

COMMUNITY DEVELOPMENT DEPARTMENT

March 3, 2023

INTRODUCTION

The City of Beloit is seeking qualified proposals from a multi-disciplinary consulting team or professional planning firms in the development of an updated 2025-2045 Comprehensive Plan. A copy of the 2018 Comprehensive Plan Update may be downloaded in PDF format from the City's Document Center which can be found on the City's website under the Government section: <http://www.beloitwi.gov>. A folder was created called Comprehensive Plan RFP inside the Planning and Building Services folder in the Document Center.

The City invites you to submit a proposal no later than March 24, 2023 at 4:30 PM. The City is expecting consultants to provide their own ideas and insights. Responses to this RFP are to include innovative ideas for an effective full rewrite of the Comprehensive Plan, including the engagement of the public while drafting the new Comprehensive Plan. The Comprehensive Plan is a policy document that assists decision-making and administrative actions to guide the City of Beloit, but could take another form.

BACKGROUND INFORMATION

The beautiful and historic City of Beloit is located along Interstate 39/90, just north of the Wisconsin-Illinois border, with the City Center of Beloit located along the Rock River. The City is conveniently located about 100 miles northwest of Chicago, and about 50 miles south of Madison, Wisconsin. Beloit is also directly connected to Milwaukee via Interstate 43, which merges with I-39/90 in Beloit, forming a strategic transportation network in the nation's heartland.

As with many other older, grey-metal industrial cities, Beloit underwent significant economic distress during the 1970s and 1980s. By 1990, civic leadership, including the chief executive officers of many resident corporations, partnered with leaders of key financial institutions and Beloit College to form Beloit 2000 (now called Beloit 200), a visionary organization that spearheaded the City Center redevelopment. Beloit 200, working in partnership with the City, has transformed Beloit's Rock River frontage into a world class open space and recreation complex, heavily utilized throughout the year. Downtown renovations and continuing economic redevelopment are the hallmarks of the City's continuing rebirth. While new businesses relocate to Beloit and existing corporations expand and grow, the community continues to celebrate its rich heritage and cultural diversity. The local government, business leaders, and concerned residents are all working together to continue the urban renaissance which has transformed Beloit.

According to the US Census, Beloit is home to 36,609 residents and has experienced little population growth in the last few decades. However, new development and redevelopment opportunities continue to occur, and Beloit needs a new Comprehensive Plan to guide said development in a manner that preserves and protects Beloit's history, provides diverse housing and employment options, and preserves and grows Beloit's positive qualities and character. The Greater Beloit Economic Development Corporation recently commissioned a housing study which showed that there is a great demand for all types of housing in the Greater Beloit area. The City Council is focused on finding ways to specifically encourage and/or facilitate the development of

affordable housing. Finally, the City’s Boundary Agreement with the adjacent Town of Turtle has expired, and therefore, the Comprehensive Plan needs to be updated to reflect new areas for development on its eastside.

OVERVIEW OF SELECTION PROCESS

The successful consultant will be selected based on 1) Project Approach, 2) Public Engagement and Participation Plan, 3) Qualifications and Expertise and 4) Project Cost (see Evaluation Criteria below). The City will evaluate all proposals and select up to five (5) proposals to consider for an interview. Planning staff intends to interview selected consultants. Below is the proposed timeline, but the City reserves the right to modify this schedule as necessary. Once staff has selected a consultant, a steering committee will be established which will be involved in all planning sessions.

PROPOSED TIMELINE

RFP Released	March 3, 2023
Proposals Due	March 24, 2023
Evaluation Period by City	March 27-31, 2023
City of Beloit Consultant Interviews (optional)	Early to Mid-April 2023

PROJECT SCOPE OF REQUIRED SERVICES

The Consultant shall assist the City of Beloit with the development and adoption of a new “2025-2045 Comprehensive Plan”. The City is open to new and original ways to complete and update the Comprehensive Plan, such as the creation of webpage, digital story board, media and/or a traditional written plan that satisfies the requirements of the Wisconsin’s “Smart Growth” Comprehensive Planning legislation.

It is anticipated that the primary responsibilities of the Consultant include creating the planning process, obtaining feedback from public and stakeholders and preparing and developing a plan, webpage, etc. with written text, illustrations, maps, data, appendices, diagrams, etc. Consultant must specify any tasks the City is expected to complete as part of Comprehensive Plan development.

Below is an outline of the tasks necessary to complete the project.

Task 1: Public Participation Plan.

Develop a public participation plan to actively engage City of Beloit property owners, residents and businesses. Community feedback and buy-in is essential during the update of the City of Beloit’s Comprehensive Plan. The City is open to a combination of both in-person and online public engagement activities to engage the community for participation and input in the planning process. This plan may include, but is not limited to, the utilization of social media, radio, television, newspaper, website, mailing(s) and online surveys. The Consultant must demonstrate expertise and experience in the public participation and facilitation processes. Please describe recent experience in developing and managing visioning and public input. Special weight will be given to proposals with a multi-faceted approach to engagement that well represents all segments of Beloit’s population. Public outreach materials such as mailings and surveys will need to be in English and Spanish.

Task 2: Development of 2025-2045 Comprehensive Plan Elements.

The Consultant will perform an analysis of key plans/studies relevant to the updated Comprehensive Plan as well as the existing Comprehensive Plan, Zoning Ordinance, and Zoning Map. Other applicable development plans include the Downtown Redevelopment Plan (last updated in 2008), Bike and Pedestrian Plan (last updated in 2017), the Open Space and Recreation Plan (planned for an updated in 2023), and the Long-Range Transportation Plan (LRTP) (last updated in 2021). The Consultant will perform a detailed analysis of the City’s

existing Comprehensive Plan to suggest areas for streamlining, reduction in length/duplication, and overall improvement.

The Comprehensive Plan is to include all nine (9) elements of Wisconsin's "Smart Growth" Comprehensive Planning legislation as listed below. Elements may be separated and/or combined at the recommendation of the consultant. The Consultant is expected to update, revise, remove, and/or confirm existing goals, objectives/policies and recommendations for all elements. See Sec. [66.1001\(2\)](#), Wis. Stats. for a detailed description of the minimum requirements of each element listed below.

1. Issues and Opportunities.
2. Housing. The Greater Beloit Economic Development Corporation commissioned a Housing Study in winter 2021 and all data and/or documentation will be made available to the Consultant for inclusion in this element.
3. Transportation. In addition to the LRTP, a number of studies have been commissioned by the Metropolitan Planning Organization and will be made available to the Consultant.
4. Utilities and Community Facilities.
5. Agricultural, Natural and Cultural Resources.
6. Economic Development.
7. Intergovernmental Cooperation.
8. Land Use.
9. Implementation.

Task 3: Create the 2025-2045 Comprehensive Plan.

As stated previously, the City of Beloit is open to unique, creative ideas for the form of the 2025-2045 Comprehensive Plan. The City has looked into other forms including a webpage devoted to the Comprehensive Plan with an associated summary document, storyboarding, or a traditional written plan. If the Consultant proposes a non-traditional form, the expectation is for the Consultant to provide recommendations for how and/or where the information will be hosted and/or stored and how the Comprehensive Plan could be amended in the future. The City is not opposed to a traditional planning document; however, if this option is presented by the Consultant, the expectation is for a markedly more streamlined document than what exists today.

Task 4: Adoption.

The Beloit Plan Commission and City Council are responsible for the adoption of the 2025-2045 Comprehensive Plan. The City will draft the appropriate resolution and ordinance and guide the adoption process. The Consultant will attend meeting(s) associated with the adoption process, either in-person or remotely and make presentation(s) where appropriate regarding the plan.

City Staff Support Throughout Project.

The following are support items provided by City staff to the Consultant.

1. City staff to work closely with the Consultant to ensure that the Consultant is provided with a source of City input. The Consultant should include time for conference calls with staff every four (4) weeks or as needed to provide progress updates.
2. Act as City liaison to Steering Committee.
3. Review and/or edit all draft materials for the updated to the Comprehensive Plan.
4. Create and distribute Steering Committee meeting agendas and necessary materials.
5. Provide map layers that the City has in its GIS mapping system.
6. Assist with other mutually agreed upon tasks.

Project Deliverables.

The Consultant is expected to provide the following deliverables after adoption of the plan:

1. Electronic format(s) of final product of the 2025-2045 Comprehensive Plan (MS Office, PDF, digital media, webpage, etc.), which becomes the property of the City for future use and modification. GIS data will include shapefiles, geodatabase files, layer files, and map documents.
2. All other data and information that was collected through the process in digital copy.
3. All public participation materials.

Project Budget.

The City budgeted \$100,000 dollars for the preparation and completion of a 2025-2045 Comprehensive Plan including all data development, materials, meeting costs and deliverables. The budgeted amount is a preliminary estimate of cost and the final dollar amount will be dependent on the extent of tasks identified in the final scope of work in an executed contract.

Contact Person and Terms and Conditions for Making Proposal.

1. Inquiries from Consulting Firms:

Please use the contact information below for questions concerning this RFP.

Julie Christensen, Community Development Director

christensenj@beloitwi.gov

608-364-6703

2. Costs Incurred in Responding:

All costs, directly or indirectly related to the preparation of a proposal, including any oral presentations required to supplement and/or clarify a proposal, shall be the sole responsibility of the consultant. The City and all of its officers, agents and employees are not liable for any costs incurred by the Consultant(s) in replying to this RFP. The Consultant(s) shall solely bear entire costs for preparing and submitting proposal(s) in response to this RFP.

3. Response Instructions:

One (1) digital copy of the proposal to be returned in PDF format. Proposals directed to:

Julie Christensen, Community Development Director

christensenj@beloitwi.gov

4. No proposal shall be withdrawn for a period of thirty (30) days after the scheduled due date of the proposals without the consent of the City. Proposals and any related materials, which are received after the date and time stated above, will not be considered. Consultants are not permitted to contact anyone other than the contact person for clarification of the RFP. Any such contact may disqualify the consultant from evaluation.
5. It shall be understood any proposal and any/all referencing information and materials submitted in response to this RFP shall become the property of the City and will not be returned. The City reserves the right to use such proposal and other material or information and any of the ideas presented therein without cost to the City. The City will use discretion with regards to disclosure of proprietary information contained in any response, but cannot guarantee information will not be made public. The Vendor acknowledges that as a governmental entity, the City is subject to Wisconsin Public Records Law, Wis. Stat. § 19.21, et seq., which subjects the City to making records available for disclosure.

Proposals must be received by Friday, March 24, 2023 at 4:30PM.

Proposal Format and Requirements.

Proposals are to be organized in a way that cross-reference the requirements listed below. This information will be evaluated by the City. Within your proposal, describe how your firm will accomplish the scope and tasks outlined in this RFP and any scope modifications you may wish to include improving the efficiency and effectiveness of the process. There is no specific page limit specified for proposals, but consultants are highly encouraged to limit the proposal to necessary information requested while avoiding extraneous information. Elaborate displays and promotional materials are not necessary. Proposals are considered the City's property once submitted. Identify data that you will need from the City. The City will supply data to the selected consultant upon request, provided such data is currently compiled, in-house and available.

1. Cover Letter.

The cover letter should briefly summarize the Consultant's understanding of the Scope of Required Services. The letter should contain the name(s) and address(es) of the proposing consulting firm(s) and the contact person(s) authorized to answer technical, price, and contractual information.

2. Consulting Firm Background and Personnel Qualifications.

Provide an organization profile of the staff team that would provide services for the City and note the qualifications of key personnel (names, titles, skills as they relate to the Request).

3. Scope of Required Services.

Describe the proposed methodology, approach and tasks necessary to accomplish the items listed in the Scope of Required Services, which should include issue identification, public involvement, proposed meetings, etc. Additionally, describe what the City can expect to provide throughout the planning process related to public participation.

4. Proposed Timeline.

Provide a proposed timeline for final adoption of the Comprehensive Plan. Preference will be given to consultants that can complete the Plan by the end of 2023, with final approval in 2024. Provide a detailed breakout of the project timeline for the various steps in the process, including, but not limited to the delivery/implementation of the Public Participation Plan, review of plan elements, draft Comprehensive Plan to the Steering Committee and Plan Commission and final adoption by City Council.

5. Proposed Cost for Services Provided.

The proposed Cost for Services Provided shall include all required components referenced above and should detail all costs associated with the services to be provided including: a schedule of fees/hours assigned to each task and hourly rates for project personnel to be used as the basis for payment. Proposal should include payment terms, including timing of progress payments and list of deliverables and a "not to exceed" amount. Innovative ideas and additional services may be listed separately.

6. Related Project Experience and References from Similar Projects.

Provide a minimum of three (3) municipal references for similar projects (1-page maximum for each) that best illustrate the Consultant's ability to provide the requested services. Explain how these projects are similar to this Request and any anticipated differences. Provide client names, email addresses and telephone numbers. Key project personnel for the example past projects should be those assigned to this contract.

Evaluation Criteria.

1. Project Approach: The proposal suggests an innovative project approach and methodology to provide the requested services tailored to the City of Beloit. The consultant's understanding of the proposed project and familiarity with comprehensive planning concepts. (40 points)
2. Public Engagement and Participation Plan: The consultant's proposal illustrates a demonstrated ability to utilize effective and creative public engagement in the development of a Comprehensive Plan. (25 points)
3. Qualifications and Expertise: The consultant demonstrates capabilities and prior experience of proposed personnel in terms of technical competence of the consultant as well as comparable projects of similar-sized municipalities. (20 points)
4. Project Cost: The proposed budget should reflect an appropriate value for services as described in the project approach and methodology. (15 points)

Miscellaneous Provisions.

1. The City reserves the right to reject any or all proposals in whole or in part, with or without cause, and to accept all or part of that proposal which in its judgment best meets its need. The decision of the City shall be final.
2. Equal Employment Opportunity. The Consultant agrees that there will not be any discrimination as to race, sex, sexual orientation, religion, color, age, creed or national origin in regard to obligation, work, and services performed under the terms of any contract ensuing from this RFP.
3. Wisconsin Public Records Law. Both parties understand that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this RFP and corresponding contract are subject to and conditioned on the provisions of Wis. Stat. 19.21, et. seq. The proposer acknowledges that it is obligated to assist the City in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of the Agreement, and that the selected auditor must defend and hold the City harmless from liability under that law. Except as otherwise stated, those records shall be maintained for a period of seven years after receipt of final payment under this Agreement.
4. Termination of Contract for Cause. If through any cause, the chosen Consultant shall fail to fulfill in a timely and proper manner its obligations under the contract or if the Consultant shall violate any of the covenants, agreements or stipulations of the contract, the City shall thereupon have the right to terminate the contract by giving written notice to the Consultant of such termination and specifying an effective date thereof, at least five work days before the effect date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, reports or other material related to the services prepared by Consultant under this contract shall become the property of the City. Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of contract by the Consultant.
5. The City reserves the right to reject any proposal from any firm who has previously failed to perform properly or to complete on time contracts of a similar nature, who is not in a position to perform the contract, or who has habitually and without just cause neglected the payment of bills or otherwise disregarded their obligations to subcontractors or employees.
6. This RFP is conditioned on the availability of sufficient funds. If, during any stage of this RFP process, sufficient funds are not allocated and available for the proposed services, the RFP process will be cancelled. The City will notify Vendors at the earliest possible time if this occurs. The City is not under any obligation to compensate Vendor for any expenses incurred as a result of the RFP process. This RFP does not commit the City to award any contract nor to pay any costs incurred in the submission of a

proposal.

7. The City reserves the right to amend or withdraw this RFP at any time at its sole discretion prior to the due date of the RFP. If it becomes necessary to amend any part of the RFP, an addendum will be provided. Vendors must include acknowledgement of all addenda as part of the RFP. Any withdrawal is effective upon issuance of such notice.
8. The City will evaluate Proposals submitted in response to the RFP following the Proposal due date. If necessary, clarification of Proposals may be requested from Consultant(s).
9. Written Notice to Proceed will be issued to the selected Consultant after the contract and other necessary paperwork is complete. No work is to commence prior to the receipt of the Notice to Proceed, unless specifically requested by the City.
10. The instructions contained herein must be closely followed for the proposal to be considered under this RFP. If any of the submittal requirements are omitted or any exceptions to the contractual terms and conditions are taken, the City shall reserve the right to deem the proposal non-responsive. The City further reserves the right to reject any proposal if it is not in compliance with the required format.

Consultant Selection Procedure.

1. The City will promptly review the submitted proposals and notify the Consultant of additional actions or requirements (if any).
2. Consultant proposals will be evaluated by the City based on the Evaluation Criteria detailed above, along with references, compliance with proposal format and requirements and interview.
3. The City of Beloit has the right to negotiate or reject any and all submittals, waive any irregularities, re-issue all or part of this RFP and not award any contract, all at its discretion and without penalty.

General Contract Provisions

The award of work and the execution of formal Contract are expected within 45 days of the Proposal due date. Accompanying documents will include the contract, this RFP (including all attachments), any RFP addenda and revisions, the Proposal/bid of the successful Consultant, and additional terms agreed to in writing by the City and Consultant. Failure of the successful Consultant(s) to accept these as part of the Contractual Arrangement may result in a cancellation of payment(s) and or Contract(s). A draft copy of the standard City of Beloit Contract for Purchase of Services is included in this RFP (Appendix A attached separately).

Appendix A – City of Beloit Contract for Purchase of Services

City of Beloit
CONTRACT FOR PURCHASE OF SERVICES

Project Name: _____

This Contract is by and between the **City of Beloit**, a Wisconsin municipal corporation, referred to herein as the **City**; and _____, referred to herein as the **Consultant**. Together, the City and Consultant are referred to as the **Parties**.

The Consultant is a: Corporation Limited Liability Company General Partnership LLP
 Sole Proprietor Unincorporated Association Other:

State of organization: Minnesota

Recitals

The City has a need for consulting services in connection with the following Project:

PROJECT NAME

The Consultant is a respected, reliable and responsible construction engineering company.

The Consultant is willing to perform consulting services according to the Scope of Work stated in the Consultant’s Proposal, and to enter into a Contract for the completion of the Project.

Now, therefore, the City and the Consultant agree and contract as follows:

1. **SCOPE OF WORK.** The Consultant shall perform the following services according to the following schedule(s) or attachment(s): List all attachments here by name, and attach and label them accordingly.
Attached as: _____

Order of Precedence: In the event of a conflict between the terms of this Contract for Purchase of Services and the terms of any document attached or incorporated herein, the terms of this Contract for Purchase of Services shall control and supersede any such conflicting term.

2. **TERM AND EFFECTIVE DATE.** This Contract shall become effective upon execution by the City Manager, (or another City Official, if authorized) on behalf of the City of Beloit, unless another effective date is specified in the Attachment(s) incorporated in Section 1, however in no case shall work commence before execution by the City of Beloit.

The term of this Contract shall be until the scope of work (**Exhibit A**) as defined in Section 1 is completed.

3. **ENTIRE AGREEMENT.** This Contract for Purchase of Services, including any and all attachments, exhibits and other documents referenced in Section 1 (hereafter, “Agreement” or “Contract”) is the entire Contract of the parties and supersedes any and all oral agreements and negotiations between the parties. If any document referenced in Section 1 includes a statement that expressly or implicitly disclaims the applicability of this Contract for Purchase of Services, or a statement that such other document is the

“entire agreement,” such statement shall be deemed rejected and shall not apply to this Contract.

4. **AMENDMENTS TO CONTRACT.** This Contract shall be binding on the parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. This Contract may be amended only by written instrument signed by both parties. If in the reasonable judgment of the City, the scope or nature of the services to be performed by Consultant change or deviate materially from the scope or nature of the services described above, the City may, at its discretion, suspend performance of its services until a written agreement superseding this Contract and adjusting the scope, schedule, and terms and conditions has been executed. Where additional work is to be completed on a time and expense compensation, charges shall be in accordance with the fee schedule submitted with the Consultant’s Proposal.
5. **ASSIGNABILITY/SUBCONTRACTING.** Consultant shall not assign or subcontract any interest or obligation under this Contract without the City's prior written approval. All of the services required hereunder will be performed by Consultant and employees of Consultant. All terms, conditions, covenants and agreements herein shall extend to and be obligatory upon any successors or assigns of Consultant upon the execution of any written consent by the City.
6. **DESIGNATED REPRESENTATIVE.**
 - A. Consultant designates _____ as Contract Agent with primary responsibility for the performance of this Contract. In case this Contract Agent is removed for any reason, the Consultant will designate another Contract Agent within seven (7) calendar days of the time the first terminates his or her employment or responsibility using the procedure set forth in Section 17, Notices.
 - B. In the event of the death, disability, removal or resignation of the person designated above as the Contract Agent, the City may accept another person as the Agreement Agent or may terminate this Contract under Section 38, at its option.
7. **COMMENCEMENT AND PROGRESS.**
 - A. Services under this Contract shall commence upon written order from the City to the Consultant. This order will constitute authorization to proceed.
 - B. The Consultant shall complete the services under this Contract within the time for completion specified in the Scope of Services, including any amendments. The Consultant's services are completed when the City notifies the Consultant in writing that the services are complete and meet the Standard of Work in Section 8. Unless approved in writing by the City, the time for completion shall not be extended because of any delay attributable to the Consultant, but it may be extended by the City in the event of a delay attributable to the City, or in the event of unavoidable delay caused by war, insurrection, natural disaster, or other unexpected event beyond the control of the Consultant. If at any time the Consultant believes that the time for completion of the work should be extended because of unavoidable delay caused by an unexpected event, or because of a delay attributable to the City, the Consultant shall notify the City as soon as possible, but not later than seven (7) calendar days after such an event. Such notice shall include any justification for an extension of time and shall identify the amount of time claimed to be necessary to complete the work.
 - C. Services by the Consultant shall proceed in accordance with the Standard of Work in section 8 through completion of each phase of the work.

- D. Progress reports documenting the extent of completed services shall be prepared by the Consultant and submitted to the City with each invoice under Section 11 of this Contract, and at such other times as the City may reasonably specify.
- E. The Consultant shall notify the City in writing when the Consultant has determined that the services under this Contract` have been completed. When the City determines that the services are complete and meet the Standard of Work in Section 8, the City will provide written notification to the Consultant, acknowledging formal acceptance of the completed services.
8. **STANDARD OF WORK.** Consultant will perform the Work according to generally-accepted industry practices of the professions of the individual employees performing the Work for Consultant under similar circumstances at the same time and in the same locality.
9. **FEES AND PAYMENT.** Total fees payable to Consultant shall not exceed the amount of _____ for all services as defined, materials, equipment, and authorized reimbursable expenses under this Contract unless a written Amendment to Contract, signed by both parties, approves additional fees (**Exhibit A-1**). Any such additional fees shall be authorized prior to execution of such work. Consultant shall invoice the City monthly, as Work progresses. All invoices shall be payable net 30 days.
10. **EXTRA SERVICES.** The City may require the Consultant to perform extra services or decreased services, according to the procedure set forth in Section 11. Extra services or decreased services means services which are not different in kind or nature from the services called for in the Scope of Services, Section 1, but which may increase or decrease the quantity and kind of labor or materials or expense of performing the services. Extra services may not increase the total contract price, as set forth in Section 9, unless the Contract is amended as provided in Section 4 above.
11. **BASIS FOR PAYMENT.**
- A. General.
- (1) The City will pay the Consultant for the completed services meeting the Standard of Work in Section 8 rendered under this Contract on the basis and at the contract price set forth in Section 9 of this Contract. The City will pay the Consultant for completed and approved "extra services", if any, if such "extra services" are authorized according to the procedure established in Section 10. The rate of payment for "extra services" shall be the rate established in this Contract. Such payment shall be full compensation for services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the services.
- (2) The Consultant shall submit invoices, on the form or format approved by the City and as may be further specified in Section 1 of this Contract. The City will pay the Consultant in accordance with the schedule, if any, set forth in Section 1. The final invoice, if applicable, shall be submitted to the City within three months of completion of services under this Contract.
- (3) Should this Contract contain more than one service, a separate invoice and a separate final statement shall be submitted for each individual service.
- (4) Payment shall not be construed as City acceptance of services not meeting the Standard of Work in Section 8 improper materials.
- (5) Final payment of any balance due the Consultant will be made upon acceptance by the City of the services under the Contract and upon receipt by the City of documents

- required to be returned or to be furnished by the Consultant under this Contract.
- (6) The City has the equitable right to set off against any sum due and payable to the Consultant under this Contract, any amount the City determines the Consultant owes the City.
 - (7) Compensation in excess of the total Contract price will not be allowed unless authorized by an amendment under Section 4.
 - (8) The City will not compensate for services by the Consultant not meeting the Standard of Work in Section 8.

B. Service Orders, Extra Service, or Decreased Service.

- (1) Written orders regarding the services, including extra services or decreased services, will be given by the City, using the procedure set forth in Section 10.
- (2) The City may, by written order, request extra services or decreased services, as defined in Section 10 of this Contract. Unless the Consultant believes the extra services entitle it to extra compensation or additional time, the Consultant shall proceed to furnish the necessary labor, materials, and professional services to complete the services within the time limits specified in the Scope of Services, Section 1 of this Contract, including any amendments under Section 4 of this Contract.
- (3) If in the Consultant's opinion the order for extra service would entitle it to extra compensation or extra time, or both, the Consultant shall not proceed to carry out the extra service, but shall notify the City, pursuant to Section 17 of this Contract. The notification shall include the justification for the claim for extra compensation or extra time, or both, and the amount of additional fee or time requested.
- (4) The City shall review the Consultant's submittal and respond in writing, either authorizing the Consultant to perform the extra service, or refusing to authorize it. The Consultant shall not receive additional compensation or time unless the extra compensation is authorized by the City in writing.

12. **OWNERSHIP OF WORK PRODUCT.** Any reports, specifications, drawings, or other documents(deliverables) prepared by the Consultant in the performance of its obligations under this Contract shall become the property of the City upon payment in full of all monies due the Consultant. All such materials shall be returned to the City upon completion, termination, or cancellation of this Contract and payment in full of all monies due the Consultant. The Consultant shall not use, willingly allow, or cause such materials to be used for any purpose other than the performance of all Consultant's obligations under this Contract without the written consent of the City. The City agrees that the Consultant shall not be responsible for any re-use by the City, or by third parties that obtained the documents from or through the City, for purposes other than original intent of the documents provided by the Consultant.

13. **SAFETY.**

- a. Consultant shall comply with all applicable Occupational Safety and Health Administration (OSHA), State, and Local safety and health standards and any other applicable rules and regulations.
- b. Consultant's work or field personnel shall not be responsible for determining or implementing the means, methods, techniques, sequences or procedures of construction. Consultant will not be responsible for evaluating, reporting or effecting job conditions concerning health, safety or welfare, unless specifically requested in writing. Consultant's work or failure to perform same

shall not in any way excuse any contractor, subcontractor or supplier from performance of its work in accordance with contract documents.

14. **RECORD KEEPING.** Consultant shall keep all documents and records generated in the performance of the Work for no less than 7 years after completion of the Work, and shall make them available to the City at the City's request. Consultant acknowledges that such documents and records may be subject to Wisconsin's Open Records Law.
15. **COOPERATION BY CITY.** The City shall cooperate with the Consultant in the performance of the Work, and shall respond timely to all reasonable requests for information and access. Consultant may reasonably rely on the accuracy and completeness of information provided by or through the City, and shall not be liable for damages arising from reasonable reliance on such materials. Consultant shall promptly notify the City if Consultant discovers that any information or services furnished by the City is in error or is inadequate for its purpose.
16. **PARTIES ARE INDEPENDENT CONTRACTORS.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions.
17. **NOTICES.** All notices required by this Contract, and all other communications between the Parties, shall be addressed as follows:

To the City	Name:
	Address:
	City/ST/ZIP:
	Phone:
	Email:

To the Consultant	Name:
	Address:
	City/ST/ZIP:
	Phone:
	Email:

18. **GOVERNMENTAL IMMUNITIES AND NOTICE REQUIREMENT PRESERVED.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80 or any other law.
19. **PERMITS AND LICENSES.** Consultant shall be responsible, at Consultant's expense, for obtaining all permits and licenses required for the performance of the Work unless expressly agreed by the City.
20. **NO WAIVER.** No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or Consultant shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or Consultant therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

21. **NON-DISCRIMINATION.** The undersigned will not willfully discriminate against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. In the event any portion of this Contract is subcontracted by the undersigned, said subcontract shall include a provision prohibiting the subcontractor from discriminating against any qualified employee or qualified applicant for employment because of race, color, national origin, ancestry, religion, age, marital status, disability, sex, or sexual orientation. This provision is inserted herein in compliance with Section 1.09 of the Code of General Ordinances of the City of Beloit, and shall be interpreted so as to carry out the intent of said ordinance.

22. **INDEMNIFICATION.**

- a. Consultant hereby agrees to indemnify and hold harmless the City, its elected and appointed officials, officers, employees, and each of them, from and against suits, actions, legal or administrative proceedings, third-party tort claims, demands, damages, liabilities, interest, attorneys' fees, costs and expenses caused by negligent acts, errors, or omissions of Consultant or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on City, its elected and appointed officials, officers, and employees. The obligation to indemnify and hold harmless the City, its elected and appointed officials, officers, and employees, and each of them, shall be applicable except to the extent that liability results from the negligence of the City, its elected and appointed officials, officers, and employees.
- b. In the event that Consultant employs other persons, firms, corporations or entities (sub-contractor) as part of the work covered by this Contract, it shall be Consultant's responsibility to require and confirm that each sub-contractor enters into an Indemnity Agreement in favor of the City, its elected and appointed officials, officers, and employees, which is identical to this Indemnity Agreement.
- c. This indemnity provision shall survive the termination or expiration of this Contract.

23. **INSURANCE**

- a. Consultant shall not commence work under this Contract until it has obtained the insurance required herein. All coverages shall be with insurance carriers licensed and admitted to do business in the State of Wisconsin. All coverages shall be with carriers acceptable to the City. A minimum AM Best Rating of A-VII is required. To meet the Commercial General Liability requirements, Consultant may use a combination of Excess and Umbrella coverage.
- b. It is hereby understood and agreed that the insurance required by the City is primary coverage and that any insurance or self-insurance maintained by the City, its officers, council members, agents, employees or authorized volunteers will not contribute to a loss.
- c. *Worker's Compensation and Employers Liability Minimum Requirements as required by Statute:* Consultant shall cover or insure under applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the law in the State of Wisconsin. Consultant shall provide statutory coverage for work related injuries and employer's liability insurance with limits of \$100,000 each accident, \$500,000 disease policy limit and \$100,000 disease each employee.
- d. *Liability Insurance:* Consultant shall procure and maintain during the life of this Contract the following Commercial General Liability Insurance and Automobile Liability insurances:

- i. PROFESSIONAL LIABILITY (Errors and Omissions)
 - (a) Minimum Limits
 - i. \$2,000,000 each claim/\$2,000,000 annual aggregate
 - (b) Must continue coverage for 3 years after final payment for service/job

- ii. GENERAL LIABILITY COVERAGE
 - a. Commercial General Liability
 - i. \$2,000,000 general aggregate
 - ii. \$1,000,000 products - completed operations aggregate
 - iii. \$1,000,000 personal injury and advertising injury
 - iv. \$2,000,000 each occurrence limit
 - b. Claims made form of coverage is not acceptable.
 - c. Insurance must include:
 - i. Premises and Operations Liability
 - ii. Blanket Contractual Liability including coverage for the joint negligence of the City, its officers, council members, agents, employees, authorized volunteers and the named insured
 - iii. Personal Injury
 - iv. Explosion, collapse and underground coverage
 - v. Products/Completed Operations
 - vi. Independent Contractors

- iii. BUSINESS AUTOMOBILE COVERAGE
 - a. Minimum Limits - \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage each accident
 - b. Must cover liability for "Any Auto" - including Owned, Non-Owned and Hired Automobile Liability

- e. *Additional Insured:* Consultant shall name the City, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers as Additional Insured on the General Liability Coverage. This coverage shall be primary to the Additional Insured, and not contributing with any other insurance or similar protection available to the Additional Insured, whether other available coverage is primary, contributing or excess.

- f. *Waiver of Workers Compensation Subrogation:* The workers' compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of the policy that arises from the work performed by the named insured for or on behalf of the City.

- g. *Cancellation Notice:* All insurances required by this Contract shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Ten (10) days for Non-Renewal shall be sent to: City of Beloit; Attn: Risk Management; 100 State Street; Beloit, WI 53511.

- h. *Proof of Insurance Coverage:* Consultant shall provide to the City, at the time this Contract is returned for execution, Certificates of Insurance and/or policies, acceptable to the City. If so

requested, certified copies of any or all policies shall also be furnished. The Additional Insured Policy endorsement must accompany the Certificate of Insurance. A copy of the Certificate of Insurance must be on file with Risk Management. If no Certificates of Insurance and/or policies are provided to the City upon execution of this Contract, the Contract shall be null and void.

- i. *Continuation of Coverage:* If any of the above coverage expires during the term of this Contract, the Consultant shall deliver renewal certificates and/or policies to the City at least ten (10) days prior to the expiration date.

24. **LIMITATIONS ON CONSULTANT'S LIABILITY.** The City hereby agrees that to the fullest extent permitted by law, Consultant's total liability to the City for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the services performed under this Contract from any cause or causes including but not limited to, Consultant's negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not exceed five hundred thousand dollars (\$500,000). In the event the City desires limits of liability in excess of those provided in this paragraph, the City shall advise Consultant in writing and agree that Consultant's fee shall increase by 1% for each additional five hundred thousand dollars of liability limits, up to a maximum limit of liability of five million dollars (\$5,000,000).

Neither party shall be liable to the other for consequential damages, including, without limitation, lost rentals, increased rental expenses, loss of use, loss of income, lost profit, financing, business and reputation and for loss of management or employee productivity, incurred by one another or their subsidiaries or successors, regardless of whether such damages are foreseeable and are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

25. **THIRD PARTY RIGHTS.** This Contract is intended to be solely between the parties hereto. No part of this Contract shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits, or privileges of any third party or parties, including but not limited to employees of either of the parties.
26. **AUDIT AND RETAINING OF DOCUMENTS.** The Consultant agrees to provide all reports requested by the City including, but not limited to, financial statements and reports, reports and accounting of services rendered, and any other reports or documents requested as they relate to the performance of services under the terms of this Contract. Financial and service reports shall be provided according to a schedule (when applicable) to be included in this Contract. Any other reports or documents shall be provided within five (5) working days after the Consultant receives the City's written requests, unless the parties agree in writing on a longer period. Payroll records and any other documents relating to the performance of services under the terms of this Contract shall be retained by the Consultant for a period of three (3) years after completion of all work under this Contract, in order to be available for audit by the City or its designee.
27. **CORPORATE AUTHORIZATION.** The individuals executing this Contract on behalf of the Consultant warrant and represent that they are duly authorized to bind the Consultant to this Contract. Consultant warrants and represents that the execution of this Contract is not prohibited by the Consultant's articles of incorporation, by-laws, operating agreement, or other internal operating orders, or by any applicable law, regulation or court order. Consultant shall provide proof upon request.

28. **ASSISTANCE OF COUNSEL, VOLUNTARY AGREEMENT.** The Consultant acknowledges that it has either had

the assistance of legal counsel in the negotiation, review and execution of this Contract, or has voluntarily waived the opportunity to do so; that it has read and understood each of this Contract's terms, conditions and provisions, and their effects; and that it has executed this Contract freely and not under conditions of duress.

29. **ADEQUACY OF CONSIDERATION.** The Parties acknowledge that the consideration expressed in this Contract is adequate and sufficient to make the obligations contained in this Contract binding upon the Parties.
30. **COSTS OF ENFORCEMENT.** If either party institutes legal proceedings against the other based upon a cause of action arising out of the Contract, each party shall be responsible for its own costs and expenses incurred by in in such proceedings, including attorneys' fees, unless another provision of this Contract provides otherwise.
31. **SEVERABILITY.** If any term of this Contract is held unenforceable by a court having jurisdiction, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it will be so severed, and the remainder of this Contract will remain in effect and enforceable.
32. **SURVIVAL AND PARTIES BOUND.** Unless specifically limited in this Contract, any term, condition or provision of this Contract will survive the execution of this Contract or any stated time periods, to the extent necessary for their performance. This Contract is binding upon, and inures to the benefit of, the Parties' successors, assigns, heirs, executors, trustees and personal representatives.
33. **GOVERNING LAW AND JURISDICTION.** This Contract will be construed and enforced according to the laws of Wisconsin. Any dispute between the City and Consultant arising out of or relating to this Contract or services provided under this Contract shall be submitted to nonbinding mediation as a precondition to litigation unless the parties mutually agree otherwise. Mediation shall occur withing 60 days of a written demand for mediation unless the City and Consultant mutually agree otherwise. Any dispute not settled through mediation shall be settled through litigation in the state Circuit Court for Rock County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.
34. **INTEGRATION.** This Contract constitutes the entire agreement of the Parties formed by the City's RFP and the Consultant's responsive proposal; however, if any ambiguity in this Contract requires resolution, or this Contract is silent on a material point, then reference may be made to the Consultant's proposal to construe this Contract. All other agreements and understandings of the parties with respect to the subject matter expressed in this Contract are unenforceable.
35. **COMPLIANCE WITH APPLICABLE LAWS.** The Consultant shall become familiar with, and shall at all times comply with and observe all federal, state, and local laws, ordinances, and regulations which in any manner affect the services or conduct of the Consultant and its agents and employees.
36. **CONFLICT OF INTEREST.**
 - A. The Consultant warrants that it and its agents and employees have no public or private interest, and will not acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the services under this Contract.
 - B. The Consultant shall not employ or contract with any person currently employed by the City for any services included under the provisions of this Contract.

37. **PUBLIC RECORDS LAW.** Consultant understands that the City is bound by the Wisconsin Public Records Law, Wis. Stat. § 19.21, *et seq.* Pursuant to Wis. Stat. § 19.36(3), the City may be obligated to produce, to a third party, the records of the Consultant that are “produced or collected” by the Consultant under this Contract (“Records”). The Consultant is further directed to Wis. Stat. § 19.21, *et seq.*, for the statutory definition of Records subject to disclosure under this paragraph, and the Consultant acknowledges that it has read and understands that definition. Irrespective of any other term of this Contract, the Consultant is (1) obligated to retain Records for seven (7) years from the date of the Record’s creation, and (2) produce such Records to the City if, in the City’s sole determination, the City is required to produce the Records to a third party in response to a public records request. Consultant’s failure to retain and produce Records as required by this paragraph shall constitute a material breach of the Contract, and Consultant must defend and hold the City harmless from liability due such breach. The provisions of this paragraph shall survive the term of this Contract, or any extensions or renewals of it.
38. **CONFIDENTIALITY.** Consultant agrees not to use or disclose any information it receives from the City under this Contract that the City has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by the City. The City agrees not to disclose any information it receives from the Consultant, that the Consultant has previously identified as confidential and which the City determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the Wisconsin Open Records Law pursuant to Wis. Stat. § 19.21 *et seq.* The duty of the City and the Consultant to maintain confidentiality of information under this section continues beyond the term of this Contract, or any extensions or renewals of it.
39. **DEFAULT/TERMINATION.**
- A. In the event Consultant shall default in any of the covenants, agreements, commitments, or conditions herein contained, and any such default shall continue unremedied for a period of ten (10) days after written notice thereof to Consultant, the City may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Consultant, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Contract and all rights of Consultant under this Contract. Consultant shall be paid for all Work completed as of the date of termination.
- B. Notwithstanding paragraph A., above, either party may terminate this Contract without cause by giving written notice of termination to the other party, with termination to occur no sooner than 20 days after delivery of the notice. Upon termination, Consultant shall be paid for all Work completed as of the date of termination.
40. **AGREEMENT NOT TO BE CONSTRUED AGAINST ANY PARTY.** This Contract is the product of negotiation between the parties hereto and no term, covenant or provision herein or the failure to include a term, covenant or provision shall be construed against any party hereto solely on the basis that one party or the other drafted this Contract or any term, covenant or condition contained herein.
41. **COUNTERPARTS, ELECTRONIC DELIVERY.** This Contract may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Contract may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Contract may be delivered by facsimile or

email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Contract, fully executed, shall be as valid as an original.

Signature Page to Follow

IN WITNESS WHEREOF, the parties hereto have set their hands.

Date: _____

Date: _____

CITY OF БЕЛОIT

CONSULTANT

By: _____
(Signature)

Contracting Entity

By: _____
(Signature)

APPROVED AS TO FORM:

(Print Name and Title of Person Signing)

By: _____
Gwanny J. Tjoa, Assistant City Attorney