Water Reclamation Facility before said item is subcontracted for analysis.

NAP



# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

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- |            |          |  |
|------------|----------|--|
| 11.2.2.6.  | <u>C</u> | The City shall collect influent, effluent and river samples. The vendor shall provide labor and means necessary to pick up City-collected samples at and transport City-collected samples from the Water Reclamation Facility. |
| 11.2.2.7.  | <u>C</u> | The vendor shall provide all labor necessary to collect samples at and transport samples from all industrial locations.  |
| 11.2.2.8.  | <u>C</u> | The vendor is to furnish any sampling equipment necessary that is not provided, in good working order, by industries to be sampled.  |
| 11.2.2.9.  | <u>C</u> | Industrial sampling consists of: (a) two (2) categorical industries; and (b) one (1) non-categorical industry.   |
| 11.2.2.10. | <u>C</u> | Flow meters must be calibrated before all sampling events.   |
| 11.2.2.11. | <u>C</u> | Vendor shall be responsible for all sampling transportation.   |
| 11.2.2.12. | <u>C</u> | Water meter readings shall be taken in conjunction with each sampling event.   |
| 11.2.2.13. | <u>C</u> | All sampling results shall be forwarded to the City of Franklin within ten working days after collection.  |
| 11.2.2.14. | <u>C</u> | All data concerning total Nitrogen and total Phosphorus shall be furnished to the City by the fifth of the month following sample collection.  |
| 11.2.2.15. | <u>C</u> | Sample verification shall be the responsibility of the vendor.   |
| 11.2.2.16. | <u>C</u> | The vendor as a part of the bid price shall analyze all associated EPA spike samples.  |
| 11.2.2.17. | <u>C</u> | The bid must clearly indicate any work performed by sub-contractor.  |
| 11.2.2.18. | <u>C</u> | Any additional analysis requested by the City of Franklin shall be performed at the same unit pricing as indicated in the original bid.  |

NAP

# City of Franklin, Tennessee Specifications

Purchasing Office Solicitation No.: 2018-001 through 2018-002

- 11.3. Aquatic toxicity (biomonitoring) testing (Purchasing Office Solicitation No. 2018-002)
- 11.3.1. Specified services for Purchasing Office Solicitation No. 2018-002:
- 11.3.1.1. C Minimum Biomonitoring Requirements Chronic:
- 11.3.1.1.1. C This bidder shall conduct a 3-Brood Ceriodaphnia dubia Survival and Reproduction Test and a 7-day Fathead Minnow (Pimephales promelas) larval Survival and Growth Test on samples of final effluent from Outfall 001.
- 11.3.1.1.2. C The measured endpoint for toxicity shall be the inhibition concentration causing 25% reduction in survival, reproduction and growth (IC25) of the test organisms. The IC25 shall be determined based on a 25% reduction as compared to the controls, and as derived from linear interpolation. The average reproduction and growth responses shall be determined based on the number of Ceriodaphnia dubia or Pimephales promelas larvae used to initiate the test.
- 11.3.1.1.3. C Tests shall be conducted and its results reported based on appropriate replicates of a total of five serial dilutions and a control, using the percent effluent dilutions as presented in the following table:
- | SERIAL DILUTIONS FOR WHOLE EFFLUENT TOXICITY (WET) TESTING |           |           |            |                |         |
|--|-----------|-----------|------------|----------------|---------|
| PERMIT<br>LIMIT<br>(PL)                                    | 0.50 x PL | 0.25 x PL | 0.125 x PL | 0.0625 x<br>PL | CONTROL |
| % EFFLUENT   |           |           |            |                |         |
| 100  | 50        | 25        | 12.5       | 6.25           | 0       |
- 11.3.2. Notes pertaining to the provision of the services of Purchasing Office Solicitation No. 2018-002:
- 11.3.2.1. C Quarterly analysis – once per every three months (four (4) tests per year).
- 11.3.2.2. C All other EPA and State protocol is applicable.
- 11.3.2.3. C Any and all necessary containers, preservatives, coolers, ice and transportation shall be supplied by the successful bidder.
- 11.3.2.4. C All EPA verification samples (spike) shall be analyzed at no additional cost to the City of Franklin. Any item not analyzed by the original bidder must have the permission granted by the City of Franklin Water Reclamation Facility.
- 11.3.2.5. C Any additional testing performed for the City of Franklin shall be performed at the same unit pricing as indicated in the original bid.

NAP



2790 Whitten Road, Memphis, TN 38133  
Main 901.213.2400 ° Fax 901.213.2440  
[www.waypointanalytical.com](http://www.waypointanalytical.com)

## References

Humboldt Utilities  
Ms Jane Leatherland  
(731) 784-4301  
[jleatherland@humboldtutilities.com](mailto:jleatherland@humboldtutilities.com)

Provide composite sampling services at various industries in Humboldt as well as sampling and testing services for their landfill. Testing services also include Biomonitoring.

City of Dyersburg  
Mr. Mike Goff or Mr. John Damesworth  
(731) 288-7686  
[mgoff@dyersburgtn.gov](mailto:mgoff@dyersburgtn.gov)  
[jdamesworth@dyersburgtn.gov](mailto:jdamesworth@dyersburgtn.gov)

Provide composite sampling services at various industries in Dyersburg as well as sampling and testing services for their landfill.

Ripley Light Gas and Water  
Mr. Jason Byrd  
(731) 784-4301  
[jbyrd@ripleygasandwater.com](mailto:jbyrd@ripleygasandwater.com)

Provide flow proportional sampling and testing services directly for the utility and as well as related industries. Testing services also include Biomonitoring.

*Laboratory's liability in any claim relating to analyses performed shall be limited to, at laboratory's option, repeating the analysis in question at laboratory's expense, or the refund of the charges paid for performance of said analysis.*

Alabama #40750	Louisiana #04015	VA NELAP #460181	Texas #T104704180-11-6	Arkansas #88-0650
Mississippi	California #2904	NC #415	Oklahoma #9311	Virginia #00106
Kentucky #90047	Tennessee #TN02027	EPA #TN00012	Kentucky UST #41	Kansas #E-10396





## Affidavit of Non-Collusion

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the  
**City of Franklin, Tennessee**

State of Tennessee )  
County of Shelby ) SS

Affiant, Nathan Pera, deposes and makes oath that:  
(printed name of person signing Affidavit)

1. He or she is the Chairman/Exec VP of  
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)  
39,553.00  
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. Such bid or proposal is genuine and is not a collusive or sham bid or proposal;
4. Neither the said Bidder or Proposer nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this Affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any official or agent of the City of Franklin or with any other firm, person, or potential or actual bidder or proposer to submit a collusive or sham bid or proposal in connection with the contract for which the attached bid or proposal has been submitted, or to refrain from bidding or proposing indirectly, or sought by agreement, or collusion, or communication, or conference with any other firm, person, or potential or actual bidder or proposer to fix the price or prices or cost element of the bid, quoted or proposed price or the bid, quoted or proposed price of any other potential or actual bidder or proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Franklin or any person interested in the proposed contract;
5. The price or prices quoted in the attached bid or proposal are fair and proper and are not tainted by a collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this Affiant; and
6. He or she understands that Article VIII, Section 16, of the City Charter of Franklin, and T.C.A. §6-54-107, prohibit any member of the Board of Mayor and Aldermen, or officer elected by said Board, from being interested in any contract, or work of any kind whatever, under its control and direction, and any contract in which any such person shall have an interest shall be void and unenforceable, subjecting any funds received by contractor to be returned in full to the City, in addition to any other penalties provided by law.

Chairman/Exec VP

(signature of Affiant)

(title of Affiant)

Sworn and subscribed to before me this 23 day of October, 2017

(Notary Public)

My Commission Expires: \_\_\_\_\_

**Affidavit of Title VI Compliance**  
a form required of Bidders and Proposers on purchases of services for the  
**City of Franklin, Tennessee**

State of Tennessee )  
County of Shelby ) SS

Affiant, Nathan Pera, deposes and makes oath that:  
(printed name of person signing Affidavit)

1. He or she is the Chairmain/Exec VP of  
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)  
39,553.00  
(legal name of entity submitting bid or proposal)

- the Bidder or Proposer who has submitted the attached bid or proposal;
2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. No person on the grounds of handicap or disability, age, race, color, religion, sex, national origin or any other class protected by federal and/or Tennessee constitutional, statutory and/or case law shall be excluded from participation in, or denied benefits of, or be otherwise subjected to discrimination in, the performance of the contract that results from the procurement solicitation to which this affidavit is a component, or in the employment practices of the successful Bidder or Proposer during the performance of the contract that results from said procurement solicitation;
4. The successful Bidder or Proposer shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to employees and job applicants, notices of such non-discrimination;
5. If, with the prior consent of the City, the successful Bidder or Proposer subcontracts any portion of the contract that results from the procurement solicitation to which this affidavit is a component, then the successful Bidder or Proposer shall contractually obligate all of its subcontractors for said contract to comply with the same non-discrimination provisions as those required of the successful Bidder or Proposer; and
6. This Affidavit is made on personal knowledge.

\_\_\_\_\_  
(signature of Affiant)

Chairman/Exec VP  
\_\_\_\_\_  
(title of Affiant)

Sworn and subscribed to before me this 23 day of October, 2017

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_

**Affidavit of Drug-Free Workplace**  
a form required of Bidders and Proposers on purchases of services for the  
**City of Franklin, Tennessee**

State of Tennessee )  
County of Shelby ) SS

Affiant, Nathan Pera, deposes and makes oath that:  
(printed name of person signing Affidavit)

1. He or she is the Chairmain/Exec VP of  
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)  
39,553.00  
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. The Bidder or Proposer entity employs no less than five (5) employees;
4. The Bidder or Proposer has in effect, at the time of submission of its bid or proposal to perform the services described in the attached bid or proposal, a drug-free workplace program that complies with T.C.A. § 50-9-101 et seq.;
5. The Bidder or Proposer operates a drug-free workplace program or other drug or alcohol testing program with requirements at least as stringent as that of the program operated by the City as described in the City's procurement solicitation; and
6. This Affidavit is made on personal knowledge.

\_\_\_\_\_  
(signature of Affiant)

Chairman/Exec VP  
\_\_\_\_\_  
(title of Affiant)

Sworn and subscribed to before me this 23 day of October, 2017

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_



**CITY OF FRANKLIN, TENNESSEE  
PROCUREMENT AGREEMENT**

(City of Franklin Contract No. 2017-0292)

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**Attachment No. 2**

**CITY'S TERMS**

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## Standard Procurement Terms and Conditions

### City of Franklin, Tennessee

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1. Assignment/Subcontracting. Neither party may assign any rights or obligations under these Standard Procurement Terms and Conditions, or any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, without the prior written consent of the other party. These Standard Procurement Terms and Conditions, and any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Vendor may subcontract any portion of the work only with the prior consent of the City, but such subcontracting will not relieve Vendor of its duties under these Standard Procurement Terms and Conditions and any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply.
2. Time of the Essence. The parties agree that TIME IS OF THE ESSENCE with respect to the vendor's performance of all provisions of the contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply.
3. Taxes. As a tax-exempt entity, the City shall not be responsible for sales or use taxes incurred for products or services. Upon request, the City shall supply Vendor with a copy of its Sales and Use Tax Exemption Certificate. Vendor shall bear the burden of providing its suppliers with a copy of the City's tax exemption certificate and shall assume all liability for such taxes, if any, that should be incurred.
4. Notices. Any notice provided pursuant to these Standard Procurement Terms and Conditions, or any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) City business days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth below (or set forth in such other document to which these Standard Procurement Terms and Conditions apply, or such other address as either party may in the future specify in writing to the other):

In the case of the City:

City of Franklin

Attn: Purchasing Manager

Re: City of Franklin Purchasing Office Solicitation No. 2018-001 - 2018-002

109 Third Ave. South

P.O. Box 305

Franklin, TN 37065-0305

FAX: 615-550-0079

E-mail: [purchasing@franklintn.gov](mailto:purchasing@franklintn.gov)

In the case of Vendor:

Waypoint Analytical, Inc.

Ms. Billie Haynes

2269 Dr. F.E. Wright Dr

Jackson, TN 38305

731.423.5326

bhaynes@wpacorp.com

## Standard Procurement Terms and Conditions

### City of Franklin, Tennessee

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5. Confidentiality and Proprietary rights. Vendor waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page (or section as the case may be) as confidential or proprietary. Proprietary rights do not extend to the data created by the City's users of the System; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation and City shall retain exclusive rights, title, and ownership of all data and images created therefrom at the moment of creation and utilization, through and including image creation. City may be required to disclose documents under state or federal law. City shall notify Vendor if a request for documents has been made and shall give Vendor a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. In exchange, Vendor agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Vendor's representation that materials supplied by Vendor (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Vendor and Vendor assumes control over that claim.
6. Derivative Works. To the extent that the Agreement contains Vendor's reservation of rights, such definitions and limitations are superseded by the following: "Derivative Work" means a program that is based on or derived from one or more existing programs or components. If the original software is modified to create a new program, a derived work is created. If the original software was designed to accept plug-ins or drivers using a defined mechanism, such a driver or plug-in does not form a derived work. Linking to a library in the way it was designed to be interfaced with, does *not* constitute deriving a work. "Derivative work" is *not* the data that the Licensee inputs, manipulates, modifies or otherwise improves, nor the images resulting therefrom.
7. Arbitration/Mediation. No arbitration shall be required as a condition precedent to filing any legal claim arising out of or relating to any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply. No arbitration or mediation shall be binding.
8. Waiver. Neither party's failure or delay to exercise any of its rights or powers under these Standard Procurement Terms and Conditions, or any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.
9. Warranties/Limitation of Liability/Waiver. City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Vendor to limit its liability shall be void and unenforceable.
10. Severability. If any term or provision of these Standard Procurement Terms and Conditions is held to be illegal or unenforceable, the validity or enforceability of the remainder of these Standard Procurement Terms and Conditions will not be affected.



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## Standard Procurement Terms and Conditions

### City of Franklin, Tennessee

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11. Precedence. In the event of conflict between the provisions of these Standard Procurement Terms and Conditions and that of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, the provisions of these Standard Procurement Terms and Conditions will to the extent of such conflict take precedence unless such document expressly states that it is amending these Standard Procurement Terms and Conditions.
12. Indemnification. Vendor agrees to indemnify and save the Government of Franklin, the City of Franklin and individual, on or off duty, officers, and employees of the City of Franklin, harmless from any and all losses, damages and expenses, including court costs and attorneys' fees, by reason of any loss, whatsoever, arising out of or relating to or in consequence of the work done in connection with any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, excepting only such losses as shall be occasioned solely by the negligence of the City of Franklin.
13. Additions/Modifications. If seeking any addition or modification to any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.
14. Applicable Law; Choice of Forum/Venue. These Standard Procurement Terms and Conditions and any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply are made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The choice of forum and venue shall be exclusively in the Courts of Williamson County, TN.
15. Termination. Unless the City has indicated otherwise in the contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, either party may terminate the contract or agreement or purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, with or without cause, upon thirty (30) calendar days' notice to the other. Upon termination by the vendor, the City shall be entitled to retain ownership of any and all goods and equipment purchased. Upon termination by the City, the vendor shall be entitled to receive any amounts due as a result of goods and equipment already delivered and/or services already rendered; however, the City shall maintain ownership and control of any goods and

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## Standard Procurement Terms and Conditions

### City of Franklin, Tennessee

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equipment purchased. Upon termination of services, whether connected or unconnected to goods and equipment, such services shall be rendered until the conclusion of the 30<sup>th</sup> calendar day as stated in the notice or until a contractual benchmark has been achieved, or as the parties may otherwise agree.

16. Breach. Upon deliberate breach of these Standard Procurement Terms and Conditions, or of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, by either party, the non-breaching party shall be entitled to terminate the contract or agreement or purchase order or other procurement to which these Standard Procurement Terms and Conditions apply without notice, with all of the remedies it would have in the event of termination under section 10 ("Severability") above, and may also have such other remedies as it may be entitled to in law or in equity.
17. Default. If Vendor fails to perform or comply with any provision of these Standard Procurement Terms and Conditions, or of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, then the City (i) may cancel the contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, in whole or in part, without penalty or protest by Vendor; (ii) may consider such failure to perform or comply as a breach of contract; (iii) reserves the right to purchase its requirements from the vendor that submitted the next lowest and best responsive and responsible bid, or the vendor that submitted the next best proposal, if that vendor will still honor that bid or proposal, or to seek new bids or proposals, or to pursue one or more other options available to the City in compliance with its then current purchasing policy; and (iv) may hold the defaulting vendor liable for all damages provided by law, including cost of cover.
18. Entire Agreement. These Standard Procurement Terms and Conditions, including any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, constitutes the entire agreement between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of these Standard Procurement Terms and Conditions. The terms and conditions of these Standard Procurement Terms and Conditions may not be changed except by an amendment expressly referencing these Standard Procurement Terms and Conditions by section number and signed by an authorized representative of each party.
19. Survival. These Standard Procurement Terms and Conditions shall survive the completion of or any termination of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply.

# CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2017-0292)

## Attachment No. 3

### CERTIFICATES OF INSURANCE

Certificate Date	Producer	Certificate Number	Certificate Holder	Type of Insurance	Policy Expiration
12/22/2017	Collier Insurance 606 South Mendenhall Rd., Suite 200 Memphis, TN 38117	CL1791514220	City of Franklin 109 3 <sup>rd</sup> Ave. South Franklin, TN 37064	Commercial General Liability	2/18/2018
				Automobile Liability	2/18/2018
				Workers Compensation and Employers' Liability	2/18/2018
				Professional Liability (Environmental Testing)	2/18/2018
3/19/2018	Collier Insurance 606 South Mendenhall Rd., Suite 200 Memphis, TN 38117	CL1821915438	City of Franklin 109 3 <sup>rd</sup> Ave. South Franklin, TN 37064	Commercial General Liability	2/18/2019
				Automobile Liability	2/18/2019
				Workers Compensation and Employers' Liability	2/18/2019
				Professional Liability (Environmental Testing)	2/18/2019





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/22/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Collier Insurance 606 South Mendenhall Rd Suite 200 Memphis TN 38117		<b>CONTACT</b> NAME: Debbie Williams PHONE (A/C, No, Ext): (901) 529-2900 E-MAIL: dwilliams@collier.com ADDRESS: (901) 529-2916	
<b>INSURED</b> Waypoint Analytical, Inc. c/o Julie Langford 2269 Dr F E Wright Drive Jackson TN 38305		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: National Fire Ins. of Hartford INSURER B: Continental Casualty Co INSURER C: Valley Forge Ins Co INSURER D: Continental Casualty INSURER E: INSURER F:	

**COVERAGES** **CERTIFICATE NUMBER:** CL1791514220 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS								
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>		6016958336	2/18/2017	2/18/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$								
	A						<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	6014677401	2/18/2017	2/18/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist combined \$				
							B				<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	6016900081	2/18/2017	2/18/2018	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
											C				<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N/A
D	<b>Professional Liability</b>	EEH288288799	2/18/2017	2/18/2018	Occurrence \$1,000,000 Aggregate \$1,000,000										

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Additional insured status is provided by automatic provision if required by written contract as respects the General Liability.

<b>CERTIFICATE HOLDER</b> City of Franklin 109 3rd Avenue South Franklin, TN 37064	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE J Stuart Collier, Jr.
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## Additional Named Insureds

### Other Named Insureds

Waypoint Analytical - Pennsylvania Inc. Corporation

Waypoint Analytical California, Inc.

Waypoint Analytical Carolina, Inc.

Waypoint Analytical Florida Inc.

Waypoint Analytical Illinois, Inc.

Waypoint Analytical Iowa, Inc.

Waypoint Analytical Louisiana, Inc.

Waypoint Analytical Mississippi, Inc.

Waypoint Analytical Virginia, Inc.

**CNA PARAMOUNT****Amendment of Forms and Endorsements Schedule  
Addition or Deletion of Endorsements**

It is understood and agreed as follows:

**I. ADDITION OF FORMS OR ENDORSEMENTS**The **Forms and Endorsements Schedule** is amended to add the following forms or endorsements effective as of the date set forth in such form or endorsement

Endm't Number	Form or Endorsement Name	Form Number	Form Edition
50	Amendment of Forms and Endorsements Schedule Addition or Deletion of Endorsements	CNA62673XX	09-12
51	Amendment of General Liability Schedule of Locations and Coverages Endorsement	CNA75135XX	01-15
52	Additional Insured - Scheduled Person or Organization Endorsement (CG 20 10 10 01)	G300415A	04-07

**II. DELETION OF FORMS OR ENDORSEMENTS**The **Forms and Endorsements Schedule** is amended to delete the following forms or endorsements effective as of the "deletion date" indicated below.The net premium change, if any, for the above endorsements in Sections I. and II. is: \$500.00Total change is : \$500.00

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA62673XX 09-12

Page 1 of 1

NATIONAL FIRE INSURANCE OF HARTFORD

Insured Name: WAYPOINT ANALYTICAL, INC.

Policy No: 6016958336

Endorsement No: 50

Effective Date: 01/15/2018

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000010

00020072013390030119236350191







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
03/19/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Collier Insurance 606 South Mendenhall Rd Suite 200 Memphis TN 38117	<b>CONTACT NAME:</b> Debbie Williams <b>PHONE (A/C, No, Ext):</b> (901) 529-2900 <b>FAX (A/C, No):</b> (901) 529-2916 <b>E-MAIL ADDRESS:</b> dwilliams@collier.com																					
<b>INSURED</b> Waypoint Analytical, Inc. c/o Julie Langford 2790 Whitten Road Memphis TN 38133	<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>National Fire Ins.of Hartford</td><td>20478</td></tr><tr><td>INSURER B:</td><td>Continental Casualty Co</td><td>20443</td></tr><tr><td>INSURER C:</td><td>Valley Forge Ins Co</td><td>20508</td></tr><tr><td>INSURER D:</td><td>Continental Casualty</td><td>20443</td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	National Fire Ins.of Hartford	20478	INSURER B:	Continental Casualty Co	20443	INSURER C:	Valley Forge Ins Co	20508	INSURER D:	Continental Casualty	20443	INSURER E:			INSURER F:		
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INSURER E:																						
INSURER F:																						

**COVERAGES****CERTIFICATE NUMBER:** CL1821915438**REVISION NUMBER:**

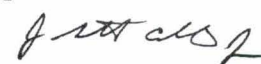
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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		6016958336	02/18/2018	02/18/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			6014677401	02/18/2018	02/18/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			6016900081	02/18/2018	02/18/2019	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WC 6 16942573 / WC66942573	02/18/2018	02/18/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional / Pollution			EEH288282799	02/18/2018	02/18/2019	Occurrence 1,000,000 Aggregate 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional insured status is provided by automatic provision if required by written contract as respects General Liability.

**CERTIFICATE HOLDER****CANCELLATION**

City of Franklin 109 3rd Avenue South  Franklin TN 37064	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	--

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**Additional Named Insureds**

**Other Named Insureds**

Waypoint Analytical - Pennsylvania Inc. Corporation

Waypoint Analytical California, Inc.

Waypoint Analytical Carolina, Inc.

Waypoint Analytical Florida Inc.

Waypoint Analytical Illinois, Inc.

Waypoint Analytical Iowa, Inc.

Waypoint Analytical Louisiana, Inc.

Waypoint Analytical Mississippi, Inc.

Waypoint Analytical Virginia, Inc.

LMP Holdings LLC

**CNA PARAMOUNT****Amendment of Forms and Endorsements Schedule  
Addition or Deletion of Endorsements**

It is understood and agreed as follows:

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All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA62673XX 09-12

Page 1 of 1

NATIONAL FIRE INSURANCE OF HARTFORD

Insured Name: WAYPOINT ANALYTICAL, INC.

Policy No: 6016958336

Endorsement No: 50

Effective Date: 01/15/2018

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**CNA PARAMOUNT****Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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7. Broad Named Insured
8. Contractual Liability – Railroads
9. Estates, Legal Representatives and Spouses
10. Expected Or Intended Injury – Exception for Reasonable Force
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27. Wrap-Up Extension: OCIP, CCIP or Consolidated (Wrap-Up) Insurance Programs

CNA74858XX (1-15)

Page 1 of 18

Nat'l Fire Ins Co of Hartford

Insured Name: WAYPOINT ANALYTICAL, INC.

Policy No: 6016958336

Endorsement No: 4

Effective Date: 02/18/2017

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10120003660169583363129



**Architects, Engineers and Surveyors General Liability  
Extension Endorsement****1. ADDITIONAL INSURED**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **I.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **I.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Engineers, Architects or Surveyors Engaged By You**

An architect, engineer or surveyor engaged by the **Named Insured**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by the **Named Insured's** acts or omissions, or the acts or omissions of those acting on the **Named Insured's** behalf:

a. in connection with the **Named Insured's** premises; or

b. in the performance of the **Named Insured's** ongoing operations.

But the coverage hereby granted to such additional insureds does not apply to **bodily injury**, **property damage** or **personal and advertising injury** arising out of the rendering of or failure to render any professional services by, on behalf of, or for the **Named Insured**, including but not limited to:



**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

1. the preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. supervisory, inspection, architectural or engineering activities.

**D. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage or the offense giving rise to such personal and advertising injury** takes place prior to the termination of such lease.

**E. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury, property damage or the offense giving rise to such personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
  - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - b. the construction, erection, or removal of elevators; or
  - c. the ownership, maintenance or use of any elevators covered by this insurance; or





**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

**I. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:

- a. the **Named Insured's** acts or omissions; or
- b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury or property damage** included within the **products-completed operations hazard**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. ADDITIONAL INSURED – EXTENDED COVERAGE**

When an additional insured is added by this or any other endorsement attached to this **Coverage Part, WHO IS AN INSURED** is amended to make the following natural persons **Insureds**.

If the additional insured is:

- a. An individual, then his or her **spouse** is an **Insured**;
- b. A partnership or joint venture, then its partners, members and their **spouses** are **Insureds**;
- c. A limited liability company, then its members and managers are **Insureds**; or
- d. An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are **Insureds**;

**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations.

Please see the **ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES** provision of this endorsement for additional coverage and restrictions applicable to **spouses** of natural person **Insureds**.

**4. BOATS**

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to add the following additional exception to the exclusion entitled **Aircraft, Auto or Watercraft**:

This exclusion does not apply to:

Any watercraft owned by the **Named Insured** that is less than 30 feet long while being used in the course of the **Named Insured's** inspection or surveying work.

**5. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**6. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

**7. BROAD NAMED INSURED**

**WHO IS AN INSURED** is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:

- a. on the effective date of this **Coverage Part**; or
- b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have





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provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
  - B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.
4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:
- a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
  - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

**8. CONTRACTUAL LIABILITY – RAILROADS**

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

**Insured Contract** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** you with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:



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- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

**9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES**

The estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** of any natural person **Insured** or living trust shall also be insured under this policy; provided, however, coverage is afforded to such estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided, however, that the **spouse** of a natural person **Named Insured**, and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

**10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

**Expected or Intended Injury**

**Bodily injury or property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury or property damage** resulting from the use of reasonable force to protect persons or property.

**11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION**

A. A separate Location General Aggregate Limit, equal to the amount of the General Aggregate Limit, is the most the Insurer will pay for the sum of:

- 1. All **damages** under **Coverage A**, except **damages** because of **bodily injury or property damage** included in the **products-completed operations hazard**; and
- 2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that location. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Location General Aggregate Limit of any other location.

B. All:

- 1. **Damages** under **Coverage B**, regardless of the number of locations involved;



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2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single location, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single location,

will reduce the General Aggregate Limit shown in the Declarations.

- C. For the purpose of this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision, "location" means:

1. a premises the **Named Insured** owns or rents; or
2. a premises not owned or rented by any **Named Insured** at which the **Named Insured** is performing operations pursuant to a contract or written agreement. If operations at such a location have been discontinued and then restarted, or if the authorized parties deviate from plans, blueprints, designs, specifications or timetables, the location will still be deemed to be the same location.

For the purpose of determining the applicable aggregate limit of insurance, premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad shall be considered a single location.

- D. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Location General Aggregate Limit or the General Aggregate Limit, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular location.
- E. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**, regardless of the number of locations involved, will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision shall continue to apply as stipulated.

**12. IN REM ACTIONS**

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

**13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE**

Solely with respect to **bodily injury** that arises out of a **health care incident**:

- A. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs 1.b.(1) and 1.b.(2) with the following:
- b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:
- (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
  - (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and



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This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

**ii. delete the exclusion entitled Contractual Liability and replace it with the following:**

This insurance does not apply to:

**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

**iii. to add the following additional exclusions:**

This insurance does not apply to:

**Discrimination**

any actual or alleged discrimination, humiliation or harassment, including but not be limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

**Dishonesty or Crime**

Any actual or alleged dishonest, criminal or malicious act, error or omission.

**Medicare/Medicaid Fraud**

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

**Services Excluded by Endorsement**

Any **health care incident** for which coverage is excluded by endorsement.

**C. DEFINITIONS is amended to:****i. add the following definitions:**

**Health care incident** means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

**a. professional health care services** on behalf of the **Named Insured** or

**b. Good Samaritan services** rendered in an emergency and for which no payment is demanded or received.

**Professional health care services** means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

**a. Physician;**





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- b. Nurse;
- c. Nurse practitioner;
- d. Emergency medical technician;
- e. Paramedic;
- f. Dentist;
- g. Physical therapist;
- h. Psychologist;
- i. Speech therapist;
- j. Other allied health professional; or

**Professional health care services** does not include any services rendered in connection with human clinical trials or product testing.

- ii. delete the definition of **occurrence** and replace it with the following:

**Occurrence** means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

- iii. amend the definition of **Insured** to:

- a. add the following:

the **Named Insured's employees** are **Insureds** with respect to:

- (1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and
- (2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's volunteer workers** are **Insureds** with respect to:

- (1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and
- (2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of **WHO IS AN INSURED**.

- D. The **Other Insurance** condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

**Other Insurance**

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- (1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

**14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES****A. Past Joint Ventures, Partnerships, Limited Liability Companies**

The following is added to **WHO IS AN INSURED**:

If the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense, first occurred after such termination date;
- b. the **bodily injury** or **property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude **bodily injury, property damage** or **personal and advertising injury** that would otherwise be covered under the **Architects, Engineers And Surveyors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

**B. Participation In Current Professional Joint Ventures**

The following is added to **WHO IS AN INSURED**:

The **Named Insured** is also an **Insured** for participation in a current joint venture that is not named on the Declarations, but only if such joint venture meets all of the following criteria:

- a. Each and every one of the **Named Insured's** co-venturers are architectural, engineering or surveying firms only; and
- b. There is no other valid and collectible insurance purchased specifically to insure the joint venture.

However, the **Named Insured** is an **Insured** only for the conduct of such **Named Insured's** business within such a joint venture. The **Named Insured** is not insured for liability arising out of the acts or omissions of other co-venturers, nor of their partners, members or employees.

**C. WHO IS AN INSURED** is amended to delete its last paragraph and replace it with the following:

Except as provided under this **Architects, Engineers And Surveyors General Liability Extension Endorsement** or by the attachment of another endorsement (if any), no person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations.



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- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **j. Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:

**j. Damage to Property**

**Property damage to:**

- (1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to the **Named Insured**;
- (4) Personal property in the care, custody or control of the **Insured**;
- (5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are **your work**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs (3) and (4) of this exclusion do not apply to **property damage to:**

- i. tools, or equipment the **Named Insured** borrows from others, nor
- ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is **mobile equipment** leased by an **Insured**;



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- c. property that is an **auto**, aircraft or watercraft;
- d. property in transit; or
- e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

- B.** Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions c. through n. do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

- C.** The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

- D.** Paragraph 6., Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to Paragraph 5. above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

- a. \$500,000; or
- b. The Damage To Premises Rented To You Limit shown in the Declarations.

- E.** Paragraph 4.b.(1)(a)(ii) of the **Other Insurance** Condition is deleted and replaced by the following:

- (ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

**16. LIQUOR LIABILITY**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.



**Architects, Engineers and Surveyors General Liability  
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**A. LIMITS OF INSURANCE** is amended to delete Paragraph 7. (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) \$15,000 unless a different amount is shown here: \$N,NNN,NNN,NNN; or

(2) the amount shown in the Declarations for Medical Expense Limit.

**B. Under COVERAGES, the Insuring Agreement of Coverage C – Medical Payments** is amended to replace Paragraph 1.a.(3)(b) with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

**18. NON-OWNED AIRCRAFT**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

**19. NON-OWNED WATERCRAFT**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

- (a) less than 75 feet long; and
- (b) not being used to carry persons or property for a charge.

**20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION**

**A. Under DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

**B. Under COVERAGES, Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:



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This insurance does not apply to:

**Knowing Violation of Rights of Another**

**Personal and advertising injury** caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
- (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

**Employment Related Discrimination**

discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

**Premises Related Discrimination**

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

Provision 1. **ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

**21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY**

- A. Under **COVERAGES, Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.
- B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**:

1. Paragraph **2.d.** is replaced by the following:

- d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorney's fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred





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by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

- C. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B – Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

**22. PROPERTY DAMAGE – ELEVATORS**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs (3), (4) and (6) of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.
- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**23. RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

**WHO IS INSURED** is amended to include as **Insureds** natural persons who are retired partners, members, directors or employees, but only for **bodily injury, property damage or personal and advertising injury** that results from services performed for the **Named Insured** under the **Named Insured's** direct supervision. All limitations that apply to **employees** and **volunteer workers** also apply to anyone qualifying as an **Insured** under this Provision.

**24. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**25. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**26. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage** or **personal and advertising injury** giving rise to the claim.

**27. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**

**Note:** The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

**A.** The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury, property damage, or personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor
2. **Bodily injury or property damage** included within the **products-completed operations hazard** that arises out of those portions of the project that are not **residential structures**.

**B.** Condition **4. Other Insurance** is amended to add the following subparagraph **4.b.(1)(c)**:

This insurance is excess over:

- (c)** Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the **Named Insured** as a result of the **Named Insured** being a participant in a **consolidated (wrap-up) insurance program**, but only as respects the **Named Insured's** involvement in that **consolidated (wrap-up) insurance program**.

**C. DEFINITIONS** is amended to add the following definitions:

**Consolidated (wrap-up) insurance program** means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

**Residential structure** means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, **residential structure** does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. **Residential structure** also does not include hospitals or prisons.





**CNA PARAMOUNT**

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This **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



**CITY OF FRANKLIN, TENNESSEE  
PROCUREMENT AGREEMENT**

**(City of Franklin Contract No. 2017-0292)**

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**Attachment No. 4**

**INDEMNIFICATION AGREEMENT**

# Indemnification Agreement

a form required of Bidders and Proposers on purchases of services for the  
**City of Franklin, Tennessee**

State of Tennessee )  
County of Shelby ) SS

On behalf of Bidder/Proposer, Nathan A Pera agrees that:  
(printed name of person signing Agreement)

1. He or she is the Chairman/Exec-VP of  
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)  
Waypoint Analytical, Inc.  
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. The Bidder or Proposer agrees to indemnify and save the Government of Franklin, the City of Franklin and individual, on or off duty, officers, and employees of the City of Franklin, harmless from any and all losses, damages and expenses, including court costs and attorneys' fees, by reason of any loss, whatsoever, arising out of or relating to or in consequence of the work done in connection with any contract, agreement, purchase order or other procurement to which this Agreement applies, excepting only such losses as shall be occasioned solely by the negligence of the City of Franklin; and
4. This Agreement is made on personal knowledge.

[Signature]  
(signature of person whose printed name appears above)

Chairman/Exec-VP  
(title of person whose printed name appears above)

Sworn and subscribed to before me this 28<sup>th</sup> day of December, 20 17  
[Signature] (Notary Public) My Commission Expires: 8-11-2018



(Submitted in response to City of Franklin Purchasing Office Solicitation No. 2018-001 2018-002)  
Form revised 12/12/2016