



**City of Wentzville**  
**Kimberly Butts, CPPO, Director of Procurement**  
**310 West Pearce Boulevard**  
**Wentzville, Missouri 63385**  
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**(636) 639 - 2005**

**REQUEST FOR PROPOSALS NO. #17-102**  
**RECREATION CENTER FEASIBILITY STUDY**

Solicitation Issue Date:  
February 13, 2017

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## SECTION 1. PURPOSE, BACKGROUND AND OBJECTIVES

The purpose of this Request for Proposals (“RFP”) is to obtain proposals from qualified firms to conduct and prepare a needs assessment and feasibility study so the Wentzville community can determine whether to proceed with planning, funding and creating an indoor Multi-generational Recreation Center (“Center”). The plan should create a roadmap for ensuring an appropriate balance of indoor recreational facilities and amenities throughout the community now and into the future. The City is seeking a system-wide approach to evaluating current recreational facilities and amenities in order to develop goals, policies, program pricing methodology and guidelines along with achievable strategies.

Wentzville was founded in 1855 and incorporated as a fourth class city in March 1872 and the government is composed of an elected Mayor and six aldermen, with an appointed city administrator. The City of Wentzville has been one of the fastest growing communities in the State of Missouri for the last decade and currently has an estimated population of 38,830. Wentzville is located in western St. Charles County and is 42 miles (43 minutes) west/northwest of downtown St. Louis City. The corporate city limits includes approximately 20 square miles.

As of the census<sup>1</sup> of 2010, there were 29,070 people, 9,767 households, and 7,852 families residing in the City. The population density was 1,456.4 inhabitants per square mile. There were 10,305 housing units at an average density of 516.3 per square mile. The racial makeup of the city was 89.9% White, 6.0% African American, 0.3% Native American, 1.2% Asian, 0.8% from other races, and 1.9% from two or more races. Hispanic or Latino of any race were 2.7% of the population.

There were 9,767 households of which 51.5% had children under the age of 18 living with them, 65.3% were married couples living together, 11.1% had a female householder with no husband present, 4.0% had a male householder with no wife present, and 19.6% were non-families. 15.6% of all households were made up of individuals and 5% had someone living alone who was 65 years of age or older. The average household size was 2.96 and the average family size was 3.31. In 2015, the median household income of Wentzville residents was \$73,253.

The median age in the city was 35.2 years. 33.7% of residents were under the age of 18; 6.2% were between the ages of 18 and 24; 33.7% were from 25 to 44; 19% were from 45 to 64; and 7.5% were 65 years of age or older. The gender makeup of the city was 48.5% male and 51.5% female.

The City of Wentzville operates eleven developed parks comprising of 259.83 acres; five facilities: Progress Park Recreation Center, Splash Station Aquatic Center, Kolb Building, Wentzville Banquet Center, and Green Lantern Senior Center; and 8 miles of formal trails. There are also several school facilities owned by the Wentzville School District that the City has access to for programming. Various outdoor recreation opportunities are available at City and County parks within the Wentzville service area. It is the belief of the City that a new multi-generational facility is a much needed amenity in Wentzville. One of the top community amenities identified by respondents to the 2016 Parks and Recreation Master Planning Survey is some form of community recreation center facility. Survey respondents also indicated a willingness to pay additional taxes and fees to support such an amenity.

Wentzville has very limited fitness opportunities with three private fitness facilities: Planet Fitness, Club Fitness, and Rhino Hybrid. None of these cater to families. The Progress Park Recreation Center has a small gym and approximately 25 pieces of cable and free weight equipment. The Green Lantern Senior Center has outgrown its current facility and has been looking to expand facilities and programming opportunities for several years. Lack of facilities and space is also limiting the potential programs, services, and opportunities of the Wentzville Parks and Recreation Department.

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<sup>1</sup> “American FactFinder”. United States Census Bureau. Retrieved 2012-07-08.

The objectives for the study are as follows:

1. Engage the community and conduct necessary research and analysis to identify and evaluate community need for an indoor facility, including evaluating current recreational facilities in and around the Wentzville community and determining the geographic draw area of the Center; (engagement to include but not be limited to: review of 2016 survey results on this issue, interviews with Mayor, Board of Aldermen members, Parks and Recreation Board members, Friends of the Wentzville Parks, key staff, a community open house and/or charrette, and/or other alternative engagement as proposed and recommended);
2. Assess partnership opportunities, including identification of collaborative partners in the public, private and not-for-profit sectors, and how such partnerships impact the funding and operation of an indoor facility;
3. If an indoor facility is needed, determine several scoping options regarding facility and program scope, size, features and amenities, and prepare an initial cost estimate for each option, broken down by facility features and amenities; (scoping options should include a comprehensive community/recreation center and a minimal center as “book-ends” along with two or three other scoping options in between)
4. Prepare an operating pro forma detailing anticipated center programming issues and costs for several programming options, considering viable partnership opportunities;
5. Prepare an operating pro forma detailing anticipated operational and maintenance issues and costs for several operations and maintenance options, considering viable partnership opportunities. The pro forma should also include an analysis of attendance estimates, fee structures (drop in, annual passes, rentals, etc.), revenue generation projections, operation cost projections, and long term capital replacements/improvements;
6. Evaluate potential sites on City owned property and provide recommendations for site characteristics and options regarding a suitable site for an indoor facility; (a minimum of two or three sites)
7. Recommend and detail possible funding mechanisms and partnerships to build, operate and maintain an indoor facility, including but not limited to utilization of new taxing bodies.
8. A final report to the City, including a joint work session with the Board of Aldermen/Park and Recreation Board.

The scope of services for this project is limited to performing a needs assessment and determining whether an indoor facility is feasible for the Wentzville community, and, if so, the size and amenities to include in such a facility and how the Center may be funded and operated. The project is not expanded beyond the needs assessment and feasibility study; thus, at this point, there is no request for architectural renderings or other information beyond a feasibility study as detailed herein. At this time, there is no commitment by the City to build an indoor facility.

## SECTION 2. SUBMISSION OF PROPOSALS

Submittals shall be not more than twenty (20) single-sided pages total in length; transmittal letter, table of contents, resumes, and Non-Collusive Form are not included in the page count. Five (5) hard copies and one (1) electronic copy (thumb drive) shall be submitted, in a sealed envelope or package.

RFP Due: March 22, 2017, 2:00 p.m. prevailing Central time

Location: City of Wentzville  
RFP #17-102  
Attn: Procurement Department  
310 West Pearce Blvd  
Wentzville, MO 63385

Contact: Alice Winkelman, CPPB, Senior Procurement Specialist  
Phone: 636-639-2026 E-mail: [alice.winkelman@wentzvillemo.org](mailto:alice.winkelman@wentzvillemo.org)

**ALL QUESTIONS SHOULD BE TRANSMITTED VIA E-MAIL**

### TIMELINE

1. Publish the Request for Proposals – February 13, 2017
2. Deadline for Questions – March 10, 2017
3. City's Response to Questions – March 14, 2017
4. RFP due to City by March 22, 2017
5. Interviews with selected Firms – Week of April 3, 2017
6. Board of Aldermen Meeting – April 26 or May 10, 2017

NOTE: This schedule is subject to change.

### SECTION 3. SUBMITTAL REQUIREMENTS

The proposal shall include:

1. Transmittal letter containing Firm name, address, telephone number and contact person(s) email address; company profile including number of years in business; and a description of your understanding of the scope and nature of the project and services to be provided to achieve the objectives described above.
2. A detailed description of your approach and the methodology proposed for the project, including a preliminary list of potential public, private and not-for-profit sector partners to be engaged as part of the assessment.
3. Project team and organization. Provide background information for the project manager and key staff members' (including subconsultants) experience and qualifications as they relate to parks and recreation planning and the project team's current workload. Please also include an organizational chart. Limit submittal of resumes to the two persons who will be most closely involved with this project.
4. References. List of organizations that have used the Firm's services on recent similar projects, with contact names and contact information.
5. Scope of services/Work Plan. Describe your firm's process, planning methodology, and approach for the project. Indicate how your process and approach will accomplish the project objectives. Describe the work plan for all interested components within the scope of services and proposed method of establishing capital costs and projected operating expenses. Provide a work plan that consists of a list of tasks; staff assigned to each task; hourly rate for each staff member; estimated hours for each task; project schedule; and identification of final work products.
6. A description of previous experience with preparation of feasibility studies for recreation and community centers, including: community engagement, community center needs assessment and feasibility analysis, facility cost estimating, program planning, economic forecasting for usage and program revenues, and funding and operations and maintenance options analysis. Descriptions should include whether the facilities were developed and should also highlight feasibility studies performed and/or recreation and community centers developed in communities similar to Wentzville. Experience in conducting feasibility studies and/or development of recreation centers that were developed, financed and/or operated through a collaboration of public, private and not-for-profit organizations should be highlighted.
7. A description of previous experience in recommending and developing funding models requiring a collaboration of public, private and not-for-profit funds and/or organizations, and experience assisting communities in the development of new taxing bodies, such as Metropolitan Parks Districts.
8. An electronic copy (thumb drive) of the proposal must be submitted along with five (5) hard copies.
9. Fee Schedule/Compensation. Provide a not-to-exceed total price as well as hourly rates for each member of the project team.
10. Non-Collusive Form, completed.
11. Firms may include relevant information or methods not specifically requested by this RFP.
12. Exceptions. Statements of any exceptions to the Request for Proposal (RFP) requirements, the agreement, terms and conditions, or insurance requirements. Such exceptions will be considered during proposal evaluations. If a Firm takes no exceptions, a statement to that effect shall be included in its proposal.

## SECTION 4. SCOPE OF SERVICES

To provide an element of uniformity, each firm is asked to consider the following information when developing their work plan for this project. Professional services will include, but are not limited to the following:

1. Perform Project Overview
  - a. Review existing documentation (2004 & 2016 Parks and Recreation Master Plans, 2016 Community Satisfaction Survey, various site specific planning document)
  - b. Meet with project team and stakeholders
  - c. Identify constraints and parameters
    - i. Assess purpose and goals
    - ii. Local market economy
    - iii. Preferred site
    - iv. Ability to fund the project
2. Market Analysis
  - a. Service area identification
  - b. Demographic characteristics, community profile
  - c. Review of existing community facilities, programs and services
  - d. Competitive market analysis
  - e. Market segment determination and analysis
3. Citizen Participation Plan
  - a. Review any existing research
  - b. If needed, a random survey of potential users
  - c. Conduct community meetings
    - i. Determine community satisfaction with current services and facilities
    - ii. Identify and confirm priorities for future recreation services and facilities
    - iii. Assess willingness and ability to pay
  - d. Conduct stakeholders interviews
  - e. If needed conduct focus groups
  - f. Compile and interpret all information gathered
4. Review Preliminary Findings with City
5. Conceptual Layout and Design
  - a. Site plan, Master plan
  - b. Spatial relationship of programs
  - c. Phasing plan
  - d. Conceptual design plans, perspectives
  - e. Consideration for sustainable design concepts and LEED principles
  - f. Recommendation to repurpose existing Progress Park Recreation Center
6. Project Capital Cost Estimate
  - a. Site limitations and opportunities
  - b. Site preparation and infrastructure costs
  - c. Construction costs
  - d. Equipment costs and startup costs
  - e. Soft cost estimates
  - f. Total project cost estimates
7. Operation Analysis
  - a. Attendance estimates
  - b. Fee Structure: Drop in, annual membership, rentals, etc.
  - c. Revenue generation projections
    - i. Identification and verifications of revenue sources
    - ii. Revenue by programs, facility rentals, etc.
  - d. Operating cost projections

- i. Identification and verification of potential costs
    - ii. Cost of personnel, utilities, capital replacement etc.
  - e. Revenue and expenditure comparison
    - i. Pro Forma
    - ii. Program and cost consideration
- 8. Partnerships
  - a. Analysis of potential partners and cost/benefits analysis of realistic partnering opportunities
  - b. Identify and determine the feasibility of partnering with a medical provider
- 9. Draft Report
  - a. Review draft report with Parks and Recreation Board
  - b. Review draft report with City Board of Aldermen
  - c. Release draft report to the Public
  - d. Incorporate Board and Public Comments
- 10. Final Report
  - a. Written final report
  - b. Business plan reflecting possible phased approach of facility and program implementation
  - c. Conceptual drawings reflecting possible phased approach to construction
  - d. Presentation of report to community leaders

## SECTION 5. OFFER AND SCHEDULE OF FEES

The undersigned has thoroughly examined the entire RFP, including all addenda thereto, hereby offers to furnish all services in accordance with the requirements of the Request for Proposal, as described in the proposal attached hereto and incorporated herein.

*FIRM TO ATTACH THEIR NOT-TO-EXCEED TOTAL PRICE, AND HOURLY RATES:* Provide a work plan that consists of a list of tasks; staff assigned to each task; hourly rate for each staff member; estimated hours for each task, and total no-to-exceed price.

Date: \_\_\_\_\_

Legal  
Company Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Fax: \_\_\_\_\_

Email address: \_\_\_\_\_

Federal Tax ID No.: \_\_\_\_\_

State in which Company is incorporated: \_\_\_\_\_

State Business/Charter Number: \_\_\_\_\_

## **SECTION 6. EVALUATION CRITERIA AND SELECTION PROCESS**

The criteria used to select a Firm include the following factors:

- A. Quality and responsiveness of the proposal. (10 points)
- B. Ability, capacity, and experience of the Firm to perform the services; qualifications of staff proposed for the project. (25 points)
- C. Firm's processes, services to be provided, approach, methodology, and schedule (30 points)
- D. Price to provide the services requested. (25 points)
- E. Responses to the Firm's references. (10 points)

The City will review and evaluate the proposals based on the evaluation criteria above. Firms may be selected for interviews or questioned for clarification. However, the City may choose to proceed without interviewing any Firms

## **SECTION 7. CONTRACT NEGOTIATION PROCESS**

Upon final ranking of the Firms, City staff may negotiate an Agreement with the selected Firm. If the City is unable to reach agreement with the selected Firm, the City will begin negotiations with other Firms, until an agreement satisfactory to the City is reached. The final agreement will be presented to the Wentzville Board of Aldermen for approval.

If any Firm fails to negotiate in a timely manner, does not negotiate in good faith, or cannot perform the scope of services for the Project, the City may cancel negotiations with that Firm. If the City deems there is no Firm that is viable, it may cancel the solicitation. All aspects of the scope of work and pricing may be subject to negotiation.

## SECTION 8: MISCELLANEOUS

### A. Solicitation Schedule:

The following schedule of events is anticipated by the City. The City may, at its' discretion, revise the schedule of events at any time as may be in the best interests of the City.

Publish the Request for Proposal	February 13, 2017
Deadline for Questions	March 10, 2017
City's Response to Questions	March 14, 2017
Proposals Due Date	March 22, 2017

### B. Questions Regarding Scope of Services or Proposal Process:

To ensure fair consideration for all Firms, the City prohibits communication to or with any department, board members, or employee during the submission process, except as provided below. Additionally, the City prohibits communications initiated by a Firm to the City official(s) or employee(s) evaluating or considering the proposals prior to the time an award decision is made. Any communication between Firm and the City will be initiated by the appropriate City Official(s) or employee(s) in order to obtain information or clarification needed to develop a proper, accurate evaluation of the proposal. Such communications initiated by a Firm may be grounds for disqualifying the offending Firm from consideration for award of the proposal and/or any future proposal(s).

- C. Any questions relative to interpretation of scope of services or the proposal process shall be addressed to the City's Procurement Department (See Contact, Page 5) in writing by the deadline specified in the RFP. No inquiries, if received after the deadline set for receipt of questions may be given any consideration.

### D. Addenda:

If it becomes necessary to revise or amend any part of this Request for Proposal, the Procurement Department will post the revision by written Addendum to the Request for Proposal on the City's website

[http://www.wentzvillemo.org/departments/procurement/current\\_bidding\\_opportunities.php](http://www.wentzvillemo.org/departments/procurement/current_bidding_opportunities.php). It is the Bidder's responsibility to check for any issued addendums prior to submitting their proposal.

- E. This solicitation is a Request for Proposals therefore there is no public opening nor will the names of the Firms be read.

- F. The City reserves the right, in its sole discretion, to reject any or all proposals, or portions thereof, to waive technicalities or deficiencies in any or all the proposals. The City of Wentzville reserves the right to cancel this RFP in part or in its entirety.

### G. City Logo:

In accordance with City of Wentzville Municipal Code, Section 100.150, 100.160 and 100.170, the City is a registered trademark. The City logo is not to be used in bid submissions or advertisements. The Firm agrees that it shall not use in any form or medium the name of the City for any advertising unless it receives written consent from the City.

### H. Non-Discrimination:

The Firm shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including

apprenticeship. The Firm shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or disability. The Firm shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for work performed under the terms and conditions of this anticipated contract. A breach of this provision may be grounds for Contract termination.

The City of Wentzville hereby notifies all Firms that it will affirmatively ensure that in any contract entered into pursuant to this solicitation, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

**NON-COLLUSIVE AFFIDAVIT OF PRIME BIDDER**

State of \_\_\_\_\_ )  
S.S.

County of \_\_\_\_\_ )

\_\_\_\_\_, being first duly sworn, deposes and says that:

1. He is the (owner, partner, officer, representative, or agent) of \_\_\_\_\_, the Bidder that has submitted the attached Bid;
2. He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such bid is genuine and is not a collusive or sham bid; and that all statements made and fact set out in the bid are true and correct;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest including this affidavit, has in any way colluded, considered, connived, or agreed, directly or indirectly with any other Bidder, Firm, or person, to submit a sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with such Contract; or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, Firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix the overhead, profit, or cost element of the Bid price of the other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Wentzville or any person interested in the Proposed Contact.
5. The price or prices quoted in the attached Bid are fair and proper, and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit; and
6. He further certifies that Bidder is not financially interested in or financially affiliated with any other Bidder on this project.

Signed \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**RECREATION CENTER FEASIBILITY STUDY AGREEMENT**

THIS AGREEMENT (this "Agreement"), is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between \_\_\_\_\_, a \_\_\_\_\_ having a principal office at \_\_\_\_\_ (the "Firm"), and the City of Wentzville, a Missouri municipal corporation located in St. Charles County (the "City"). *All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Contract Documents (as hereinafter defined).*

**RECITALS**

A. In response to RFP #17-102 of the City requesting proposals for Recreation Center Feasibility Study, the Firm has submitted a certain Proposal in accordance with the Proposed Documents to perform the Services.

B. After due consideration, the City has accepted the Proposal of the Firm and the parties hereto desire to enter into this Agreement whereby the Firm shall undertake the performance of the Services in accordance with the Contract Documents and the City shall pay the Firm as hereinafter specified.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth the City and the Firm hereby agree as follows:

**1. Contract Documents:**

This Agreement shall consist of: (i) RFP #17-102 including, without limitation:

- a. Request for Proposals
- b. Firm's Proposal and Schedule of Fees
- c. Affidavit of Non-Collusion
- d. Executed Agreement
- e. Affidavit of Participation in Federal Work Authorization Program Form
- f. E-Verify with Electronic Signatures
- g. Terms and Conditions
- h. Scope of Services
- i. Notice of Award (issued by City)

and shall also include any Exhibits to the above documents, any Addenda issued prior to receipt of bid proposals, any duly-issued Modifications, and all other documents contained or specified within the specifications, details or job special provisions, as such may be on file in the office of the Procurement Department and Office of the City Clerk of Wentzville, Missouri (all of the foregoing collectively referred to as the "Contract Documents" are hereby incorporated in this Agreement by reference). When any provision(s) of the contract documents conflict, the provision(s) most advantageous to the City shall govern.

**2. Term:**

The term of this contract shall be date of award through \_\_\_\_\_, subject to the “Multi-year contracts; Non-appropriation” provisions of the attached Terms and Conditions.

**3. Scope of Services:**

Services to include all services set forth in the Scope of Services, Section 4 of the Request for Proposal (the “Services”).

Except as expressly specified herein, Firm hereby agrees to provide all of the supervision, labor, technical services, facilities, materials, tools, equipment, and apparatus, and to perform all the services and do all the things necessary for the proper completion of the services which are particularly described as set forth in the Scope of Services, Section 4 of the Request for Proposal. All Services shall be in conformance with all applicable policies of the City and laws of Missouri applicable to 4<sup>th</sup> class cities, all federal laws and requirements and all rules and regulations thereunder, and the generally accepted standard of care.

The above described Services shall be provided by the Firm in accordance with all the provisions of this Agreement, City policies and attached City of Wentzville General Conditions for the Services, attached to the Request for Proposal and incorporated herein by reference, and which terms shall prevail over any conflicting terms that may otherwise be adopted herein as part of any attachment.

**4. Compensation:**

The City hereby agrees to pay the Firm, as full compensation for the complete and satisfactory performance of this Agreement:

Such amount as is set forth in the attached Offer and Schedule of Fees as submitted by Firm that is incorporated herein in its entirety and subject to any such limits as established herein or therein and in approving authorization by the City.

**5. Time and Manner of Payments:**

All invoices complete with necessary support documentation shall be submitted to the City and payment shall be made by City within thirty (30) days of receipt of an invoice received after satisfactory performance of the Services. Payment Terms are net 30 days. Remit Address is City of Wentzville, Accounts Payable, 5 W. Pearce Blvd., Wentzville, MO 63385 or [accountspayable@wentzvillemo.org](mailto:accountspayable@wentzvillemo.org).

**6. Attorney Fees’ and Costs:**

The Firm shall reimburse to the City any costs and attorneys’ fees that the City may reasonably incur in pursuit of any remedies at law or equity or enforcement of any rights established in this Agreement, which may result from the Firm’s breach of the Agreement, the Firm’s failure to perform any obligation or requirement contained herein, or the City’s enforcement of this Agreement.

**7. Other Representations, Warranties and Other Covenants by the Firm:**

The Firm represents and warrants that the Firm has been engaged in such work as is required for the Services and has provided services such as the ones to be performed under this Agreement to other municipalities and/or private enterprises and that the Firm has sufficient expertise, knowledge, information and data, and engages sufficient personnel to perform the Firm’s obligations under this Agreement. The Firm further represents and warrants that the Firm is an equal opportunity employer. The Firm agrees that the Firm shall not use in any form or medium the name of the City for any

advertising unless the Firm receives the prior written consent of the City.

**8. Amendment; Waiver:**

No amendment, modification or waiver of any provision of this Agreement shall be effective unless in writing signed by an authorized representative of the party against whom such provision as amended or modified or such waiver is sought to be enforced. Failure to insist upon strict compliance with any of the terms or conditions of the Agreement shall not be deemed a waiver of such term or condition.

**9. Firm's Liability Insurance:**

The Firm shall obtain and maintain during the term of the Project and the Agreement, the insurance coverage's at least equal to the coverage's set forth in this paragraph 9, and as further provided in the Terms and Conditions, but no event less than the individual and combined sovereign immunity limits established by Section 537.610 R.S.Mo. Insurance policies providing required coverage's shall be with companies licensed to do business in the State of Missouri and rated no less than AA by Best or equivalent. All costs of obtaining and maintaining insurance coverage's are included in the Bid Amount and no additional payment will be made therefor by the City:

Comprehensive General Liability Insurance (including coverage for Bodily Injury and Property Damage)	\$1,000,000 per occurrence \$2,763,000 aggregate
Commercial Automobile Liability Insurance (including coverage for Bodily Injury and Property Damage)	\$1,000,000 per occurrence
Employer's Liability	\$1,000,000 bodily injury by accident (each accident) \$1,000,000 bodily injury by disease (each employee) \$1,000,000 bodily injury policy limit

In addition, the Firm and all subcontractors shall provide Worker's Compensation Insurance in at least statutory amounts for all workers employed at the Project site.

Policy shall name the City as the Insured. Certificates evidencing such insurance shall be furnished to the City prior to Firm commencing the services as outlined in the Request for Proposals. The certificates must state, "The City of Wentzville is an additional insured", on a primary and non-contributory basis. Certificate Holder shall be listed as "City of Wentzville, Attention City Clerk, 310 W Pearce Blvd., Wentzville, MO 63385." The certificate shall bear an endorsement precluding cancellation of or change in coverage without at least thirty (30) days written notice to the City.

The City may waive any insurance coverage's or amounts required by this paragraph 9 when the City deems such waiver to be in the interest of the public health, safety, and general welfare.

**10. Termination:**

The City shall have the right to terminate this Agreement at any time for any reason by giving the Firm written notice to such effect. The City shall pay to the Firm in full satisfaction and discharge of all amounts owing to the Firm under this Agreement an amount equal to the cost of all Services performed by the Firm up to such termination date, less all amounts previously paid to the Firm on account of this Agreement Price. The Firm shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to the Firm for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Services.

**11. Severability:**

The invalidity or unenforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision of this Agreement, which shall remain in full force and effect to the maximum extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

FIRM NAME

CITY OF WENTZVILLE, MISSOURI

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
City Clerk

## **RECREATION CENTER FEASIBILITY STUDY TERMS AND CONDITIONS**

### **Independent Firm:**

The Firm shall be and operate as an independent Firm in the performance of this Agreement. The Firm shall have complete charge of the personnel engaged in the performance of the Services, and all persons employed by the Firm shall be employees of said Firm and not employees of the City in any respect.

### **Compliance with Laws:**

The Firm shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of this Agreement. In the event of a conflict between laws, codes and regulations of various governmental entities having jurisdiction over the Services, the Firm shall notify the City of the nature and impact of such conflict.

### **Subcontracts:**

The Firm shall not subcontract any of the Services to be performed by it hereunder without the express written consent of the City, except as provided herein. In the event Firm utilizes a subcontractor, the Firm shall ensure that any agreement between Firm and such subcontractor complies with all requirement imposed for such agreement by federal, state, and local law. In addition, this Agreement shall not be assigned by the Firm.

If the Firm submits invoices to the City which include payments to be made on account of work performed by a subcontractor, such payments shall be conditioned upon submission by the Firm of waiver of liens, or such other documents satisfactory to the City to protect the City's title to land, buildings, or improvements or to otherwise protect the City's interest. By submitting an invoice to the City, the Firm warrants and guarantees that title to all land, buildings or improvements which may be subject to a lien under 429.015 RSMo., upon the receipt of such payment by the Firm, will not be subject to a lien under 429.015 RSMo.

### **Indemnification:**

To the fullest extent permitted by law, the Firm agrees to defend with counsel approved by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from breach of this Agreement or out of services negligently performed hereunder by the Firm, or claims relating thereto, and including but not limited to the City's reliance on or use of the services or products provided by the Firm under the terms of this agreement. The Firm shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, the Firm agrees that this indemnification requires the Firm to obtain insurance in amounts specified herein and that the Firm has had the opportunity to recover the costs of such insurance in the compensation set forth in this Agreement.

No Aldermen, officer, administrator, director, board member, or employee of the City shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement. The Firm shall look solely to the City for the satisfaction of any claims the Firm may have arising under this Agreement.

### **Insurance:**

The Firm shall furnish the City the certificates of insurance for workers' compensation, public liability, and property damage, including automobile coverage in the amounts specified by the City in the request for proposals, if any, otherwise in the amounts required by the City, if any, but in no event less than the maximum amounts of liability set forth in Chapter 537.610 RSMo., as amended, applicable to political subdivisions. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to the City. In addition to the

foregoing, the Firm shall maintain Professional Liability “errors and omissions” insurance in the form for the coverages satisfactory to City as indicated in the request for proposals, if any, but in no event less than the maximum amounts of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions unless otherwise approved by the City. The City, and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Firm's services, as determined by the City, shall be named as additional insured on a primary and non-contributory basis, with duty of defense on all insurance policies required hereunder.

**Nondisclosure/Confidentiality:**

The Firm agrees that it will preserve the confidentiality of all City data and account information and will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Agreement.

**Changes:**

No change in this Agreement shall be made except in writing prior to the change in Services or terms being performed. The Firm shall make any and all changes in the Services without invalidating this Agreement when specifically ordered to do so in writing by the City. The Firm, prior to the commencement of such changed or revised Services, shall submit promptly to the City, a written cost or credit proposal for such revised Services. If the City and the Firm shall not be able to agree as to the amount, either in consideration of time or money to be allowed or deducted, it shall nevertheless be the duty of the Firm, upon written notice from the City, to immediately proceed with such alteration or change, and the Firm shall be compensated the reasonable value of such Services. **No work or change shall be undertaken or compensated for without prior written authorization from the City and shall be subject to any required approval from state or federal departments or agencies.**

**Multi-year contracts; Non-appropriation:**

Notwithstanding any provision herein to the contrary, the City is obligated only to make the payments set forth in the attached contract as may lawfully be made from funds budgeted and appropriated for that purpose during the City's then current fiscal year at the discretion of the City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an “**Event of Nonappropriation**”), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of the City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party. If applicable, this Agreement may be annually renewed at each fiscal year by inclusion of specific appropriation for this Agreement, from year to year not to exceed the maximum renewal period or term as set forth in the Agreement.

**Accounting:**

During the period of this Agreement, the Firm shall maintain books of accounts of its expenses and charges in connection with this Agreement in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Firm.

**Other Firms:**

The City reserves the right to employ other Firms in connection with the Services.

**Request for Proposals:**

If the City issued a request for proposals in connection with the Services, such request for proposals and the proposal of the Firm in response thereto are incorporated herein by reference and made a part of this Agreement. In case of any conflicts between the request for proposals and the executed Firm/Services Agreement or proposal of the Firm, the requirements of the City's Request for Proposal and this executed Firm/Professional Services Agreement shall control and supersede unless a change thereto is specifically stated in this Agreement.

**Work Records and Work Product:**

The Firm shall provide the City with copies of all documents pertinent to the Services which shall include, without limitation, reports, correspondence, meeting minutes, and originals of all deliverables. The City shall own all right, title and interest, including without limitations, all copyrights and intellectual property rights, to all documents and Work Product of the Firm created in performance of or relating to this Agreement. The Firm agrees to take all steps reasonably requested by the City to evidence, maintain, and defend the City's ownership rights in the Work Product. Upon termination of this Agreement, the Firm shall promptly deliver to City any documents, and work product, whether printed or electronic.

**Personnel:**

The Services shall be performed exclusively by the personnel of the Firm identified in the Firm's proposal and no other personnel of the Firm shall perform any of the Services without the express written approval of the City.

**Compliance with State Immigration Statutes:**

As a condition for the award of this Agreement, the Firm shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Services. The Firm shall also sign an (Affidavit of Participation in Federal Work Authorization Program) affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Services. The Firm shall not be required to provide these affidavits to the City if such affidavits have been previously provided to the City within the past year. All words in this paragraph shall have the definitions as provided in Section 285.525 R.S.Mo.

**Representations:**

The Firm agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree this Agreement represents the entire agreement between the parties.

**Governing/Choice of Law; Jurisdiction.** This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws, and shall be deemed to be executed and performed in the County of St. Charles, Missouri. Any legal action arising out of, or relating to this Agreement, shall be governed by the laws of the State of Missouri, and the parties agree to the exclusive jurisdiction and venue over them by a court of competent jurisdiction located in the County of St. Charles, Missouri or the U.S. District Court for the Eastern District of Missouri.

**Counterparts:**

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

**Presented as example; not required with proposal**

**AFFIDAVIT OF PARTICIPATION IN  
FEDERAL WORK AUTHORIZATION PROGRAM**

Comes now \_\_\_\_\_ as \_\_\_\_\_ first being duly sworn, on my  
(Name) (office held)  
oath, affirm \_\_\_\_\_ is enrolled and will continue to participate in a federal  
(company name)  
work authorization program in respect to employees that will work in connection with the  
contracted services related to the services being provided to the City of Wentzville for  
the duration of the contract, if awarded, in accordance with Section 285.530.2, Revised  
Statutes of Missouri. I also affirm that \_\_\_\_\_ does not and will not  
(company name)  
knowingly employ a person who is an unauthorized alien in connection with the  
contracted services for the duration of the contract, if awarded.  
Attached to this affidavit is documentation of \_\_\_\_\_'s  
(company name)  
participation in a federal work authorization program.

**(ATTACH DOCUMENTATION SHOWING THAT COMPANY PARTICIPATES IN FEDERAL  
WORK AUTHORIZATION PROGRAM)**

*In Affirmation thereof, the facts stated above are true and correct (The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo).*

\_\_\_\_\_  
Signature (person with authority)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

State of Missouri )  
 )  
County of \_\_\_\_\_ ) ss.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

My commission expires:

\_\_\_\_\_  
Notary Public

**Presented as information; not required with proposal**

**PROOF OF E-VERIFICATION WITH U.S. DEPARTMENT OF HOMELAND SECURITY**

**Electronic Signature Page**