

REQUEST FOR PROPOSAL

RFP # 18-31

PROGRESSIVE DESIGN-BUILD FOR WTP SCADA MODERNIZATION

City of Ann Arbor
Public Services Area/Water Treatment Services Unit



Due Date: OCTOBER 10, 2018 by 2:00 p.m. (local time)

Issued By:

City of Ann Arbor
Procurement Unit
301 E. Huron Street
Ann Arbor, MI 48104

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SECTION I - GENERAL INFORMATION

A. OBJECTIVE

The City of Ann Arbor is seeking the services of a Design-Builder (also referred to herein as respondent) to design, supply, install and commission upgrades to the Water Treatment Plant (WTP) Supervisory Control and Data Acquisition (SCADA) system. This WTP SCADA System Modernization Project will be procured using the Progressive Design-Build process and the City has engaged an Owner's Advisor to assist and guide the City with the planning, procurement, and management of the Project as detailed in Section II.

The City has selected a Software Vendor (Kennedy Industries, for VTScada by Trihedral) to provide a software solution to serve as the design basis for the SCADA modernization and act as subcontractor to the successful Design-Build team. The Design-Builder shall work collaboratively with the City, Owner's Advisor, and Software Vendor to implement the Project.

B. QUESTIONS AND CLARIFICATIONS / DESIGNATED CITY CONTACTS

All questions regarding this Request for Proposal (RFP) shall be submitted via e-mail. Questions will be accepted and answered in accordance with the terms and conditions of this RFP.

All questions shall be submitted on or before September 21, 2018 at 2:00 p.m., and should be addressed as follows:

Scope of Work/Proposal Content questions shall be e-mailed to Ryan Justin, SCADA Network Administrator - RJustin@a2gov.org

RFP Process and Compliance questions shall be e-mailed to Colin Spencer, Purchasing Manager - CSpencer@a2gov.org

Should any prospective respondent be in doubt as to the true meaning of any portion of this RFP, or should the respondent find any ambiguity, inconsistency, or omission therein, the respondent shall make a written request for an official interpretation or correction by the due date for questions above.

All interpretations, corrections, or additions to this RFP will be made only as an official addendum that will be posted to a2gov.org and MITN.info and it shall be the respondent's responsibility to ensure they have received all addenda before submitting a proposal. Any addendum issued by the City shall become part of the RFP and must be incorporated in the proposal where applicable.

C. PRE-PROPOSAL MEETING

A pre-proposal meeting will be held:

WHEN: September 19, 2018 at 2:00 p.m.

WHERE: City of Ann Arbor Water Treatment Plant, 919 Sunset Road, Ann Arbor, Michigan 48103

Attendance at this meeting is highly recommended. The purpose of this meeting is to discuss the project with prospective proposers and to answer any questions concerning RFP 18-31. Any questions and answers furnished in the pre-proposal meeting will not be official until verified in writing through an addendum. At the completion of the meeting, the respondents will have the opportunity to visit the plant to familiarize themselves with the site and the existing conditions. This will be the only opportunity available for prospective proposers to tour the plant.

D. PROPOSAL FORMAT

To be considered, each firm must submit a response to this RFP using the format provided in Section III. No other distribution of proposals is to be made by the respondent. An official authorized to bind the respondent to its provisions must sign the proposal in ink. Each proposal must remain valid for at least ninety (90) days from the due date of this RFP.

Proposals should be prepared simply and economically providing a straightforward, concise description of the respondent's ability to meet the requirements of the RFP. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person signing the proposal.

Each Proposer must acknowledge in its proposal all addenda it has received. The failure of a Proposer to receive or acknowledge receipt of any addenda shall not relieve the consultant of the responsibility for complying with the terms thereof. The City will not be bound by oral responses to inquiries or written responses other than official written addenda.

E. SELECTION CRITERIA

Responses to this RFP will be evaluated using a point system as shown in Section III. A selection committee comprised of staff from the City will complete the evaluation.

The fee proposals will not be reviewed at the initial evaluation. After initial evaluation, the City will determine top respondents, and open only those fee proposals. The City will then determine which, if any, firms will be interviewed. During the interviews, the selected firms will be given the opportunity to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. The City further reserves the right to interview the key personnel assigned by the selected respondent to this

project. If the City chooses to interview any respondents, the interviews will be tentatively held the **week of November 5, 2018**. Respondent must be available on these dates.

All proposals submitted may be subject to clarifications and further negotiation. All agreements resulting from negotiations that differ from what is represented within the RFP or in the respondent's response shall be documented and included as part of the final contract.

F. SEALED PROPOSAL SUBMISSION

All proposals are due and must be delivered to the City on or before, October 10, 2018 at 2:00 p.m. (local time). Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each respondent must submit in a sealed envelope

- **one (1) original proposal**
- **seven (7) additional proposal copies**
- **one (1) digital copy of the proposal preferably on a USB/flash drive as one file in PDF format**

Each respondent must submit in a single separate sealed envelope marked Fee Proposal

- **two (2) copies of the fee proposal**

The fee proposal and all costs must be separate from the rest of the proposal.

Proposals submitted must be clearly marked: **"RFP No. 18-31 – PROGRESSIVE DESIGN-BUILD FOR WTP SCADA MODERNIZATION"** and list the respondent's name and address.

Proposals must be addressed and delivered to:
City of Ann Arbor
c/o Customer Service
301 East Huron Street
Ann Arbor, MI 48107

All proposals received on or before the due date will be publicly opened and recorded on the due date. No immediate decisions will be rendered.

Hand delivered proposals must be date/time stamped by the Customer Service Department at the address above in order to be considered. Delivery hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding Holidays.

The City will not be liable to any respondent for any unforeseen circumstances, delivery, or postal delays. Postmarking on the due date will not substitute for receipt of the proposal. Respondent are responsible for submission of their proposal. Additional time will not be granted to a single respondent. However, additional time may be granted to all respondents at the discretion of the City.

A proposal will be disqualified if:

The forms provided as Attachment C - City of Ann Arbor Non-Discrimination Declaration of Compliance, Attachment D - City of Ann Arbor Living Wage Declaration of Compliance, Attachment E - Vendor Conflict of Interest Disclosure Form of the RFP Document are not completed and included in submitted proposals.

Proposals that fail to provide these completed forms listed above upon proposal opening will be deemed non-responsive and will not be considered for award.

Please do not provide these forms outlined directly above within the separately sealed Fee Proposal envelope.

All proposed fees, cost or compensation for the services requested herein should be provided in the separately sealed Fee Proposal envelope only.

G. DISCLOSURES

Under the Freedom of Information Act (Public Act 442), the City is obligated to permit review of its files, if requested by others. All information in a respondent's proposal is subject to disclosure under this provision. This act also provides for a complete disclosure of contracts and attachments thereto.

H. TYPE OF CONTRACT

The proposed Progressive Design-Build Contract is included as Appendix A. Those who wish to submit a proposal to the City are required to review this contract carefully. Any changes requested by the respondent to this contract are to be provided as described in Section III and will be considered as part of the selection process.

The City reserves the right to award the total proposal, to reject any or all proposals in whole or in part, and to waive any informality or technical defects if, in the City's sole judgment, the best interests of the City will be so served.

This RFP and the selected respondent's response thereto, shall constitute the basis of the scope of services in the contract by reference.

I. NONDISCRIMINATION

All contractors proposing to do business with the City shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the Section 9:158 of the Ann Arbor City Code. Breach of the obligation not to discriminate as outlined in Attachment B shall be a material breach of the contract. Contractors are required to post a copy of Ann Arbor's Non-Discrimination Ordinance attached at all work locations where its employees provide services under a contract with the City.

J. WAGE REQUIREMENTS

The Attachments provided herein outline the requirements for payment of prevailing wages or of a "living wage" to employees providing service to the City under this contract. The successful respondent must comply with all applicable requirements and provide documentary proof of compliance when requested.

K. CONFLICT OF INTEREST DISCLOSURE

The City of Ann Arbor Purchasing Policy requires that the respondent complete a Conflict of Interest Disclosure form. A contract may not be awarded to the selected respondent unless and until the Procurement Unit and the City Administrator have reviewed the Disclosure form and determined that no conflict exists under applicable federal, state, or local law or administrative regulation. Not every relationship or situation disclosed on the Disclosure Form may be a disqualifying conflict. Depending on applicable law and regulations, some contracts may be awarded on the recommendation of the City Administrator after full disclosure, where such action is allowed by law, if demonstrated competitive pricing exists and/or it is determined the award is in the best interest of the City. A copy of the Conflict of Interest Disclosure Form is attached.

L. COST LIABILITY

The City of Ann Arbor assumes no responsibility or liability for costs incurred by the respondent prior to the execution of a contract. The liability of the City is limited to the terms and conditions outlined in the contract. By submitting a proposal, respondent agrees to bear all costs incurred or related to the preparation, submission, and selection process for the proposal.

M. DEBARMENT

Submission of a proposal in response to this RFP is certification that the respondent is not currently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal departments or agency. Submission is also agreement that the City will be notified of any changes in this status.

N. PROPOSAL PROTEST

All proposal protests must be in writing and filed with the Purchasing Manager within five (5) business days of the award action. The respondent must clearly state the reasons for the protest. If a respondent contacts a City Service Area/Unit and indicates a desire to protest an award, the Service Area/Unit shall refer the respondent to the Purchasing Manager. The Purchasing Manager will provide the respondent with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee, whose decision shall be final.

Any inquiries or requests regarding this procurement should be only submitted in writing to the Designated City Contacts provided herein. Attempts by the offeror to initiate contact with anyone other than the Designated City Contacts provided herein that the offeror believes can influence the procurement decision, e.g., Elected Officials, City Administrator, Selection Committee Members, Appointed Committee Members, etc., may lead to immediate elimination from further consideration.

O. SCHEDULE

The proposals submitted should define an appropriate schedule in accordance with the requirements of the Proposed Work Plan in Section III.

The following is the schedule for this RFP process.

Activity/Event	Anticipated Date
Pre-Proposal Meeting	September 19, 2018
Written Question Deadline	September 21, 2018, 2:00 p.m.
Addenda Published (if needed)	Week of September 24, 2018
Proposal Due Date	October 10, 2018, 2:00 p.m.
Tentative Interviews (if needed)	Week of November 5, 2018
Selection/Negotiations	November/December 2018
Expected City Council Authorizations	January 2019

The above schedule is for information purposes only and is subject to change at the City's discretion.

P. IRS FORM W-9

The selected respondent will be required to provide the City of Ann Arbor an IRS form W-9.

Q. RESERVATION OF RIGHTS

1. The City reserves the right in its sole and absolute discretion to accept or reject any or all proposals, or alternative proposals, in whole or in part, with or without cause.
2. The City reserves the right to waive, or not waive, informalities or irregularities in terms or conditions of any proposal if determined by the City to be in its best interest.
3. The City reserves the right to request additional information from any or all respondents.
4. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested within RFP.
5. The City reserves the right to determine whether the scope of the project will be entirely as described in the RFP, a portion of the scope, or a revised scope be implemented.
6. The City reserves the right to select one or more contractors to perform services.
7. The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted.
8. The City reserves the right to disqualify proposals that fail to respond to any requirements outlined in the RFP, or failure to enclose copies of the required documents outlined within RFP.

R. NON-DISCLOSURE AGREEMENT

A Non-Disclosure Agreement is provided as Attachment A and must be completed to gain access to information that describes the current SCADA setup, operational details, and general requirements for the new system design. A completed Non-Disclosure Agreement form is to be provided to the City within five days of the notice to proceed and approved before the kickoff meeting.

S. ENVIRONMENTAL COMMITMENT

The City of Ann Arbor recognizes its responsibility to minimize negative impacts on human health and the environment while supporting a vibrant community and economy. The City further recognizes that the products and services the City buys have inherent environmental and economic impacts and that the City should make procurement decisions that embody, promote, and encourage the City's commitment to the environment.

The City encourages potential vendors to bring forward emerging and progressive products and services that are best suited to the City's environmental principles.

SECTION II - SCOPE OF SERVICES

Section 1. Background

1.1 Introduction

This request for proposals (RFP) for the WTP SCADA System Modernization Project (Project) invites Proposals according to the requirements set forth in this RFP, including the format and content guidelines in Section III. The Proposals will be reviewed and evaluated using the single-step, best-value selection process described in Section III.

The Project is to be designed and constructed in two phases using the Progressive Design-Build delivery method:

- **Phase 1 (Preconstruction-phase):**
Prepare design to 60% complete, as defined in Appendix B (Project Technical Requirements), and prepare a Guaranteed Maximum Price (GMP) proposal
- **Phase 2 (Implementation-phase):**
Complete design, supply, installation, construction, and post-construction tasks, including performance testing, startup commissioning and operator training and support

The Phase 2 services are contingent on the acceptance of the GMP by the Owner following the Preconstruction-phase.

1.2 Owner's Objectives

The Owner's objectives for delivery of the Project are as follows:

Guiding Principles

- **Budget Management and Value for Money:** Minimize life-cycle cost, manage project within budget and deliver best value.
- **Owner Engagement:** Strategic involvement from Owner's staff in evaluation of options.
- **Schedule:** Establish and meet project milestones and provide early warning of potential issues.
- **Collaborative Approach:** Regular communication of entire team to arrive at consensus and minimize rework.

- **Use Progressive Design Build (PDB) Delivery Method:** Prepare PDB documents customized for Owner's specific needs.
- **Risk Mitigation:** Optimal balance of risk allocation between the Owner and the Design-Builder. Clarity of RFP and Contract to avoid claims and disputes.
- **Competitive Bidding:** Adequate number of competent bids.
- **Safety:** Implement an effective safety program incorporating best industry practices.

Project Goals

- **SCADA Implementation:** It is critical that throughout the implementation of this project, any disruptions to WTP operations are minimized and pre-planned so that the city Operators can maintain full compliance with all Safe Drinking Water Act (SDWA) regulations.
- **Quality and Redundancy:** The upgrade of the SCADA system is intended to secure modern equipment with a long remaining life cycle and versatile software platforms with long-term viability. It is critical that proposed solutions must have demonstrated success elsewhere and it is intended, as far as possible, to avoid proprietary products and custom solutions.
- **Functionality for Owner's Operational Staff:** Successful handover to operations staff will require hands-on training in advance of commissioning. Systems shall be designed with consideration for ease of use and appropriate training developed to provide operator with necessary expertise in use of new equipment and software.
- **Innovative Control Room:** An updated control room shall allow for efficient work flow and optimum layout, following best practices and providing dedicated work spaces for the various functions.
- **Integration with CMMS:** It is anticipated that the SCADA system will provide flexibility for use with the CMMS system and allow for incorporation of future needs.
- **Innovative Solutions:** With the SCADA system upgrade, there is opportunity for incorporating Value Added functionality where appropriate and within budget.
- **Cyber Security Implementation:** The new system is required to meet current and proposed security standards as described in the technical requirements. Consideration must be given to provide flexibility to address potential future security needs.

By selecting the progressive design-build delivery method for the Project, the Owner, with its Owner's Advisor, expects collaborate with the Design-Builder during the Preconstruction-phase to develop the Project's design to achieve the Project objectives and to obtain a mutually agreeable GMP for delivery of the Project.

As set forth in Appendix C (Project Technical Requirements), the Owner has certain technical requirements and standards that will apply to the Project's design.

1.3 Definition of Terms

The definitions of some of the terms used in this RFP are presented below:

Builder – The Design-Builder or other firm (such as a subcontractor or joint-venture partner) that will provide construction services and have responsible charge of construction of the Project.

Designer – The Design-Builder or other firm (such as a subconsultant or joint-venture partner) that will provide professional design services and have responsible charge of the design, including preparation of the construction documents.

Design-Builder – The entity that is selected to enter into the Progressive Design-Build Contract with the Owner and that will be the single point of accountability to the Owner for delivery of the services and the Project.

Progressive Design-Build Contract – The proposed contract, including the agreement and all its attachments, presented as Appendix A (Progressive Design-Build Contract).

Key Personnel – The individuals, employed by Design-Builder or other firms included on the Project Team, who would fill certain key roles in delivery of the Project and related services by the Design-Builder, including the following positions: project manager, safety manager, design manager, construction manager and system integrator.

Minimum Qualification Requirements – The requirements set forth in Section 5.3 of this RFP that, at a minimum, must be satisfied (or waived by Owner) for the Proposal to be evaluated and ranked according to the comparative evaluation criteria.

Owner – City of Ann Arbor

Owner's Advisor – Stantec Consulting Inc.

Project – WTP SCADA Modernization Project

Project Team – The Design-Builder, Key Personnel and any additional firms (such as subcontractors and subconsultants) included in the Proposal.

Proposer or Respondent – The entity responding to this RFP by submitting the Proposal.

Software Vendor – Kennedy Industries, for VTScada by Trihedral

Section 2. Project Overview

2.1 Project Scope

The City of Ann Arbor Water Treatment Services system includes a 50MGD lime softening water treatment plant, four pumping stations, three water storage reservoirs, two elevated tanks, three wells, ten distribution system pressure monitoring sites, two distribution system control valves, two recreational dams, and two dams with hydroelectric generators. Plant processes are controlled via PLC-5 programmable logic controllers and associated I/O with some minor subsystems controlled using CompactLogix PLC systems.

The SCADA System Modernization Project will replace the existing Allen Bradley PLC-5 controllers and associated I/O in the WTP with equipment in the Allen Bradley Logix5000 family. These new PLC's will be programmed to meet or exceed the current programming functions and be integrated with new SCADA software from the selected Software Vendor. The Project will replace the hardware (server, etc.) associated with the new software selection. Communication to all remote facilities currently on the MOSCAD radio system will be assessed and new equipment and communication methods may be implemented where applicable. New graphical control screens, alarms, etc. will be created as part of the SCADA System Modernization Project.

The Project will integrate with both the current Computerized Maintenance Management System (CMMS) and current Laboratory Information Management System (LIMS) to share data and allow for improved analytics and reporting. Architectural modifications will be required to the existing control room to accommodate the new SCADA system and proposed work flow and work space improvements.

The Project scope, design standards and performance requirements are described in more detail in Appendix C (Project Technical Requirements). Certain project background documents and supporting information are being made available as described in Appendix C (Project Technical Requirements). The Owner is providing these documents and information only for the purpose of obtaining Proposals for the Project and does not confer a license or grant for any other use. The extent to which the Design-Builder may rely on such background documents is set forth in Appendix A (Progressive Design-Build Contract).

2.2 Project Budget and Funding

The cost for design and construction of the Project is currently budgeted at \$ 1.75 million. Such budget does not include Owner's other Project costs, such as professional advisory services, site investigations, taxes, etc. The Owner intends to use internal reserves and/or bond financing to provide the capital funding needed for the Project.

2.3 Project Schedule

It is anticipated that the Progressive Design-Build Contract will be executed on or about **January 2019**. The Preconstruction-phase is expected to take six (6) months with the submission of GMP proposal due by **July 2019**. The schedule for the Project implementation is expected to take up to nine (9) months and will be confirmed during the Preconstruction-phase. Subject to approval by the Owner, the Construction-phase is anticipated to start in **October 2019** and the Project completed no later than **June 2020**.

Section 3. Progressive Design-Build Services

3.1 General

The Design-Builder will provide services in two distinct phases.

Preconstruction-phase services generally consist of preliminary engineering and design development, as well as preparation, in close collaboration with the Owner and Owner's Advisor, of a proposed price and schedule. The proposed price and schedule would be based on the Project's design (developed to 60% level of completion), a GMP and the Owner's Project schedule, and it would include supporting documentation, such as detailed open-book costing for the GMP. Construction-phase services generally encompass completing the Project's final design, construction, and performance testing. Permitting activities are included in each phase.

Phase 1 Preconstruction-phase services:

- Develop the Project execution plan, including Project schedule.
- Produce the basis-of-design report.
- Develop the engineering design (including preparing and submitting intermediate design review packages) and value-engineering activities in conjunction with Owner and Owner's Advisor.
- Prepare a Project cost model and provide detailed cost estimates as the design and design alternatives are advanced.
- Submit and negotiate a GMP to complete the construction-phase services.
- Identify Project permitting requirements and initiate certain permitting activities.
- Prepare a detailed plan for Maintenance of Plant Operations during construction.

Phase 2 Implementation-phase services:

- Complete the final design.
- Procure equipment and subcontractors.
- Secure necessary permits.
- Construct Project.
- Conduct startup, commissioning, and performance testing.
- Provide operator training.
- Provide warranty coverage.

3.2 Roles and Responsibilities

Owner: The Owner (and Owner's Advisor, as applicable) will cooperate with the Design-Builder and will fulfill its responsibilities in a timely manner to facilitate the Design-Builder's timely and efficient performance of services. Owner responsibilities include:

- Confirm selection of Software Vendor and SCADA software package
- Review submissions and provide comments to Design-Builder.
- Furnish existing studies and provide available data and information regarding the Project, including existing drawings (where possible) and preliminary studies.
- Provide funding.
- Provide access to the Project site.
- Provide necessary data and inputs for Project startup and performance testing.
- Maintain continuous operation of the water treatment plant.

Design-Builder: The Design-Builder will cooperate with the Owner (and Owner's Advisor, as applicable), and will provide in a timely manner the Preconstruction- and Construction-phase services necessary to complete the Project scope specified in this RFP. Design-Builder responsibilities include:

- Prepare design and construction documents signed & sealed by a Michigan PE.
- Supervise subcontractors and Design-Builder personnel.
- Obtain governmental approvals and permits.
- Maintain site security.
- Conduct performance testing.
- Implement quality-management procedures.
- Implement Project health and safety practices.

The roles and responsibilities of the Owner and the Design-Builder are fully described in Appendix A (Progressive Design-Build Contract). In case of conflict between any part of this RFP and the Contract in Appendix A, the Contract shall take precedence.

SECTION III - MINIMUM INFORMATION REQUIRED

Section 4. Proposal Format

The Proposal should be printed double sided and must not exceed 30 total pages (60 sides of 8½ x 11 inch, with 1-inch or greater margins), excluding the index or table of contents, front and back covers, title pages/separation tabs, and appendices. A maximum of 4 of the total pages may be 11 x 17-inch tri-fold format.

The content requirements set forth in this RFP represent the minimum content requirements for the Proposal. It is the Proposer's responsibility to include information in its Proposal to present all relevant qualifications and other materials. The Proposal, however, should not contain standard marketing or other general materials. It is the Respondent's responsibility to modify such materials so that only directly relevant information is included in the Proposal.

The Proposal must include the following information in the order listed:

- Transmittal Letter
- Part 1 – Executive Summary
- Part 2 – Design-Builder Profile
- Part 3 – Project Team
- Part 4 – Experience
- Part 5 – Project Approach
- Part 6 – Progressive Design-Build Contract Markup
- Part 7 – Fee and Rate Proposal (in separate envelope)
- Appendix A – Forms for Affirmation of Compliance
- Appendix B – Resumes
- Appendix C – Supporting Documentation
- Appendix D – Fee and Rate Proposal (in separate envelope)

4.1 Transmittal Letter

Proposers must submit a transmittal letter (maximum two pages) on the Proposer's letterhead. It must be signed by a representative of the Proposer who is authorized to sign such material and to commit the Proposer to the obligations contained in the Proposal. The transmittal letter must include the name, address, phone number and e-mail address for the Proposer Contact and must specify who would be the Design-Builder's signatory to any contract documents executed with the Owner. The transmittal letter may include other information deemed relevant by the Proposer.

4.2 Part 1 – Executive Summary

The executive summary (maximum three pages) must include a concise overview of the

key elements of the Proposal and must summarize and refer to information in the Proposal concerning satisfaction of the Minimum Qualifications Requirements. The executive summary shall not be used to convey additional information not found elsewhere in the Proposal.

4.3 Part 2 – Design-Builder Profile

A detailed and complete description of the company proposed as the Design-Builder must be provided in Part 2 of the Proposal. (The term “company” can refer to either a single entity or a joint venture.) Information concerning Key Personnel and other firms that may be included on the Project Team, such as subconsultants and subcontractors, should be provided in Part 3 of the Proposal. The Design-Builder Profile must include the following information.

- **General**

Provide general information about the Design-Builder, such as lines of business and service offerings, locations of offices, number of employees (professional and non-professional), years in business, and evidence of required licenses. Provide licenses in Appendix C (Supporting Documentation) of the Proposal.

- **Legal structure**

Identify whether the Design-Builder is organized as a corporation, limited liability company (LLC), general partnership, joint venture, limited partnership, or other form of legal entity. As applicable, identify the owners of the Design-Builder (e.g., shareholders, members, partners, and the like) who hold an interest of 10 percent or more.

- **Project office location**

Identify where the Design-Builder intends to maintain its project office(s) and where the majority of the design work will be performed.

- **Financial condition**

In Proposal Appendix C, provide audited financial statements for the Design-Builder for the past three years. If the Design-Builder is a joint venture, LLC or partnership, it must provide such financial statements for each partner or member.

- **Payment and performance bonds**

In Proposal Appendix C, provide a letter from the Design-Builder's surety to verify the availability of a design-build bond of at least \$ 2.5 million for this Project. The surety must be authorized by law to do business in Michigan and must have an A.M. Best Company Rating of at least A minus and Financial Size Category of “V” or better. The surety must also be listed in the U.S. Department of Treasury’s Circular 570.

- **Insurance**

In Proposal Appendix C., provide a letter or Certificate of Insurance from the Design-Builder's insurance company stating its ability to acquire and provide the following minimum limits for the required insurance as:

- Statutory workers compensation insurance: as required by state law
- Employer's liability insurance: \$ 500,000 each occurrence; \$ 500,000 each employee
- Commercial General Liability Insurance: \$ 1.0 million per occurrence; \$ 2.0 million per job aggregate; \$ 1.0 million Personal and Advertising Injury
- Motor Vehicle Liability Insurance: Michigan No-Fault Coverages equivalent to Insurance Services Office form CA 00 01 07 97 or current equivalent; \$1.0 million per occurrence for Bodily Injury or Property Damage, or both combined
- Umbrella/Excess Liability Insurance in excess of the above listed Employers, Commercial General and Motor Vehicle insurance: \$1.0 million per occurrence
- Professional Liability (Errors and Omissions): \$ 1.0 million each occurrence and in the aggregate

The required insurance must be obtained with City of Ann Arbor named as additional insured and maintained from insurance companies that have an A.M. Best Rating of A minus or better, a Financial Size Category of "V" and are duly licensed or authorized in State of Michigan.

The Proposal must provide the following additional information pertaining to factors or events that have the potential to adversely impact the Design-Builder's ability to perform its contractual commitments.

- **Material adverse changes in financial position.** Describe any material historical, existing or anticipated changes in financial position, including mergers, acquisitions, takeovers, joint ventures, bankruptcies, divestitures, or any material changes in the mode of conducting business.
- **Legal proceedings and judgments.** List and briefly describe any pending or past (within five years) legal proceedings and judgments, or any contingent liability that could adversely affect the financial position or ability to perform contractual commitments to Owner.
- **Completion of contracts.** Has the Design-Builder failed to complete any contract, or has any contract been terminated due to alleged poor performance or default within the past five years? If so, describe the circumstances.

- **Violation of laws.** Has the Design-Builder been convicted of any criminal conduct or been found in violation of any federal, state, or local statute, regulation, or court order concerning antitrust, public contracting, employment discrimination or prevailing wages within the past five years? If so, describe the circumstances.
- **Debarred from bidding.** Has the Design-Builder been debarred within the past five years, or is it under consideration for debarment, from bidding on public contracts by the federal government or by any state? If so, describe the circumstances.

If any of the above questions is answered in a manner that indicates that any of these unfavorable factors or events are present, it is the Respondent's responsibility to: (1) describe in detail the unfavorable factor or event; and (2) provide sufficient information to demonstrate that the unfavorable factor or event will not adversely impact the Design-Builder's ability to perform its contractual commitments. Include these responses in Appendix C of the Proposal.

The Proposer must notify the Owner of any changes subsequent to submission of the Proposal and before the selection process is completed (and, in the case of the selected Proposer, before execution of the Design-Build Contract).

4.4 Part 3 – Project Team

Describe the composition, organization, and management of the Project Team in two separate subsections.

Design-Builder/Other Firms:

- Identify any other firms (such as subcontractors and subconsultants) included on the Project Team along with the Design-Builder and describe the scope of the Design-Builder's and each firm's services and responsibilities throughout the Project. Clearly identify the firm(s) serving as the Designer and the Builder. Describe the Design-Builder's approach to the management of subcontractors and subconsultants.

Key Personnel

- Identify all Key Personnel (and their firm affiliations) on the Project Team and describe their specific responsibilities throughout the Project.
- Describe the Design-Builder's approach to managing such Key Personnel.
- Indicate the commitment of all Key Personnel in terms of an estimated percentage of time throughout the Project.
- Provide resumes for all Key Personnel in Proposal Appendix B (Resumes). Limit resumes to **two** pages per individual and include:

- Academic and professional qualifications
- Professional registration (as applicable)
- Experience as it relates to the Project and to the individual's specified role on the Project

Organization Chart

- Provide organization chart showing:
 - Reporting relationships and responsibilities of the Design-Builder and any other firms
 - Reporting relationships and responsibilities of all Key Personnel (along with their firm affiliations)

Proposers are advised that all firms and Key Personnel identified in the Proposal shall remain on the Project Team for the duration of the procurement process and execution of the Project. (The anticipated dates for award of the Progressive Design-Build Contract and for completion of the Project are set forth in Section II of this RFP.) If extraordinary circumstances require a change, it must be submitted in writing to the Owner Contact, who, at his or her sole discretion, will determine whether to authorize a change, recognizing that certain circumstances (such as termination of employment) may occur that are beyond the Design-Builder's control. Unauthorized changes to the Project Team at any time during the procurement process may result in elimination of the Proposer from further consideration.

4.5 Part 4 – Experience

The Proposal must describe the performance history and experience of the Project Team on similar projects and provide information concerning safety.

Reference Projects

Using the Relevant Project Form provided in Attachment H, the Respondent shall submit descriptions of a minimum of three (3) and maximum of five (5) reference projects completed in the last ten (10) years to demonstrate relevant experience with implementing SCADA hardware and software upgrades at an operational water or wastewater treatment plant.

Each project description shall contain at least the following information:

- Name of owner
- Owner reference and contact information
- Role of respondent
- Contract value and type
- Value of SCADA portion
- Project Delivery method (Design-Bid-Build, Design-Build, Progressive Design-Build, CMAR, P3)
- Year started, and year completed

- Description of the project showing relevance to this Project
- Firms and Key Personnel that participated in project and are included in this Proposal, along with a clear description of role and responsibility of each

In addition, provide a summary table/matrix to cross-reference the Project Team (firms and Key Personnel) indicating their participation in the reference projects.

Safety

Provide a summary description of the Design-Builder's corporate safety program and include safety statistics or records indicating categories of accidents and their incidence or frequency rates for the past five years. The following safety records must be provided for the Design-Builder for the current and past five years:

- The experience modification rate (EMR) calculated by the National Council on Compensation Insurance or similar rating bureau. (The EMR is also referred to as the experience modification rating, experience modification factor, experience modifier or X-mod.)
- The days-away-from-work injury incidence rate. A day-away-from-work injury is an injury that prevents an employee from returning to his or her next regularly scheduled shift. The incidence rate is calculated by multiplying the number of days-away-from-work injuries for the particular year by 200,000 and then dividing the product by the person-hours worked for that year.

4.6 Part 5 – Project Approach

Provide a conceptual description (maximum six pages) of the Design-Builder's approach for managing and performing its services during the preconstruction and construction phases of the Project. The following items should be addressed:

- Discuss how a collaborative relationship with the Owner would be established during preconstruction-phase design development, scheduling, and cost estimating.
- Discuss how the design and construction processes will interface (including how constructability issues will be addressed).
- Discuss scheduling and staging plans to maintain operations of the working water treatment plant.
- Identify the work components critical to meeting the Owner's Objectives and how these components would be achieved.
- Describe the process for developing the GMP (or lump-sum price) proposal (including the amount of cost contingency).
- Discuss how key risk factors will be identified and mitigated.
- Project specific safety plan.
- Project specific quality plan.

In addition, the Project Approach must include brief descriptions of the Design-Builder's approach to the following:

- Communications (with Owner and other stakeholders, such as regulatory agencies)
- Quality management
- Risk management (including key risk factors)
- Adherence to the GMP or lump-sum price and schedule in the construction phase

4.7 Part 6 – Progressive Design-Build Contract

Part 6 of the Proposal must describe any and all revisions requested by the Proposer to the Progressive Design-Build Contract and explain the rationale for such revisions and the associated benefits to the Owner. Proposers are encouraged to suggest revisions that would more efficiently allocate risk, improve the parties' understanding of risk allocation, and improve clarity of any terms of the Progressive Design-Build Contract where ambiguities or uncertainties may arise in their application or interpretation.

The Owner is not obligated to accept any of the requested modifications submitted by the Proposer when negotiating and finalizing the Progressive Design-Build Contract. Furthermore, the Owner may request additional revisions during negotiations and before finalizing the Progressive Design-Build Contract.

Proposers are encouraged to carefully review RFP Appendix A (Progressive Design-Build Contract) and to submit written questions and comments by the deadline specified in Section I. Based on its assessment of the comments submitted, the Owner (at its sole discretion) may modify the Progressive Design-Build Contract via addenda. The Owner expects that this review and comment process will substantially reduce the need for extensive post-selection negotiation.

4.8 Part 7 – Fee and Rate Proposal

The Proposer must complete RFP Attachment I (Fee and Rate Proposal Form) – with all required pricing information – and include it (along with Part 7) in a separate, sealed envelope as Proposal Appendix D (Fee and Rate Proposal). Part 7 of the Proposal should describe the basis for the fee and rate proposal and discuss its viability from the Design-Builder's perspective.

Note that the Owner is not interested in proposed fees or rates that provide excessive discounts from the Design-Builder's anticipated actual costs for the requested services. If Owner determines (at its sole discretion) that the fees and rates included in a Proposal are unacceptably below industry norms or that a Proposer's fees and rates are substantially or unacceptably below other Proposals, the Owner may (at its sole discretion) either declare that Proposal to be non-responsive or seek additional detailed

information from that Proposer concerning the cost basis for its fee and rate proposal, prior to rendering a decision on the Proposal's responsiveness.

Section 5. Proposal Evaluation

5.1 General

The Owner's selection committee (with assistance provided by Owner's Advisor if desired by Owner) will review and evaluate the Proposals according to the requirements and criteria outlined in this section. During the Proposal evaluation process, written questions or requests for clarification may be submitted to one or more Proposers regarding its Proposal or related matters. Failure to respond in a timely manner to any such questions or requests may be grounds for elimination of the Proposer from further consideration. The committee may contact references to verify material submitted by the Proposer.

5.2 Responsiveness

Each Proposal will be reviewed to determine whether it is responsive to the RFP. Failure to comply with the requirements of this RFP may result in a Proposal being rejected as non-responsive. At its sole discretion, however, the selection committee may waive any such failure to meet a requirement of this RFP and may request clarification or additional information to remedy a failure.

5.3 Minimum Qualification Requirements

Each responsive Proposal will be reviewed to determine whether it meets the Minimum Qualification Requirements outlined in this subsection. At its sole discretion, the selection committee may waive any failure to satisfy such requirements and may request clarification or additional information to address any questions that may arise in this regard. Any Proposal that does not satisfy all of the following Minimum Qualification Requirements may be rejected.

- **Performance bond.** Ability of the Design-Builder to provide a design-build performance bond in the amount of \$2.5 million.
- **Material adverse condition.** The Design-Builder must not be subject to a material adverse condition that gives rise to reasonable doubt concerning its ability to continue to undertake and successfully complete the Project and to mitigate/absorb Project risks.
- **Licensing and registration.** The Design-Builder must hold a Builders License (Heavy Industrial) or equivalent license in Michigan for the type of work to be performed. The Designer must include in responsible charge a Professional Engineer registered in Michigan. The System Integrator must have a Rockwell Partner Certification.
- **Design experience.** Within the past 10 years, the Designer must have successfully completed the design of at least three (3) SCADA upgrade projects

of similar complexity at operational water or wastewater treatment plants for municipal clients in the United States.

- **Construction experience.** Within the past 10 years, the Builder must have successfully completed the construction of at least three (3) SCADA upgrade projects of similar complexity at operational water or wastewater treatment plants for municipal clients in the United States.
- **Safety record.** The Builder must have achieved an experience modification rate (EMR) of not greater than 1.0 for the current and past two years.

5.4 Comparative Evaluation Criteria

The selection committee will evaluate and rank the responsive Proposals that satisfy the Minimum Qualification Requirements by applying the weighted comparative evaluation criteria set forth below. Financial condition is evaluated on a pass/fail basis as part of the Minimum Qualification Requirements.

- Part 2 – Design-Builder Profile **[10%]**
 - General
 - Legal Structure
 - Project Office Location
 - Support Services Location
 - Financial Condition
 - Material Adverse Conditions
- Part 3 – Project Team **[20%]**
 - Design-Builder/other firms
 - Key Personnel
 - Team Management
- Part 4 – Experience **[30%]**
 - Relevant SCADA Projects
 - Design-Build delivery
 - Safety
- Part 5 – Project Approach **[20%]**
- Part 7 – Fee and Rate Proposal **[20%]**

In ranking the proposals, the selection committee will use a 100-point scale whereby the maximum points awarded for each of the evaluation criteria will be based on the percentage weight set forth above. The selection committee will apply the non-price evaluation and complete its awarding of the non-price criteria points before opening the sealed envelope containing the fee and rate proposal.

The committee then will schedule interviews with the selected firms if necessary. Interviewed firms will be re-scored using identical criteria. The selected firms will be given the opportunity to discuss in more detail their qualifications, past experience,

proposed work plan and fee proposal. The interview must include the Key Personnel and team members expected to complete a majority of work on the project, but no more than six members total. The interview shall consist of a presentation of up to thirty minutes (or the length provided by the committee) by the Design-Builder, including the person who will be the project manager on this contract, followed by approximately thirty minutes of questions and answers. Audiovisual aids may be used during the oral interviews. The committee may record the oral interviews.

The City reserves the right to waive the interview process and evaluate the Proposals and fee schedules alone, or open fee schedules before or prior to interviews.

5.5 Selection

The top-ranked Proposer will be offered the opportunity to negotiate the final terms of the Progressive Design- Build Contract. However, if the Owner determines (at its sole discretion) that the top-ranked Proposer's requested modifications to the Progressive Design-Build Contract may require protracted negotiations, the Owner may choose to either select or negotiate with the next-ranked Proposer. If negotiations with any selected Proposer are not successful, the Owner may offer the next-ranked Proposer the opportunity to negotiate the final terms of the Progressive Design-Build Contract (and so on for lower-ranked Proposers).

SECTION IV - ATTACHMENTS

Attachment A – Non-Disclosure Agreement

Attachment B – Legal Status of Respondent Form

Attachment C – Non-Discrimination Ordinance Declaration of Compliance Form

Attachment D – Living Wage Declaration of Compliance Form

Attachment E – Vendor Conflict of Interest Disclosure Form

Attachment F – Non-Discrimination Ordinance Poster

Attachment G – Living Wage Ordinance

Attachment H – Relevant Project Form

Attachment I – Fee and Rate Proposal Form

ATTACHMENT A
NON-DISCLOSURE AGREEMENT
BETWEEN _____
AND THE CITY OF ANN ARBOR

Whereas, the City of Ann Arbor, with municipal offices at 301 E. Huron Street, Ann Arbor 48107 ("City") is the owner of certain confidential information relating to its Water Treatment Plant and components thereof, certain confidential information relating to a cell tower and antennas located on the Plant grounds, including all related facilities, and confidential information regarding the Water Treatment Plant and cell tower facilities that may be determined through inspection of those facilities, all of which information is or may be classified as exempt or restricted information under the Michigan Freedom of Information Act and federal bioterrorism and homeland security laws (collectively referred to as "Confidential Information").

Whereas, _____ (referred to as "Receiver") is desirous of receiving, reviewing, and/or evaluating the Confidential Information for the sole and exclusive purpose of gathering information for the **Progressive Design-Build for WTP SCADA Modernization Project**.

Therefore, it is agreed this ____ day of _____, 20__:

That, the City shall, in its sole discretion, disclose to Receiver some or all of the Confidential Information based on Receiver's request for:

- *Water facility drawings and written information relating to electrical control panels, control panel and associated I/O inventory, architectural layouts, etc.*
- *Electronic copies and printouts of PLC programs, SCADA software applications, control screen graphics, and historical database information*
- *Other City-owned documents that are needed to facilitate the execution of the WTP SCADA Modernization Project.*

It is understood that Receiver will secure at its sole cost any and all licenses, authorizations or other intellectual property rights necessary for the transfer of Confidential Information in the format requested by Receiver. Receiver will be required to provide documentation of it having all necessary licenses, authorizations or rights prior to transfer of the Confidential Information in the requested format.

That, Receiver shall hold and use Confidential Information only for the above-stated purpose of this Agreement and shall restrict disclosure of such Confidential Information to its employees with a need to know. Each employee of Receiver identified as "need to know" in connection with the receipt, review or evaluation of the Confidential Information shall be required to execute a Non-Disclosure Agreement under the same terms as stated herein. The City shall be provided with a copy of the executed employee Non-Disclosure Agreements and a master list of the employees, their respective jobs, and the reason for their classification as "need to know."

That, Receiver will hold the Confidential Information or any part thereof in strict confidence and will not permit any disclosure thereof to any person or persons outside its organization and not use or derive any direct or indirect benefit from the Confidential Information or any part thereof without the prior written consent of the City. Receiver agrees that it will not disseminate in any manner any part of the Confidential Information.

If the Receiver receives a subpoena, request from an administrative agency or order from a court that requires Receiver to disclose all or any of the Confidential Information, the Receiver shall notify the City immediately, including a copy of the subpoena, request or order, and shall act in cooperation with the City to seek a protective order to prevent or limit disclosure and/or impose a non-disclosure obligation on the recipient(s). Recipient shall include a copy of this Non-Disclosure Agreement along with the Confidential Information it produces or discloses. Confidential Information disclosed in accordance with this paragraph shall remain Confidential Information for all other purposes.

That, Receiver will not make or authorize to be made any copies of any reports, plans, drawings or electronic data files supplied by the City and showing or describing or embodying the Confidential Information unless authorized by the City in writing. At any time and for any reason, prior to the completion of the work performed by the Receiver, the City may request and Receiver agrees it will return all of the said reports, plans, drawings or electronic data files together with any reports, drawings or electronic data files, including any independent notations of the Confidential Information, made by Receiver showing or describing or embodying the Confidential Information or any part thereof to the City immediately. After completion of the work, the Receiver shall return to the City any drawings, extracts, reproductions, or other documentation comprising the Confidential Information, in whatever format or media, including any independent notations of the Confidential Information made by Receiver showing or describing or embodying the Confidential Information or any part thereof. In addition, access shall be controlled by the Receiver to all Confidential Information generated as part of the work performed by the Receiver. Although the Receiver is permitted to maintain copies of their work, dissemination of this Confidential Information is not permitted without written authorization from the City.

That, the restrictions on the use or disclosure of Confidential Information by Receiver shall not include any information which:

1. at the time of disclosure to Receiver was known to Receiver free of restriction and such previous knowledge is evidenced by documentation in the possession of Receiver. A copy of which documentation will be provided to the City if requested by the City; or
2. is publicly known or later made publicly known by the City; or
3. is evidenced by documentation in the possession of Receiver as being received from a third party to this Agreement who: (a) has the legal right to so furnish such information to Receiver, and (b) is not obligated to the City to keep such information confidential; or
4. is approved for release in writing by the City.

That, nothing in this Agreement shall be construed as conferring to Receiver any right of ownership in the Confidential Information or license to use any, patents, industrial designs, copyrights or other intellectual property rights owned or licensed by the City.

That, nothing in this Agreement shall be construed as restricting the City's right to restrain use or dissemination of the Confidential Information in accordance with applicable federal, state or local law and regulation or at common law.

Receiver acknowledges that a breach by him/her of the provisions of this Agreement will cause the City irreparable damage for which the City cannot be reasonably or adequately compensated in damages. The City shall therefore be entitled, in addition to all other remedies available to it including, but not limited to, attorney fees and costs, to injunctive and/or other equitable relief to prevent a breach of this Agreement, or any part of it, and to secure its enforcement.

This Agreement shall be construed in accordance with the laws of the State of Michigan.

This Agreement and any amendments hereto may be executed by facsimile signature and in any number of counterparts, all of which taken together shall constitute one and the same instrument.

CITY OF ANN ARBOR

By: _____
Howard Lazarus
City Administrator

By: _____

Print Name: _____

Approved as to substance:

Title: _____

Craig Hupy, P.E.
Public Services Area Administrator

Date: _____

Approved as to form:

Stephen K. Postema
City Attorney

ATTACHMENT B

LEGAL STATUS OF RESPONDENT

(The Respondent shall fill out the provision and strike out the remaining ones.)

The Respondent is:

- A corporation organized and doing business under the laws of the state of _____, for whom _____ bearing the office title of _____, whose signature is affixed to this proposal, is authorized to execute contracts on behalf of respondent.*

*If not incorporated in Michigan, please attach the corporation's Certificate of Authority

- A limited liability company doing business under the laws of the State of _____, whom _____ bearing the title of _____ whose signature is affixed to this proposal, is authorized to execute contract on behalf of the LLC.
- A partnership organized under the laws of the State of _____ and filed with the County of _____, whose members are (attach list including street and mailing address for each.)
- An individual, whose signature with address, is affixed to this RFP.

Respondent has examined the basic requirements of this RFP and its scope of services, including all Addendum (if applicable) and hereby agrees to offer the services as specified in the RFP.

Signature Date: _____

(Print) Name _____ Title _____

Firm: _____

Address: _____

Contact Phone _____ Fax _____

Email _____

ATTACHMENT C

CITY OF ANN ARBOR DECLARATION OF COMPLIANCE

Non-Discrimination Ordinance

The "non-discrimination by city contractors" provision of the City of Ann Arbor Non-Discrimination Ordinance (Ann Arbor City Code Chapter 112, Section 9:158) requires all contractors proposing to do business with the City to treat employees in a manner which provides equal employment opportunity and does not discriminate against any of their employees, any City employee working with them, or any applicant for employment on the basis of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight. It also requires that the contractors include a similar provision in all subcontracts that they execute for City work or programs.

In addition the City Non-Discrimination Ordinance requires that all contractors proposing to do business with the City of Ann Arbor must satisfy the contract compliance administrative policy adopted by the City Administrator. A copy of that policy may be obtained from the Purchasing Manager

The Contractor agrees:

- (a) To comply with the terms of the City of Ann Arbor's Non-Discrimination Ordinance and contract compliance administrative policy.
- (b) To post the City of Ann Arbor's Non-Discrimination Ordinance Notice in every work place or other location in which employees or other persons are contracted to provide services under a contract with the City.
- (c) To provide documentation within the specified time frame in connection with any workforce verification, compliance review or complaint investigation.
- (d) To permit access to employees and work sites to City representatives for the purposes of monitoring compliance, or investigating complaints of non-compliance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services in accordance with the terms of the Ann Arbor Non-Discrimination Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Non-Discrimination Ordinance, obligates the Contractor to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract.

Company Name

Signature of Authorized Representative Date

Print Name and Title

Address, City, State, Zip

Phone/Email address

Questions about the Notice or the City Administrative Policy, Please contact:

Procurement Office of the City of Ann Arbor
(734) 794-6500

**ATTACHMENT D
CITY OF ANN ARBOR
LIVING WAGE ORDINANCE DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that an employer who is (a) a contractor providing services to or for the City for a value greater than \$10,000 for any twelve-month contract term, or (b) a recipient of federal, state, or local grant funding administered by the City for a value greater than \$10,000, or (c) a recipient of financial assistance awarded by the City for a value greater than \$10,000, shall pay its employees a prescribed minimum level of compensation (i.e., Living Wage) for the time those employees perform work on the contract or in connection with the grant or financial assistance. The Living Wage must be paid to these employees for the length of the contract/program.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from compliance with the Living Wage Ordinance. If this exemption applies to your company/non-profit agency please check here No. of employees__

The Contractor or Grantee agrees:

- (a) To pay each of its employees whose wage level is not required to comply with federal, state or local prevailing wage law, for work covered or funded by a contract with or grant from the City, no less than the Living Wage. The current Living Wage is defined as \$13.22/hour for those employers that provide employee health care (as defined in the Ordinance at Section 1:815 Sec. 1 (a)), or no less than \$14.75/hour for those employers that do not provide health care. The Contractor or Grantor understands that the Living Wage is adjusted and established annually on April 30 in accordance with the Ordinance and covered employers shall be required to pay the adjusted amount thereafter to be in compliance with Section 1:815(3).

Check the applicable box below which applies to your workforce

Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage without health benefits

Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage with health benefits

- (b) To post a notice approved by the City regarding the applicability of the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance, and investigating complaints or non-compliance.
- (e) To take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee covered by the Living Wage Ordinance or any person contracted for employment and covered by the Living Wage Ordinance in order to pay the living wage required by the Living Wage Ordinance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services or agrees to accept financial assistance in accordance with the terms of the Living Wage Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Living Wage Ordinance, obligates the Employer/Grantee to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract or grant of financial assistance.

Company Name _____
Street Address

Signature of Authorized Representative _____
City, State, Zip

Print Name and Title _____
Phone/Email address



ATTACHMENT E

VENDOR CONFLICT OF INTEREST DISCLOSURE FORM

All vendors interested in conducting business with the City of Ann Arbor must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with the City of Ann Arbor's conflict of interest policies as stated within the certification section below.

If a vendor has a relationship with a City of Ann Arbor official or employee, an immediate family member of a City of Ann Arbor official or employee, the vendor shall disclose the information required below.

1. No City official or employee or City employee's immediate family member has an ownership interest in vendor's company or is deriving personal financial gain from this contract.
2. No retired or separated City official or employee who has been retired or separated from the City for less than one (1) year has an ownership interest in vendor's Company.
3. No City employee is contemporaneously employed or prospectively to be employed with the vendor.
4. Vendor hereby declares it has not and will not provide gifts or hospitality of any dollar value or any other gratuities to any City employee or elected official to obtain or maintain a contract.
5. Please note any exceptions below:

Conflict of Interest Disclosure*	
Name of City of Ann Arbor employees, elected officials or immediate family members with whom there may be a potential conflict of interest.	<input type="checkbox"/> Relationship to employee <hr/> <input type="checkbox"/> Interest in vendor's company <input type="checkbox"/> Other (please describe in box below)

*Disclosing a potential conflict of interest does not disqualify vendors. In the event vendors do not disclose potential conflicts of interest and they are detected by the City, vendor will be exempt from doing business with the City.

I certify that this Conflict of Interest Disclosure has been examined by me and that its contents are true and correct to my knowledge and belief and I have the authority to so certify on behalf of the Vendor by my signature below:		
Vendor Name	Vendor Phone Number	
Signature of Vendor Authorized Representative	Date	Printed Name of Vendor Authorized Representative

Questions about this form? Contact Procurement Office City of Ann Arbor Phone: 734/794-6500, procurement@a2gov.org

ATTACHMENT F
CITY OF ANN ARBOR NON-DISCRIMINATION ORDINANCE

[Relevant provisions of Chapter 112, Nondiscrimination, of the Ann Arbor City Code are included below.](#)
[You can review the entire ordinance at www.a2gov.org/humanrights.](http://www.a2gov.org/humanrights)

Intent: It is the intent of the city that no individual be denied equal protection of the laws; nor shall any individual be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight.

Discriminatory Employment Practices: No person shall discriminate in the hire, employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any individual. No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor union or apprenticeship program.

Discriminatory Effects: No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight for an individual to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected objection to such a person by neighbors, customers or other persons.

Nondiscrimination by City Contractors: All contractors proposing to do business with the City of Ann Arbor shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All city contractors shall ensure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon any classification protected by this chapter. All contractors shall agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of any applicable protected classification. All contractors shall be required to post a copy of Ann Arbor's Non-Discrimination Ordinance at all work locations where its employees provide services under a contract with the city.

Complaint Procedure: If any individual believes there has been a violation of this chapter, he/she may file a complaint with the City's Human Rights Commission. The complaint must be filed within 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action or 180 calendar days from the date when the individual should have known of the allegedly discriminatory action. A complaint that is not filed within this timeframe cannot be considered by the Human Rights Commission. To file a complaint, first complete the complaint form, which is available at www.a2gov.org/humanrights. Then submit it to the Human Rights Commission by e-mail (hrc@a2gov.org), by mail (Ann Arbor Human Rights Commission, PO Box 8647, Ann Arbor, MI 48107), or in person (City Clerk's Office). For further information, please call the commission at 734-794-6141 or e-mail the commission at hrc@a2gov.org.

Private Actions For Damages or Injunctive Relief: To the extent allowed by law, an individual who is the victim of discriminatory action in violation of this chapter may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this chapter.

**THIS IS AN OFFICIAL GOVERNMENT NOTICE AND
MUST BE DISPLAYED WHERE EMPLOYEES CAN READILY SEE IT.**

ATTACHMENT G

**CITY OF ANN ARBOR
LIVING WAGE ORDINANCE**

RATE EFFECTIVE APRIL 30, 2018 - ENDING APRIL 29, 2019

\$13.22 per hour

If the employer provides health care benefits*

\$14.75 per hour

If the employer does **NOT** provide health care benefits*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

ENFORCEMENT

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

The Law Requires Employers to Display This Poster Where Employees Can Readily See It.

**For Additional Information or to File a Complaint contact
Colin Spencer at 734/794-6500 or cspencer@a2gov.org**

ATTACHMENT H

RELEVANT PROJECT FORM

(MAKE EXTRA COPIES AS REQUIRED TO PROVIDE MINIMUM OF 3 AND MAXIMUM OF 5 PROJECTS)

PROJECT # _____

Project Name:

Project Location:

Project Manager:

Role of Firm (Prime/Sub):

Client Reference Name/Title:

Reference Phone:

Reference Email:

Project Start Date:

Scheduled and Actual Completion Dates:

Total Project Budget and Actual Cost:

SCADA Portion Budget and Actual Cost:

Project Scope: *Provide detailed information regarding your firm's role in the project and the role of key staff members who are identified in your proposal. Explain the discrepancy between budgeted and actual projected costs and scheduled and actual completion dates.*

Project Delivery Method: *Provide detailed information regarding the Project delivery i.e. whether Design/Bid/Build or Alternate Project Delivery. If APD, indicate the form of Design Build contract and benefits or constraints this provided.*

ATTACHMENT I

PROGRESSIVE DESIGN-BUILD FOR WTP SCADA MODERNIZATION FEE AND RATE PROPOSAL FORM

Scope of Work	Definition	Price
Phase 1 Pricing Component		
1) Phase 1A SCADA Design and GMP Services	Preliminary design, workshops, schedule and GMP development for SCADA Components	\$
2) Phase 1B Non-SCADA Design and GMP Services	Preliminary design, workshops, schedule and GMP development for Non-SCADA Components	\$
3) Total Proposal for Phase 1	Evaluated Price Component (Sum of items 1 – 2)	\$
Phase 2 Overhead and Profit on Cost of Work		
4) (%) Overhead and Profit on Cost of Work	Markup to be applied to actual Cost of Work (subcontractors, materials, and actual cost of work performed) for Phase 2 services as a percentage markup.	%
5) (\$) Evaluated Price for Overhead and Profit on Cost of Work	Markup (%) x Budgeted Construction Costs (\$1,750,000) for Evaluated Price Component	\$

Respondent has examined the basic requirements of this RFP and its scope of services, including all Addenda (if applicable) and hereby agrees to offer these services at the prices specified.

Date: _____

Signature _____

(Print) Name _____ Title _____

Firm: _____

Address: _____

APPENDIX A – PROGRESSIVE DESIGN-BUILD CONTRACT



Progressive Design-Build Agreement for Water and Wastewater Projects Modified for City of Ann Arbor

This **AGREEMENT** is made as of the _____ day of _____ in the year of 20
_____, by and between the following parties, for services in connection with the Project identified below:

OWNER:

(Name and address)

City of Ann Arbor
301 East Huron Street
Ann Arbor, Michigan 48107

DESIGN-BUILDER:

(Name and address)

PROJECT:

(Include Project name and location as it will appear in the Contract Documents)

Progressive Design-Build for WTP SCADA Modernization Project

City of Ann Arbor Water Treatment Plant
919 Sunset Road
Ann Arbor, Michigan 48103

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

Article 1

General

- 1.1 Duty to Cooperate. Owner and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith to permit each party to realize the benefits afforded under this Agreement.
- 1.2 Definitions. Terms, words and phrases used in this Agreement shall have the meanings given them in DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition) ("General Conditions of Contract").
- 1.3 Design Services. Design-Builder shall, consistent with applicable state licensing laws, provide design services, including architectural, engineering, and other design professional services required by this Agreement. Such design services shall be provided through qualified, licensed design professionals who are either (i) employed by Design-Builder, or (ii) procured by Design-Builder from independent sources. Nothing in this Agreement is intended to create any legal or contractual relationship between Owner and any independent design professional.
- 1.4 City Ordinance. Services provided under this Agreement are considered to be Professional Services within the meaning of Chapter 14 of the City of Ann Arbor's Code of Ordinance.

Article 2

Design-Builder's Services and Responsibilities

- 2.1 General Services.
 - 2.1.1 Owner shall provide Design-Builder with Owner's Project Criteria describing Owner's program requirements and objectives for the Project as set forth in Exhibit A. Owner's Project Criteria shall include Owner's use, space, price, time, site, performance, and expandability requirements. Owner's Project Criteria may include conceptual documents, design specifications, design performance specifications, and other technical materials and requirements prepared by or for Owner.
 - 2.1.2 If Owner's Project Criteria have not been developed prior to the execution of this Agreement, Design-Builder will assist Owner in developing Owner's Project Criteria, with such service deemed to be an additional service for which additional compensation shall be paid by Owner to Design-Builder. If Owner has developed Owner's Project Criteria prior to executing this Agreement, Design-Builder shall review and prepare a written evaluation of such criteria, including recommendations to Owner for different and innovative approaches to the design and construction of the Project. The parties shall meet to discuss Design-Builder's written evaluation of Owner's Project Criteria and agree upon what revisions, if any, should be made to such criteria.
- 2.2 Phased Services.
 - 2.2.1 Phase 1 Services. Design-Builder shall perform the services of design, pricing, and other services for the Project based on Owner's Project Criteria, as may be revised in accordance with Section 2.1 hereof, as set forth in Exhibit B, Scope of Services. Design-Builder shall perform such services to the level of completion required for Design-Builder and Owner to establish the Contract Price for Phase 2, as set forth in Section 2.3 below. The Contract Price for Phase 2 shall be developed during Phase 1 on an "open-book" basis. Design-Builder's Compensation for Phase 1 Services is set forth in Section 7.0 herein. The level of completion required for Phase 1

Services is defined in Exhibit B, Scope of Services (either as a percentage of design completion or by defined deliverables).

2.2.2 Phase 2 Services. Design-Builder's Phase 2 services shall consist of the completion of design services for the Project, the procurement of all materials and equipment for the Project, the performance of construction services for the Project, the start-up, testing, and commissioning of the Project, and the provision of warranty services, all as further described in the Contract Price Amendment. Upon receipt of Design-Builder's proposed Contract Price for Phase 2, Owner may proceed as set forth in Article 2.3.

2.3 Proposal. Upon completion of the Phase 1 Services and any other Basis of Design Documents upon which the parties may agree, Design-Builder shall submit a proposal to Owner (the "Proposal") for the completion of the design and construction for the Project for the Contract Price, which shall be based on a Design-Builder's Fee and Cost of the Work, subject to a Guaranteed Maximum Price (GMP).

2.3.1 The Proposal shall include the following unless the parties mutually agree otherwise:

2.3.1.1 The Contract Price based on a Design-Builder's Fee and Cost of the Work, subject to a GMP, which shall be the sum of:

- i. Design-Builder's Fee as defined in Section 7.4.1 hereof;
- ii. The estimated Cost of the Work as defined in Section 7.5 hereof, inclusive of any Design-Builder's Contingency as defined in Section 7.6.2 hereof; and
- iii. If applicable, any prices established under Section 7.1.3 hereof;

2.3.1.2 The Basis of Design Documents, which may include, by way of example, Owner's Project Criteria, which are set forth in detail and are attached to the Proposal;

2.3.1.3 A list of the assumptions and clarifications made by Design-Builder in the preparation of the Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;

2.3.1.4 The Scheduled Substantial Completion Date upon which the Proposal is based, to the extent said date has not already been established under Section 6.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based and a Project Schedule for the Work;

2.3.1.5 If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

2.3.1.6 If applicable, a schedule of alternate prices;

2.3.1.7 If applicable, a schedule of unit prices;

2.3.1.8 If applicable, a statement of Additional Services which may be performed but which are not included in the Proposal, and which, if performed, shall be the basis for an increase in the Contract Price and/or Contract Time(s);

2.3.1.9 If applicable, a Savings provision;

2.3.1.10 If applicable, Performance Incentives;

2.3.1.11 The time limit for acceptance of the Proposal; and

2.3.1.12 An Owner's permit list, a list detailing the permits and governmental approvals that Owner will bear responsibility to obtain.

2.3.2 Review and Adjustment to Proposal.

2.3.2.1 After submission of the Proposal, Design-Builder and Owner shall meet to discuss and review the Proposal. If Owner has any comments regarding the Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the Proposal.

2.3.2.3 Acceptance of Proposal. Design-Builder acknowledges that the power to act on the Proposal rests with City Council which may require up to ninety days (90) days to exercise that power. If Owner accepts the Proposal, as may be amended by Design-Builder, the Contract Price and its basis shall be set forth in an amendment to this Agreement, when mutually agreed between the parties (Contract Price Amendment). Once the parties have agreed upon the Contract Price and Owner has issued a Notice to Proceed with Phase 2, Design-Builder shall perform the Phase 2 Services, all as further described in the Contract Price Amendment, as it may be revised.

2.3.2.4 Failure to Accept the Proposal. If Owner rejects the Proposal, or fails to notify Design-Builder in writing within ninety (90) days that it accepts the Proposal, the Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

i. Owner may suggest modifications to the Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 2.3.2.3 above;

ii. Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 7.1.2 hereof without a Contract Price, in which case all references in this Agreement to the Contract Price shall not be applicable; or

iii. Owner may terminate this Agreement for convenience in accordance with Article 9 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Sections 9.2, 9.1.2, and 9.1.3 hereof.

If Owner fails to exercise any of the above options, Design-Builder shall have the right to (a) continue with the Work as if Owner had elected to proceed in accordance with Item 2.3.2.4 ii. above, and be paid by Owner accordingly, unless and until Owner notifies it in writing to stop the Work, (b) suspend performance of Work in accordance with Section 11.3.1 of the General Conditions of Contract, provided, however, that in such event Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof, or (c) may give written notice to Owner that it considers this Agreement completed. If Owner fails to exercise any of the options under Section 2.3.2.4 within twenty one (21) days of receipt of Design-Builder's notice, then this Agreement shall be deemed completed. If Owner terminates the relationship with Design-Builder under Section 2.3.2.4(iii), or if this Agreement is deemed completed under this paragraph, then Design-Builder shall have no further liability or obligations to Owner under this Agreement.

Article 3

Contract Documents

3.1 The Contract Documents are comprised of the following:

3.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Agreement Between Owner and Design-Builder* (2010 Edition) (“General Conditions of Contract”);

3.1.2 The Contract Price Amendment referenced in Section 2.3.2.3 herein or the Proposal accepted by Owner in accordance with Section 2.3 herein.

3.1.3 This Agreement, including all exhibits;

3.1.4 The General Conditions of Contract; and,

3.1.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract.

Article 4

Interpretation and Intent

4.1 Design-Builder and Owner, at the time of acceptance of the Proposal by Owner in accordance with Section 2.3 hereof, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement, or if applicable, prior to Owner’s acceptance of the Proposal.

4.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after Owner’s acceptance of the Proposal, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict, or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 3.1 hereof.

4.3 Terms, words, and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

4.4 If Owner’s Project Criteria contain design specifications: (a) Design-Builder is entitled to reasonably rely on the accuracy of the information represented in the design specifications and their compatibility with other information set forth in Owner’s Project Criteria, including any design performance specifications; and (b) Design-Builder shall be entitled to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder’s cost and/or time of performance have been adversely impacted by such inaccurate design specification.

4.5 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 5

Ownership of Work Product

5.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement (“Work Product”) are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights, and/or patents, subject to the provisions set forth in Sections 5.2 through 5.5 below.

5.2 Owner’s License. By this Agreement, Design-Builder grants Owner a license to use the Work Product in connection with Owner’s occupancy and use of the Project, conditioned on Owner’s express understanding that its alteration of the Work Product without the involvement of Design Builder is at Owner’s sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the “Indemnified Parties”), and on the Owner’s obligation to provide the indemnity set forth in Section 5.5 herein.

5.3 [Not Used]

5.4 [Not Used]

5.5 Owner’s Indemnification for Alteration of Work Product. Owner shall defend, indemnify, and hold harmless the Indemnified Parties from and against any and all claims, damages, liabilities, losses, and expenses, including attorneys’ fees, arising out of or resulting from Owner’s alteration of the Work Product, to the fullest extent permitted by applicable law. Notwithstanding the foregoing, Owner has no obligation to defend, indemnify, or hold harmless the Indemnified Parties related to their own acts or omissions.

Article 6

Contract Time

6.1 Date of Commencement. The Phase 1 Services shall commence within five (5) days of Design-Builder’s receipt of Owner’s Notice to Proceed unless the parties mutually agree otherwise in writing. The Work shall commence within five (5) days of Design-Builder’s receipt of Owner’s Notice to Proceed for Phase 2 Services (“Date of Commencement”) if the Proposal is accepted and the Contract Price Amendment is amended to this Agreement unless the parties mutually agree otherwise in writing.

6.2 Substantial Completion and Final Completion.

6.2.1 Substantial Completion of the entire Work shall be achieved no later than TBD (_____) calendar days after the Date of Commencement (“Scheduled Substantial Completion Date”).

6.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows: TBD .

6.2.3 Final Completion of the Work or identified portions of the Work shall be achieved no later than TBD (____) calendar days after Substantial Completion. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

6.2.4 All of the dates set forth in this Article 6 (“Contract Time(s)”) shall be subject to adjustment in accordance with the General Conditions of Contract.

6.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

6.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by TBD () days after the Scheduled Substantial Completion Date (the "LD Date"), Design-Builder shall pay Owner One Thousand Dollars (\$1,000.00) as liquidated damages for each day that Substantial Completion extends beyond the LD Date.)

6.5 Any liquidated damages assessed by Owner and paid by Design-Builder pursuant to this Agreement shall be in lieu only of other damages arising directly and solely from Design-Builder's breach of the Agreement by its failure to attain Substantial Completion by the Scheduled Substantial Completion Date.

6.6 Early Completion Bonus. If Substantial Completion is attained on or before _____ () days before the Scheduled Substantial Completion Date (the "Bonus Date"), Owner shall pay Design-Builder at the time of Final Payment under Section 8.4 hereof an early completion bonus of TBD Dollars (\$) for each day that Substantial Completion is attained earlier than the Bonus Date.

Article 7

Contract Price

7.1 Contract Price.

7.1.1 Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of TBD Dollars (\$) for the Phase 1 Services, subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Phase 1 Services compensation is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.

7.1.2 For Phase 2 Services, Owner shall pay Design-Builder in accordance with Article 7 of the General Conditions of Contract a contract price ("Contract Price") equal to the Design-Builder's Fee (as defined in Section 7.4 hereof) plus the Cost of the Work (as defined in Section 7.5 hereof), subject to any GMP established in Section 7.6 hereof or as set forth in the Contract Price Amendment and any adjustments made in accordance with the General Conditions of Contract.

7.1.3 For the specific Work set forth below, Owner agrees to pay Design-Builder, as part of the Contract Price, on the following basis:

7.2 [Not Used]

7.3 Markups for Changes. If the Contract Price requires an adjustment due to changes in the Work, and the cost of such changes is determined under Sections 9.4.1.3 or 9.4.1.4 of the General Conditions of Contract, the following markups shall be allowed on such changes:

7.3.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of N/A percent () of the additional costs incurred for that Change Order.

7.3.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include an amount equal to N/A

percent (____%) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Builder's Fee).

7.4 Design-Builder's Fee.

7.4.1 Design-Builder's Fee shall be TBD percent (____%) of the Cost of the Work, as adjusted in accordance with Section 7.4.2 below.

7.4.2 Design-Builder's Fee will be adjusted as follows for any changes in the Work:

7.4.2.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design Builder shall receive a Fee of TBD percent (____%) of the additional Costs of the Work incurred for that Change Order.

7.4.2.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include an amount equal to TBD percent (____%) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Builder's Fee).

7.5 Cost of the Work.

7.5.1 The term Cost of the Work shall mean costs reasonably incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

7.5.1.1 Wages of direct employees of Design-Builder performing the Work at the Site or, with Owner's written agreement, at locations off the Site, provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement.

7.5.1.2 Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

7.5.1.3 [Not Used]

7.5.1.4 Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 7.5.1.1 through 7.5.1.3 hereof.

7.5.1.5 The reasonable portion of the cost of travel and accommodations for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work.

7.5.1.6 Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

7.5.1.7 [Not Used]

7.5.1.8 Costs, including transportation, inspection, testing, storage, and handling of materials, equipment, and supplies incorporated or reasonably used in completing the Work.

7.5.1.9 Costs less salvage value of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling, and removing such items.

7.5.1.10 Costs of removal of debris and waste from the Site.

7.5.1.11 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying, and reasonable petty cash expenses.

7.5.1.12 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

7.5.1.13 A pro rata share, to which Owner agrees in writing, of premiums for insurance and bonds required by this Agreement or the performance of the Work.

7.5.1.14 All fuel and utility costs incurred in the performance of the Work.

7.5.1.15 Sales, use, or similar taxes, tariffs, or duties incurred in the performance of the Work, unless those taxes, tariffs, or duties could have been avoided by Owner's direct purchase.

7.5.1.16 [Not Used]

7.5.1.17 Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.

7.5.1.18 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Design-Builder resulting from such suits or claims, and paying settlements made with Owner's consent.

7.5.1.19 Deposits which are lost, except to the extent caused by Design-Builder.

7.5.1.20 Costs incurred in preventing damage, injury, or loss in case of an emergency not caused by Design-Builder affecting the safety of persons and property.

7.5.1.21 Accounting and data processing costs required by the Work.

7.5.1.22 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

7.5.2 Non-Reimbursable Costs. The following shall be excluded from the Cost of the Work:

7.5.2.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 7.5.1.1, 7.5.1.2, and 7.5.1.3 hereof.

7.5.2.2 Overhead and general expenses, except as provided for in Section 7.5.1 hereof, or which may be recoverable for changes to the Work.

7.5.2.3 The cost of Design-Builder's capital used in the performance of the Work.

7.5.2.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

7.6 The Guaranteed Maximum Price.

7.6.1 Design-Builder guarantees that it shall not exceed the GMP of TBD Dollars (\$_____). Documents used as basis for the GMP shall be identified as the Contract Price Amendment to this Agreement. Design-Builder does not guarantee any specific line item provided as part of the GMP, provided, however, that it does guarantee the line item for its general project management and general conditions costs, in the amount of TBD Dollars (\$_____), and as set forth in the Contract Price Amendment ("General Conditions Cap"). Design-Builder agrees that it will be responsible for paying the applicable general conditions costs in excess of the General Conditions Cap, as well as be responsible for all costs of completing the Work which exceed the GMP, as said general conditions line item and the GMP may be adjusted in accordance with the Contract Documents, including but not limited to the markups for Change Orders set forth in Section 7.3 herein.

7.6.2 The GMP includes a Contingency in the amount of TBD Dollars (\$_____) which is available, if Owner consents in writing, for Design-Builder's use for unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d) correction of defective, damaged or nonconforming Work, design errors or omissions, however caused; (e) Subcontractor defaults; or (f) those events under Section 8.2.2 of the General Conditions of Contract that result in an extension of the Contract Time but do not result in an increase in the Contract Price. Design-Builder shall provide Owner notice of all anticipated charges against the Contingency, and shall provide Owner as part of the monthly status report required by Section 2.1.2 of the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the upcoming three (3) months. Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

7.6.3 Savings.

7.6.3.1 If the sum of the actual Cost of the Work and Design-Builder's Fee (and, if applicable, any prices established under Section 7.1.3 hereof) is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall be shared as follows:

Thirty percent (30 %) to Design-Builder and
Seventy percent (70 %) to Owner.

or

7.6.3.2 Savings shall be calculated and paid as part of Final Payment under Section 8.4 hereof, with the understanding that to the extent Design-Builder incurs costs after Final Completion which would have been payable to Design-Builder as a Cost of the Work, the parties shall recalculate the Savings in light of the costs so incurred, and Design-Builder shall be paid by Owner accordingly.

7.7 Allowance Items and Allowance Values.

7.7.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the Contract Price Amendment or the Proposal.

7.7.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

7.7.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

7.7.4 The Allowance Value includes the direct cost of labor, materials, equipment, transportation, taxes, and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and Fee, are deemed to be included in the original Contract Price, and are not subject to adjustment notwithstanding the actual amount of the Allowance Item.

7.7.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 7.7.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

7.8 Performance Incentives.

7.8.1 Owner and Design-Builder have agreed to the performance incentive arrangements set forth in Exhibit TBD .

Article 8

Procedure for Payment

8.1 Payment for Preliminary Services. Design-Builder and Owner agree upon the following method for partial and final payment to Design-Builder for the services hereunder: TBD .

8.2 Contract Price Progress Payments.

8.2.1 Design-Builder shall submit to Owner on the last business day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

8.2.2 Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

8.2.3 If Design-Builder's Fee under Section 7.4 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

8.3 Retainage on Progress Payments.

8.3.1 Owner will retain ten percent (10%) of each Application for Payment.

8.3.2 Within thirty (30) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

8.4 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within thirty (30) days after Owner's receipt of the Final Application for Payment, provided that: (a) Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

8.5 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall to the extent permissible, bear interest commencing thirty (30) days after payment is due at the rate of one half percent (0.5%) per month until paid.

8.6 Record Keeping and Finance Controls. Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, but the composition of such multiplier or markup is not subject to audit.

Article 9

Termination for Convenience

9.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

9.1.1 All services actually performed and Work actually executed;

9.1.2 The reasonable out-of-pocket costs and expenses attributable solely to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors; and

9.1.3 The fair and reasonable sums for overhead and profit on the sum of items 9.1.1 and 9.1.2 above.

9.2 In addition to the amounts set forth in Section 9.1 above, Design-Builder shall be entitled to receive one of the following as applicable:

9.2.1 If Owner terminates this Agreement prior to commencement of construction, Design-Builder shall be paid _____ TBD _____ percent (____%) of the remaining balance of the Contract Price or, if a GMP has not been established, the remaining balance of the most recent estimated Contract Price.

9.2.2 If Owner terminates this Agreement after commencement of construction, Design-Builder shall be paid _____ TBD _____ percent (____%) of the remaining balance of the Contract Price or, if a GMP has not been established, the remaining balance of the most recent estimated Contract Price.

9.3 If Owner terminates this Agreement pursuant to Section 9.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Article 5 hereof. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 5.

Article 10

Representatives of the Parties

10.1 Owner's Representatives.

10.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract:
(Identify individual's name, title, address, and telephone numbers.)

10.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract:
(Identify individual's name, title, address, and telephone numbers.)

10.2 Design-Builder's Representatives.

10.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility

for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract:
(Identify individual's name, title, address, and telephone numbers.)

10.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract:
(Identify individual's name, title, address, and telephone numbers.)

Article 11

Bonds and Insurance

11.1 Insurance. Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

11.2 Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

Required Not Required

Payment Bond.

Required Not Required

Other Performance Security.

Required Not Required

Article 12

Other Provisions

12.1 Other provisions, are as follows:

12.1.1 Owners Advisor. Stantec is serving as Owner's Advisor with respect to this Agreement, the Work and the Project. Stantec's, or its employees' or agents', notices, communications, and directives to Design-Builder shall have the same effect as if they're Owner's, and Design-Builder shall treat them accordingly.

12.1.2 Wage Provisions. Design-Builder shall conform to Chapter 14 of Title I of the Code of the City of Ann Arbor as amended, which in part states "... that all craftsmen, mechanics and laborers

employed directly on the site in connection with said improvements, including said employees of subcontractors, shall receive the prevailing wage for the corresponding classes of craftsmen, mechanics and laborers, as determined by statistics for the Ann Arbor area compiled by the United States Department of Labor.” Design-Builder shall provide satisfactory proof of its compliance and that of any of its subcontractors upon Owner’s demand.

Pursuant to Resolution R-16-469 all public improvement contractors are subject to prevailing wage and shall provide to Owner payroll records, and cooperate with wage rate interviews, sufficient to demonstrate compliance with the prevailing wage requirements.

Where the Agreement and the Ann Arbor City Ordinance are silent as to definitions of terms required in determining contract compliance with regard to prevailing wages, the definitions provided in the Davis-Bacon Act as amended (40 U.S.C. 278-a to 276-a-7) for the terms shall be used.

If Design-Builder is a “covered employer,” as defined in Chapter 23 of the Ann Arbor City Code, Design-Builder shall comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. In that case, Design-Builder shall: pay those employees providing Services under this Agreement a “living wage,” as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); post a notice approved by the Owner of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; maintain records of compliance; if requested by Owner, provide documentation to verify compliance; take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise comply with the requirements of Chapter 23.

All subcontracts Design-Builder enters with respect to the Agreement shall contain similar wage provisions, covering any subcontractor’s employees.

12.1.3 Non-Discrimination Ordinance. Design-Builder shall comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. Design Builder shall comply with the provisions of Section 9:158 of Chapter 112 of Title IX of the Ann Arbor City Code, and shall ensure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

12.1.4 Hours of Work. Absent prior written Owner approval, or except as is absolutely necessary due to an emergency, Design-Builder may not work at night, i.e. between 8:00 p.m. and 7:00 a.m., or on weekends or City holidays.

12.1.5 Sales Tax. Owner is exempt from the assessment of State Sales Tax on its direct purchases. Those who acquire materials, equipment, supplies, etc., for incorporation in Owner projects, are not likewise exempt. Design-Builder should plan accordingly. No extra payment will be allowed under this Agreement for Design-Builder’s failure to make proper allowance for taxes it must or may pay.

12.1.6 Design-Builder represents and warrants that it has no personal or financial interests in the Project other than those it has under the Agreement. Design-Builder represents and warrants that it is not, and will not become, overdue or in default to Owner for any contract, debt, or any other obligation including taxes. Notwithstanding any other provision of the Agreement, Owner shall have the right to set off any such debt against any payment obligation arising under the Agreement.

12.1.7 Non-Disclosure Agreement. To protect Owner’s confidences, Design-Builder and its employees, agents and contractors shall execute non-disclosure agreements in a form satisfactory to City.

12.1.8 Material Salvage. Owner may designate for salvage any materials removed as part of the Project, in which case such materials shall remain Owner property and Design-Builder shall transport them to, and store them at, a location determined by Owner.

12.1.9 Nothing in this Agreement shall be construed to waive any immunity to which Owner is entitled by law or equity.

12.1.10 Owner shall at all times have access to the Work whenever it is in preparation or progress, and Design-Builder shall provide proper facilities for access and for inspection.

12.1.11 In procuring goods and services related to this Agreement, Design-Builder shall comply with any procurement laws with which City would be obligated to comply if it were procuring those goods and services itself.

12.2 Listing of Exhibits and documents incorporated herein:

- Exhibit A – Project Technical Requirements
- Exhibit B – Scope of Design-Builder Services
- DBIA Document No. 535, Standard Form of General Conditions of Contract Between Owner and Design-Builder Modified for City of Ann Arbor ("General Conditions of Contract")
- Contract Price Amendment, if any.

Any claims, disputes, or controversies between the parties arising out of or related to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 of the General Conditions of Contract shall be resolved in the Circuit Court for Washtenaw County, which Owner and Design-Builder agree is the proper venue and most convenient forum, and to the jurisdiction of which Owner and Design-Builder submit.

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

DESIGN-BUILDER:

(Name of Owner)

(Name of Design-Builder)

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

Date: _____

Date: _____



STANDARD FORM OF GENERAL CONDITIONS OF CONTRACT BETWEEN OWNER AND DESIGN-BUILDER MODIFIED FOR CITY OF ANN ARBOR

Document No. 535

Second Edition, 2010

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Modified for City of Ann Arbor

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Article 1

General

1.1 Mutual Obligations

1.1.1 *Owner and Design-Builder* commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under DBIA Document No. 545, *Progressive Design-Build Agreement For Water and Wastewater Projects* (2016 Edition), Modified for City of Ann Arbor.

1.2.2 *Basis of Design Documents* are those documents specifically listed in, as applicable, the GMP Exhibit or GMP Proposal as being the “Basis of Design Documents”.

1.2.3 *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design-Builder consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both the Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

1.2.4 *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.5 *Design-Build Team* is comprised of the Design-Builder, its employees, and key Subcontractors identified by the Design-Builder.

1.2.6 [Not Used]

1.2.7 *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2.

1.2.8 *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

1.2.9 *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition).

1.2.10 *GMP Exhibit* means that exhibit attached to DBIA Document No. 545, *Progressive Design-Build Agreement for Water and Wastewater Projects*, which exhibit will have been agreed upon by Owner and Design-Builder prior to the execution of the Agreement.

1.2.11 *GMP Proposal* means that proposal developed by Design-Builder in accordance with Section 7.6 of DBIA Document No. 545, *Progressive Design-Build Agreement for Water and Wastewater Projects*.

1.2.12 *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.13 *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.14 *Owner’s Project Criteria* are developed by or for Owner to describe Owner’s program

requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

1.2.15 *Site* is the land or premises on which the Project is located.

1.2.16 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

1.2.17 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

1.2.18 *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes.

1.2.19 *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services.

2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.2 Design-Builder shall provide Owner with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the Agreement ; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

2.1.3 Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures,

including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.2 Design Professional Services.

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed design consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Drawings shall be signed and sealed by a Professional Engineer licensed in the State of Michigan. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant.

2.3 Standard of Care for Design Professional Services.

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project or the applicable standard under Michigan law, whichever is higher.

2.4 Design Development Services.

2.4.1 Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.4.1. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

2.4.2 Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

2.4.3 Owner's review and approval of interim design submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements.

2.5.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.5.2 The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

2.6 Government Approvals and Permits.

2.6.1 Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

2.6.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Construction Phase Services.

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.7.3 To the extent permitted by Section 13.2, Design-Builder may employ Subcontractors, but only those who are duly licensed and qualified to perform the Work consistent with the Contract Documents.

2.7.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site free from debris, trash and construction wastes so as to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas or Owner's ongoing operations. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.8 Design-Builder's Responsibility for Project Safety.

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.8.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.8.3 Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

2.9 Design-Builder's Warranty.

2.9.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

2.10 Correction of Defective Work.

2.10.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents.

2.10.2 Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner

in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

2.10.3 The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

Article 3

Owner's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a reasonably timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to unreasonably delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 Owner shall provide reasonably timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

3.1.3 Owner shall give Design-Builder reasonably timely notice of any Work that Owner notices to be defective or not in compliance with the Contract Documents.

3.2 Furnishing of Services and Information.

3.2.1 Unless expressly stated to the contrary in the Contract Documents, within a reasonable time after Design-Builder's request, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

3.2.1.1 To the extent available, surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

3.2.1.2 To the extent available, geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

3.2.1.3 Any temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

3.2.1.4 Any legal description of the Site;

3.2.1.5 To the extent available, record drawings of any existing structures at the Site; and

3.2.1.6 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Financial Information.

3.3.1 At Design-Builder's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a reasonably timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

3.3.2 [Not Used]

3.4 Owner's Representative.

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a reasonably timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

3.5 Government Approvals and Permits.

3.5.1 [Not Used]

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors.

3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to unreasonably interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions.

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

4.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

4.1.4 Design-Builder will be entitled, in accordance with these General Conditions of Contract,

to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

4.1.5 To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site. Notwithstanding the foregoing, nothing in this Agreement shall be construed to waive any immunity the Owner has by law or equity.

4.1.6 Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.2 Differing Site Conditions.

4.2.1 Design-Builder has diligently investigated the site of the Project and is satisfied that it can fulfill all obligations of this Agreement for the consideration to which it may be entitled under this Agreement as long as it does not encounter concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work ("Differing Site Conditions"). Design-Builder represents and warrants that it's not aware of any Differing Site Conditions. Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.

4.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

Article 5

Insurance and Bonds

5.1 Design-Builder's Insurance Requirements.

5.1.1 Design-Builder is responsible for procuring and maintaining, during the duration of the Agreement, including any guarantee or warranty period, the insurance for the coverages and amounts all as set forth in the Insurance Exhibit to the Agreement. Coverage shall be secured from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A" Overall, and a minimum Financial Size Category of "V". To the fullest extent possible, insurance coverages and amounts set forth in the Insurance Exhibit shall be primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions, and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, Design-Builder waives, on its insurers' behalves, any right they may have against the Owner and its employees, contractors and agents to subrogation, and shall, upon Owner's demand, supply proof of its insurers' agreement to the same. To the fullest extent lawful, Design-Builder shall make Owner an additional insured, with at least as much coverage as Design-Builder has, on all coverages and amounts set forth in the Insurance Exhibit.

5.1.2 Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.3 Prior to commencing any services hereunder, and thereafter upon Owner's request, Design-Builder shall provide Owner certificates and other documents, including endorsements and policies, satisfactory to Owner evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Design-Builder with reasonable promptness according to the Design-Builder's information and belief.

5.2 [Not Used]

5.3 Owner's Property Insurance.

5.3.1 Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon its water treatment plant to its full insurable value. The property insurance obtained by Owner shall include as additional insureds the interests of Owner, Design-Builder, and Subcontractors of any tier. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.1.

5.3.2 Unless the Contract Documents provide otherwise, Owner shall procure and maintain boiler and machinery insurance that will include the interests of Owner, Design-Builder, and Subcontractors of any tier. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.2.

5.3.3 If Design-Builder requests, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof.

5.3.4 [Not Used]

5.3.5 Owner and Design-Builder waive against each other and Owner's separate contractors, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

5.4 Bonds and Other Performance Security.

5.4.1 If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

5.4.2 All bonds furnished by Design-Builder shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state in which the Project is located.

Article 6

Payment

6.1 Schedule of Values.

6.1.1 Unless required by the Owner upon execution of this Agreement, within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

6.1.2 The Owner will timely review and approve the schedule of values so as not to delay the submission of the Design-Builder's first application for payment. The Owner and Design-Builder shall timely resolve any differences so as not to delay the Design-Builder's submission of its first application for payment.

6.2 Monthly Progress Payments.

6.2.1 On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be to Owner's Finance Department – Accounting Division and accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof.

6.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location, (ii) the equipment and materials are protected by suitable insurance and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

6.2.3 All discounts offered by Subcontractor, Sub-Subcontractors and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

6.2.4 The Application for Payment shall constitute Design-Builder's representation that the Work described herein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.3 Withholding of Payments.

6.3.1 On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

6.4 Right to Stop Work and Interest.

6.4.1 If Owner fails to pay timely Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

6.5 Design-Builder's Payment Obligations.

6.5.1 Design-Builder shall pay Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof. Design-Builder shall comply with the Michigan Builder's Trust Fund Act.

6.6 Substantial Completion.

6.6.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within fourteen (14) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Upon Substantial Completion of the entire Work, Owner shall release to Design-Builder all retained amounts relating to the entire Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment.

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment, subject to any set offs for claims Owner has against Design-Builder, by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

6.7.2.1 An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

6.7.2.2 A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

6.7.2.3 Consent of Design-Builder's surety, if any, to final payment;

6.7.2.4 All operating manuals, warranties and other deliverables required by the Contract Documents;

6.7.2.5 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents; and,

6.7.2.6 An assignment of all manufacturer or material-supplier warranties related to the Work.

6.7.3 [Not Used]

6.7.4 Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein, and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

Article 7

Indemnification

7.1 Patent and Copyright Infringement.

7.1.1 Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

7.2 Tax Claim Indemnification.

7.2.1 If, in accordance with Owner's direction, an exemption for all or part of the Work is

claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with Owner's directive. Owner shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely. Notwithstanding the foregoing, nothing in this Agreement shall be construed to waive any immunity the Owner has by law or equity.

7.3 Payment Claim Indemnification.

7.3.1 Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.4 Design-Builder's General Indemnification.

7.4.1 Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, fiduciaries, agents and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, to the extent resulting in any way from the acts or omissions of Design-Builder, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable. This obligation shall survive any expiration, termination, completion, or lapse of the Agreement, for any reason.

7.4.2 If an employee of Design-Builder, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

7.5 [Not Used]

Article 8

Time

8.1 Obligation to Achieve the Contract Times.

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

8.2 Delays to the Work.

8.2.1 If Design-Builder is delayed in the performance of the Work due to unforeseeable acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, unforeseeable events that may entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in

Section 8.2.1 above, Design-Builder may be entitled to an appropriate adjustment of the Contract Price as provided under Section 9.4 below, provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.

Article 9

Changes to the Contract Price and Time

9.1 Change Orders.

9.1.1 A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

9.1.1.1 The scope of the change in the Work;

9.1.1.2 The amount of the adjustment to the Contract Price; and

9.1.1.3 The extent of the adjustment to the Contract Time(s).

9.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

9.1.3 If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

9.2 Work Change Directives.

9.2.1 A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 [Not Used]

9.4 Contract Price Adjustments.

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

9.4.1.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

9.4.1.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

9.4.1.3 Costs, fees and any other markups set forth in the Agreement; or

9.4.1.4 If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and

profit, as may be set forth in the Agreement.

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.4.3 If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

9.5 Emergencies.

9.5.1 In any emergency affecting the safety of persons or property, Design-Builder shall reasonably act, at its discretion, to prevent threatened damage, injury or loss and shall promptly provide Owner notice of the emergency and its action. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

Article 10

Contract Adjustments and Disputes

10.1 Requests for Contract Adjustments and Relief.

10.1.1 If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given promptly, but not more than fourteen (14) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

10.2 Dispute Avoidance and Resolution.

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

10.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in

Section 10.1.1 unless the Owner and Design-Builder mutually agree otherwise.

10.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit the dispute or disagreement to the Circuit Court for Washtenaw County, which Owner and Design-Builder agree is the proper venue and most convenient forum, and to the jurisdiction of which Owner and Design-Builder submit.

10.3 [Not Used]

10.4 Duty to Continue Performance.

10.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

10.5 [Not Used]

Article 11

Stop Work and Termination for Cause

11.1 Owner's Right to Stop Work.

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project. If Owner does so, Design-Builder shall resume the Work within five (5) days of the date in any written notice from Owner to do so.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by Owner.

11.2 Owner's Right to Perform and Terminate for Cause.

11.2.1 If Design-Builder materially breaches the Agreement, including by persistently failing to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then

Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of any amounts due to Design-Builder under the Agreement exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the re-procurement and defense of claims arising from Design-Builder's default.

11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

11.3 Design-Builder's Right to Stop Work.

11.3.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

11.3.1.1 Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

11.3.1.2 Owner's failure, for more than thirty (30) days, to pay amounts properly due under Design-Builder's Application for Payment.

11.3.2 Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

11.4 Design-Builder's Right to Terminate for Cause.

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

11.4.1.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

11.4.1.2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days

during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

11.4.1.3 Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

11.5 Bankruptcy of Owner or Design-Builder.

11.5.1 If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code, makes a general assignment for the benefit of creditors, or has a receiver appointed for it (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

11.5.1.1 The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

11.5.1.2 The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

Article 12

Electronic Data

12.1 Electronic Data.

12.1.1 The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

12.2 Transmission of Electronic Data.

12.2.1 Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to

access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

12.2.2 Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

12.2.3 By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

12.3 Electronic Data Protocol.

12.3.1 The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, and Subcontractors to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

12.3.2 Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

12.3.3 The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

12.3.4 The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

Article 13

Miscellaneous

13.1 Confidential Information.

13.1.1 Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

13.2 Assignment.

13.2.1 Neither Design-Builder nor Owner may, without the written consent of the other, assign, delegate, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents. Any assignment, delegation, transfer or sublet made in violation of this provision shall be void. Should Owner consent to any assignment, delegation, transfer or sublet, Design-Builder shall still remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it, unless specifically released in writing by Owner.

13.3 Successorship.

13.3.1 Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

13.4 Governing Law.

13.4.1 The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles.

13.5 Severability.

13.5.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

13.6 No Waiver.

13.6.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

13.7 Headings.

13.7.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

13.8 Notice.

13.8.1 Whenever the Contract Documents require that notice be provided to the other party, notice shall go to the Owner Senior Representative or Design-Builder's Senior Representative, as applicable. Such notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, or (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement.

13.9 Amendments.

13.9.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

Exhibit

Insurance

Worker's Compensation Insurance in accordance with all applicable state and federal statutes.

Employers Liability Insurance of at least:

- Bodily Injury by Accident - \$500,000 each accident
- Bodily Injury by Disease - \$500,000 each employee
- Bodily Injury by Disease - \$500,000 each policy limit

Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98 or current equivalent:

\$1,000,000	Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined.
\$2,000,000	Per Job General Aggregate
\$1,000,000	Personal and Advertising Injury
\$2,000,000	Products and Completed Operations Aggregate

Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. The limits of liability shall be no less than \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

Umbrella/Excess Liability Insurance excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

Professional Liability Insurance in an amount of at least \$1,000,000 per claim, which insurance Design-Builder shall maintain until the applicable statute of repose extinguishes any claims related to the Agreement.

APPENDIX B – SCOPE OF DESIGN-BUILDER SERVICES

Appendix B

Scope of Design-Builder Services

Phase 1: Preconstruction Services

1. This Scope of Services pertain to services to be provided under Phase 1 as part of the Progressive Design Build delivery of the Ann Arbor WTP Supervisory Control and Data Acquisition (SCADA) Modernization Project. As such, the Phase 1 services shall be performed collaboratively with the Owner and the Design-Builder (DB), and the scope of services during Phase 1 shall incorporate workshops, meetings, and other forms of communication to facilitate the intended collaborative approach.
2. Phase 1 includes technical evaluations, investigations, design services, planning and estimating, as required to define the SCADA system improvements that best meet the Owner's goals, considering the priorities listed in the RFP and the available funding. Phase 1 services shall conclude with a partial design of the project and a Guaranteed Maximum Price (GMP) for final design and construction of the defined project scope that the DB and City of Ann Arbor (City) agree provide the best value for the City. Should the City accept the GMP, completion of the design and implementation of the work will be undertaken under a contract amendment as part of Phase 2.
3. The general scope of services as outlined below and as further detailed in the following pages include the following:
 - A. WORKSHOPS - Workshops to further advance current concepts, evaluate new concepts, and finalize the selected concepts, as more clearly defined in Section 4 below.
 - B. PHASE 1 DESIGN - Phase 1 Design Services are included, which shall provide engineering evaluations for each of the project components as listed in the RFP as follows:

The modernization of the SCADA system will provide the City with a robust and scalable automation system that allows operators and supervisors to obtain the critical real time data needed to manage a complex water system. Key components include replacing existing SCADA components, implementing a new SCADA software solution, integrating various systems with the new SCADA software, replacing some existing PLC hardware, programming new PLCs, updating SCADA software, and providing new graphical control screens. To implement the SCADA upgrades, the City intends to collaborate with the DB to develop preliminary design, cost estimates, and GMP pricing as part of Phase 1; and then execute final design, construction, startup, and commissioning assistance as part of Phase 2 for the following work categories:

- i. Hardware;
- ii. Software;

- iii. Programming; and
- iv. Control room

The technical requirements of the above work categories are presented in Appendix C Project Technical Requirements. As part of the Phase 1 design development, the DB shall review Owner-Furnished Documents, including the Project Technical Requirements, existing PLC programs, existing SCADA applications, and other documents that pertain to this project.

- C. PERMITTING: Any Phase 2 permits such as building, plumbing, and mechanical permits shall be prepared during Phase 2 but shall be identified and assessed during Phase 1.
- D. PUBLIC INFORMATION – the DB shall provide project support for the Owner during Phase 1 as it relates to Public Communication for the project.
- E. PHASE 1 GMP DEVELOPMENT AND SCHEDULE – as part of the DB scope of services for this Phase 1, preliminary budgetary pricing shall be developed as part of, and as a result of the decisions made during the initial workshop(s). The preliminary budget shall be established as the benchmark for the project and will ultimately evolve into the GMP as design decisions are made and the ultimate Phase 1 design is completed. The preliminary budget shall include, and be based on the preliminary overall project schedule which will be developed by the DB. The schedule will also evolve as the preliminary design and pricing progress during Phase 1, and a GMP Overall Project Schedule shall be developed and submitted as part of the GMP.
- F. MEETINGS: Collaboration meetings and/or conference calls to update the project team, including Owner and Owner’s Advisor, on the progress of the design, updated schedule and cost model, and the near-term decisions needed to advance the project progress. The DB shall consult with the Owner’s Advisor when preparing the meeting agendas and document the results of these meetings including preparation of minutes and record of decisions.
- G. OTHER SERVICES INCLUDED IN BASE PROPOSAL – as part of this base proposal, the DB shall include any other requirements deemed necessary for a complete Phase 1 scope such as value engineering services, competitive material, subcontractor, and equipment. The price breakdown for these services shall be included in Phase 1 services.

4. WORKSHOPS

Following the Phase 1 Notice-to-Proceed (NTP), a series of workshops as determined by the Owner and the Owner’s Advisor will be scheduled to facilitate the decision-making process for the project elements as generally described in Paragraph number 3.A. The workshops will be incorporated into single meetings or as part of multiple meetings as deemed appropriate to support the Phase 1 schedule, accommodating travel, and availability of Owner resources.

The DB shall review the existing equipment, site conditions, programming information, etc., prior to attending the workshops and be prepared to present meaningful input related to addressing problems and meeting the project goals.

The workshop sessions are to be facilitated by the Owner's Advisor who will provide the workshop agendas and issue the workshop minutes, with support from the DB. The workshops will include decision options and the evaluation of objectives for each of the major elements of work described in 3.B, allow for redline markups by the stakeholders during the session based on conceptual drawings and or sketches as necessary, and will allow for follow up sessions as necessary to finalize decisions where follow-up is deemed necessary. Topics to be discussed in each of the workshops are listed in Appendix C Project Technical Requirements. The fifteen (15) workshops included in the scope of work for Phase 1 are as follows:

- Kickoff and Project Scoping Workshop – The initial workshop will establish the communication protocol, ground rules, the team's guidelines and expectations for the project and provide an opportunity for the Owner and the DB to review work provided to date and discuss the general design concepts for the project. The discussions and work product from this initial workshop will allow the DB team to further advance current concepts and provide a basis for the more detailed workshops. This workshop will also establish the anticipated overall scope for the project and determine the required work breakdown structure necessary to align cost tracking for the DB with the Owner's obligations to other stakeholders.
- PLC Panel Workshops (4) – These four workshops will address the PLC panels.
- Communications and Security Standards Workshop – This workshop will address topics related to the changes brought on by the SCADA hardware and software changes.
- Network Workshop – This workshop will address topics related to the network at the WTP and remote sites as well as topics related to the City's fiber network.
- Server Workshop – This workshop will address topics related to the interface with the City server and the various software packages used at the WTP.
- Screens Workshop – This workshop will establish the City standards for development of the control screens. Discussions will focus on the basis for creating the new SCADA screens and associated programming. The established standards will be assembled in a manual format for use in future City projects.
- Logix Workshop – This workshop will address issues related to programming using Logix. The established standards will be assembled in manual format for use in future City projects.
- Analytics and Integration Workshop – This workshop will address issues related to the various aspects of analytics and integration.

- Control Room Design Workshops (4) – These four workshops will address the layout, work flow, interior design, furnishing and architecture for the control room.

5. PHASE 1 DESIGN

The Phase 1 design effort will include interim deliverables for the design of the project scope as generally outlined in the RFP and in Paragraph 3.B. As part of the workshop efforts outlined above, the Phase 1 design includes the following detailed elements as part of the design effort:

- A. Project Execution Plan (PEP) will be prepared by the DB for review and concurrence by the Owner. The PEP will include as a minimum the following elements:
 - i. Project description and scope of work
 - ii. Project organization
 - iii. Project contacts and lines of communication
 - iv. Code requirements
 - v. Special client requirements
 - vi. Filing system
 - vii. Project workflow model
 - viii. Project quality assurance and quality control plan
 - ix. Risk analysis
 - x. Project budget
 - xi. Project schedule and maintenance of operations
 - xii. Writing, CAD and drafting standards
 - xiii. Electronic File Protocol
- B. Complete designs to the level needed to produce a GMP based on competitive market pricing
- C. Prepare a preliminary sequence of work and detailed plan for maintaining plant operations during installation, start-up, testing and commissioning
- D. Prepare a safety plan to cover all construction activities and personnel in construction zones
- E. Prepare, submit and discuss progression of design advancement at regularly scheduled time and/or progress intervals during Phase 1 (assumed at approximately 30% and GMP at 60% design level).

- F. Prepare 30% design documents (drawings and specifications) for review with Owner. The design documents must address the details listed in Appendix C Project Technical Requirements and include, but are not limited to, the following:

Drawings

- i. SCADA – P&ID Diagrams
- ii. Control Panel and Subplate Layouts with Bills of Materials
- iii. I/O Diagrams (including verification of drawings and existing signals)
- iv. I/O Count Spreadsheet
- v. Wiring
- vi. Network
- vii. Electrical Interlocks
- viii. Communications
- ix. Control Room Modifications
 - SCADA Components
 - Non-SCADA Components

Specifications

- i. Hardware
 - Servers
 - PLCs and Associated I/O and Communications Modules
 - Control Panel Equipment
 - HMI Interface
 - Portable Devices
 - Radio Network
- ii. Control room modifications
 - SCADA components
 - Non-SCADA components
- iii. Limits of Construction
 - Identify time of year for equipment replacement
 - Identify if systems can be run in parallel
 - Manual operations
 - Constraints for maintenance of plant operations

- L. Submit six (6) hard copies and one electronic copy of the preliminary drawings to Owner for review.
- M. Meet with Owner to obtain Owner's comments on the submittal. Resolve any questions and revise documents, if necessary.

6. GMP LEVEL DESIGN (60% Level)

The 60% GMP level design to be utilized as the basis for the GMP will commence as soon after Owner has accepted the 30% design documents as practical or earlier if it is agreed between DB and Owner the risk is minimal. The DB will prepare design and procurement package documents for solicitation of key equipment suppliers, vendors, and construction subcontractors on an open book competitive proposal basis based on the GMP level design deliverables, which are to advance the design drawings and specifications listed in item 5.F to a 60% GMP level:

Six (6) hard copy sets and one electronic copy of drawings and specifications shall be provided to the Owner.

7. PRELIMINARY PRICING AND GMP

As discussed above, a preliminary pricing effort shall be initiated immediately, and concurrent with the workshop efforts to develop the preliminary budget for the project, which shall establish the budgeting benchmark for the project for each of the areas of work under Phase 2. The preliminary budget shall include a well-defined work breakdown structure and shall identify the preliminary cost elements of the Phase 2 work based on the known scope of work developed early in the design process. As elements of work are progressed, the preliminary budget shall be refined, and shall include subcontractor and vendor input to continue refinement of the preliminary budget. This shall include constructability reviews, as well as value engineering input as part of the Phase 1 design process. The status of the budget shall be discussed during the progression of the design at regularly scheduled intervals, or more often as deemed necessary by the Owner and the DB. Additionally, the updates shall include vendor pricing efforts, scopes and other supporting documents, along with the estimate and quantities for the pricing effort for Owner review and comment.

The preliminary budgeting and pricing shall include the following:

- i. Prepare preliminary conceptual estimate for the cost of Work under Phase 2
- ii. Prepare a preliminary PEP for Phase 2, including the preliminary schedule for the project
- iii. Meet with Owner to evaluate scope, cost and budget based on the scope of work developed, and evaluation of options based on current pricing
- iv. Produce bid packages for major project components and subcontract work and solicit competitive proposals from suppliers and constructors using an "open book" approach that is shared with Owner

As the preliminary design evolves into the 60% design level, the preliminary budget (progressed and refined) shall be converted into a GMP with the following information provided as backup for the basis of the GMP.

- i. Finalize detailed scopes of supply for all purchases of major project components.
- ii. Finalize the detailed overall project schedule.
- iii. Develop detailed scopes of supply for all major subcontracts for construction services.
- iv. Develop detailed scope of services for the selected software (VTScada) vendor based on the City's RFP #17-02 (WTP SCADA Software).
- v. Develop specifications in one of several formats for attachment to each equipment package and subcontract request for proposals (RFP). Specification formats include bulleted requirements, performance specifications, detailed prescriptive specifications, or manufacturer's standard specifications depending on what is required to quantify and establish the appropriate quality for the procurement in which it will be used. Appropriate formats will be determined in consultation with Owner to match Owner's definition of Best Value.
- vi. Develop design drawings to appropriate levels to define quantities of materials and construction.
- vii. Distribute RFPs including the following list of items, as deemed appropriate and where practical, to a minimum of three (3) suppliers or subcontractors for each procurement, soliciting priced proposals for each major procurement or subcontract: 1) invitation to bid, 2) scope of supply, 3) Terms & Conditions, 4) specifications, and 5) drawings.
- viii. Receive and review proposals and seek clarifications as required.
- ix. Prepare bid tabs with exceptions noted and recommendations.
- x. Meet with Owner to review bid tabs and recommendations. Adjust if required to meet Owner's definition of Best Value.
- xi. Produce construction quantities based on the GMP level design drawings and specifications.
- xii. Prepare detailed cost estimate for complete execution of the remaining engineering, procurement and construction necessary to complete the project.
- xiii. Submit GMP and construction schedule to Owner, including the backup information to form the Proposal for Phase 2 of the contract based on the current understanding between the DB and the Owner.

Phase 2: Implementation Services

1. The scope of services to be provided under Phase 2 will be developed and confirmed during Phase 1 and documented in the Proposal to be submitted, together with a GMP and construction schedule, by the DB to the Owner. As such, the Phase 2 scope of services shall be developed collaboratively with the Owner and the DB.
2. The fee for Phase 2 services is not to be provided as part of the response to this RFP.
3. The general scope of services for the Implementation Phase 2 include the following:

MEETINGS: Regular progress meetings to update the project team, including Owner and Owner's Advisor, on the progress of the final design and construction, including any schedule and cost impacts. The DB shall document the results of these meetings including preparation of minutes and record of decisions.

PHASE 2 DESIGN: Design Services to finalize engineering design documents including specifications and drawings for each of the project components.

PERMITTING: Any Phase 2 permits such as building, plumbing, and mechanical permits that have been identified during Phase 1.

EQUIPMENT: Procurement of equipment hardware and software using open book prices obtained from suitable vendors through request for proposals based on agreed approach for each component of the work.

INSTALLATION: Installation of equipment, including necessary modifications to the control room, wiring and software programming.

INSPECTION: Independent verification of the equipment installations including field visits and Site Acceptance Testing.

STARTUP, TESTING AND COMMISSIONING: Startup, testing and commissioning of the PLC and SCADA equipment. The DB will prepare the testing plan and conduct the startup and commissioning with support from the Owner and Owner's Advisor. The DB shall document the results of the testing, including preparation of commissioning reports.

TRAINING: The DB shall provide operator training for the PLC and SCADA equipment. Training material shall be provided to the training session attendees. The number of training sessions shall be coordinated with the Owner and Owner's Advisor to accommodate the operator schedules.

RECORD DRAWINGS AND MANUALS: The DB shall maintain a set of red lined as-built drawings on site during the construction phase and compile a set of Record plans on project completion. A Draft Operation and Maintenance Manual shall be prepared in advanced of the startup and training. Following successful commissioning, an updated Final O&M manual shall be submitted to Owner to reflect actual installed conditions, instrumentation calibrations, etc.

PROJECT CLOSEOUT: The DB shall provide project close out services to the Owner including a final walk through inspection, final punch list, copies of all deliverables and warranty services.

4. Further details for the scope of services to be provided under Phase 2 will be developed and confirmed during Phase 1 and documented in the Proposal to be submitted with the GMP by the DB.

APPENDIX C – PROJECT TECHNICAL REQUIREMENTS

Appendix C

Project Technical Requirements

The Design Builder (DB) shall take full responsibility for and shall coordinate the work to guarantee a complete and finished installation of the SCADA and non-SCADA components of the project. The requirements for the SCADA modifications in the control room are part of Phase 1A. The requirements for the non-SCADA modifications in the control room are listed in Phase 1B.

The DB shall follow the following technical requirements as a minimum. Additional requirements may develop as the project progresses. These requirements will be discussed and coordinated with the Owner, Owner's Advisor and DB.

Phase 1A – SCADA Components

BACKGROUND

The City of Ann Arbor Water Treatment Services system includes a 50 MGD lime softening water treatment plant, four (4) remote pumping stations, three (3) water storage reservoirs, two (2) elevated tanks, three (3) wells, ten (10) distribution system pressure monitoring sites, two (2) distribution system control valves, two (2) recreational dams, and two (2) dams with hydroelectric generators.

Plant processes are controlled via Rockwell Automation PLC-5 programmable logic controllers and associated I/O points with some minor subsystems controlled using CompactLogix PLC systems. The plant SCADA system is comprised of redundant servers running GE iFix software (version 5.1 with ongoing upgrade to version 5.8) distributing data to thick client type computers located throughout the plant.

The internal plant communication network is a fiber optic-based Ethernet main trunk with copper and fiber optic branch links. The Ethernet network and major hardware components are administered and maintained by City Information Technology (IT) staff, not by WTP personnel. Communications with remote water treatment system facilities also use this City-owned Ethernet network. The remainder of the remote facilities communicate using a Motorola MOSCAD radio and PLC system that communicates directly with the SCADA software via an RS-232 link. This radio frequency is shared with County emergency services.

The Input/Output, controllers/PLC quantities and communication infrastructure information provided below is the current hardware/configuration and should be used for reference only. It is expected that the DB will undertake a thorough review of existing facilities and provide recommendations for full or partial replacement of equipment.

A major technical requirement of the project is to replace all “sunsetting” hardware which at a minimum includes the PLC-5 Series PLCs. The final scope for equipment replacement will be developed in a consensus between Owner and DB as part of the workshops.

The City SCADA system presently has the following hard-wired Input/Output Counts:

- Analog Inputs: 446

- Analog Outputs: 76
- Digital/Discrete Inputs: 1352
- Digital/Discrete Output: 2607

Please refer to **Table 1 AAWTP PLC and Controller List** for further details. This list includes information related to the WTP, remote locations and Dams. It also includes guidance on PLC replacement, communications and process description/location. The guidance is only for reference.

The City presently has a mix of Motorola MOSCAD radio communication infrastructure, fiber optic private network, and Ethernet radio private network.

TECHNICAL SECTIONS

1. PLC Panels/Wiring/Drawings
2. Communications and Security
3. VT SCADA - Control Screens
4. Network
5. Server Hardware/Data Storage
6. Rockwell Logix – PLC programming
7. Analytics and Integration

1. PLC Panels/Wiring/Drawings

As part of the project PLC panels, wiring and drawings will be identified and reviewed. This task will include field visits to both the WTP and the remote sites. The DB will make recommendations for improvements to the control systems and will be reviewed with the Owner and Owner’s Advisor. These recommendations will be discussed in workshops.

Topics to be discussed in the four (4) PLC panel workshops include, but are not limited to the following:

- PLC and associated communications and I/O module requirements
- Uninterruptible power supply
- Major control panel hardware such as network switches/fiber interface, DC power supply, relays, and wired components
- Suggested method of PLC panel replacement such as complete replacement, subplate replacement, conversion kit, or equipment-only replacement
- Major PLC or SCADA programming changes to be incorporated into the new PLC program (if applicable)

P&ID Drawings

The DB shall develop draft Piping and Instrumentation Diagram (P&ID) drawings prior to issuance of the Guaranteed Maximum Price (GMP). P&ID drawings shall be developed for each of the panels and shall follow the latest ANSI/ISA 5.1 standards.

The following items will be identified and reviewed by the DB. These items serve as minimum and DB is required to make recommendation or confirmation on the project approach.

- Basic Wiring Diagrams and Design Requirements – Submit prior to GMP

- Basic wiring diagrams including replacement approach shall be provided prior to the GMP. They will include one of the following replacements techniques:
 - Complete Backplane Replacement
 - Complete Enclosure Replacement
 - Rockwell/Phoenix Prewired Replacement System
 - Sub-Panel/Partial Replacement
 - Processor “Brain” Replacement
 - Conversion to I/O Rack
- Minimum requirement and equipment to be provided at each panel may include:
 - Dynamic Switching Uninterruptable Power Supply with 30-Minute Run Time
 - Windows Based Touch Screen, size to be determined.
 - 15% spare I/O – 120 Volt and Dry Contact
 - 25% spare I/O – Analog In and Out Signals
 - Allen-Bradly Logix Processor
 - Hot Swappable Processors
 - Standardized Tagging
 - Terminal Strips
 - UL compliant – 508A Industrial Panels
 - Minimum #16 Wiring for Non-Analog Signals
 - Minimum #18 Wiring for Analog Signals
 - Segregation of Signal Types per IEEE Standards
 - As-Built Drawings

Conduit Plan View

The DB shall develop conduit plan view drawings for any additional premise wiring. These drawings shall be submitted to the Owner and Owner’s advisor and will become part the as-built drawing submittals.

2. Communications and Security

The DB shall complete the following;

- Present guidelines for Owner and Owner’s Advisor review. The guidelines shall be in accordance with the AWWA Security Standards.
- Conduct a security workshop related to AWWA Security Standards.
- Develop a security plan based on AWWA Security Standards and feedback from the Owner and Owner’s Advisor, document deviation from the recommended AWWA Security Standards.
- Design and implement SCADA software security practices. During the security workshop, present the limitation and capabilities of an open network. Present the benefits of a closed network.
- Design and apply technology for sharing data among City Departments and General Public. During the security workshop present the limitation and capabilities of sharing technologies and the associated risks.
- Design and apply technology for using tablets/laptops on closed and secured Wi-Fi network. During the security workshop present the limitation and capability of this technology.

Topics to be discussed in the workshop include, but are not limited to the following:

- Applicability of AWWA security standards

- SCADA software security capabilities
- Sharing data with other websites including the City website
- PLC and PICS (SCADA) network layout
- Use of Wi-Fi tablets on PLC and PICS (SCADA) networks
- FERC requirements for dam and hydro locations

3. Control Screens VTScada HMI Package

The following items will be identified and reviewed by the DB. These items serve as minimum and DB is required to make recommendation or confirmation on the project approach.

- The DB shall conduct a workshop, develop, confirm and implement the following HMI standards.
 - Color Standards – Fixed and Animation
 - Setpoint and Button Interface
 - Menu Hierarchy
 - Standard Information
 - Alarming and Sound
 - Animation Techniques
 - Operator Notes
 - Interfacing with WEB, LIMS, Main Saver (CMSS) and Yellow Fin
 - Historian Configuration
 - Run Time Configuration
 - Thin Clients
- The DB shall include in the GMP the HMI standards that are developed during the workshop.
- The DB shall design and program all HMI interfaces in VTScada by Trihedral.

Topics to be discussed in the workshop include, but are not limited to the following:

- Animation color standards for running, stopped, and fault
- Setpoint and button interface such as the use of popups
- Menu location and use
- Information to be included in every screen
- Alarms and sound
- Various animation-related topics such as pipe color change and tank level indication

4. Network

The following items will be identified and reviewed by the DB. These items serve as minimum and DB is required to make recommendation or confirmation on the project approach.

- The DB shall conduct a workshop, develop, confirm and implement the following Network related systems.
 - License Radio Topology to Provide Redundancy to City's Fiber Network
 - VLAN vs. Separated Networks (FERC Licensed Structures)
 - Network Topology Configuration
 - Redundancy and Reliability
 - Limitations with PLCs and Network Topology
 - Wireless Internal Radio System
 - Fiber Optics

- Network Management Including Alarms
- The DB shall include in the GMP the HMI standard that are develop during the workshop.
- The DB shall provide and make functional the network requirement based on the workshops.

Topics to be discussed in the workshop include, but are not limited to the following:

- Review and discuss the existing WTP network configuration (WTP and remote sites)
- Proposed wireless technology and redundancy to the City's fiber network
- VLAN versus separated networks (FERC regulated facilities)
- Network topology configuration
- Redundancy and reliability
- Limitations with PLCs and network topology

5. Server Hardware/Data Storage

The following items will be identified and reviewed by the DB. These items serve as minimum and DB is required to make recommendation or confirmation on the project approach.

- The DB shall conduct a workshop, develop, confirm and implement the following Server Hardware/Data Storage related systems.
 - Municipal Standards
 - Virtualization – Impacts on VTScada
 - SCADA Interface with City Server, LIMS and CMSS
 - Server Hardware Based on VTScada Requirements
 - Data Management and Storage
 - Network Configurations
- The DB shall include in the GMP the server hardware/data storage standards that are develop during the workshop.
- The DB shall provide and make functional the server hardware and data storage requirements based on the workshops.

Topics to be discussed in the workshop include, but are not limited to the following:

- Discussion with the City IT staff regarding City standards, and hardware and software preferences
- Virtualization – Impacts on VTScada
- Current SCADA interface with the City server, LIMS, and CMSS
- Integration issues
- Server and network configurations
- Approach to databases and the sharing of data between them
- Client computer requirements, reuse of existing equipment, and standardization
- Server and client security, virus protection, software updates, etc.

6. Rockwell Logix – PLC Programming

The following items will be identified and reviewed by the DB. These items serve as minimum and DB is required to make recommendation or confirmation on the project approach.

- The DB shall conduct a workshop, develop, confirm and implement the following Rockwell Logix – Programmable Logic Controller (PLC) related systems.
 - Revision Control and Storage
 - Naming System and Approach
 - Logic Programming Approach
 - Communication and Data
 - Recovery from Faults and Outages
- The DB shall include in the GMP the Rockwell Logix – PLC Programming standard that are developed during the workshop.
- The DB shall conform to IEC standard 61131-3 for all programming approaches. The DB shall submit copies of the programs prior to installation for confirmation.
- The DB shall provide and make functional the PLC programming for the location detailed in the PLC Panels/Wiring/Drawings section based on the workshops.

Topics to be discussed in the workshop include, but are not limited to the following:

- Revision control and storage
- Naming system and approach
- Logic programming approach
- Communication and data
- Recovery from faults and outages

7. Analytics and Integration

The following items will be identified and reviewed by the DB. These items serve as minimum and DB is required to make recommendation or confirmation on the project approach.

- The DB shall conduct a workshop, develop, confirm and implement the following Analytics and Integration related systems.
 - Complete exchange of data with the City’s existing LIMS
 - Complete exchange of data with the City’s existing Mainsaver CMMS
 - Complete exchange of data with the City’s proposed Yellow Fin Analytic package
- Evaluate Analytic Forecasting capabilities including the following.
 - Pump and Motor Repair
 - Chemical Feed System
 - Maintenance Programs
 - Sensor and Field Instrumentation Calibration and Replacement
- The DB shall include in the GMP the Analytic and Integration developed during the workshop.
- The DB shall conform to industry standard for data exchange between system.
- The DB shall provide and make functional the Analytics and Integration into the proposed and existing systems based on the workshop.

Topics to be discussed in the workshop include, but are not limited to the following:

- Complete exchange of data with the City’s existing LIMS
- Complete exchange of data with the City’s existing Mainsaver CMMS
- Complete exchange of data with the City’s proposed Yellow Fin Analytic package
- Analytic forecasting including pump and motor repair, chemical feed system, maintenance programs, and sensor & field instrumentation calibration & replacement

Table 1
AAWTP PLC and Controller List

Local Active Control Panels with PLC-5 Controllers

Controller Series	Description	Communications	Notes
PLC-5	C1 Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5	C2 Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5 (RIO)	RIO-C2 Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5	HS Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5	OZ Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5 (RIO)	RIO-OZ Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5	P1 Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5	P2 Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5	FP Control Panel	Local Network	PLC to be replaced as a minimum
PLC-5	Control Panel (F1 PLC)	Local Network	PLC to be replaced as a minimum
PLC-5	Control Panel (F2 PLC)	Local Network	PLC to be replaced as a minimum
PLC-5	Control Panel (F3 PLC)	Local Network	PLC to be replaced as a minimum
PLC-5	EQ Control Panel	Local Network	PLC to be replaced as a minimum

13 **Local Active Control Panels with PLC-5 Controllers**

Local Active Control Panels with CompactLogix Controllers

Controller Series	Description	Communications	Notes
CompactLogix	LS #1 CP	Local Network	
CompactLogix	LS #2 CP	Local Network	
CompactLogix	WHS Main CP	Local Network	
CompactLogix	LOX Control Panel	Local Network	To be Replaced 2018 by Owner
CompactLogix OZ	#1 Panel	Local Network	
CompactLogix OZ	#2 Panel	Local Network	
CompactLogix OZ	#3 Panel	Local Network	
CompactLogix OZ	#4 Panel	Local Network	
CompactLogix	DU #1 Panel	Local Network	
CompactLogix	DU #2 Panel	Local Network	
CompactLogix	SG PLC Panel	Local Network	

11 **Local Active Control Panels with CompactLogix Controllers**

Remote Active Control Panels with CompactLogix Controllers

Controller Series	Description	Communications	Notes
CompactLogix	BP CP	Ethernet Radio	
CompactLogix	SI CP	Fiber Optic	
CompactLogix	MET CP	Fiber Optic	
CompactLogix	LPS CP	Fiber Optic	To be completed in 2018
ControlLogix (Master)	25W (MCP)	Ethernet Radio	Radio to Fiber at AAA
ControlLogix (RIO)	741W (RIO#2)	Ethernet Radio	RIO Fiber to 25W
ControlLogix (RIO)	21W (RIO#1)	Ethernet Radio	RIO Fiber to 25W

7 Remote Active Control Panels with CompactLogix Controllers

Remote Active Control Panels with MOSCAD Radio Units

Controller Series	Description	Communications	Notes
MOSCAD	NC PS CP	Trunking Radio	
MOSCAD	NC ET CP	Trunking Radio	
MOSCAD	GF PS CP	Trunking Radio	
MOSCAD	MW CP	Trunking Radio	
MOSCAD	EV CP	Trunking Radio	
MOSCAD	SV CP	Trunking Radio	
MOSCAD	HPV CP	Trunking Radio	
MOSCAD	JBP CP	Trunking Radio	
MOSCAD	CCP CP	Trunking Radio	
MOSCAD	GP CP	Trunking Radio	
MOSCAD	MPP CP	Trunking Radio	
MOSCAD	GRP CP	Trunking Radio	
MOSCAD	SMV CP	Trunking Radio	
MOSCAD	SMP CP	Trunking Radio	
MOSCAD	SLB CP	Trunking Radio	
MOSCAD	SWV CP	Trunking Radio	
MOSCAD	AAT CP	Trunking Radio	
MOSCAD	PTS CP	Trunking Radio	

18 Remote Active Control Panels with MOSCAD Radio Units

FERC Remote Active Control Panels with MOSCAD Radio Units

Controller Series	Description	Communications	Notes
CompactLogix to MOSCAD	BHF CP	Trunking Radio	
CompactLogix to MOSCAD	SHF CP	Trunking Radio	
CompactLogix to MOSCAD	BD CP	Trunking Radio	
CompactLogix to MOSCAD	GD CP	Trunking Radio	

4 FERC Remote Active Control Panels with MOSCAD Radio Units

Non-FERC Remote Active Control Panels with MOSCAD Radio Units

Controller Series	Description	Communications	Notes
CompactLogix to MOSCAD	AD CP	Trunking Radio	
CompactLogix to MOSCAD	GD CP	Trunking Radio	

2 Non-FERC Remote Active Control Panels with MOSCAD Radio Units

55 Grand Total of Active Control Panels

Phase 1B – Non-SCADA Components

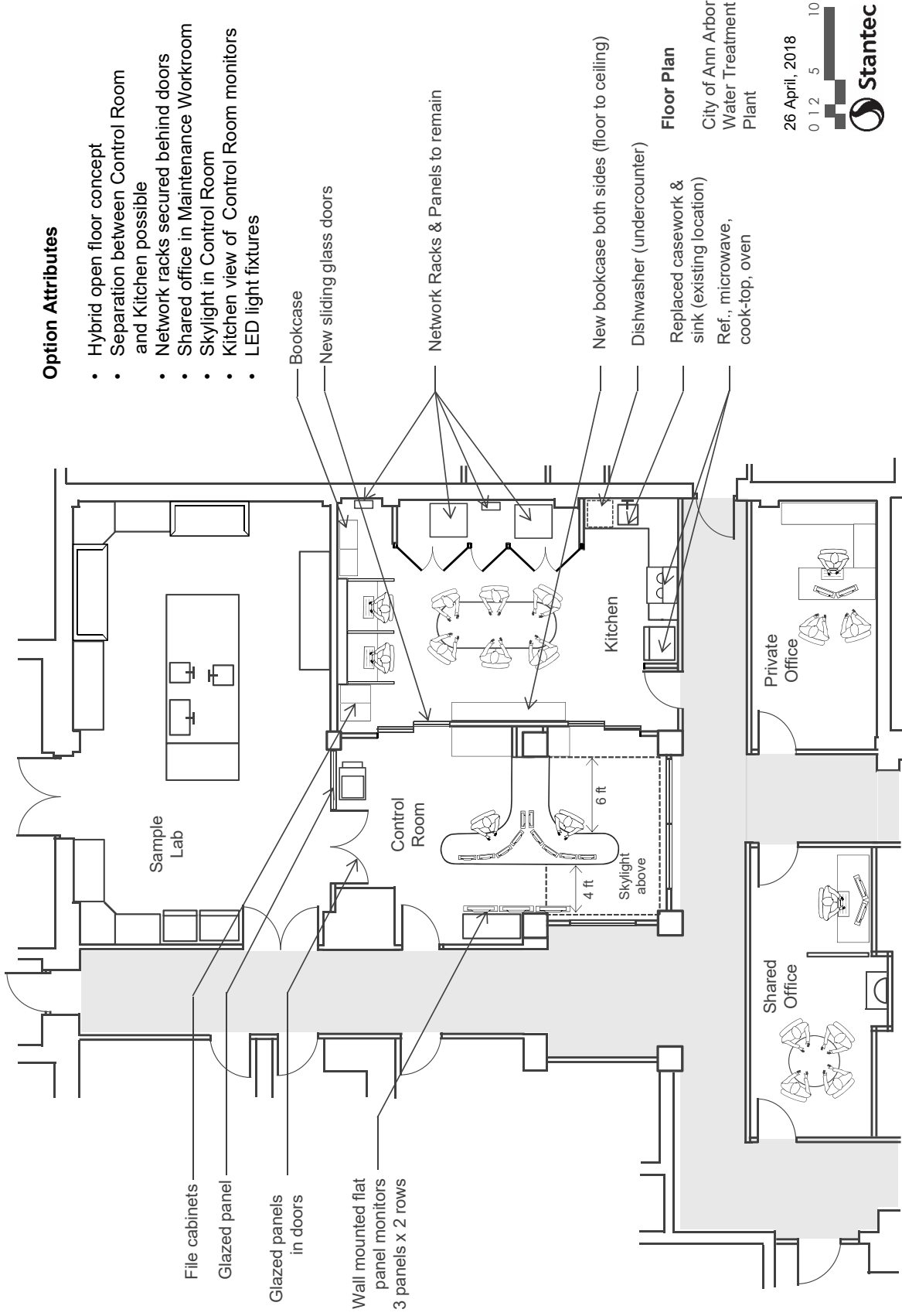
The control room space will be modified to accommodate the City's operational and functional requirements.

The following components/features shall be part of these non-SCADA modifications:

- Demolition (removal of existing partitions, ceiling, lighting, plumbing and electrical)
- Partitions (metal studs/gypsum wall board/partition)
- Glazing (metal studs/gypsum wall board with glazing)
- Ceiling (Acoustic tile ceiling grid)
- Wall finishes (paint on gypsum wall board)
- Floor finish (TBD)
- Electrical outlets (120V 20A circuits)
- Plumbing (for replacement or relocated kitchen sink)
- Fire protection (relocated sprinkler heads)
- Fire alarm (relocated existing, add devices to existing system)
- HVAC (relocated existing diffusers)
- Lighting (recessed LED lighting)
- Doors/frames/hardware (glazed doors in wood frames)
- Casework (painted wood casework)
- New glass skylight
- Furnishings per Owner's schedule (including desks, counters, consoles, bookcases, tables, chairs, appliances)

The preliminary proposed concept for the control room modifications is shown on the attached exhibit. This concept is provided for reference only and the final layout will be developed through consensus by DB and Owner during the workshops.

Control Room Proposed Modifications



Option Attributes

- Hybrid open floor concept
- Separation between Control Room and Kitchen possible
- Network racks secured behind doors
- Shared office in Maintenance Workroom
- Skylight in Control Room
- Kitchen view of Control Room monitors
- LED light fixtures

Bookcase

New sliding glass doors

Wall mounted flat panel monitors
3 panels x 2 rows

Network Racks & Panels to remain

New bookcase both sides (floor to ceiling)

Dishwasher (undercounter)

Floor Plan

Replaced casework & sink (existing location)
Ref., microwave, cook-top, oven

City of Ann Arbor
Water Treatment
Plant

26 April, 2018

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