



## Request for Proposals

### Third Party Administrator Services For Risk Management

RFP 846

Due: February 15, 2013  
By: 11:00 am

**THE CITY OF ANN ARBOR  
301 E. Huron St.  
Ann Arbor, MI 48104**

<http://www.a2gov.org>

## **SECTION I INSTRUCTION TO BIDDERS**

### **General**

Work to be done under this Contract is generally described in the Scope of Services and proposals must be submitted in accordance with the specifications in the document. Any proposal that does not conform fully to these instructions may be rejected.

### **Term**

The City desires to enter into a three (3) year contract with a two (2) year option for Third Party Claims Administration (TPA) Services. The option is exercisable at the sole discretion of the City of Ann Arbor.

### **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](mailto:Lnewton@a2gov.org).

Questions regarding proposal scope of work may be directed to Matthew V. Horning, Treasurer, at email [mhorning@a2gov.org](mailto:mhorning@a2gov.org).

Question deadline shall be February 1, 2013 by 5:00 pm.

### **Addenda**

All 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.info 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.

The City will not be bound by oral responses to inquiries or written responses other than written addenda.

Any oral responses to any questions shall be unofficial and not binding on the City of Ann Arbor. The City's staff will make such interpretation or correction, as well as any additional RFP provisions that the City may decide to include, only as an RFP addendum. Any addendum issued by the City shall become a part of the RFP. Submitters should consider issued addendums in preparing his or her proposal.

## **Proposal Submission**

All Proposals are due and must be delivered to the City Procurement Unit on or before **February 15, 2013 by 11:00 am (local time)**. Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each Bidder must submit one (1) original Proposal, (5) five additional Proposal copies and two (2) copies of the Fee Proposals in a separate sealed envelope marked "Fee Proposal" contained within the submitted sealed Proposal. Proposals submitted must be clearly marked: **RFP 846 - PROPERTY, CASUALTY AND AUTOMOBILE THIRD PARTY CLAIMS ADMINISTRATION SERVICES, Vendor Name and address.**

### **Proposals must be addressed and delivered to:**

City of Ann Arbor  
Linda Newton  
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/signed by the Procurement Unit at the address above in order to be considered. Normal business hours are 9:00 a.m. to 3:00 p.m. Monday through Friday.

The City will not be liable to any Bidder for any unforeseen circumstances, delivery or postal delays. Postmarking on the Due Date will not substitute for receipt of the Proposal. Each Bidder is responsible for submission of their Proposal.

Additional time will not be granted to a single Bidder; however, additional time may be granted to all Bidders when the City determines that circumstances warrant it.

Submitter agrees to honor their proposal for a period of sixty (60) days from the proposal due date. All proposals become the property of the City of Ann Arbor after the deadline whether awarded or rejected.

**Schedule**

Proposal submission, evaluation and award schedule:

Date	Activity
January 18, 2013	RFP Issued
February 15, 2013	RFP Response deadline
February 19, 2013	RFP Evaluation begins
February 25, 2013	RFP Interviews
February 28, 2013	Selection recommendation presented to City Insurance Board
March 18, 2013	TPA approved by City Council
April 16, 2013	TPA services start date

The above schedule is subject to change at the City's discretion.

## **SECTION II GENERAL TERMS AND CONDITIONS**

### **Proposal Signature**

Vendor's Proposals must be signed by an authorize official of the Vendor's organization. Each signature represents binding commitment upon the vendor to provide the goods/services offered to the City.

### **Contract for Services**

The Submitter selected to do business with the City of Ann Arbor will be required to execute the standard Agreement with the City (a specimen copy is included with this RFP as Appendix A. The City will not entertain request to revise, amend, or change the language of the standard Agreement except when necessary to incorporate the scope of services and compensation for same as awarded. Proposal submitters must base their proposal on the assumption that, if selected, they will execute the City's standard Agreement.

The Submitter selected to provide the system and services requested under this RFP will be required to execute the contract shown in Appendix A within fifteen (15) days of the award of the contract and provide proof of insurance and bonds.

### **Disclosure**

All information in a submitter's Proposal is subjected to disclosure under the provisions of Public Act No. 442 of 1976 know as the "Freedom of Information Act". This act also provides for the complete disclosure of contracts and attachments thereto except where specifically exempted under the Freedom of Information Act.

### **Proposal Protest**

All Proposal protests must be in writing and filed with the Purchasing Agent within five (5) business days of the award action email. 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 who's decision shall be final.

## **Invoicing**

All invoices shall be issued to City of Ann Arbor at address indicated on purchase order. Invoices shall be itemized based on scope of work provided.

## **IRS Form W9**

The vendor must have on file with the City of Ann Arbor an IRS form W-9 before a purchase order can be issued.

## **Negotiation**

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 vendor's response shall be documented and included as part of the final contract.

## **Indemnification**

To the fullest extent permitted by law, for any loss not covered by insurance under this contract, Vendor shall indemnify, defend and hold harmless the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, in whole or in part, from any act or omission, which is in any way connected or associated with this contract, by the Vendor or anyone acting on the Vendor's behalf under this contract. Vendor shall not be responsible to indemnify the City for losses or damages caused by or resulting from the City's sole negligence.

## **Assignments**

The Vendor(s) agrees not to assign or transfer this work or any part thereof without the written consent of the City of Ann Arbor, acting through the City Contact. Any unauthorized assignment may subject the Vendor(s) to immediate termination.

## **Collusive Bidding**

The Bidder certifies that their Proposal is made without any previous understanding, agreement or connection with any person, firm or corporation making a Proposal for the same services and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action.

## **Debarment**

Submission of a Proposal in response to this RFP is certification that the Bidder 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.

## **Cost Of Proposal**

Interested Vendors, by submitting Proposals, agree to bear all costs incurred or related to the submission of their Proposals. By responding to this RFP the Submitter agrees to hold the City harmless in connection with the release of any information contained in its proposal.

## **Non-Discrimination**

All vendors proposing to do business with the City of Ann Arbor, except those specifically exempted by regulations promulgated by the Administrator and approved by City Council, shall receive approval from the Procurement Unit prior to entering into a purchase agreement with the City. Said vendors shall take affirmative action to 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 race, national origin or sex. See Appendix D for contract compliance forms.

Each prospective vendor shall submit to the City data showing current total employment by occupational category, sex and minority group. If, after verifying this data, the Procurement Unit concludes that it indicates total minority and female employment commensurate with their availability within the vendor's labor recruitment area, i.e., the area from which the vendor can reasonably be expected to recruit, the prospective vendor shall be accepted by the Procurement Unit as having fulfilled affirmative action requirements for a period of six (6) months at which time the Procurement Unit will conduct another review. Other vendors shall develop an affirmative action program in conjunction with the City of Ann Arbor's Human Resources Director. The program shall include specific goals and timetables for the hiring and promotion of minorities and females. Said goals shall reflect the availability for minorities and females within the vendor's labor recruitment area.

Contract compliance forms should be submitted with proposal. In event they are not, the vendor will have 24 hours from the City's request to return completed forms.

## **Living Wage**

All vendors proposing to do business with the City of Ann Arbor, except those specifically exempted by regulations promulgated by the Administrator and approved by City Council, agree to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code and, if a “covered employer” as defined therein to pay those employees providing services to the City under this agreement a “living wage” as defined in Chapter 23 of the Ann Arbor City code; and, if requested by the City, provide documentation to verify compliance. The vendor agrees to comply with the provisions of Section 1:1815 of Chapter 23 of the Ann Arbor City Code, Appendix C.

The Living Wage form should be submitted with proposal. In event they are not, the vendor will have 24 hours from the City’s request to return completed forms.

## **Independent Cost Determination**

By submission of a proposal, the Submitter certifies in connection with this proposal: (a) It has arrived at the costs in the proposal independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such fees with any other proposal submitter or with any competitor; (b) Unless otherwise required by law, the costs which have been quoted in the proposal have not been knowingly disclosed by the Submitter and will not knowingly be disclosed by the submitter prior to award directly or indirectly to any other prospective Submitter or to any competitor.; and (c) No attempt has been made or shall be made by the proposal Submitter to induce any other person or firm to submit or not submit a proposal for the purpose of restricting competition.

Each person signing the proposal certifies that he/she is the person in the proposal Submitter’s organization responsible within that organization for the decision as to the fees being offered in the proposal and has not participated (and will not participate) in any action contrary to 1(a)-(c) above.

A proposal will not be considered for award if the sense of the statement required in the Cost Analysis portion of the proposal has been altered so as to delete or modify 1(a)-(c) above. If 1(b) has been modified or deleted, the proposal will not be considered for award unless the Submitter furnishes with the proposal a signed statement, which sets forth in detail the circumstances of the disclosure, and the City determines that such disclosure was not made for the purpose of restricting competition. Rights in Date and



## **Documents – City of Ann Arbor Ownership**

Any research, reports, data, photographs, negatives or other documents, drawing or materials prepared by the successful Submitter in performance of its obligations under this contract shall be the exclusive property of the City of Ann Arbor and all such materials shall be delivered to the City of Ann Arbor upon completion, termination or cancellation of the contract. The selected Submitter shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of its obligations under the contract without the prior written consent of the City of Ann Arbor.

## **Reservation Of Rights**

1. The City of Ann Arbor reserves the right to accept any Proposal or alternative Proposal proposed in whole or in part, to reject any or all Proposals or alternatives Proposals in whole or in part and to waive irregularity and/or informalities in any Proposal and to make the award in any manner deemed in the best interest of the City.
2. 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 the RFP.
3. 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 that a revised scope be implemented.

## **SECTION III BACKGROUND AND SCOPE OF WORK**

### **Purpose of the Request**

The City of Ann Arbor has need of an outside claims administrator to provide claims adjusting services for general liability, property, casualty, and auto claims. The contractual agreement for Third Party Administration (TPA) services will not include worker's compensation claims administration. The Financial and Administrative Services Area Administrator is responsible for the oversight of the Insurance Fund. The City's Financial and Administrative Services Area Administrator has selected a Risk Management consultant to assist the TPA with claims administration.

### **Background Information**

The City of Ann Arbor self-insures automobile, property and general liability exposures, and has done so for over twenty years.

The City currently has a workforce of 686 employees. In addition, the City employs approximately 275 temporary, seasonal, and contract employees to perform services. The City currently owns and operates a fleet of approximately 300 vehicles, including electric vehicles, and owns and operates over 81 building and structures.

Website address for research: [www.a2gov.org](http://www.a2gov.org)

## SECTION IV EVALUATION CRITERIA

### **Selection Criteria**

The initial screening evaluation will be based upon the responses to the questions outlined in these specifications. Responses to this RFP will be evaluated using a point system. Evaluation will be based on all elements of the response to proposal criteria.

### **Proposal Evaluation**

20 Points	Staff Experience
20 Points	Claims Administration Experience
35 Points	Quality of Proposal – ability to execute City requirements
25 Points	Cost Proposal – in relation to level of service proposed

The evaluation will be completed by a selection committee composed of City staff and the Risk Management Consultant.

The Selection committee will initially evaluate responses to the RFP to decide which Submitter(s), if any, they will interview. For the initial evaluation, they will not consider the fee proposals. The fee proposal(s) of the Submitter(s) selected will be opened and reviewed before the interview(s). The selected Submitter(s) will have the opportunity to discuss their qualifications and experience in more detail, and fee proposal during the interview process.

Because of the difficulty associated with making objective judgments about the quality to TPA services proposed and the sometime wide variance of quality from one claims office to another, the City of Ann Arbor requests the right to perform an on-site visit to Submitter's office.

Satisfactory past performance and demonstrated ability to provide the City's minimum desired quality will be a factor in City's evaluation of a prospective Submitter's offer for consideration of City's award.

The Submitter awarded the contract will be required to maintain a satisfactory blanket employee fidelity bond in the minimum amount of \$1,000,000.

## **SECTION V PROPOSAL REQUIREMENTS**

### **A. Format**

Proposals should be submitted using the following format:

Section 1: Proposal Statement

Section 2: Overview of the Firm and its TPA services – This section should give a summary of the Firm’s history, experience and qualifications, including years in business, locations, size, growth, and financial stability.

Section 3: Responses to Submitter’s Information Requests

Section 4: Management and Implementation Plan: This section should detail the management plan for providing TPA services and describe the proposed transition and support plan for assumption of TPA services on April 16, 2013. Response should be developed incorporating all TPA responsibility and scope of service components of the Technical Requirements.

Section 5: Professional Qualifications

Section 6: References

Section 7: Additional Services Explanation (if any) (Additional services prices should only be listed in Fee Proposal)

Section 8: Fee Proposal (separately submitted in a sealed and marked envelope)

Proposals are to be kept within 50 pages. To be considered responsive to this RFP, a prospective Submitter must provide all of the information requested including any specimens requested. The specifications within the RFP represent the minimum performance necessary for response.

### **B. Technical Requirements**

#### *Section 1 – City Responsibilities*

The City of Ann Arbor will provide the TPA information related to each new claim and additional information as necessary throughout the life of the claim.

The City’s Service Areas report accidents and citizens claims directly to Financial and Administrative Services. Financial and Administrative Services will coordinate the reporting of claims to the TPA as well as information concerning the claim.

The City of Ann Arbor will assist the TPA and give general direction as appropriate in the investigation of a claim and make City of Ann Arbor personnel available for assistance and for interviews.

No independent settlement authority is granted to the TPA. This may change at a later date. See Attachment A for a list of the City of Ann Arbor current insurance limits and self-insured retentions.

*Section 2 – TPA Responsibilities*

TPA shall aggressively manage all claims presented to them by the City of Ann Arbor according to the professional standards of the firm. **A copy of those standards, including turn-around-time benchmarks, must accompany the proposal.**

TPA shall make settlement recommendations to the City of Ann Arbor Insurance Board and act promptly on adjudication instructions.

TPA shall make recommendations regarding the claims processes and procedures.

TPA shall review claim recommendations with City staff, as requested, and attend up to six Insurance Board meetings per year.

TPA shall cooperate completely with the City and the Risk Management Consultant, and shall respond to inquiries within one business day.

TPA shall analyze claim trends quarterly and present a written report to the City and Risk Management Consultant.

TPA shall designate one individual as the primary contact for the City account. TPA shall ensure that secondary contacts are available in the event of the primary contact's absence.

*Section 3 – Scope of Service*

The services to be provided will include, but not limited to, the following:

*Claim Investigation*

Cooperate with the City Attorney, or his/her designee outside counsel, and where appropriate, with adjusters and attorneys of the excess insurance carrier in the investigation of claims.

- Unless otherwise directed by the City Attorney:
  - Conduct an investigation of each qualified claim
  - Visit the scene of the incident when appropriate
  - Take photographs and/or prepare a video record
  - Contact appropriate City staff and review procedures, if applicable
  - Request medical records, if applicable
  - Interview claimant(s) and any witnesses to the incident
  - Maintain a file for each claim including all relevant City records
  - Contact claimants and City regularly with status reports
  - Maintain a loss information system with real time access to reports
- The City Attorney handles all litigation. TPA will:
  - Arrange for independent investigator or other experts to the extent deemed necessary in connection with the processing of a claim, if directed to do so.
  - Otherwise cooperate with the City Attorney in the handling of litigated claims.

Coordinate claims handling activities with the City's Financial and Administrative Services. The City's involvement in claims handling is minimal and Submitters should take this into consideration when considering staffing requirements.

- Report losses to the respective Excess Carrier in a timely manner as required
- Provide a narrative and/or analytical report of all claims to the City and Risk Management Consultant.

#### Financial Procedures and Claim Payment

- Develop and maintain adequate claim reserves and provide continuous review of same to reflect changes. All reserving formulas and practices are subject to review by the City of Ann Arbor, or its designated agent.
- Issue payments on all approved claims. Auto/general liability settlements must initially be reviewed and approved by the City in accordance with its adopted procedures, i.e., Insurance Board recommendation/City Council approval.
- Investigate and pursue subrogation possibilities on behalf of the City of Ann Arbor for automobile liability claims.
- Assist the City in processing damage claims against other parties where the City is not at fault.

#### Reporting

- Maintain a complete claim file for each claim that shall be available for review by the City at any time. The City preference is an electronic claim file format accessible to designated City employees during normal business hours.
- Close all files within sixty (60) days of last activity and a summary closing report

provided to the City.

- Submit monthly claim and expenses summary reports in a manner and format mutually agreed upon by the City and the successful Submitter. Submitter should include with their response a copy of the claim and expense summary report format currently used and identify any modification they would recommend to the format to meet the specific reporting needs of the City of Ann Arbor as outlined in this Request for Proposals.
- Conduct documented file reviews on a quarterly basis, or more frequently if requested by the City.
- Assist the City in the analysis of claims to prevent similar occurrences, providing periodic reports identifying trends and major developments.
- Provide telephone or email responses to City inquiries within 1 business day of receipt.

### C. Submitter Information

- Describe your Firm's experience as a Third Party Administrator. In particular, describe the Firm's expertise with public entities.
  - List of all public entity clients
  - Client turnover rates within the last five years
  - Percentage of clients that are self-insured
  - Provide current Annual Report if public company
- Describe the Firm's role in claims review
- Describe the Firm's proposal for handling banking/funding/payment arrangements
- Describe your philosophy and procedures for setting case reserves.
  - How often are case reserves reviewed and/or revised?
  - How does your Firm structure the claims payment process? Are there "claims payment thresholds" requiring special payment processing?
  - Do you conduct internal claim audits? If so, how frequently?
- What risk management information system do you use?
  - Is remote access available, and if so, what kind of remote access is available?
  - What security measures are incorporated into the system?
  - Describe how information is accessed and who, within and outside the Firm, is authorized to access the information in the system.
- What standard reports are available and what are the ad-hoc reporting capabilities of the information system?
  - Do you offer on-line reporting?
  - A specimen loss report should accompany your proposal. Discuss your willingness and/or capability of modifying the report format to meet the City

- of Ann Arbor's needs.
- Discuss your capability in providing monthly statistical data on all activity that has occurred during each month.
- What is a normal caseload for your adjusters by line? Would you be willing to guarantee caseloads would stay under certain amounts, and if so, what would those amounts be?
  - Discuss current workloads of claims adjusters and how the addition of the City of Ann Arbor as a client would be absorbed.
  - Staff turnover rates within the last five years
  - Are adjusters available to go to accident scenes 24/7 in the event of an emergency?
  - Can claims be reported 24/7? If yes, how?
  - How would your Firm purpose to handle a catastrophic event?
  - What else differentiates your Firm?
  - How should the City evaluate your performance?

#### D. Management and Implementation Plan

Identify all administrative procedures that need to be in place for start up of all services on April 16, 2013.

#### E. Fee Proposal

Fee Proposals (Attachment B) shall include complete costs and must be contained within a separate sealed envelope labeled "Fee Proposal". Additional or optional services shall be explained within Proposal and pricing only provided within the Fee Proposal. In the event a copy of the Fee Proposal is included with the submitted Proposals, Firm shall be disqualified.

The Firm's proposed fees should be presented on both a per-claim and a flat annual charge. Identify which method the Firm believes is in the best interest of the City of Ann Arbor and make a recommendation. With respect to the per-claim proposal, the Firm is encouraged to offer a "not to exceed" cap. The proposed fees should be given on both a "life of claim" and "life of the contract" basis.

Identify with specificity the type and nature of services being provided for the charge. If additional or supplemental charges are to be assessed for any service required by the scope of service list them.

The proposal of additional "no cost" services is welcome. However, those services should be described adequately.



Discuss whether the above Fee Proposal pricing would be locked in beyond the initial three-year term if the City exercised its option to extend the contract.

Identify a proposed payment method. The firm is encouraged to offer a quarterly billing cycle.

F. Professional Qualification

This section should provide brief experience summaries of all proposed key personnel, describing their related experience and their proposed roles in providing TPA services. Include resume of each team member.

G. References

Each Submitter shall submit a list of five (5) references for companies where they have provided a similar service within the last three years. Two of the references must be governmental or other public corporations. Reference must include a point of contact (POC) and a telephone number where the POC can be contacted. The reference list shall also include the dates for which the submitter provided the service.

**APPENDIX 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 E Huron Avenue, Ann Arbor, Michigan 48103 ("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 \_\_\_\_\_.

Contract Administrator means \_\_\_\_\_, 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\_\_\_\_\_ ("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 subvendor 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  
Property Damage Liability, or both combined  
\$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 Vendor 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**

**FOR THE CITY OF ANN ARBOR**

By \_\_\_\_\_  
Type name

By \_\_\_\_\_  
John Hieftje, Mayor

Its  
\_\_\_\_\_  
Administrator

By \_\_\_\_\_  
Jacqueline Beaudry, City Clerk

**Approved as to substance**

\_\_\_\_\_  
Steven D. Powers, City Administrator  
\_\_\_\_\_

**Approved as to Form and Content**

\_\_\_\_\_  
Stephen K. Postema, City Attorney

## **APPENDIX B 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 there from:

### **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:

Contract Amount	Assessed Damages Per Day of Non-Compliance
\$ 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.

**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

# 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](mailto:Lnewton@a2gov.org)**

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

## 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:**

City of Ann Arbor Procurement Office at  
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 PROCUREMENT OFFICE  
HUMAN RIGHTS CONTRACT COMPLIANCE FORM**  
*Entire Organization (Totals for All Locations where applicable)*

**Form #1**

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)												
	Male						Female						TOTAL COLUMNS A-L
	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													
<b>TOTAL</b>													
<b>PREVIOUS YEAR TOTAL</b>													

**CITY OF ANN ARBOR PROCUREMENT OFFICE  
HUMAN RIGHTS CONTRACT COMPLIANCE FORM**  
Local Office (Only those employees that will do local or on-site work, if applicable)

Form #2

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)												
	Male						Female						TOTAL COLUMNS A-L
	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 Alaska 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													
<b>TOTAL</b>													
<b>PREVIOUS YEAR TOTAL</b>													

## ATTACHMENT A – EXISTING POLICIES

### Excess Liability Policy

Starr Indemnity  
Limit \$15,000,000  
Self Insured Retention \$500,000

### Property Policy

Travelers  
Limit \$350,000,000  
Self Insured Retention \$50,000

## ATTACHMENT B – FEE PROPOSAL