REQUEST FOR PROPOSAL

NORTH CONCORD MIXED-USE ZONING
DISTRICT UPDATE

Corridor Vision and Zoning Ordinance Update

CITY OF SOUTH ST. PAUL, MN

DUE DATE: February 17, 2021, 12 p.m.

COMMUNITY DEVELOPMENT DEPARTMENT
January 12, 2021
# NORTH CONCORD MIXED-USE ZONING DISTRICT UPDATE

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- Sharing of Information
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- Maximum Project Budget

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PURPOSE OF REQUEST

The City of South St. Paul seeks to enter into a contract with a consultant to provide consulting services to help develop a cohesive vision for the North Concord corridor and to update the existing North Concord Mixed-Use (NCMU) Zoning District development standards to implement that vision. The North Concord corridor primarily consists of land that is directly adjacent to Concord Street North in the parts of South St. Paul that are north of Grand Avenue.

BACKGROUND

**North Concord Street**

“North Concord” describes a roughly 2.2 mile section of Concord Street in South St. Paul that lies between Annapolis Street E. (the City’s northern border with Saint Paul) and Grand Avenue. Existing development along the corridor consists primarily of small commercial and industrial buildings, some of which date back to the early 1900’s, as well as a number of scattered single-family homes. The City of South St. Paul recently undertook a turnback project and all of North Concord, which has been State Highway 156, was transferred from MnDOT’s jurisdiction to the City’s.

The turnback project involves millions of dollars in infrastructure improvements that are designed to lay the foundation for a safe, walkable, mixed-use neighborhood along Concord Street North. The existing street is laid out like a highway and has numerous missing sidewalk sections and car-oriented aesthetics that are discouraging to pedestrians. The new street, which will be completed in 2022, will have sidewalks and bikeable shoulders as well as generally improved aesthetics. The street will be designed so that it is easier to cross and is less of a barrier to bicyclists and pedestrians seeking to reach the Mississippi River.

The City anticipates that the street improvements will make land adjacent to Concord Street much more attractive to developers, entrepreneurs, and families looking for an interesting/walkable place to live. With that in mind, the City wants to make sure that the right development standards are in place to facilitate redevelopment and help this corridor thrive. Most of the corridor is already zoned “North Concord Mixed-Use (NCMU),” which is a form-based commercial/residential mixed-use district. However, the zoning standards that are in place today are not realistic and are not conducive to new development. There has not been any new development on the corridor since the current development standards were implemented in 2004.

The existing NCMU standards are in place because the City wanted to steer the North Concord corridor towards “mixed-use development” in 2004 but did not have the time or the budget to undertake a zoning study to create a vision for the corridor or draft development standards that were tailored to the area. Instead, the City copied the existing form-based mixed-use zoning rules from its planned downtown district. North Concord is very different than a downtown area and it has challenging topography and narrow parcels which are difficult to build on. The corridor is constrained by river bluffs and the Union Pacific railroad tracks. The existing NCMU zoning standards have created a situation where every existing building on the corridor is lawful nonconforming with limited expansion options and almost every development project is unbuildable without variances or PUD flexibility.

The purpose of this project is to develop a cohesive vision for the North Concord corridor and update the NCMU zoning standards to establish more development-friendly standards so that a walkable neighborhood that supports active living can develop along North Concord after the new street is completed.

**Mississippi River Corridor Critical Area**

The project area is located within the Mississippi River Corridor Critical Area (MRCCA), a State-mandated environmental protection overlay zoning district. The MRCCA program is overseen by the Minnesota DNR and administered locally in accordance with “City Code Section 118-167 Mississippi River Corridor Zoning” and “Chapter 10 Critical Area Plan” of the City’s 2040 Comprehensive Plan.
The City’s existing MRRCA ordinance is several decades old and does not align with the State’s new standards, which were recently adopted. The DNR is assisting a handful of river-adjacent communities with updating their MRCCA ordinance each year and the City of South St. Paul is scheduled to update its ordinance in 2023. This update is compulsory and the City’s new ordinance will need to meet the State’s new standards.

The existing MRRCA ordinance has a number of development standards relating to bluff impacts and the updated MRCCA ordinance will include refinement of those standards. Because of the presence of river bluffs on both the east and the west side of Concord Street North, most future development projects in the corridor will include some type of bluff impact.

The goal of the “North Concord Corridor Vision and Zoning Ordinance Update” is to create clear, consistent, and realistic mixed-use zoning standards for the North Concord corridor to facilitate redevelopment. It will not be possible to reach this goal without addressing some of the unresolved land use tension between the NCMU district’s economic development goals and the MRCCA district’s bluff impact avoidance goals. The Minnesota DNR and the Friends of the Mississippi advocacy group are both considered stakeholders in the project area and the City anticipates inviting both organizations to participate in this project.

**Concord/Grand Gateway Streetscape and Redevelopment Plan**

In 2003, the City hired a consultant to develop a small area plan for the redevelopment of Concord Exchange, the City’s original downtown main street which was mostly torn down in the 1970’s as part of a large-scale urban renewal project. Despite having a similar name, Concord Exchange is an entirely different street than Concord Street and the two roads run parallel to each other.

The 2003 small area plan, known as the “Concord/Grand Gateway Streetscape and Redevelopment Plan,” called for the creation of a form-based mixed-use zoning district along Concord Exchange with traditional main-street aesthetics. This new zoning district, the Concord Gateway Mixed Use (CGMU) zoning district, was implemented in 2003. The small area plan and the zoning rules were repurposed in 2004 and copied almost word-for-word in order to create the North Concord Mixed Use (NCMU) zoning district. The consultant team should review the 2003 plan to understand the context of the existing NCMU zoning rules.

**Hardman Triangle Small Area Plan and Market Study**

A triangular-shaped superblock known as the “Hardman Triangle” is located at the northeast corner of Grand Avenue and Concord Street in South St. Paul. A portion of this block is currently zoned “North Concord Mixed Use” (NCMU) and the block is considered part of the “North Concord” corridor whereas everything south of the block is “South Concord.” The block is populated with heavy industrial legacy businesses and buildings that date back to the era when this part of the community hosted the largest stockyards in the country.

The City has a longstanding goal of redeveloping the Hardman Triangle and the City’s EDA owns several parcels on the superblock. The City’s redevelopment goals are complicated, however, because some of the legacy businesses have substantial and very valuable “grandfather rights” as lawful nonconforming businesses. Some of the legacy businesses generate significant nuisance side effects relating to odor and aesthetics which makes it unlikely that any part of the superblock will redevelop while the businesses continue to operate.

The Hardman Triangle IS NOT part of the scope of this Corridor Vision and Zoning Ordinance Update project, the City views the Hardman Triangle as being a separate project. The City completed a small area plan and market study for the Hardman Triangle superblock in 2019 and is currently assessing “next steps” regarding implementation of the small area plan. The consultant team will be expected to review the 2019 Hardman Triangle Plan because it provides context regarding South St. Paul’s real estate market as well as insight into the City Council’s aesthetic preferences regarding new buildings along Concord Street.
GENERAL PROJECT DESCRIPTION

Management of the Project:

City Planner Michael Healy will be the project manager for the project. Michael will be the first point of contact on behalf of the City of South St. Paul and will work closely with the consultant team.

Michael Healy  
Community Development Department  
South St. Paul City Hall  
125 3rd Ave. N.  
South St. Paul, MN 55075  
Office Phone: 651-554-3217  
Email: mhealy@southstpaul.org

Project Needs:

The City is soliciting proposals from firms to provide assistance in accomplishing two goals:

1. Developing a cohesive vision for the North Concord corridor.

2. Drafting an ordinance amendment to update the North Concord Mixed-Use (NCMU) zoning district development standards to implement the new vision.

The City does not expect or desire that a formal small area plan be developed for the North Concord corridor. The City anticipates that the “corridor vision” will be a short purpose statement that outlines the aesthetic goals and development goals for the corridor and gives an overview of what values will be in place for development in the corridor (i.e. how does the City balance the needs of the business community, current and future city residents and corridor residents, and environmental concerns regarding the river and the bluffs). Once completed, the corridor vision will provide the foundation for the update to the NCMU ordinance.

The existing NCMU ordinance takes a form-based approach to development regulation and is based on design principles laid out in the previously mentioned 2003 small area plan, the “Concord/Grand Gateway Streetscape and Redevelopment Plan.” The City anticipates that revisions to the NCMU Code will include an update of the list of allowed uses as well as a comprehensive update of the form-based site design and building design standards. Many of the design standards laid out in the existing NCMU ordinance, such as the exterior building materials requirements, appear to be out of alignment with what the market can support in South St. Paul. The consultant team should include individuals with urban design experience who can advise the City on ways to revise the NCMU development standards to be more realistic and allow cost-effective development and redevelopment without sacrificing good design.

Sharing of Information:

The consultant shall host a permanent ftp site (i.e. Dropbox or Google Drive) to allow the project management team to share and receive files between agencies.

References:

City Code Section 118-127 North Concord Mixed-Use Zoning District  
and other City Codes (available via City website)

City Code Section 118-167 Mississippi River Corridor Zoning  
(available via City website)
2003 Concord/Grand Gateway Streetscape and Redevelopment Plan (available via City website)

DNR Model Ordinance for Planned 2023 MRRCA Ordinance Update (https://www.dnr.state.mn.us/waters/watermgmt_section/critical_area/local-government-administration.html)

2040 Comprehensive Plan (available via City website)

2019 Hardman Triangle Small Area Plan and Market Analysis (available via City website)

**Maximum Project Budget:**

The City has secured a $30,000 SHIP grant from Dakota County to fund the project and the City is seeking a consultant that can work within a “not to exceed” budget of $30,000.

The consultant is asked to approach the budget and project scope with the understanding that City Staff resources are available, as needed, to support the consultant team. City Planner Michael Healy anticipates being highly involved in the project. The City’s “Community Development Specialist,” Monika Mann, can also be deployed as needed in support of the project.

**DESCRIPTION OF PROPOSALS**

1. The proposal text shall be concise, effective, and relevant for communicating the consultant team’s approach to the project. Please limit your response to no more than fifteen (15) pages total. Additional drawings or information ancillary to the proposal shall be placed in an Appendix at the back of the proposal, and will not be counted against the page limit.

2. Proposals shall be prepared on 8-1/2” x 11” format, with sequentially numbered pages throughout the report or by section. Exhibits and/or layouts may be on 11” x 17” folded format. Larger figures/layouts, CDs, etc., shall be carefully considered as needed before including this content within the proposal. All exhibits should be succinct and relevant to the RFP requirements.

3. The City shall not be liable for any pre-contractual expenses incurred by the consultant in the preparation of their proposals. Consultants shall not include any such expenses as part of their proposals.

   Pre-contractual expenses are defined as expenses incurred by the consultant in:
   a. Preparing its proposal in response to this RFP;
   b. Submitting that proposal to the City;
   c. Negotiating with the City on any matter related to this RFP;
   d. Any other expenses incurred by the consultant prior to the date of execution of the proposed agreement.

4. Any exceptions to the requirements in this RFP must be included in the proposal submitted by the consultant. Segregate such exceptions as a separate element of the proposal under the heading “Exceptions and Deviations.”
5. By submitting a proposal, the consultant represents that they have thoroughly examined and became familiar with the work required under this RFP and that they are capable of performing quality work to achieve the objectives of the City.

DESCRIPTION OF CORRIDOR VISION AND NCMU ZONING CODE UPDATE TASKS AND DELIVERABLES

The consultant will be required to furnish all labor, materials, transportation, supplies, equipment, etc. necessary for the completion of the following work:

PROJECT ORIENTATION AND ISSUE/OPPORTUNITY IDENTIFICATION

Task 1 - Project Management:

1.1 The project manager shall ensure that deliverables are on time and regular phone/e-mail communication with the City project manager is provided throughout the project. The consultant selected shall provide a schedule with associated tasks and deliverables.

1.2 The project manager shall coordinate with any sub-consultants as necessary to complete all of the deliverables stated below.

1.3 The project manager shall provide a schedule of work tasks required/completed with monthly updates. The City shall be billed monthly throughout the duration of the project, no later than ten (10) days after the completion of each month. All invoices shall clearly define the percentage of project completion and the percentage of project billed to date for each work task and the total project.

1.4 The consultant shall assist the City in developing content for a project page that will be hosted on the City’s website.

1.5 Consultants shall comply with the City’s Standard Agreement for consulting services as shown in the Attachments.

Task 2 – Issue Identification

2.1 The consultant team will join City Staff on a tour of the corridor and review the land use challenges and opportunities that have already been identified by City Staff.

2.2 The consultant team and City Staff will facilitate a joint worksession with the Planning Commission and City Council to review the status of the corridor and identify strengths, weaknesses, opportunities, and threats that will affect the project.

PUBLIC AND AGENCY INVOLVEMENT

Task 3 – Public Participation

3.1 The consultant will work with City Staff and Dakota County Staff to prepare a public engagement plan. Per Dakota County SHIP grant guidelines, the engagement plan should be developed in collaboration with the County and, if applicable, should include ways to involve representatives from target populations such as seniors and low-income and diverse populations. The City anticipates having a moderate amount of public engagement for this project.
As needed, the consultant shall attend and prepare presentation materials for up to three (3) City Council meetings/work sessions and/or Planning Commission meetings at the City (may be held jointly).

The consultant team shall facilitate at least one (1) open house-type event. Depending on the status of the Covid-19 pandemic, this event may need to be held virtually or with a virtual component.

The consultant team shall assist City Staff in preparing an informational mailing about the project to send to the owners of affected properties. The consultant team shall assist City Staff in preparing a survey to assess community preferences regarding the future of the North Concord Corridor.

**CORRIDOR VISION PREPARATION**

**Task 4 – Development of Corridor Vision**

4.1 Based upon input given by the Planning Commission, City Council, and the community, the consultant team shall prepare a “corridor vision.” This short document will outline the aesthetic goals, development goals, and general values that will be in place for the City’s planned redevelopment of the North Concord corridor as a mixed-use district. City Staff will bring the corridor vision to the City Council for review and approval to ensure that there is full ownership of the project before the draft ordinance amendment is finalized and brought forward for formal review.

**ORDINANCE AMENDMENT PREPARATION**

**Task 5 – Development of Ordinance Amendment**

5.1 The consultant team, in collaboration with City Staff, will prepare a draft ordinance amendment to update the NCMU zoning district code to reflect the goals laid out in the corridor vision and incorporate input collected during public engagement and City Council/Planning Commission meetings.

5.2 The consultant team will provide logistical support to City Staff while the ordinance amendment goes through the formal review and approval process (one Planning Commission meeting and a first and second reading at two separate City Council meetings). The consultant team is not expected to attend these meetings but shall assist City Staff in revising the draft ordinance based on any feedback received from the policymakers during the course of the formal review process.

**Task 6 – Development of Graphics Depicting the Revised Design Standards**

6.1 The 2003 “Concord/Grand Gateway Streetscape and Redevelopment Plan” includes a graphic depicting the CGMU/NCMU zoning district site design standards and a second graphic depicting the CGMU/NCMU zoning district building design standards. If needed, the consultant team will prepare revised graphics that reflect the changes that have been made to the NCMU design standards.
DESCRIPTION OF CITY RESPONSIBILITIES

1. Public outreach via website / newsletter and local news media.
2. Corridor orientation for consultant team.
4. Public participation mailing lists and envelopes.
5. Presentations to the Planning Commission, City Council, and other impacted stakeholders

*The $30,000 Dakota County SHIP grant requires that the City provide at least a 10% match. The City is planning to provide this with an “in-kind” contribution of Staff time. City Staff will be a strong and involved partner in completing this project.

ANTICIPATED DELIVERABLES

• Corridor Vision (See 4.1)
• Ordinance Amendment to Update the North Concord Mixed-Use Zoning District (see 5.1 & 5.2)
• Graphics Illustrating Revised Site and Building Design Standards (see 6.1)

PROJECT SCHEDULE

The following is the desired schedule for the project:

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
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<tbody>
<tr>
<td>RFP Released</td>
<td>January 12, 2021</td>
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<tr>
<td>Proposals received by the City</td>
<td>February 17, 2021</td>
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<tr>
<td>City Council Approved Consultant Selection</td>
<td>March 1, 2021</td>
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<tr>
<td>Execution of Contract with the City</td>
<td>Ideally on March 1, 2021 but no later than March 15, 2021</td>
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<tr>
<td>Authorization to proceed</td>
<td>After Execution of Contract</td>
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<td>Project Kickoff and Advancement</td>
<td>Immediately after Contract Execution</td>
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<tr>
<td>Completion of Corridor Vision</td>
<td>On or Before June 15, 2021</td>
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<tr>
<td>Completion of Draft Ordinance Amendment</td>
<td>On or Before August 6, 2021</td>
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<tr>
<td>Review of Ordinance Amendment by Planning Commission</td>
<td>September 1, 2021</td>
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<tr>
<td>First Reading of Ordinance Amendment by City Council</td>
<td>September 20, 2021</td>
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<tr>
<td>Second Reading of Ordinance Amendment by City Council and Approval of Ordinance Amendment</td>
<td>October 4, 2021</td>
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<tr>
<td>Completion of Graphics Illustrating Code Regulations</td>
<td>October 18, 2021</td>
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*The SHIP grant requires that all reimbursable consultant work be completed by October 31, 2021. The project schedule listed above is the City’s preference. If necessary, however, the scope of this project can be modified so that the consultant team completes all required tasks and generates deliverables prior to October 31, 2021 and City Staff then takes the ordinance amendment through the formal review and approval process without continued support from the consultant.

Consultant Provided Schedule:

The consultant selected shall provide a schedule with associated tasks and deliverables. See aforementioned description of services and deliverables.
SUBMITTAL REQUIREMENTS

General Information:

1. **Addenda/Clarifications**: Any changes to this RFP will be made by the City through a written email addendum. No verbal modification will be binding.

2. **Contract Award**: Issuance of this RFP and receipt of proposals do not commit the City to the awarding of the contract. The City reserves the right to postpone opening for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with other than the selected consultant, should negotiations with the selected consultant be terminated, to negotiate with more than one consultant simultaneously, or to cancel all or part of this RFP.

City Rights: The City may investigate the qualifications of any consultant under consideration, require confirmation of information furnished by the consultant, and require additional evidence of qualifications, to perform the work described in this RFP. The City reserves the right to:

a. Reject any or all proposals if such action is in the public interest;
b. Cancel the entire Request for Proposals;
c. Issue a subsequent Request for Proposals;
d. Remedy technical errors in a Request for Proposals process;
e. Appoint evaluation committees to review the proposals;
f. Establish a short list of consultants eligible for interview after evaluation of proposals;
g. Negotiate with any, all, or none of the RFP consultants; and
h. Reject and replace one or more subcontractors.

3. **Independent Price Determination**: Applicants are held legally responsible for their information and budget. Applicants are not to collaborate, for the purpose of restricting competition, with other applicants or competitors in developing proposals and budgets.

4. **Independent Contractor Status**: The consultant will be an independent consultant; nothing contained in any contract awarded shall be construed to create the relationship of employer and employee between City and the consultant. The consultant is not entitled to receive any of the benefits by City employees and is not eligible for workers’ or unemployment compensation benefits. The consultant understands that no withholding or deduction for state or federal income taxes, FICA, FUTA, or otherwise, will be made from payments due the consultant and that it is the consultant’s sole obligation to comply with the applicable provisions of all federal and state tax laws.

5. **Contract Type**: A contract will be executed between the City and a prime consultant firm. In the case of a project team of multiple consultants, a prime consultant firm shall be responsible for subcontracting with the other consultant firms. There will be no legal relationship with the City and the subcontracting consultant firms. The prime and subcontracting consultant firms shall be responsible in providing the required submission information via a single proposal.
Letter of Submittal Inclusions:

1. Name, address, phone number, and email from the firm’s client representative;
2. Acknowledgement of receipt of RFP addenda, if any;
3. Name, title, address, telephone, fax numbers, and email address, of contact person during
   the period of evaluation;
4. A statement to the effect that the proposal shall remain valid for a period of not less than
   120 days from the date of submittal; and
5. Signature of a person authorized to bind the offering firm to the terms of the proposal.

Minimum Proposal Requirements:

1. Briefly describe the project understanding and approach used by your firm. Give a brief
   description of issues you believe significant on this project; how you intend to use existing
   information to help limit project costs; any unique options to be pursued for this project; and
   a brief outline of your project approach.

Key Personnel:

a. Project Manager: Provide a description of the Project Manager and their
   qualifications for this project and a detailed list of previous projects worked on with
   the firm that are relevant to the project. If it is possible that more than one project
   manager will be assigned to various specialty areas, please provide multiple
   descriptions.

b. Key Support Personnel: Provide a brief list of key personnel that will be assigned to
   this project. Identify the areas of expertise for project personnel and experience
   working with project managers on previous projects.

2. Previous experience with zoning studies and preparation of mixed-use development
   standards. Describe previous projects that the Project Team has completed.

3. Sub-consultants. Describe the name and location of other sub-consultants that would be
   used by the firm for the project. Identify the approximate percentage of the work that would
   be performed by each of these firms. Describe previous projects on which the consultant
   and sub-consultants have collaborated.

4. Fee Estimate. Provide an estimate of the total project costs per the defined scope of work.
   The fee estimate shall be broken into work tasks with an hourly estimate of time required by
   each project personnel or sub-consultant. Any allowances for project costs, such as
   mileage or indirect office costs should be identified. The actual fee will be based on hourly
   and reimbursable costs with a not-to-exceed maximum contract amount.
The fee proposal shall be structured as follows:

<table>
<thead>
<tr>
<th>Task</th>
<th>Project Manager</th>
<th>Descending order of responsibilities</th>
<th>Sub-consultants</th>
<th>Expenses (Total mileage, etc.)</th>
<th>Total Hours</th>
<th>Cost per Task</th>
<th>Total Cost per Deliverable</th>
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5. Statement of Compliance: The consultant will need to include a Statement of Compliance to the terms identified for Standard Assurances, and Insurance Terms.

6. Conflict of Interest. The Consultant must identify any potential conflict of interest it may have providing the services contemplated by this RFP.

7. Other information you believe may be valuable in reviewing the qualifications of your firm/team.

EVALUATION REQUIREMENTS

A review of each proposal by the City will identify the consultant firm that most closely meets the needs for the project. Upon review of the proposals, top candidate firm(s) may be asked to make a presentation and be interviewed by the selection committee.

Factors to be considered by the selection committee will include, but not be limited to the following:

1. Qualifications and experience of the firm relating to previous similar projects.
2. Project Team – qualifications and experience of the Project Manager and key staff proposed to work on the project, experience on previous similar projects, and availability of the key staff members.
3. Grasp of project requirements – the firm’s analysis, interview preparation (if needed) and level of interest.
5. Responsiveness – compatibility between consultant and the member agencies, general attitude, ability to communicate with each of the agencies.
6. Fee estimate – understanding total project cost and cost control measures identified.
SUBMISSION DEADLINE

Four (4) copies of the proposal and one (1) electronic copy (.pdf format) shall be submitted by 12:00 p.m., local time, on February 17, 2021, to the address given below:

Michael Healy  
Community Development Department - Planning Division  
South St. Paul City Hall  
125 3rd Ave. N.  
South St. Paul, MN 55075 Office  
Phone: 651-554-3217  
Email: mhealy@southstpaul.org

Questions regarding this RFP and the project should be directed to Michael Healy at 651-554-3217 (mhealy@southstpaul.org). Late proposals may not be accepted at the City’s discretion.

CONTRACT

The term of the contract to be awarded under this RFP will be from the date executed by all parties until services are complete. The City will prepare a contract with the selected Consultant. The City will use its standard contract terms and conditions, which are available upon request. The selected Consultant must be willing to sign a contract that will incorporate the RFP plus attachments, the response to the request for proposal and any other terms negotiated by the parties.

ATTACHMENTS

A- Zoning Map Showing North Concord Mixed-Use Zoning District in Dark Purple

B- South St. Paul Standard Agreement for Consulting Services
This Zoning map is a representation of various maps and ordinances that make up the City of South St. Paul zoning code. Percentage of Acreage is calculated from county parcel data. Results are representational and not to be used for purposes other than zoning. For detail information pertaining to a specific property or zoning district, please contact the City of South St. Paul Planning Department at http://www.southstpaul.org/
ATTACHMENT B

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (“Agreement”) is made and executed this _____ day of ______, 2021, by and between the City of South St. Paul, 125 3rd Avenue North, Minnesota 55075, (“City”) and __________________________ (“Consultant”).

WHEREAS, the City has accepted the proposal of the Consultant for certain professional Services; and

WHEREAS, Consultant desires to perform the Services for the City under the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual consideration contained herein, it is hereby agreed as follows:

1. SERVICES.

   a. City agrees to engage Consultant as an independent contractor for the purpose of performing certain professional Services (“Services”), as defined in the following documents:

      i. A proposal dated __________, incorporated herein as Exhibit 1;

      ii. Other documentation, incorporated herein as Exhibit 2.

         (Hereinafter “Exhibits.”)

   b. Consultant agrees to provide Services to the satisfaction of the City in a timely fashion, as set forth in the Exhibits, subject to Section 7 of this Agreement.

2. PAYMENT.

   a. City agrees to pay and Consultant agrees to receive and accept payment for Services as set forth in the Exhibits.

   b. Any changes in the scope of the work of the Services that may result in an increase to the compensation due the Consultant shall require prior written approval by the authorized representative of the City or by the City Council. The City will not pay additional compensation for Services that do not have prior written authorization.

   c. Consultant shall submit itemized bills for Services provided to City on a monthly basis. Bills submitted shall be paid in the same manner as other claims made to City.
3. **TERM.** The term of this Agreement is identified in the Exhibits. This Agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the same terms and conditions as herein stated.

4. **TERMINATION.**

   a. **Termination by Either Party.** This Agreement may be terminated by either party upon 30 days’ written notice delivered to the other party to the addresses listed in Section 13 of this Agreement. Upon termination under this provision, if there is no default by the Consultant, Consultant shall be paid for Services rendered and reimbursable expenses until the effective date of termination.

   b. **Termination Due to Default.** This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure that is acceptable to the other party.

5. **SUBCONTRACTORS.** Consultant shall not enter into subcontracts for any of the Services provided for in this Agreement without the express written consent of the City, unless specifically provided for in the Exhibits. The Consultant shall pay any subcontractor involved in the performance of this Agreement within the ten (10) days of the Consultant’s receipt of payment by the City for undisputed services provided by the subcontractor.

6. **STANDARD OF CARE.** In performing its Services, Consultant will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession in the same locality at the time the Services are provided. Contractor agrees to comply with all federal, state and local laws and ordinances applicable to the Services to be performed under this Agreement, including all safety standards. The Contractor shall be solely and completely responsible for conditions of the job site, including the safety of all persons and property during the performance of the Services. The Contractor represents and warrants that it has the requisite training, skills, and experience necessary to provide the Services and is appropriately licensed by all applicable agencies and governmental entities.

7. **DELAY IN PERFORMANCE.** Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. If such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the
circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Consultant will be entitled to payment for its reasonable additional charges, if any, due to the delay. Both the City and the Consultant acknowledge that this project will take place during the Covid-19 pandemic and agree that the pandemic will not be used to justify delays in performance aside from normal delays that may result from an individual falling ill.

8. CITY’S REPRESENTATIVE. The City has designated Michael Healy to act as the City’s representative with respect to the Services to be performed under this Agreement. He shall have complete authority to transmit instructions, receive information, interpret, and define the City’s policy and decisions with respect to the Services covered by this Agreement.

9. PROJECT MANAGER AND STAFFING. The Consultant has designated ___________ and ___________ to be the primary contacts for the City in the performance of the Services. They shall be assisted by other staff members as necessary to facilitate the completion of the Services in accordance with the terms established herein. Consultant may not remove or replace these designated staff without the approval of the City.

10. INDEMNIFICATION.

   a. Consultant and City each agree to defend, indemnify, and hold harmless each other, its agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by its negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.

   b. Consultant shall indemnify City against legal liability for damages arising out of claims by Consultant’s employees. City shall indemnify Consultant against legal liability for damages arising out of claims by City’s employees.

11. INSURANCE. During the performance of the Services under this Agreement, Consultant shall maintain the following insurance:

   a. Commercial General Liability Insurance, with a limit of $2,000,000 for any number of claims arising out of a single occurrence, pursuant to Minnesota Statutes, Section 466.04, or as may be amended;

   b. Professional Liability Insurance, with a limit of $2,000,000 for any number of claims arising out of a single occurrence.

   c. Workers’ Compensation Insurance in accordance with statutory requirements.
d. Automobile Liability Insurance, with a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.

Consultant shall furnish the City with certificates of insurance, which shall include a provision that such insurance shall not be canceled without written notice to the City. The City shall be named as an additional insured on the Commercial General Liability Insurance policy and the Professional Liability Insurance policy.

12. OWNERSHIP OF DOCUMENTS. Professional documents, drawings, and specifications prepared by the Consultant as part of the Services shall become the property of the City when Consultant has been compensated for all Services rendered, provided, however, that Consultant shall have the unrestricted right to their use. Consultant shall retain its rights in its standard drawing details, specifications, databases, computer software, and other proprietary property. Rights to proprietary intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of the Consultant.

13. NOTICES. Notices shall be communicated to the following addresses:

If to City: City of South St. Paul
125 3rd Ave. N.
South St. Paul, MN 55075
Attention: Michael Healy, City Planner

Or emailed:

If to Consultant:

Or emailed:

14. INDEPENDENT CONTRACTOR STATUS. All services provided by Consultant, its officers, agents and employees pursuant to this Agreement shall be provided as employees of Consultant or as independent contractors of Consultant and not as employees of the City for any purpose.

15. GENERAL PROVISIONS.

a. Assignment. This Agreement is not assignable without the mutual written agreement of the parties.

b. Waiver. A waiver by either City or Consultant of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party’s rights with respect to any other or further breach.
c. **Amendments.** Any modification or amendment to this Agreement shall require a written agreement signed by both parties.

d. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Minnesota and any action must be venued in Dakota County District Court.

e. **Severability.** If any term of this Agreement is found be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

f. **Data Practices Compliance.** All data collected by the City pursuant to this Agreement shall be subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

g. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

[remainder of page intentionally blank]
CITY OF SOUTH ST. PAUL

By: _________________________________
James P. Francis, Mayor

By: _________________________________
Christy Wilcox, City Clerk

Date: _______________________________
CONSULTANT

By: ____________________________

Its: ____________________________

Date: ____________________________