

22 Aug 2018

Brad Wilson | Facilities Project Manager
City of Franklin | City Hall
Franklin, Tennessee 37064

Professional Services Agreement City of Franklin City Hall Programming Report

We appreciate the opportunity to provide this proposal and are looking forward to working with you to provide this report which will project the spaces and departmental relationships for a new City Hall.

Consultant Team:

Architectural - James Kennon - AW
Programming – Jim McClaren – MWL
Economics Analysis - Randall Gross – RG/DE

SCOPE OF SERVICES:

We, along with our proposed project team of consultants, have developed the project scope of services as outlined in the attached exhibits.

FEES

Our fee for the above services is outlined on the attached sheet totally \$137,800 for proposed design services, excluding any reimbursable expenses.

SCHEDULE

Due dates to be developed after approval of phases

We appreciate the opportunity to provide you with this proposal. If all of this is satisfactory with you, please sign and return this form authorizing the Workshop to proceed with the design services as described.

Sincerely,

James Kennon
the architect **WORKSHOP**

22 Aug 2018
Date

Brad Wilson, City of Franklin Facilities Project Manager

Date

ATTACHMENTS

Terms and Conditions of Agreement
Exhibit A Professional Services Fees and Scope of Services

Terms and Conditions of Agreement

The following describe the terms and conditions of the professional services agreement between the architect **WORKSHOP**, pllc [the Architect] and **City of Franklin** [the Client] for the professional services as related to the scope of services described in the agreement to which these terms are attached.

ARCHITECT'S RESPONSIBILITIES:

The Architect shall provide the professional services as set forth in this agreement. The Architect shall perform services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect makes no other representations or warranties, whether expressed or implied, with respect to the services rendered hereunder. The Architect shall not be responsible for the Client's directives, or substitution, or Client's acceptance of non-conforming work, made without the Architect's acceptance.

CLIENT'S RESPONSIBILITIES:

The Client shall coordinate the services of their own consultants with those service provided by the Architect. The Client shall require that the consultants, retained by the Client maintain professional liability insurance as appropriate to the services provided. The Client shall furnish tests, inspections and reports required by law or the authorities having jurisdiction over the project. The Client shall maintain commercial general liability insurance and include the Architect as additional insured for claims caused in whole or in part by the Client's negligent acts or omissions during the course of the Project. The Client shall be solely responsible for the management and coordination of the construction of the project, and shall indemnify the Architect and its employees harmless from and against damages, losses and judgements arising from claims by third parties, including attorneys' fees and expenses recoverable under applicable law, but only to the extent they are not directly caused by the Architect's gross negligence or willful misconduct.

ACCESS TO THE SITE:

Unless otherwise stated, the Architect will have access to the site for activities necessary for the performance of the services. The Client understands that, the Architect is not responsible, in any way, for the means, methods, sequence, procedures, techniques, scheduling of construction, or jobsite safety, and will not be responsible for any losses or injuries that occur at the Project site, during construction. The Architect is responsible for the safe conduct of their employees while on Client's property. The Architect and its sub-consultants shall comply with Client's requirements for advance notice of invasive testing.

BILLINGS AND PAYMENTS:

The Architect's professional services invoices for services shall be submitted, on at least a monthly basis, Invoices are due when rendered and shall be considered past due if not paid within Thirty (30) days after issue date. If the invoice is not paid within thirty (30) days, the Architect may, without waiving claim or right against Client, and without liability whatsoever to the Client, terminate the performance of services.

Unpaid accounts may be subject to a monthly service charge of 1.5% of the unpaid balance (18.0% true annual rate), at the sole discretion of the Architect. In the event the account or any portion thereof remains unpaid sixty (60) days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

REIMBURSABLE EXPENSES:

Reimbursable Expenses are in addition to compensation for professional services, and include, but not limited to, expense of transportation, greater than 50 miles from the Architect's office, in connection with the project; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the project; expenses of reproduction of drawings, and specifications, and other documents; expenses for postage, and handling of drawings in connection with the project. These reimbursable expenses shall be billed as a multiple of 1.1 times the cost incurred by the Architect.

INSURANCE:

The Architect shall secure and endeavor to maintain insurance as identified below as related to the performance of professional services under this agreement. The Architect shall provide certificates and appropriate endorsements upon execution of this agreement, and require the minimum insurance coverage listed below of any sub-consultants. General liability and Automobile Liability Insurance minimum coverage amounts of \$1,000,000 each occurrence and general aggregate. Client will be named an additional insured on these policies with respect to this work. Professional Liability Insurance with minimum limits of \$1,000,000 per claim and \$1,000,000 annual aggregate. Statutory workers' compensation insurance, including employer's liability coverage with minimum limits of \$1,000,000 when legally required of the Architect or its sub-consultants. Neither the Architect, the Architect's consultants, nor their agents or employees shall be jointly, severally or individually liable to the Client, or Client's consultants, Client's Contractors, Staff or Agents in excess of \$10,000, by reason of any act or omission, including breach of contract or negligence not amounting to willful misconduct.

TERMINATION OF SERVICES:

This agreement may be terminated by the Client or the Architect upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this agreement through no fault of the party initiating the termination. In the event of termination not the fault of, the Architect, the Client shall compensate, the Architect for services performed prior to termination, together with the Architect's reimbursable expenses.

DISPUTE RESOLUTION:

All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or breach thereof shall be presented to non-binding mediation, in accordance with the Construction Industry Mediation Procedures. If the parties do not resolve a dispute through mediation, the dispute shall be resolved in a court of competent jurisdiction.

It is intended by the parties to this Agreement that the Architect's services in connection with the Project shall not subject the Architect's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, Client agrees that as Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against The Architect, a professional limited liability corporation, and not against any of The Architect's individual employees, officers or directors.

RISK ALLOCATION:

In recognition of the relative risks, rewards and benefits of the project to both the Client and the Architect, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit any and all liability or claim for damages, cost of defense, or expenses to be levied against the Architect, as well as its principal's, employees, and consultants to a sum not to exceed \$150,000 on account of any design defect, error, omission, or professional negligence. Further, the Client agrees to require any Contractor or Subcontractor who may perform work on the project, as a condition precedent to their performing the work, and the Owner, to agree to a like limitation of liability on their part against the Architect. In the event the Client fails to obtain a like limitation of liability provision as to design defects, errors, omissions, or professional negligence, any liability of the Architect to the Owner or such Contractor or Subcontractor arising out of a design defect, error, omission, or professional negligence shall be allocated between the Client and the Architect in such a manner that the aggregate liability of the Architect for such defect to all parties, including you, shall not exceed One Hundred Fifty Thousand Dollars (\$150,000). In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold the Architect harmless from any loss, claim or cost, including reasonable attorney's fees and costs of defense, arising or resulting from the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the contract documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of the Architect.

APPLICABLE LAW:

Unless otherwise provided, this agreement shall be governed by the law of the laws of the State of Tennessee. If any term or provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, such holding shall be applied only to the provision so held, and the remainder of this Agreement shall remain in full force and effect.

OWNERSHIP OF DOCUMENTS:

The Owner acknowledges the Architect's documents, including electronic files, as the work papers of the Architect and the Architect's instruments of professional service. Nevertheless, the final documents prepared and delivered to the Owner under this Agreement shall become the property of the Owner upon completion of the services and payment in full of all monies due to the Architect. The Owner agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Architect, its officers, directors, employees and sub-consultants (collectively, Architect) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the documents by the Owner or any person or entity that acquires or obtains the documents from or through the Owner. Transfer of the electronic files to the Owner, shall not limit the Architect's rights to use the documents in the marketing, business development or in any other manner.

Under no circumstances shall the transfer of ownership of the Architect's drawings, specifications, electronic files or other instruments of service be deemed a sale by the Architect, and the Architect makes no warranties, either express or implied, of merchantability and fitness for any particular purpose, nor shall such transfer be construed or regarded as any waiver or other relinquishment of the Architect's rights in any of the foregoing, as described by in section 102 of the 1990 Architectural Works Copyright Protection Act, absent the Architect 's express prior written consent.

An original design of a building created in any tangible medium of expression, including a constructed building or architectural plans, models, or drawings, is subject to copyright protection as an "architectural work" under section 102 of the Copyright Act (title 17 of the United States Code), as amended on December 1, 1990. Protection extends to the overall form as well as the arrangement and composition of spaces and elements in the design but does not include individual standard features or design elements that are functionally required.

PUBLICATION RECOGNITION:

The Client agrees to display during the construction period, temporary signage, as allowed by regulations of the municipality, noting the architect **Workshop** as the Architect for the work. The Client agrees to credit the Architect for design in all subsequent marketing publications, websites, etc. to the best of their ability.

Exhibit A
Professional Services Fees and Scope of Services
City of Franklin City Hall Programming Report

phases	Professional Team Members			Totals	% of fee
	AW	MWL	RG/DE		
data gathering deliverable - questionnaires, space standards, meetings and notes and demand driven space analysis meetings - kick off - webbased - onsite interviews multi-day tasks - prepare questionnaires, suggested office space standards, assemble background information provided by City and RG/DE	\$ 10,150 AW and MWL on-site for interviews	\$ 24,500 MWL lead majority of document preparations	\$ 5,900 Assess demographic, real estate, and employment trends and growth projections	\$ 40,550	29%
public input meeting with limited group of local stakeholders to allow design team to have perspective of city hall direct neighbors insights and concerns which could impact the space needs analysis - meeting to occur during onsite workshop for user groups of city hall - summary notes	see above	see above	see above Evaluate the potential for white box and/or rental space and uses for agencies and non-government		
analysis includes, team and client meetings - kick off meeting, interim report on findings, final presentation of findings and recommendations, Existing conditions assessments, Demand Driven Space Requirements - (mesh with MWL data gathering) External use and Income Generating Opportunities, ROI analysis, Recommendations	see below	see below	see below RG/DE lead economic analysis and report		
data synthesis deliverable 3-4 page spreadsheet summarizing findings of data gathering and public forum	\$ 2,650 AW - onsite presentation	\$ 10,950 MWL - tel-con	\$ 8,000 demand driven space analysis RG/DE on site	\$ 21,600	16%
the game plan Summary of findings of MWL, RG/DE and team in written and visual presentation deliverables written report, stacking diagram of overall site multi-page document - space needs, methodology, trends influences, designer guidelines, illustrated space standards, square footage spreadsheets, adjacency diagrams, growth milestones, demographic factors, technology needs	\$ 28,800 AW visual and synthesis of MWL findings	\$ 43,800 MWL - written documentation and includes on onsite presentation	\$ 3,050 RGE - review of findings for alignment with research findings	\$ 75,650	55%
total of fees	\$41,600	\$79,250	\$16,950	\$137,800	100%

assumptions

1. Assumption that on-site public workshops are deferred until schematic design phase of project
2. Assumption that game plan presentation is a single presentation by AW and MWL, any additional presentations would be conducted by AW. If MWL participation is required it would be an extra services with T&M fee.
3. **Long term demographic and external / economic forces evaluation** is RG/DE scope of services
MWL will project staffing needs based on growth projections furnished by RG/DE research

deliverables

1. Space needs will Utilize staffing projections (developed by RG/DE) and identify number of, and size of, rooms including offices and workstations (without drilling down into specifics of office equipment, files etc.)
2. bulk adjacency diagrams showing relationships of major spaces and departments to each other to accommodate desired relationships for work flow and
3. develop initial basic stacking plans based on space needs assessment for office and parking needs.
4. space needs based on space standards (space standards to be based on discussion with the City about space standards establishing roles and positions criteria for types of works space (who gets private offices, vs open offices, vs shared offices and open shared spaces)

exclusions

1. Preparation of detailed room data sheets (specifics of office equipment, files, etc.)
2. Preparation of highly detailed spreadsheets (won't say how many file cabinets etc.)
3. Prepare building and/or site concept plans, beyond the initial stacking concepts to validate space needs will "fit" on existing site
4. MWL budget for travel and hotel reimbursables - \$6,000 excluded from above fees