

REQUEST FOR PROPOSAL

For

Construction Materials Testing Services

for:

**The City of Ann Arbor
2013 Construction Projects**

RFP #845



Due Date: January 17, 2013 by 10:00 a.m.

City of Ann Arbor
Issued by Procurement Unit on behalf of:
Public Services Area
City Hall, 301 E. Huron Street
Ann Arbor, Michigan 48107-8647

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SECTION I

GENERAL INFORMATION

A. OBJECTIVE

The purpose of this Request for Proposal (RFP) is to select a firm or firms to provide construction materials testing for several road construction, utility construction, and other miscellaneous projects throughout the City of Ann Arbor for the 2013 construction season.

B. QUESTIONS

The RFP is issued by the City of Ann Arbor, Procurement Unit. All questions regarding this bid process must be addressed to Procurement Unit via email LNewton@a2gov.org.

Questions regarding proposal content may be directed to Nick Hutchinson, Project Manager via email at nhutchinson@a2gov.org.

All questions regarding the RFP shall be submitted by 3:00 P.M. on January 11, 2013.

C. PRE-PROPOSAL MEETING

No pre-proposal meeting will be held. Please contact Nicholas Hutchinson at nhutchinson@a2gov.org with general questions regarding the RFP. Plan review times are available as described in Section II below.

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 submitter. The proposal must be signed in ink by an official authorized to bind the submitter to its provisions. Each proposal must remain valid for at least 120 days from the due date of this RFP.

E. SELECTION CRITERIA

Responses to this RFP will be evaluated using a point system, as shown in Section III. The evaluation will be completed by a selection committee from staff from the City of Ann Arbor.

At the initial evaluation, the fee proposals will not be reviewed. After initial evaluation the City will determine top applicants, and open only those fee proposals. The City of Ann Arbor reserves the right to interview selected firms and the key personnel to be assigned to the project prior to awarding the contracts.

F. CHANGES IN THE RFP

Should any prospective proposer be in doubt as to the true meaning of any portion of this Request for Proposal, or should the proposer find any ambiguity, inconsistency, or omission therein, the Proposer shall make a written request for an official interpretation or correction. Such requests must be received by Project Management, not less than seven days prior to the final date of submittal of the proposals.

Such interpretation or correction, as well as any additional RFP provisions that the City may decide to include, will be made only as an official addendum that will be posted to A2gov.org and MITN and it shall be the bidder's responsibility to ensure they have received all addendums before submitting a bid. Any addendum issued by the City shall become part of the RFP and will be incorporated in the proposal.

G. SEALED PROPOSAL SUBMISSION

All Proposals are due and must be delivered to the City Procurement Unit on or before **January 17, 2013 by 10:00 a.m.** (local time). Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each Proposer **must submit in a sealed envelope one (1) original Proposal, four (4) additional Proposal copies, and two (2) copies of the Fee Proposal in a separate sealed envelope marked fee proposal.** Proposals submitted must be clearly marked: RFP 845 City of Ann Arbor 2013 Construction Projects and then list the Proposer's name and address. Proposals must be addressed and delivered to:

City of Ann Arbor
Procurement Unit, 5th Floor
301 East Huron Street
P.O. Box 8647
Ann Arbor, MI 48107

All Proposals received on or before the Due Date will be publicly opened and recorded immediately. No immediate decisions are rendered. Hand delivered Proposals should be date/time stamped by the Procurement Unit at the address above in order to be considered. Delivery hours are 9:00 a.m. to 3:00 p.m. Monday through Friday, excluding Holidays.

The City will not be liable to any Proposer for any unforeseen circumstances, delivery or postal delays. Postmarking on the Due Date will not substitute for receipt of the Proposal. Each Proposer is responsible for submission of their Proposal. Additional time will not be granted to a single Proposer; however, additional time may be granted to all Proposer s when the City determines that circumstances warrant it.

Proposal will be disqualified if the Fee Proposal is not contained within a separate sealed envelope.

H. 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 submitter's proposal is subject to disclosure under this provision. This act also provides for a complete disclosure of contracts and attachments thereto.

I. TYPE OF CONTRACT

A sample of the standard Professional Services Agreement (PSA) is included in Section IV. Those who wish to submit a proposal to the City are required to carefully review the Professional Services Agreement. **The City will not entertain changes to the standard Professional Services Agreement.**

The City reserves the right to award the total proposal, to reject any and 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.

J. COST LIABILITY

The City of Ann Arbor assumes no responsibility or liability for costs incurred by the consultant prior to the execution of a Professional Services Agreement. The liability of the City is limited to the terms and conditions outlined in the Agreement.

K. PROPOSAL PROTEST

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

L. 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 bids or bidding procedures, and to accept or further negotiate cost, terms, or conditions of any bid determined by the City to be in the best interests of the City even though not the lowest bid.
3. The City reserves the right to request additional information from any or all Bidders.
4. The City reserves the right not to consider any Proposal, which 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 bidder 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 Request for Proposals, 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 the RFP.

SECTION II

BACKGROUND AND SCOPE OF WORK

The City is currently accepting proposals for materials testing services for multiple construction projects throughout the City for the 2013 Construction season. Six (6) separate projects, as well as one general category for miscellaneous construction projects, are included in this RFP as described below. The City intends to hire a *minimum* of two separate consultants to perform work on these projects. Firms may elect to submit a proposal that includes any or all of the projects described below:

2013 Street Resurfacing Project

This project includes the resurfacing and/or reconstruction of several major and local streets located throughout the City. The project will consist of multiple major and local streets in construction simultaneously; therefore the proposing firm must have sufficient resources to provide testers at multiple locations as necessary. The tentative list of streets and project limits can be found in Section IV, Attachment C. Draft construction plans *may* be available for review. It is expected that construction will be from April through November of 2013.

Project Manager: Elizabeth Rolla, P.E. (erolla@a2gov.org)

Packard Road Resurfacing Project (MDOT)

This project includes the resurfacing of Packard Road from Anderson Avenue to Eisenhower Parkway, including replacement of sidewalk ramps and some curb replacement. This project will be bid through MDOT, therefore all testers must be MDOT certified and all testing must comply with MDOT requirements. Approximate quantities will be available in mid-January, however, plans and specifications will not be available until late January. Construction is scheduled for July to October 2013.

Project Manager: Elizabeth Rolla, P.E. (erolla@a2gov.org)

Miller Avenue Improvements Project (MDOT STU81475, 116183A)

This project includes the full reconstruction of Miller Avenue from Maple Road to Newport Road, including concrete curb removal and replacement. It also includes the replacement of the water main for the entire length of the project with new 12" main, replacement of sanitary sewer from Maple to Fulmer, installation of oversize sewer for storm detention, construction of pedestrian islands, and creation of rain gardens. This project will be bid through MDOT, therefore all testers must be MDOT certified and all testing must comply with MDOT requirements. Plans and specifications are available through MDOT's bid letting webpage or may be reviewed at the City at one of the pre-scheduled times below. Construction is scheduled for March to November 2013.

Project Manager: Dave Dykman, P.E. (ddykman@a2gov.org)

West Madison Street Improvement Project

This project involves the full reconstruction of West Madison Street from South Seventh Street to Main Street. Work includes concrete curb and gutter removal and replacement, concrete and asphalt pavement removal and replacement with asphalt, removal and replacement of the roadway base and subbase, reconstruction of the storm sewer together with other storm water management components, minor sanitary sewer repairs, and potential minor relocations to the existing water main. Preliminary plans and specifications will be available for review. Construction is tentatively scheduled for July to November 2013. Project Manager: Igor Kotlyar (ikotlyar@a2gov.org)

South Fourth Avenue Improvement Project

This project consists of constructing approximately 450 feet of new 12” water main on South Fourth Avenue (Huron to Washington). Following installation of the new water main, South Fourth Avenue will be resurfaced from Huron to Liberty. This project also includes removal and replacement of some of the curb and gutter; removal and replacement of the roadway base and subbase, and reconstruction of the storm sewer together with other storm water management components. Construction is tentatively scheduled from May through July of 2013. Preliminary plans and specifications will be available for review.

Project Manager: Igor Kotlyar (ikotlyar@a2gov.org)

Forest Ave. Improvement Project

This project involves the full reconstruction of S. Forest Ave. from S. University to Hill Street. Work includes concrete curb and gutter removal and replacement, asphalt pavement removal and replacement, removal and replacement of the roadway base and subbase, reconstruction of the storm sewer together with other storm water management components, and possibly minor storm sewer repairs. Construction is tentatively scheduled for July to October 2013. Plans and specifications are not available for review at this time.

Project Manager: Igor Kotlyar (ikotlyar@a2gov.org)

Miscellaneous Construction Projects

One consultant will be selected to perform testing on various small miscellaneous construction projects that may be constructed throughout the 2013 Construction season. These projects may include road construction; sidewalk/ADA ramp replacement; and water main, storm sewer, or sanitary sewer replacement or lining projects. Separate Professionals Services Agreements may be employed for each individual project as they come up.

Proposing firms should submit one proposal for the above projects, with separate fee schedules for each project as described in Section IIIC below. The proposer shall enter estimated quantities as well as unit prices for each project they intend to propose on (with the exception of the Miscellaneous Construction Projects – only unit prices shall be submitted for this).

Prearranged times to review what plans are available (plans may not yet be available for every project) for the above listed projects are as follows:

January 7 9:00 a.m. to 12:00 p.m.
January 8 1:00 p.m. to 4:00 p.m.

The Consultant selected for each project shall perform field inspections, field and laboratory testing of construction materials, and engineering services to support, control, document, and assure the high quality construction of concrete curbs, sidewalks, and drives; the backfilling and compaction of underground utilities and embankments; placement and compaction of sand subbase and aggregate base courses; the placement of bituminous concrete pavements; and other related activities as necessary.

The testing to be performed by the selected Consultants shall include, but is not limited to, in-place density testing of aggregates and bituminous concrete pavements; slump, air content, unit weight, and compressive strength testing of Portland cement concrete; geotechnical and/or environmental engineering as required; sampling and testing at asphalt production plants; laboratory testing of sampled materials; and the

preparation and submittal in a timely manner of all test results and reports.

Failing test results shall be reported to the Engineer within 24 hours of the completion of the test, and immediately to the City's representative in the field.

All sampling, testing, and other services shall be performed in compliance with all applicable standards including ASTM, ACI, MDOT, and the City of Ann Arbor, as well as any and all specifications of the subject project. All testing and inspection shall be performed by certified personnel, under the direct supervision of a professional engineer registered in the State of Michigan and directly employed by the selected firm.

Assignment of testing personnel (temporary or permanent) to these projects is subject to approval by the City. Once approved, assigned personnel shall remain on the project until their services are no longer needed. Replacement of assigned personnel (temporary or permanent) with those who are not familiar with the project or with City or Contractor personnel is not permitted, and may be considered cause to terminate the Professional Services Agreement. Due to the nature of some of these projects, multiple testing personnel may need to be assigned to the project at any given time in order to adequately perform the required tasks.

Field time verification forms will be required to be signed daily by a City of Ann Arbor representative assigned to the project.

The City does not guarantee either a minimum volume of work or a specific volume of work if a contract is awarded. The City may take into account a consultant's work load on existing City projects when determining how to divide projects among the selected firms.

It is understood that the quantities of service items may vary and/or be changed by the City to any other quantity, including zero. The Proposer may also propose and quote unit prices for additional service items in the proposal as deemed necessary, or suggest alternative tests to the ones presented above. If additional or alternative items are presented, the Proposer shall describe in detail their justifications for such alternatives.

SECTION III

MINIMUM INFORMATION REQUIRED

The proposing firm must supply a proposal containing, *at a minimum*, the information requested in Parts A through C below. The proposal must be signed in ink by an official authorized to bind the submitter to its provisions. Proposing firms will be evaluated on Parts A through D using the point system outlined below. The evaluation will be completed by the Project Engineer for each project or a selection committee composed of City staff.

A. PROFESSIONAL QUALIFICATIONS & EXPERIENCE - 15 points

1. State the full name and address of the organization and, if applicable, the branch office or other subordinate element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include the state in which it is incorporated. If appropriate, indicate whether it is licensed to operate in the State of Michigan. State history of firm, in terms of length of existence, types of services provided, etc.
2. Include the number of personnel by skill and qualification that will be assigned to the work. Indicate which of these individuals you consider key to the successful completion of the project. **Identify individuals who will do the majority of the work on each project by name and title.** Résumés including qualifications and related project experience are required for all proposed project personnel who will be assigned to the project (maximum one page per individual). Qualifications and capabilities of any sub-consultants shall also be included.
3. Identify projects and provide detailed references for related work.

B. PROPOSED WORK PLAN - 25 points

Provide a detailed and comprehensive description of how the Consultant intends to provide the services requested in this RFP. This discussion shall include, but not be limited to: how the project(s) will be managed and scheduled, how and when data will be delivered to the City, and the company's general philosophy in regards to providing testing services. Consultants shall be evaluated on the clarity, thoroughness, and content of their responses to the above items.

C. FEE SCHEDULE - 20 points

Proposals must include quantities estimated by the Consultant (with the exception of the Miscellaneous Construction Projects) and quotes of unit prices for the service items listed on the following pages. Separate quantities and unit prices shall be provided for each project. The proposing firm shall indicate in their proposal which project(s) they are proposing to perform work on. **Fee quotations shall be submitted in a single separate sealed envelope with the proposal. Any proposal not complying with this requirement may be subject to disqualification.**

Scoring for the Fee Schedule will take into account whether the quantities listed in the proposal reflect a reasonable estimate of the work required for the project. Total Prices for each project will be evaluated based on an average of the quantities received, or on some other set of uniform quantities.

D. PAST PERFORMANCE - 40 points

Firms shall also be rated based on their past performance on City of Ann Arbor projects. Firms *without* previous or recent experience working on City of Ann Arbor projects shall receive a neutral score of 20 points. Firms *with* recent experience on City of Ann Arbor projects will receive a higher or lower score based upon the quality of their services on those projects.

2013 Street Resurfacing Project Proposed Fee Schedule

Estimated Quantity	Unit Price (\$)	Price Extension (\$)	Description of Service Item
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Straight Time ⁽¹⁾
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Overtime ^{(1) (2)}
	@ \$ _____ /day	= \$ _____	Technician Daily Mobilization (includes travel time to and from the project site)
	@ \$ _____ /hr.	= \$ _____	Additional Professional Engineering Services, as Requested by the City ⁽⁶⁾
	@ \$ _____ /ea.	= \$ _____	Concrete Cylinder Mold, Cure, Pickup, and Compressive Strength Test ⁽⁵⁾
	@ \$ _____ /ea.	= \$ _____	Sieve Analysis
	@ \$ _____ /ea.	= \$ _____	Modified Proctor Test
	@ \$ _____ /ea.	= \$ _____	Extraction Test ⁽³⁾
	@ \$ _____ /ea.	= \$ _____	Marshall Mix Verification ⁽⁴⁾
	@ \$ _____ /ea.	= \$ _____	Performance Grade Binder Verification
	@ \$ _____ /ea.	= \$ _____	Asphalt Cement Penetration Test
	@ \$ _____ /ea.	= \$ _____	Review Concrete or Asphalt Mix Design
	Total Price:	\$ _____	

Notes:

⁽¹⁾ Unit prices for all technician service items shall include all vehicle costs, equipment costs, project management, and office support, including engineering review and secretarial services. No minimum hour charge will be paid, unless work for the day is cancelled by the City without advance notice. Minimum “cancellation charges” will be limited to four hours. This item shall also be used for all cylinder and sample pick-ups.

⁽²⁾ Overtime rates shall be applied only to hours worked beyond an eight (8) hour workday (Monday through Friday) or to any hours worked on Saturdays. Double-time rates (2 times the straight time rate) shall be applied to hours worked on Sundays and City holidays.

⁽³⁾ Includes percentage of crushed material. Results to be submitted to the City within 5 business days of placement.

⁽⁴⁾ Includes Volumetric Properties (i.e. Density, Air Voids, VMA, VFA, Fines to Binder Ratio, Flow, and Stability).

⁽⁵⁾ The City will require 4 cylinders be molded per sample location, unless otherwise specified.

⁽⁶⁾ This item shall also include Project Manager and/or Project Engineer time for attending preconstruction meetings, construction progress meetings, and any other meetings as requested by the City.

Packard Road Resurfacing Project Proposed Fee Schedule

Estimated Quantity	Unit Price (\$)	Price Extension (\$)	Description of Service Item
	@ \$_____ /hr.	= \$_____	Technician Including Nuclear Densometer – Straight Time ⁽¹⁾
	@ \$_____ /hr.	= \$_____	Technician Including Nuclear Densometer – Overtime ^{(1) (2)}
	@ \$_____ /day	= \$_____	Technician Daily Mobilization (includes travel time to and from the project site)
	@ \$_____ /hr.	= \$_____	Additional Professional Engineering Services, as Requested by the City ⁽⁶⁾
	@ \$_____ /ea.	= \$_____	Concrete Cylinder Mold, Cure, Pickup, and Compressive Strength Test ⁽⁵⁾
	@ \$_____ /ea.	= \$_____	Sieve Analysis
	@ \$_____ /ea.	= \$_____	Modified Proctor Test
	@ \$_____ /ea.	= \$_____	Extraction Test ⁽³⁾
	@ \$_____ /ea.	= \$_____	Marshall Mix Verification ⁽⁴⁾
	@ \$_____ /ea.	= \$_____	Performance Grade Binder Verification
	@ \$_____ /ea.	= \$_____	Asphalt Cement Penetration Test
	@ \$_____ /ea.	= \$_____	Review Concrete or Asphalt Mix Design
	Total Price:	\$_____	

Notes:

⁽¹⁾ Unit prices for all technician service items shall include all vehicle costs, equipment costs, project management, and office support, including engineering review and secretarial services. No minimum hour charge will be paid, unless work for the day is cancelled by the City without advance notice. Minimum “cancellation charges” will be limited to four hours. This item shall also be used for all cylinder and sample pick-ups.

⁽²⁾ Overtime rates shall be applied only to hours worked beyond an eight (8) hour workday (Monday through Friday) or to any hours worked on Saturdays. Double-time rates (2 times the straight time rate) shall be applied to hours worked on Sundays and City holidays.

⁽³⁾ Includes percentage of crushed material. Results to be submitted to the City within 5 business days of placement.

⁽⁴⁾ Includes Volumetric Properties (i.e. Density, Air Voids, VMA, VFA, Fines to Binder Ratio, Flow, and Stability).

⁽⁵⁾ The City will require 4 cylinders be molded per sample location, unless otherwise specified.

⁽⁶⁾ This item shall also include Project Manager and/or Project Engineer time for attending preconstruction meetings, construction progress meetings, and any other meetings as requested by the City.

Miller Avenue Improvements Project Proposed Fee Schedule

Estimated Quantity	Unit Price (\$)	Price Extension (\$)	Description of Service Item
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Straight Time ⁽¹⁾
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Overtime ^{(1) (2)}
	@ \$ _____ /day	= \$ _____	Technician Daily Mobilization (includes travel time to and from the project site)
	@ \$ _____ /hr.	= \$ _____	Additional Professional Engineering Services, as Requested by the City ⁽⁶⁾
	@ \$ _____ /ea.	= \$ _____	Concrete Cylinder Mold, Cure, Pickup, and Compressive Strength Test ⁽⁵⁾
	@ \$ _____ /ea.	= \$ _____	Sieve Analysis
	@ \$ _____ /ea.	= \$ _____	Modified Proctor Test
	@ \$ _____ /ea.	= \$ _____	Extraction Test ⁽³⁾
	@ \$ _____ /ea.	= \$ _____	Marshall Mix Verification ⁽⁴⁾
	@ \$ _____ /ea.	= \$ _____	Performance Grade Binder Verification
	@ \$ _____ /ea.	= \$ _____	Asphalt Cement Penetration Test
	@ \$ _____ /ea.	= \$ _____	Review Concrete or Asphalt Mix Design
	Total Price:	\$ _____	

Notes:

⁽¹⁾ Unit prices for all technician service items shall include all vehicle costs, equipment costs, project management, and office support, including engineering review and secretarial services. No minimum hour charge will be paid, unless work for the day is cancelled by the City without advance notice. Minimum “cancellation charges” will be limited to four hours. This item shall also be used for all cylinder and sample pick-ups.

⁽²⁾ Overtime rates shall be applied only to hours worked beyond an eight (8) hour workday (Monday through Friday) or to any hours worked on Saturdays. Double-time rates (2 times the straight time rate) shall be applied to hours worked on Sundays and City holidays.

⁽³⁾ Includes percentage of crushed material. Results to be submitted to the City within 5 business days of placement.

⁽⁴⁾ Includes Volumetric Properties (i.e. Density, Air Voids, VMA, VFA, Fines to Binder Ratio, Flow, and Stability).

⁽⁵⁾ The City will require 4 cylinders be molded per sample location, unless otherwise specified.

⁽⁶⁾ This item shall also include Project Manager and/or Project Engineer time for attending preconstruction meetings, construction progress meetings, and any other meetings as requested by the City.

West Madison Street Improvement Project Proposed Fee Schedule

Estimated Quantity	Unit Price (\$)	Price Extension (\$)	Description of Service Item
	@ \$_____ /hr.	= \$_____	Technician Including Nuclear Densometer – Straight Time ⁽¹⁾
	@ \$_____ /hr.	= \$_____	Technician Including Nuclear Densometer – Overtime ^{(1) (2)}
	@ \$_____ /day	= \$_____	Technician Daily Mobilization (includes travel time to and from the project site)
	@ \$_____ /hr.	= \$_____	Additional Professional Engineering Services, as Requested by the City ⁽⁶⁾
	@ \$_____ /ea.	= \$_____	Concrete Cylinder Mold, Cure, Pickup, and Compressive Strength Test ⁽⁵⁾
	@ \$_____ /ea.	= \$_____	Sieve Analysis
	@ \$_____ /ea.	= \$_____	Modified Proctor Test
	@ \$_____ /ea.	= \$_____	Extraction Test ⁽³⁾
	@ \$_____ /ea.	= \$_____	Marshall Mix Verification ⁽⁴⁾
	@ \$_____ /ea.	= \$_____	Performance Grade Binder Verification
	@ \$_____ /ea.	= \$_____	Asphalt Cement Penetration Test
	@ \$_____ /ea.	= \$_____	Review Concrete or Asphalt Mix Design
	Total Price:	\$_____	

Notes:

⁽¹⁾ Unit prices for all technician service items shall include all vehicle costs, equipment costs, project management, and office support, including engineering review and secretarial services. No minimum hour charge will be paid, unless work for the day is cancelled by the City without advance notice. Minimum “cancellation charges” will be limited to four hours. This item shall also be used for all cylinder and sample pick-ups.

⁽²⁾ Overtime rates shall be applied only to hours worked beyond an eight (8) hour workday (Monday through Friday) or to any hours worked on Saturdays. Double-time rates (2 times the straight time rate) shall be applied to hours worked on Sundays and City holidays.

⁽³⁾ Includes percentage of crushed material. Results to be submitted to the City within 5 business days of placement.

⁽⁴⁾ Includes Volumetric Properties (i.e. Density, Air Voids, VMA, VFA, Fines to Binder Ratio, Flow, and Stability).

⁽⁵⁾ The City will require 4 cylinders be molded per sample location, unless otherwise specified.

⁽⁶⁾ This item shall also include Project Manager and/or Project Engineer time for attending preconstruction meetings, construction progress meetings, and any other meetings as requested by the City.

South Fourth Avenue Improvement Project Proposed Fee Schedule

Estimated Quantity	Unit Price (\$)	Price Extension (\$)	Description of Service Item
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Straight Time ⁽¹⁾
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Overtime ^{(1) (2)}
	@ \$ _____ /day	= \$ _____	Technician Daily Mobilization (includes travel time to and from the project site)
	@ \$ _____ /hr.	= \$ _____	Additional Professional Engineering Services, as Requested by the City ⁽⁶⁾
	@ \$ _____ /ea.	= \$ _____	Concrete Cylinder Mold, Cure, Pickup, and Compressive Strength Test ⁽⁵⁾
	@ \$ _____ /ea.	= \$ _____	Sieve Analysis
	@ \$ _____ /ea.	= \$ _____	Modified Proctor Test
	@ \$ _____ /ea.	= \$ _____	Extraction Test ⁽³⁾
	@ \$ _____ /ea.	= \$ _____	Marshall Mix Verification ⁽⁴⁾
	@ \$ _____ /ea.	= \$ _____	Performance Grade Binder Verification
	@ \$ _____ /ea.	= \$ _____	Asphalt Cement Penetration Test
	@ \$ _____ /ea.	= \$ _____	Review Concrete or Asphalt Mix Design
	Total Price:	\$ _____	

Notes:

⁽¹⁾ Unit prices for all technician service items shall include all vehicle costs, equipment costs, project management, and office support, including engineering review and secretarial services. No minimum hour charge will be paid, unless work for the day is cancelled by the City without advance notice. Minimum “cancellation charges” will be limited to four hours. This item shall also be used for all cylinder and sample pick-ups.

⁽²⁾ Overtime rates shall be applied only to hours worked beyond an eight (8) hour workday (Monday through Friday) or to any hours worked on Saturdays. Double-time rates (2 times the straight time rate) shall be applied to hours worked on Sundays and City holidays.

⁽³⁾ Includes percentage of crushed material. Results to be submitted to the City within 5 business days of placement.

⁽⁴⁾ Includes Volumetric Properties (i.e. Density, Air Voids, VMA, VFA, Fines to Binder Ratio, Flow, and Stability).

⁽⁵⁾ The City will require 4 cylinders be molded per sample location, unless otherwise specified.

⁽⁶⁾ This item shall also include Project Manager and/or Project Engineer time for attending preconstruction meetings, construction progress meetings, and any other meetings as requested by the City.

Forest Ave. Improvements Project Proposed Fee Schedule

Estimated Quantity	Unit Price (\$)	Price Extension (\$)	Description of Service Item
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Straight Time ⁽¹⁾
	@ \$ _____ /hr.	= \$ _____	Technician Including Nuclear Densometer – Overtime ^{(1) (2)}
	@ \$ _____ /day	= \$ _____	Technician Daily Mobilization (includes travel time to and from the project site)
	@ \$ _____ /hr.	= \$ _____	Additional Professional Engineering Services, as Requested by the City ⁽⁶⁾
	@ \$ _____ /ea.	= \$ _____	Concrete Cylinder Mold, Cure, Pickup, and Compressive Strength Test ⁽⁵⁾
	@ \$ _____ /ea.	= \$ _____	Sieve Analysis
	@ \$ _____ /ea.	= \$ _____	Modified Proctor Test
	@ \$ _____ /ea.	= \$ _____	Extraction Test ⁽³⁾
	@ \$ _____ /ea.	= \$ _____	Marshall Mix Verification ⁽⁴⁾
	@ \$ _____ /ea.	= \$ _____	Performance Grade Binder Verification
	@ \$ _____ /ea.	= \$ _____	Asphalt Cement Penetration Test
	@ \$ _____ /ea.	= \$ _____	Review Concrete or Asphalt Mix Design
	Total Price:	\$ _____	

Notes:

⁽¹⁾ Unit prices for all technician service items shall include all vehicle costs, equipment costs, project management, and office support, including engineering review and secretarial services. No minimum hour charge will be paid, unless work for the day is cancelled by the City without advance notice. Minimum “cancellation charges” will be limited to four hours. This item shall also be used for all cylinder and sample pick-ups.

⁽²⁾ Overtime rates shall be applied only to hours worked beyond an eight (8) hour workday (Monday through Friday) or to any hours worked on Saturdays. Double-time rates (2 times the straight time rate) shall be applied to hours worked on Sundays and City holidays.

⁽³⁾ Includes percentage of crushed material. Results to be submitted to the City within 5 business days of placement.

⁽⁴⁾ Includes Volumetric Properties (i.e. Density, Air Voids, VMA, VFA, Fines to Binder Ratio, Flow, and Stability).

⁽⁵⁾ The City will require 4 cylinders be molded per sample location, unless otherwise specified.

⁽⁶⁾ This item shall also include Project Manager and/or Project Engineer time for attending preconstruction meetings, construction progress meetings, and any other meetings as requested by the City.

Miscellaneous Construction Projects Proposed Fee Schedule

Unit Price (\$)	Description of Service Item
@ \$_____ /hr.	Technician Including Nuclear Densometer – Straight Time ⁽¹⁾
@ \$_____ /hr.	Technician Including Nuclear Densometer – Overtime ^{(1) (2)}
@ \$_____ /day	Technician Daily Mobilization (includes travel time to and from the project site)
@ \$_____ /hr.	Additional Professional Engineering Services, as Requested by the City ⁽⁶⁾
@ \$_____ /ea.	Concrete Cylinder Mold, Cure, Pickup, and Compressive Strength Test ⁽⁵⁾
@ \$_____ /ea.	Sieve Analysis
@ \$_____ /ea.	Modified Proctor Test
@ \$_____ /ea.	Extraction Test ⁽³⁾
@ \$_____ /ea.	Marshall Mix Verification ⁽⁴⁾
@ \$_____ /ea.	Performance Grade Binder Verification
@ \$_____ /ea.	Asphalt Cement Penetration Test
@ \$_____ /ea.	Review Concrete or Asphalt Mix Design

Notes:

⁽¹⁾ Unit prices for all technician service items shall include all vehicle costs, equipment costs, project management, and office support, including engineering review and secretarial services. No minimum hour charge will be paid, unless work for the day is cancelled by the City without advance notice. Minimum “cancellation charges” will be limited to four hours.

⁽²⁾ Overtime rates shall be applied only to hours worked beyond an eight (8) hour workday (Monday through Friday) or to any hours worked on Saturdays. Double-time rates (2 times the straight time rate) shall be applied to hours worked on Sundays and City holidays.

⁽³⁾ Includes percentage of crushed material. Results to be submitted to the City within 5 business days.

⁽⁴⁾ Includes Volumetric Properties (i.e. Density, Air Voids, VMA, VFA, Fines to Binder Ratio, Flow, and Stability).

⁽⁵⁾ The City will require 4 cylinders be molded per sample location, unless otherwise specified.

⁽⁶⁾ This item shall also include Project Manager and/or Project Engineer time for attending preconstruction meetings, construction progress meetings, and any other meetings as requested by the City.

D. AUTHORIZED NEGOTIATOR & CONTACT PERSON

Include the name, phone number, **and e-mail address** of a person(s) in the organization authorized to negotiate the Professional Services Agreement with the City. Also provide the same information for a designated contact person should the City have any questions regarding the proposal, or to follow up with should the firm be select, if that person is different from the Authorized Negotiator.

**SECTION IV
ATTACHMENT A – SAMPLE CONTRACT**

**AGREEMENT BETWEEN

AND THE CITY OF ANN ARBOR
FOR PROFESSIONAL SERVICES**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 East Huron Street, Ann Arbor, Michigan 48107 ("City"), and _____

_____ ("Consultant") a(n) _____
(State where organized) (Partnership, Sole Proprietorship, or Corporation)
with its address at _____ agree as follows on this _____ day of _____, 20__.

The Consultant agrees to provide professional services to the City under the following terms and conditions:

I. DEFINITIONS

Administering Service Area/Unit means Project Management Services Unit.

Contract Administrator means Nicholas Hutchinson, P.E., Interim Manager of the Project Management Services Unit, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for or delivered to City by Consultant under this Agreement

Project means _____.
Project name; File and Subfile No.

II. DURATION

This Agreement shall become effective on _____, 20__, and shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in this Agreement.

III. SERVICES

- A. The Consultant agrees to provide professional _____ (type of service) services ("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.
- B. Quality of Services under this Agreement shall be of the level of professional quality performed by experts regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.

- C. The Consultant shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- D. The Consultant may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. COMPENSATION OF CONSULTANT

- A. The Consultant shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Consultant, and approved by the Contract Administrator.
- B. The Consultant will be compensated for Services performed in addition to the Services described in Section III, only when those additional Services have received prior written approval of the Contract Administrator. Compensation will be on the basis of reasonable time spent and reasonable quantities of materials used, according to the schedule of rates in Exhibit B. The Contract Administrator shall be the sole arbitrator of what shall be considered “reasonable” under this provision.
- C. The Consultant shall keep complete records of time spent and materials used on the Project so that the City may verify invoices submitted by the Consultant. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

V. INSURANCE/INDEMNIFICATION

- A. The Consultant shall procure and maintain during the life of this contract, such insurance policies, including those set forth below, as will protect itself and the City from all claims for bodily injuries, death or property damage which may arise under this contract; whether the acts were made by the Consultant or by any subcontractor or anyone employed by them directly or indirectly. The following insurance policies are required:
 - 1. Professional Liability Insurance protecting the Consultant and its employees in an amount not less than \$1,000,000.
 - 2. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:
 - 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
 - 3. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements including, but not limited to: Products and Completed Operations, Explosion, Collapse and

Underground Coverage or Pollution. Further, the following minimum limits of liability are required:

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

4. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
 5. Umbrella/Excess Liability Insurance shall be provided to apply in 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.
- B. Insurance required under V.A.3 and V.A.4 of this contract shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; 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, the Contractor agrees to waive any right of recovery by its insurer against the City.
- C. In the case of all contracts involving on-site work, the Consultant shall provide to the City, before the commencement of any work under this contract, documentation demonstrating it has obtained the above mentioned policies. Documentation must provide and demonstrate an unconditional 30 day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which shall be approved by the City, in its sole discretion; (c) that the policy conforms to the requirements specified. An original certificate of insurance may be provided as an initial indication of the required insurance, provided that no later than 21 calendar days after commencement of any work the Consultant supplies a copy of the endorsements required on the policies. Upon request, the Consultant shall provide within 30 days a copy of the policy(ies) to the City. If any of the above coverages expire by their terms during the term of this contract, the Consultant shall deliver proof of renewal and/or new policies to the Administering Service Area/Unit at least ten days prior to the expiration date.
- D. Any insurance provider of Consultant shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not

acceptable unless approved in writing by the City.

- E. To the fullest extent permitted by law, for any loss not covered by insurance under this contract, the Consultant shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, to its proportionate extent, from any negligent, grossly negligent, reckless and/or intentional wrongful or tortious acts or omissions by the Consultant or its employees and agents occurring in the performance of this Agreement.

VI. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Consultant agrees to comply with the nondiscrimination provisions of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate any inequality based upon race, national origin or sex. The Consultant agrees to comply with the provisions of Section 9:161 of Chapter 112 of the Ann Arbor City Code, Exhibit C.
- B. Living Wage. The Consultant is a “covered employer” as defined in Chapter 23 of the Ann Arbor City Code and agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Consultant agrees to pay those employees providing Services to the City 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) and specified in Exhibit D; to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to 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 to comply with the requirements of Chapter 23. A copy of selected provisions of Chapter 23 of the Ann Arbor City Code is attached as Exhibit D.

VII. WARRANTIES BY THE CONSULTANT

- A. The Consultant warrants that the quality of its Services under this Agreement shall conform to the level of professional quality performed by experts regularly rendering this type of service.
- B. The Consultant warrants that it has all the skills, experience, and professional licenses necessary to perform the Services specified in this Agreement.
- C. The Consultant warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services specified in this Agreement.
- D. The Consultant warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes.

VIII. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice.
- B. The City may terminate this Agreement if it decides not to proceed with the Project by notice pursuant to Article XII. If the Project is terminated for reasons other than the breach of the Agreement by the Consultant, the Consultant shall be compensated for reasonable time spent and reasonable quantities of materials used prior to notification of termination.
- C. Consultant acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to the Consultant. The Contract Administrator shall give the Consultant written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.
- D. The remedies provided in this Agreement will be cumulative, and the assertion by a party of any right or remedy will not preclude the assertion by such party of any other rights or the seeking of any other remedies.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Consultant access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Consultant of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Consultant shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Consultant shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Consultant shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. NOTICE

All notices and submissions required under this Agreement shall be by personal delivery or by first-class mail, postage prepaid, to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this Agreement when personally delivered to the Contract Administrator or placed in the U.S. mail, postage prepaid to the Administering Service Area/Unit, care of the Contract Administrator.

XII. CHOICE OF LAW

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XIII. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., deliverables) prepared by or obtained by the Consultant as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Consultant as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Consultant.

Unless otherwise stated in this Agreement, any intellectual property owned by Consultant prior to the effective date of this Agreement (i.e., preexisting information) shall remain the exclusive property of Consultant even if such Preexisting Information is embedded or otherwise incorporated in materials or products first produced as a result of this Agreement or used to develop Deliverables. The City's right under this provision shall not apply to any Preexisting Information or any component thereof regardless of form or media.

XIV. CONFLICT OF INTEREST

Consultant certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Consultant further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

XV. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVI. EXTENT OF AGREEMENT

This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Consultant with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. This Agreement may be altered, amended or modified only by written amendment signed by the Consultant and the City.

FOR CONSULTANT

By _____
Type name

Its

FOR THE CITY OF ANN ARBOR

By _____
John Hieftje, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

Steven D. Powers, City Administrator

Craig Hupy, Interim Public Services Administrator

Approved as to Form and Content

Stephen K. Postema, City Attorney

EXHIBIT A
SCOPE OF SERVICES

**EXHIBIT B
FEE SCHEDULE**

EXHIBIT C
FAIR EMPLOYMENT PRACTICE

The consultant, its agents or sub-contractors, shall comply with all requirements of Chapter 112 of Title IX of the Code of the City of Ann Arbor and in particular the following excerpts therefrom:

9:161 NONDISCRIMINATION BY CITY CONTRACTORS

- (1) All contractors proposing to do business with the City of Ann Arbor shall satisfy the nondiscrimination administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All contractors shall receive approval from the Director prior to entering into a contract with the City, unless specifically exempted by administrative policy. All City contractors shall take affirmative action to insure 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 race, national origin or sex.
- (2) Each prospective contractor shall submit to the City data showing current total employment by occupational category, sex and minority group. If, after verifying this data, the Director concludes that it indicates total minority and female employment commensurate with their availability within the contractor's labor recruitment area, i.e., the area from which the contractor can reasonably be expected to recruit, said contractor shall be accepted by the Director as having fulfilled affirmative action requirements for a period of one year at which time the Director shall conduct another review. Other contractors shall develop an affirmative action program in conjunction with the Director. Said program shall include specific goals and timetables for the hiring and promotion of minorities and females. Said goals shall reflect the availability of minorities and females within the contractor's labor recruitment area. In the case of construction contractors, the Director shall use for employment verification the labor recruitment area of the Ann Arbor-Ypsilanti standard metropolitan statistical area. Construction contractors determined to be in compliance shall be accepted by the Director as having fulfilled affirmative action requirements for a period of six (6) months at which time the Director shall conduct another review.
- (3) In hiring for construction projects, contractors shall make good faith efforts to employ local persons, so as to enhance the local economy.
- (4) All contracts shall include provisions through which the contractor agrees, in addition to any other applicable Federal or State labor laws:
 - (a) To set goals, in conference with the Human Resources Director, for each job category or division of the work force used in the completion of the City work;
 - (b) To provide periodic reports concerning the progress the contractor has made in

meeting the affirmative action goals it has agreed to;

- (c) To permit the Director access to all books, records and accounts pertaining to its employment practices for the purpose of determining compliance with the affirmative action requirements.
- (5) The Director shall monitor the compliance of each contractor with the nondiscrimination provisions of each contract. The Director shall develop procedures and regulations consistent with the administrative policy adopted by the City Administrator for notice and enforcement of non-compliance. Such procedures and regulations shall include a provision for the posting of contractors not in compliance.
- (6) All City contracts shall provide further that breach of the obligation not to discriminate shall be a material breach of the contract for which the City shall be entitled, at its option, to do any or all of the following:
 - (a) To cancel, terminate, or suspend the contract in whole or part and/or refuse to make any required periodic payments under the contract;
 - (b) Declare the contractor ineligible for the award of any future contracts with the City for a specified length of time;
 - (c) To recover liquidated damages of a specified sum, said sum to be that percentage of the labor expenditure for the time period involved which would have accrued to minority group members had the affirmative action not been breached;
 - (d) Impose for each day of non-compliance, liquidated damages of a specified sum, based upon the following schedule:

<u>Contract Amount</u>	<u>Assessed Damages Per Day of Non-Compliance</u>
\$ 10,000 - 24,999	\$ 25.00
25,000 - 99,999	50.00
100,000 - 199,999	100.00
200,000 - 499,999	150.00
500,000 - 1,499,999	200.00
1,500,000 - 2,999,999	250.00
3,000,000 - 4,999,999	300.00
5,000,000 - and above	500.00

- (e) In addition the contractor shall be liable for any costs or expenses incurred by the City of Ann Arbor in obtaining from other sources the work and services to be rendered

or performed or the goods or properties to be furnished or delivered to the City under this contract.

EXHIBIT D
LIVING WAGE REQUIREMENTS

If a "covered employer," Contractor will comply with all the requirements of Chapter 23 of the Ann Arbor City Code (Sections 1:811 B 1:821), in particular but not limited to the following sections thereof:

1:813. Definitions.

For purposes of this Chapter, the following definitions shall apply:

- (1) "Contractor/vendor" is a person or entity that has a contract with the City primarily for the furnishing of services where the total amount of the contract or contracts with the City exceeds \$10,000 for any 12month period. "Contractor/vendor" does not include a person or entity that has a contract with the City primarily for the purchase of goods or property, or for the lease of goods or property to or from the City.
- (2) "Covered Employee" means a person employed by a covered employer to perform services which are covered or funded by the contract with or grant from the City; provided, however, that persons who are employed pursuant to federal, state or local laws relating to prevailing wages shall be exempt from this Chapter.
- (3) "Covered Employer" means a contractor/vendor or grantee that has not been granted an exemption from this Chapter pursuant to Section 1:817.
- (4) "Employee" means an individual who provides personal services performed for wages under any contract calling for the performance of personal services, whether written or oral, express or implied. The term "employee" does not include any individual who volunteers to perform services for an employer if
 - (a) The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
 - (b) Such services are not the same type of services which the individual is employed to perform for such employer.
- (5) "Employee Health Benefits" or "Health Benefits" means providing health care benefits for employees (or employees and their dependents) at employer cost or making an employer contribution toward the purchase of such health care benefits for employees (or employees and their dependents), provided that the employer cost or contribution equals no less than \$1 an hour for the average work week of such employee, and provided further that any employee payment or contribution toward

health care shall not exceed 50 cents an hour for the average work week for such employee.

- (6) "Grant" means any form of financial assistance to a "Grantee" as set forth and defined in Section 1:813(7). "Grant" does not include financial assistance used for the purchase or lease of property or other nonpersonnel costs.
- (7) "Grantee" is a person or entity that is a recipient of any financial assistance from the City in the form of any federal, state or local grant program administered by the City, revenue bond financing, tax increment financing, tax abatement, tax credit, direct grant, or any other form of financial assistance that exceeds \$10,000 for any 12month period, including any contractors, subcontractors, or leaseholders of the grantee whose contract, subcontract or lease with the grantee exceeds \$10,000 for any 12month period.
- (8) "Living Wage" means a wage equal to the levels established in Section 1:815.
- (9) "Person" means any individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (10) "\$10,000 for any 12 month period" is computed by taking the total amount of the contract, grant or loan and dividing it by the number of months the contract, grant or loan covers.

1:814. Applicability.

- (1) This Chapter shall apply to any person that is a contractor/vendor or grantee as defined in Section 1:813 that employs or contracts with five (5) or more individuals; provided, however, that this Chapter shall not apply to a nonprofit contractor/vendor or nonprofit grantee unless it employs or contracts with ten (10) or more individuals.
- (2) This Chapter shall apply to any grant, contract, or subcontract or other form of financial assistance awarded to or entered into with a contractor/vendor or grantee after the effective date of this Chapter and to the extension or renewal after the effective date of this Chapter of any grant, contract, or subcontract or other form of financial assistance with a contractor/vendor or grantee.

1:815. Living Wages Required.

- (1) Every contractor/vendor or grantee, as defined in Section 1:813, shall pay its covered employees a living wage as established in this Section.
 - (a) For a covered employer that provides employee health care to its employees, the living wage shall be \$8.70 an hour, or the adjusted amount hereafter established under Section 1:815(3).
 - (b) For a covered employer that does not provide health care to its employees, the living wage shall be \$10.20 a hour, or the adjusted amount hereafter established under Section 1:815(3).
- (2) In order to qualify to pay the living wage rate for covered employers providing employee health care under subsection 1:815(1)(a), a covered employer shall furnish proof of said health care coverage and payment therefore to the City Administrator or his/her designee.
- (3) The amount of the living wage established in this Section shall be adjusted upward no later than April 30, 2002, and every year thereafter by a percentage equal to the percentage increase, if any, in the federal poverty guidelines as published by the United States Department of Health and Human Services for the years 2001 and 2002. Subsequent annual adjustments shall be based upon the percentage increase, if any, in the United States Department of Health and Human Services poverty guidelines when comparing the prior calendar year's poverty guidelines to the present calendar year's guidelines. The applicable percentage amount will be converted to an amount in cents by multiplying the existing wage under Section 1.815(1)(b) by said percentage, rounding upward to the next cent, and adding this amount of cents to the existing living wage levels established under Sections 1:815(1)(a) and 1:815(1)(b). Prior to April 1 of each calendar year, the City will notify any covered employer of this adjustment by posting a written notice in a prominent place in City Hall, and, in the case of a covered employer that has provided an address of record to the City, by a written letter to each such covered employer.

1:816. Employees Covered.

A covered employer shall pay each of its employees performing work on any covered contract or grant with the City no less than a living wage as defined in Section 1:815.

1:817. Exemptions.

Notwithstanding any other provisions in this Chapter, the following exemptions shall apply:

- (1) Sweat equity contracts for home construction or rehabilitation grant will not subject the grantee to coverage under this Chapter. Housing construction or rehabilitation

grants or contracts that are passed through to a contractor in their entirety are exempt from the provisions of this Chapter, even when the City participates in the selection of the contractor.

- (2) For any contract or grant, the City Council may grant a partial or complete exemption from the requirements of this Chapter if it determines one of the following:
 - (a) To avoid any application of this Chapter that would violate federal, state or local law(s); or
 - (b) The application of this Chapter would cause demonstrated economic harm to an otherwise covered employer that is a nonprofit organization, and the City Council finds that said harm outweighs the benefits of this Chapter; provided further that the otherwise covered nonprofit employer shall provide a written plan to fully comply with this Chapter within a reasonable period of time, not to exceed three years, and the City Council then agrees that granting a partial or complete exemption is necessary to ameliorate the harm and permit the nonprofit organization sufficient time to reach full compliance with this Chapter.
- (3) A loan shall be considered a grant under this ordinance only to the extent that a loan is provided at below market interest rates and then only the difference between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan, shall be treated as financial assistance under this ordinance.
- (4) A payment of funds for the purpose of purchasing services, property, or goods on behalf of individuals being assisted by a covered employer or potentially covered employer (sometimes known as a "pass through" grant) that is used for said purchases shall not be considered a grant; such funds shall be considered a grant only to the extent that any such funds are retained by the covered employer or potentially covered employer to provide financial assistance and support to its own operations.

1:818. Monitoring and Enforcement.

- (1) Every covered employer shall agree to the payment of a living wage as a condition of entering into or renewing a covered contract or grant with the City, shall agree to post a notice regarding the applicability of this Chapter in every work place or other location in which employees or other persons contracted for employment are working, and shall agree to provide payroll records or other documentation as deemed necessary within ten (10) business days from the receipt of the City's request. All City contracts and grants covered by this Chapter shall provide that a violation of the living wage requirements of this Chapter shall be a material breach

of the contract or grant. The Human Rights Office of the City shall monitor the compliance of each contractor/vendor or grantee under procedures developed by the Human Rights Office and approved by the City Administrator.

- (2) Each covered employer shall submit to the Human Rights Office of the City information regarding number of employees and applicable wage rates of its employees covered by this Chapter in such manner as requested by that office. At the request of the Human Rights Office, any contractor/vendor or grantee shall provide satisfactory proof of compliance with the living wage provisions of this Chapter.
- (3) Any person may submit a complaint or report of a violation of this Chapter to the Human Rights Office. Upon receipt of such a complaint or report, the Human Rights Office shall investigate to determine if there has been a violation.

1:819. Penalties and Enforcement.

- (1) A violation of any provision of this Chapter is a civil infraction punishable by a fine of not more than \$500.00 plus all costs of the action. The Court may issue and enforce any judgment, writ, or order necessary to enforce this Chapter, including payment to the affected employee or employees of the difference between wages actually paid and the living wage that should have been paid, interest, and other relief deemed appropriate.
- (2) Each day upon which a violation occurs shall constitute a separate violation.
- (3) In addition to enforcement under Subsections (1) and (2), the City shall have the right to modify, terminate, and/or seek specific performance of any contract or grant with an affected covered employer or to cancel, terminate or suspend the contract in whole or in part and/or to refuse any further payments under the contract or grant;
- (4) Nothing contained in this Chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any other person for the correction of violations of this Chapter

* * * * *

1:821. Other Provisions.

- (1) No affected covered employer shall reduce the compensation, wages, fringe benefits, or leave available to any covered employee or person contracted for employment in order to pay the living wage required by this Chapter.

* * * * *

- (3) No employee covered by a federal, state or local law requiring the payment of prevailing wages shall be covered by this Chapter.
- (4) This Chapter shall not be construed to apply to any person or entity that is a tax exempt religious, educational or charitable organization under state or federal law, but is not a contractor/vendor or grantee as defined in Section 1:813.
- (5) This Chapter shall not be applicable to the establishment and/or continuation of the following if developed specifically for high school and/or college students:
 - (a) A bona fide training program;
 - (b) A summer or youth employment program;
 - (c) A work study, volunteer/public service, or internship program.

* * * * *

SECTION IV

ATTACHMENT “B”

HUMAN RIGHTS & LIVING WAGE FORMS

CITY OF ANN ARBOR LIVING WAGE ORDINANCE

RATE EFFECTIVE MAY 1, 2012 - ENDING APRIL 30, 2013

\$12.17 per hour

If the employer provides health care benefits*

\$13.57 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.

For Additional Information or to File a Complaint Contact:

**Linda Newton, Procurement Officer
734/794-6576 or Lnewton@a2gov.org**

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

**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 employers providing services to the City or recipients of grants for financial assistance (in amounts greater than \$10,000 in a twelve-month period of time) pay their employees who are working on the City project or grant, a minimum level of compensation known as the **Living Wage**. This wage must be paid to the employees for the length of the contract/project.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from the Ordinance. If this exemption applies to your firm, please check below:

- _____ This **company** is exempt due to the fact that we employ or contract with fewer than 5 individuals.
_____ This **non-profit agency** is exempt due to the fact that we employ or contract with fewer than 10 employees.

The Ordinance requires that all contractors/vendors and/or grantees agree to the following terms:

- a) To pay each of its employees performing work on any covered contract or grant with the City, no less than the living wage, which is defined as \$12.17/hour when health care is provided, or no less than \$13.57/hour for those employers that do *not* provide health care. It is understood that the Living Wage will be adjusted each year on April 30, and covered employers will be required to pay the adjusted amount thereafter. The rates stated above include any adjustment for 2012.
- b) Please check the boxes below which apply to your workforce:
 - Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage without health benefits Yes _____ No _____
- OR**
- Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage with health benefits Yes _____ No _____
- c) To post a notice approved by the City regarding the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- d) To provide the City payroll records or other documentation as requested; and,
- e) To permit access to work sites to City representatives for the purposes of monitoring compliance, investigating complaints or non-compliance.

The undersigned authorized representative hereby obligates the contractor/vendor or grantee to the above stated conditions under penalty of perjury and violation of the Ordinance.

Company Name

Address, City, State, Zip

Signature of Authorized Representative

Phone (area code)

Type or Print Name and Title

Email address

Date signed

Questions about this form? Please contact:
Procurement Office City of Ann Arbor
Phone: 734/794-6576

CONTRACT COMPLIANCE FORMS

City of Ann Arbor Procurement Office INSTRUCTIONS FOR CONTRACTORS

For Completing CONTRACT COMPLIANCE FORM

City Policy

The “non discrimination in contracts” provision of the City Code, (Chapter 112, Section 9:161) requires contractors/vendors/grantees doing business with the City not to discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, condition of pregnancy, marital status, physical or mental limitations, source of income, family responsibilities, educational association, sexual orientation, gender identity or HIV status against any of their employees, any City employee working with them, or any applicant for employment. It also requires that the contractors/vendors/grantees include a similar provision in all subcontracts that they execute for City work or programs.

This Ordinance further requires that each prospective contractor/vendor submit employment data to the City showing current total employee breakdown by occupation, race and gender. This allows the Human Rights Office to determine whether or not the contractor/vendor has a workforce that is reflective of the availability of women and under-represented minorities within the contractor’s labor recruitment area (the area where they can reasonably be expected to recruit employees). *This data is provided to the City on the Human Rights Contract Compliance Forms (attached).*

To complete the form:

1) **If a company has more than one location, then that company must complete 2 versions of the form.**

- **Form #1** should contain the employment data for the **entire corporation.**
- **Form #2** should contain the employment data for those employees:
 - who will be working on-site;
 - in the office responsible for completing the contract; or,
 - in the case of non-profit grantees, those employees working on the project funded by the City grant(s).

2) If the company has only one location, fill out Form #1 only.

3) Complete all data in the upper section of the form including the name of the person who completes the form and the name of the company/organization’s president.

4) Complete the Employment Data in the remainder of the form. Please be sure to complete all columns including the Total Columns on the far right side of the form, and the Total row and Previous Year Total row at the bottom of the form.

5) Return the completed form(s) to your contact in the City Department for whom you will be conducting the work.

For assistance in completing the form, contact:

Procurement Office of the City of Ann Arbor
(734) 794-6576

If a contractor is determined to be out of compliance, the Procurement Office will work with them to assist them in coming into compliance.

**CITY OF ANN ARBOR HUMAN RIGHTS OFFICE
CONTRACT COMPLIANCE FORM**

Form #1

Entire Organization (Totals for All Locations where applicable)

Name of Company/Organization _____ Date Form Completed _____

Name and Title of Person Completing this Form _____ Name of President _____

Address _____ County _____ Phone # _____
 (Street address) (City) (State) (Zip) (Area Code)

Fax# _____ Email Address _____
 (Area Code)

EMPLOYMENT DATA

Job Categories	Number of Employees (Report employees in only one category)												TOTAL COLUMNS A-L
	Male						Female						
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic Latino	or Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	
A	B	C	D	E	F	G	H	I	J	K	L		
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
TOTAL													
PREVIOUS YEAR TOTAL													

**CITY OF ANN ARBOR HUMAN RIGHTS OFFICE
CONTRACT COMPLIANCE FORM**

Form #2

Local Office (Only those employees that will do local or on-site work, if applicable)

Name of Company/Organization _____ Date Form Completed _____

Name and Title of Person Completing this Form _____ Name of President _____

Address _____ County _____ Phone # _____
 (Street address) (City) (State) (Zip) (Area Code)

Fax# _____ Email Address _____
 (Area Code)

EMPLOYMENT DATA

Job Categories	Number of Employees (Report employees in only one category)												TOTAL COLUMNS A-L
	Male						Female						
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	
A	B	C	D	E	F	G	H	I	J	K	L		
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
TOTAL													
PREVIOUS YEAR TOTAL													

**ATTACHMENT “C”
2013 STREET RESURFACING PROJECT
TENTATIVE STREET LIST**

Street	Limits	Major or Residential	Type of Work
Geddes Ave	Church to Highland	Major	Resurfacing
Barton	Pontiac to Plymouth	Major	Resurfacing
State St	Oakbrook to Eisenhower	Major	Resurfacing
Green Rd	Nixon to Burbank (south leg)	Major	Resurfacing
Depot	Main St to Carey	Major	Resurfacing
Division	Madison to Huron	Major	Resurfacing
Canal Street	End to End	Residential	Resurfacing
Alley (Mary - Packard)	Benjamin to Hoover	Residential	Resurfacing
Sauer Ct	Mary to Benjamin	Residential	Resurfacing
Hiscock	Brooks to Spring	Residential	Resurfacing
Waldenwood	Earhart to Earhart	Residential	Resurfacing
Penberton	Fox Hunt to Waldenwood	Residential	Resurfacing
Arbana	Linwood to Mark Hannah	Residential	Resurfacing
Mark Hannah	Arbana to Arbana	Residential	Resurfacing
Franklin	Stadium to Hutchins	Residential	Resurfacing
Sorrento	King George to End	Residential	Resurfacing
Birch Hollow	Tacoma Cr to Stone School	Residential	Resurfacing