

CITY OF ANN ARBOR  
REQUEST FOR PROPOSAL



**WATER TREATMENT PLANT  
MANCHESTER TANK COATING PROJECT**

**RFP No. 912**

Due Date:  
Tuesday, September 2, 2014  
On or Before 2:00 P.M. (Local Time)

CITY OF ANN ARBOR WATER TREATMENT SERVICES UNIT  
Administering Services Unit

Issued By:  
City of Ann Arbor, Michigan  
Procurement Unit on behalf of Public Services Area  
301 E. Huron Street  
Ann Arbor, MI 48104

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## SECTION 1: INSTUCTIONS TO RESPONDENTS

### **OBJECTIVE**

The City of Ann Arbor is soliciting proposals for the Manchester Tank Coating Project. This project focuses on re-coating the dry interior and complete exterior of a 500,000 gallon elevated storage tank.

### **QUESTIONS OR CLARIFICATIONS OF RFP REQUIREMENTS**

All questions regarding this RFP shall be submitted via email. Emailed questions and inquiries will be accepted from any and all prospective Respondents in accordance with the terms and conditions of this RFP.

All questions shall be submitted on or before Monday, August 25, 2014 by 5:00 P.M. (Local Time) and should be addressed as follows:

Scope of Work/Proposal Content questions emailed to [gwiczorek@a2gov.org](mailto:gwiczorek@a2gov.org)  
RFP Process and HR Compliance questions emailed to [mberryman@a2gov.org](mailto:mberryman@a2gov.org)

Should any prospective Respondent be in doubt as to the true meaning of any portion of this Request for Proposal, or should a prospective Respondent find any ambiguity, inconsistency or omission therein. The Respondent shall make a written request for an official interpretation or correction. Such requests must be submitted via email to [mberryman@a2gov.org](mailto:mberryman@a2gov.org).

All requests for Clarification are due on or before Monday, August 25, 2014 by 5:00 P.M. (Local Time)

The person making the request shall be held responsible for delivery and verification of receipt.

### **PRE-PROPOSAL MEETING**

A pre-proposal meeting will be conducted beginning at the **City of Ann Arbor Water Treatment Plant located at 919 Sunset Road, Ann Arbor, MI 48103 at 1:30 P.M. on Wednesday, August 20, 2014.** At the completion of the meeting, the Proposers will have the opportunity to visit the tank to familiarize themselves with the site and the existing conditions. Attendance at this meeting and site visit is highly recommended.

### **ADDENDUM**

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 Michigan Inter-governmental Trade Network (MITN) [www.mitn.info](http://www.mitn.info) and the City of Ann Arbor web site [www.a2gov.org](http://www.a2gov.org) for all parties to download.

It shall be the Respondent's responsibility to ensure they have received all addendums before submitting a proposal. Any addendum issued by the City shall become part of the RFP and will be incorporated in the proposal.

Each Respondent must in its RFP, to avoid any miscommunications, acknowledge all addenda which it has received, but the failure of a Respondent to receive, or acknowledge receipt of; any

addenda shall not relieve a Respondent of the responsibility for complying with the terms thereof.

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

### **PROPOSAL SUBMISSION**

All Proposals are due and must be delivered to the City Procurement Unit on or before **Tuesday, September 2, 2014 by 2:00 P.M. (local time)**. Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each Respondent must submit one (1) original Proposal, and three (3) additional Proposal copies. Four (4) copies of the Proposal Fee shall be submitted in a separate sealed envelope contained within the Respondents sealed proposal. Proposal submitted must be clearly marked: **City of Ann Arbor RFP #912 Water Treatment Plant Manchester Tank Coating Project and then list Respondents name and address.**

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

City of Ann Arbor  
c/o Customer Service Department 1<sup>st</sup> Floor  
Procurement Unit  
301 East Huron Street  
P.O. Box 8647  
Ann Arbor, MI 48104

All Proposals received on or before the Due Date will be publicly opened and recorded immediately. No immediate decisions are rendered.

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

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

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

### **PROPOSAL TERMS AND REQUIREMENTS**

The City reserves the right to reject any and all proposals, to waive or not waive informalities or irregularities in the response procedures, and to accept or further negotiate cost, terms, or conditions of any proposal determined by the City to be in the best interest of the City. All agreements resulting from negotiations that differ from what is represented within the RFP or in the Respondent's response shall be documented and included as part of the final contract.

Proposals must be signed in ink by an official authorized to bind the Respondent to its provisions for at least a period of one hundred eighty (180) days from the due date of this RFP. Failure of the successful respondent to accept the obligation of the contract may result in the cancellation of any award.

In the event it becomes necessary to revise any part of the RFP, Addenda will be provided. Deadlines for submission of RFP's may be adjusted to allow for revisions.

Proposals should be prepared simply and economically providing a straightforward, concise description of the Respondent's ability to meet the requirements of the RFP. Proposals shall be written in ink or typewritten. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person signing the proposal. The proposal shall be no more than **40 pages total** in length (20 sheets double-sided including resumes but not including Legal Status of Respondent, Contract Compliance and Living Wage forms). Proposals should not include any plastic covers, binders, or other non-recyclable materials. Fee proposals must be submitted in a separate sealed envelope at the same time. All envelopes for technical proposal and separate fee proposals must be clearly marked "**City of Ann Arbor RFP #912, Water Treatment Plant Manchester Tank Coating Project**".

All proposals become the property of the City of Ann Arbor once reviewed, whether awarded or rejected.

To be considered, each Respondent must submit a response to this RFP using the format provided in Section 3. No other distribution of proposals is to be made by the respondent. Respondents must submit four (4) copies of the Proposal fees in a separate sealed envelope. Price Quotations stated in the Fee Proposal will not be subject to any price increase from the date on which the proposal is opened by the City to the mutually agreed date of contract expiration.

All information in a respondent'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.

The selected Respondent will be required to provide the City of Ann Arbor an IRS form W-9 before a payment order can be issued.

The City is tax exempt from all taxes. The Respondent, if awarded a contract for this work, shall be responsible for all "sales taxes" and "use taxes" as applicable to this work.

### **SELECTION CRITERIA**

Responses to this RFP will be evaluated using a point system, described in Section 3. The evaluation will be completed by a Selection Committee composed of staff members from various units of the City.

At the initial evaluation, the fee proposals will not be reviewed. The initial evaluation is to determine which, if any, Respondents are to be interviewed. Respondent fee proposals will only be opened for Respondents selected for interview, if the City elects to conduct interviews.

If the City elects to interview Respondents, during interviews, selected Respondent(s) will have the opportunity to discuss in more detail their qualifications, experience, proposed work plan, and fee proposal during the interview process. The City of Ann Arbor further reserves the right to interview the key personnel anticipated to be assigned if the firm is selected. To decide the most qualified, capable and cost-effective Respondent, the Selection Committee will evaluate the proposal(s) and interview(s) using the point system described in Section 3 of this RFP.

### **INTERVIEW**

The City has the right to request interviews with selected Respondents when necessary. The selected Respondents will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal. The interview must include the project team members expected to complete a majority of work on the project, but no more than 4 members total. The interview shall consist of a presentation by the Respondent, including the person who will be the project manager on this Contract, followed by questions and answers. Audiovisual aids may be used during the oral interviews. The oral interviews may be recorded on tape by the Evaluation Team.

If the City chooses to interview any respondents, the interviews will be held the week of September 15, 2014. Respondents selected for interview will be expected to be available that week.

### **TYPE OF CONTRACT**

Consultants selected to do business with the City of Ann Arbor will be required to execute the standard Professional Services Agreement with the City (a sample agreement is included with this RFP as Appendix A). Those who wish to submit a proposal to the City are required to carefully review the Professional Services Agreement. Respondents should specifically note that the insurance requirements under a City contract are listed in Exhibit C of the sample contract. **The City will not entertain requests to revise, amend, or change the language of the standard Professional Services Agreement** except where necessary to incorporate the scope of services and compensation for same as awarded. Respondents must base their proposal on the assumption that, if selected, they will execute the Professional Services Agreement.

### **COST LIABILITY**

The City of Ann Arbor assumes no responsibility or liability for costs incurred by a respondent 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. By submitting a proposal, Respondent agrees to bear all costs incurred or related to the preparation, submission and selection process for the proposal.

## **SCHEDULE**

The following is the anticipated solicitation schedule for this procurement.

<b>Activity/Event</b>	<b>Anticipated Date</b>
Pre-Proposal Meeting	August 20, 2014
Proposal Due Date	September 2, 2014
Interview Consultants (if applicable)	Week of September 15, 2014
Consultant Selection/Negotiate Scope of Professional Services Agreement (PSA)	End of September, 2014
PSA Execution, Notice of Award	End of November, 2014

Note:

<sup>1</sup>The above schedule is for informational purposes only, and is subject to change at the City's discretion.

<sup>2</sup>Contracts valued in excess of \$25,000.00 require City Council approval.

Proposals submitted shall define an appropriate project schedule in accordance with the requirements of the proposed work plan. The final schedule will be negotiated based on the final scope of work and work plan agreed to by the City and the selected firm.

## **AWARD PROTESTS**

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

## **DEBARMENT**

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

## **HUMAN RIGHTS INFORMATION**

Article VI of the City's standard Professional Services Agreement, outlines the requirements for fair employment practices under City of Ann Arbor contracts. To establish compliance with this requirement, the Respondent should complete and return with its proposal completed copies of the Human Rights Division Contract Compliance Forms attached as Attachment C. In the event

Human Rights forms are not submitted with the proposal, a respondent will have 24 hours to provide once requested by the City.

### **LIVING WAGE INFORMATION**

All respondents 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. Respondent agrees to comply with the provisions of Section 1:1815 of Chapter 23 of the Ann Arbor City Code. The Declaration of Living Wage form (Attachment D) should be submitted with the proposal. In the event it is not, a Respondent will have 24 hours from the City’s request to return the completed form.

### **NON-DISCLOSURE AGREEMENT**

The consultant selected for this work will be requested to sign a Non-Disclosure Agreement. A sample agreement is included with this RFP as Appendix B.

### **INDEPENDENT FEE DETERMINATION**

1. By submission of a proposal, the respondent certifies, and in the case of joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:
  - a) They have arrived at the fees 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 respondent or with any competitor.
  - b) Unless otherwise required by law, the fees which have been quoted in the proposal have not been knowingly disclosed by the respondent and will not knowingly be disclosed by the respondent prior to award directly or indirectly to any other prospective respondent or to any competitor.
  - c) No attempt has been made or shall be made by the proposal respondent to induce any other person or firm to submit or not submit a proposal for the purpose of restricting competition.
  - d) Each person signing the proposal certifies that she or he is the person in the proposal respondent’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), b), or c) above.
2. A proposal will not be considered for award if the sense of the statement required in the Fee Analysis portion of the proposal has been altered so as to delete or modify 1.a), c), or 2 above. If 1.b) has been modified or deleted, the proposal will not be considered for award unless the respondent furnishes with the proposal a signed statement which sets



forth in detail the circumstances of the disclosure and the Issuing Office determines that such disclosure was not made for the purpose of restricting competition.

**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 II BACKGROUND AND SCOPE OF WORK**

### **A. BACKGROUND**

Manchester Tank is located on Manchester Road near the corner of Stadium Blvd. and Washtenaw Ave. in the Southeast Pressure Service District in the City of Ann Arbor. The 500,000 gallon welded steel spheroid tank was constructed in 1959 and manufactured by Chicago Bridge & Iron. The tank is approximately 148 feet tall. Its existing coating system contains lead-based paint. The tank is located in a neighborhood of residential homes and commercial businesses.

### **B. SCOPE OF WORK**

The Consultant will be responsible for developing biddable plans and specification for the re-coating of dry interior (including but not limited to the riser pipe, flanged piping in the sump and other exposed surfaces) and complete exterior of Manchester Tank. The wetted interior of the tank has been previously painted and is not included in this Scope of Work. The Scope of Work shall include the following items below:

- Perform visual inspection and prepare typical details for any steel repairs that may be required based upon the condition.
- Review safety features such as the handrail on all intermediate platforms and design the replacement with OSHA compliant handrails.
- Design a mechanical stop for the top hatch to ease in supporting the hatch when opened.
- Design FRP decking covering the sump.
- Design modifications to the lighting to improve visibility throughout the tank interior.
- Collect paint samples and perform lead based paint testing. Analytical results shall be included in the Bid Documents for the Contractor's use in preparing his bid.
- Develop a plan for abatement of the lead-based paint.
- Evaluate the merits and feasibility of adding Cathodic protection to the elevated tank. If Cathodic protection is recommended by the Consultant as a future addition to the tank, the Consultant shall include in his Scope of Work the design of provisions to accommodate future Cathodic protection.
- Coordinate with telecom companies for removal/protection of any antenna or other equipment. Incorporate any requirements from the telecom companies. Discuss with the telecom companies the feasibility of sharing their backup power.
- Evaluate the presence of mill scale. It is the intent of this Scope of Work to determine if mill scale is present and to include notification to the prospective painting Contractors in preparation of the bids.
- Develop and execute a public engagement plan including working with the City public art coordinator and community art stakeholders.
- Inspect the riser pipe, fittings, and other piping for corrosion. Design the replacement of piping and/or bolts as needed.
- Inspect the sump pump system for corrosion. Design the replacement equipment as needed.

The Consultant shall conduct a workshop with the WTP staff to determine other possible improvements that may be desired as part of this project. The Consultant shall prepare a construction cost estimate for such items to assist in the evaluation of available funds.

The Consultant shall also provide Bid Phase Assistance, Construction Administration and Construction Observation.

### **C. REQUIREMENTS**

The selected design firm shall complete the following work:

#### ***Study/Design***

1. Conduct kick off meeting with Plant Staff to determine any issues or improvements desired as part of this project in addition to re-coating. This meeting should be used to identify a list of required and recommended improvements for later prioritization.
2. Conduct appropriate progress meetings during this study/design phase to capture City staff input.
3. Develop and execute a public engagement plan that will engage local neighborhood associations and residents to obtain their input on the proposed project and address their concerns. The public engagement plan shall involve working with the City public art coordinator and community art stakeholders as it is anticipated that the City will incorporate public artwork on the water tower.
4. Develop biddable plans and specifications for construction of the selected alternatives, including full containment and lead-based paint abatement.
5. Design documents shall include all relevant disciplines as needed.
6. Incorporate City input on the design and selection of components.
7. Conduct routine progress meetings throughout the design phase to obtain City input at an appropriate frequency.
8. Provide interim deliverables as needed to meet the City's design expectations (e.g., 30%, 60% and 90% design documents).
9. Provide all meeting agendas, minutes, and facilitation.
10. Provide a design package that includes the following: specifications in CSI format, construction schedule in Microsoft Project 2007, and design drawings for all construction and activities. A final cost estimate (+15,-5) shall be prepared at the 90 percent design phase.
11. Provide preliminary plans for review by the Planning & Development and other City departments as necessary in the early planning stages of this project. The comments from these units shall be incorporated.
12. Design documents shall comply with the most recent City Code of Ordinances.
13. Provide hard and electronic copies of the drawings and specifications for bidding. Electronic copies of the specifications shall be both in MS Word 2007 and as a PDF. Electronic copies of the drawings shall be in both AutoCAD 2013 and as a PDF. The City shall provide the Division 0 specifications and front end template to the Consultant for editing. The selected design firm shall be responsible for reproduction of the drawings and specifications for use by the City and Contractor during construction.

14. Prepare and submit any applicable MDEQ permit applications.

### ***Construction Management***

1. Provide technical assistance to the City in obtaining bids and assist in awarding contracts for construction (prepare contract documents for execution, review insurance and bonds, prepare notice to proceed, etc.).
2. Prepare addenda to bid documents if needed.
3. Conduct pre-bid, pre-construction, monthly progress, special and project closeout meetings.
4. Interpret the drawings and specifications as required and make judgments on the conformity of construction with drawings and specifications, inspect the work to observe general quality and notify the Contractor and the City of any work not in conformance.
5. Review and track all project submittals, review change order requests, address RFIs, generate punch list at completion of project.
6. Provide a resident engineer for oversight of construction. The resident engineer shall be responsible for coordination of the work and all communications with the contractor.
7. Provide testing services including but not limited to, surface preparation acceptance, environmental conditions, dry film thickness and holiday testing to ensure final product is compliant with applicable AWWA and manufacturer standards. The testing services shall be performed by a firm possessing the certifications and experience in testing the re-coating of a minimum of 5 elevated potable water tanks in the last 10 years.
8. Coordinate the final bacteriological testing to ensure tank meets applicable AWWA standards for placing back into service.
9. Provide record drawings in the following formats: electronic version on CD in AutoCAD 2013 and PDF (drawings as individual files), two full-size hard copies and two 11 x 17 hard copies. Provide an electronic copy of all specifications in Microsoft Word.

### ***Deliverables***

Identify all planned deliverables as part of proposal in tabular format and as milestones in the project schedule.

At a minimum, deliverables shall include:

1. All meeting minutes, agendas, presentations, schedules, memoranda in electronic format (Microsoft products);
2. Bid specifications in electronic format (Microsoft Word and PDF) and hard copy (5 copies comb bound per City Standard); and
3. Design drawings in electronic format and hard copy (electronic in AutoCAD 2013 and PDF, plus 4 full-size and 3 half-size hard copies).
4. Any applicable permit applications in electronic and hard copies.

5. Record drawings in electronic format and hard copy (electronic in AutoCAD 2013 and PDF, plus 2 full-size and 2 half-size hard copies).

### ***Assumptions and Expectations from City Staff***

Proposal shall address the following:

1. Identify all assumptions that could impact proposed fee for work to be performed.
2. Identify expectations for work to be performed by City staff. Organize in a tabular format that includes tasks, staff members, and estimated time commitment. This should include estimated review times for deliverables, participation in project meetings, site inspections, and other tasks as deemed appropriate.
3. Identify any information or resources to be provided by the City to the Consultant.

### ***Project Schedule***

1. Provide a detailed project schedule by task with logical ties, percent complete, critical path, and status. Schedule shall include relevant tasks from study phase through completion of construction. Project schedule shall be updated monthly during the course of the project, and submitted with monthly invoices. Schedule shall be completed in Microsoft Project 2007 software and submitted electronically as well as in color hard copy.
2. Include proposed schedule with project milestones and deliverables as part of the proposal submittal package. The proposed schedule shall reflect the entire project from design through the completion of construction. Note that the City Staff will require four weeks to review all submittals by the design firm, including the final version of the bid documents prior to approval. Assume bid documents will be advertised for four weeks, and that contract award will take 12 weeks, for initial schedule.
3. It is desired that the Construction Phase be awarded to a Contractor before June 30, 2015.
4. The project schedule should be coordinated around the City's need for the elevated tank to be in service during the Summer months of high demand typically between May – September.
5. The schedule shall include the Proposers estimated time frame for public engagement and coordination of artwork.
6. The City expects to grant notice-to-proceed by mid January 2015.

### ***Intent of Proposed Scope***

Additional work necessary to meet the intent of the proposed scope of work should be included in Proposals. Alternate solutions or methods to items presented in the Work Plan Components section are encouraged and will be considered.

***Fee and Level of Effort***

Include Level of Effort (LOE) and fee estimate. LOE should be included in main body of proposal while Fees are sealed in a separate envelope. Fees and LOE shall be broken down into the discrete tasks identified in this RFP for easy evaluation by the City. Fees shall include future salary adjustments anticipated over the contract period if applicable.

The LOE should include a description of the resident engineer's frequency of visits and duration of visits. The LOE should be tied to the Proposer's estimated project schedule.

**SECTION 3:  
MINIMUM INFORMATION REQUIRED  
EVALUATION CRITERIA**

Respondents should organize Proposals into the following Sections:

- A. Professional Qualifications
- B. Past Involvement with Similar Projects
- C. Proposed Work Plan
- D. Fee Proposal (include in a separate sealed envelope)
- E. Authorized Negotiator
- F. Attachments

The following Section describes the elements that should be included in each of these proposal sections and the weighted point system that will be used for evaluation of the proposals.

A. Professional Qualifications – 15 points

1. State the full name and address of your organization and, if applicable, the branch office or other subordinates 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.
2. Include the number of executive and professional personnel by skill and qualification that will be employed in the work. Show where these personnel will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the project. Identify only individuals who will do the work on this project by name and title. Resumes or qualifications are required for proposed project personnel who will be assigned to the project. Qualifications and capabilities of any sub-consultants must also be included.
3. State history of the firm, in terms of length of existence, types of services provided, etc. Identify the technical details which make the firm qualified for this work.

B. Past involvement with Similar Projects - 35 points

The written proposal must include a list of specific experience in the project area and indicate proven ability in developing detailed designs and implementing similar projects for the firm and the individuals to be involved in the project. The proposal must also indicate proven ability to have projects completed on time and within the budgeted amounts. A complete list of client references must be provided for similar projects recently completed. The list shall include firm/agency's name, contact name, project title, owner name, address, and phone number.

The proposal must include examples of projects designed by staff proposed to work on this project. Examples should include re-coating spheroid elevated water tanks of comparable size, lead-based paint abatement, incorporation of artwork into tank coating designs, and associated public engagement. A summary of related projects with the original deadline and cost estimate versus the actual design completion date and final cost of the design shall be included. A list of three (3) client references must be provided for similar projects recently

completed. It shall include the firm/agency name, address, telephone number, project title, and contact person.

C. Scope of Work Outline - 35 points

A detailed work plan is to be presented which lists all tasks determined to be necessary to accomplish the work of this project. The work plan shall define resources needed for each task (title and individual person-hours) and the firm's staff person completing the project task.

1. The work plan shall be sufficiently detailed and clear to identify the progress milestones (i.e., when project elements, measures, and deliverables are to be completed) and the extent and timing of the City personnel involvement. Additional project elements suggested by the Proposer are to be included in the work plan and identified as Proposer suggested elements.
2. The plan must identify the Proposer's details on their public engagement plan and coordination of the tank artwork, including number of meetings, purpose of meetings, etc.
3. The work plan must identify information the Proposer will need from City staff in order to complete the project. Include estimated time and resource commitment from City staff.
4. The work plan shall include any other information that the Proposer believes to be pertinent but not specifically asked for elsewhere.
5. Also include in the work plan, proposed steps, if any, to expedite completion of the project. This will be given due consideration during evaluation of proposals.
6. The Proposer shall include their project schedule as described in Section II of this RFP.

In the scoring for this section, consultants shall be evaluated on the clarity, thoroughness, and content of their responses to the above items.

D. Fee Proposal - 20 points

**Fee proposals shall be submitted in a single separate sealed envelope with the proposal. Any proposal not complying with this requirement may be subject to disqualification.**

Fee proposals are to include the names, title, hourly rates, overhead factors, and any other details by which the overall and project element costs have been derived. Rates shall include travel time to and from the site as needed. Additional travel expenses will not be honored as part of this contract without written approval from the City, and only for extenuating circumstances under the sole discretion of the City's Contract Administrator.

The total fee proposal may be adjusted after negotiations with the City and prior to signing a formal contract, if justified. The template Professional Services Agreement is included in Appendix A of this RFP.

The Certification Statement in Attachment B must be included as part of the Fee Proposal and the Fee Proposal must be signed by an authorized signatory for respondent.



E. Authorized Negotiator

Include the name and phone number of persons(s) in your organization authorized to negotiate the Scope of Work with the City.

F. Attachments

1. Attachment A: Legal Status of Respondent, Attachments C, D and E: Contract Compliance Forms, Living Wage Declaration of Compliance Form and Conflict of Interest Form must be completed and returned with the proposal. These elements should be included as attachments to the proposal submission. Attachment B: Certification must be completed and returned with the fee proposal sealed envelope. (see Section D above)

**Proposal Evaluation**

1. The Selection Committee will evaluate each proposal by the above described criteria and point system (A through C) to select a short list of firms for further consideration. A proposal with all the requested information does not guarantee the proposing firm to be a candidate for an interview. The Committee may contact references to verify material submitted by the Respondents. The City will determine whether the final scope of the project to be negotiated will be entirely as described in this RFP, a portion of the scope, or a revised scope.
2. If needed, the Committee then will schedule the interviews with the selected firms. The selected firms will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal. The interview must include the project team members expected to complete a majority of work on the project, but no more than 4 members total. The interview shall consist of a presentation of approximately thirty (30) minutes by the Respondent, including the person who will be the project manager on this Contract, followed by approximately thirty (30) minutes of questions and answers. Audiovisual aids may be used during the oral interviews. The oral interviews may be recorded on tape by the Evaluation Team.
3. The firms interviewed will then be re-evaluated by the described criteria (A through D) and adjustments to scoring will be made as appropriate.
4. After evaluation of the proposals, further negotiation with the selected firm may be pursued leading to the award of a contract by City Council, if suitable proposals are received.

The City reserves the right to not consider any proposal which is determined to be unresponsive and deficient in any of the information requested for evaluation. The City also reserves the right to waive the interview process and evaluate the consultants based on their proposals and fee schedules alone.

The City will determine whether the final scope of the project to be negotiated will be entirely as described in this Request for Proposal, a portion of the scope, or a revised scope.

## **SECTION 4: ATTACHMENTS**

Attachment A – Legal Status of Respondent

Attachment B – Fee Proposal

Attachment C – Contract Compliance Instructions and Forms

Attachment D – Declaration of Living Wage form and Living Wage Poster

Attachment E – Conflict of Interest Form

**ATTACHMENT A**

**LEGAL STATUS OF RESPONDENT**

(The Respondent shall fill out the appropriate form and strike out the other two.)

By signing below the authorized representative of the Respondent hereby certifies that:

The Respondent is:

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

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

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

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

\_\_\_\_\_  
Signature Date: \_\_\_\_\_,

(Print) Name \_\_\_\_\_ Title \_\_\_\_\_

Firm: \_\_\_\_\_

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

Contact Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

**ATTACHMENT B  
FEE PROPOSAL**

**Certification**

As an awarded contract, the respondent agrees to provide the scope of work in this Request for Proposal, including all terms and conditions, instruction to respondents, special provisions, specifications, addenda, questions and corresponding answers, and the RFP as set forth in these Contract Documents. The parties intend for this to constitute the final and complete agreement between City of Ann Arbor and the Respondent.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**ATTACHMENT C**  
**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  
734/794-6500

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 \_\_\_\_\_ (Street address) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_ County \_\_\_\_\_ Phone # \_\_\_\_\_ (Area Code)

Fax# \_\_\_\_\_ (Area Code) \_\_\_\_\_ Email Address \_\_\_\_\_

**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 \_\_\_\_\_ (Street address) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_ County \_\_\_\_\_ Phone # \_\_\_\_\_ (Area Code)

Fax# \_\_\_\_\_ (Area Code) \_\_\_\_\_ Email Address \_\_\_\_\_

**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														
TOTAL														
PREVIOUS YEAR TOTAL														

1/12

Questions about this form? Call Procurement Office: (734) 794-6576

AAF-2

**ATTACHMENT D  
LIVING WAGE**



**CITY OF ANN ARBOR  
LIVING WAGE ORDINANCE**

**RATE EFFECTIVE APRIL 30, 2014 - ENDING APRIL 29, 2015**

**\$12.70 per hour**

If the employer provides health care benefits\*

**\$14.18 per hour**

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

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

**ENFORCEMENT**

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

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

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

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

**For Additional Information or to File a Complaint Contact  
Mark Berryman at 734/794-6500 or [mberryman@a2gov.org](mailto:mberryman@a2gov.org)**

**ATTACHMENT C  
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 \$12.70/hour when health care is provided, or no less than \$14.18/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 2014.
- 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: 734/794-6500

**ATTACHMENT E  
CONFLICT OF INTEREST FORM**



**Vendor Conflict of Interest Disclosure Form**

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

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

**Certification:** I hereby certify that to my knowledge, there is no conflict of interest involving the vendor named below:

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

Vendor Name	Vendor Phone Number
Conflict of Interest Disclosure *	
Name of City of Ann Arbor employees, elected officials, or immediate family members with whom there maybe a potential conflict of interest.	<input type="checkbox"/> Relationship to employee _____ <input type="checkbox"/> Interest in vendor's company _____ <input type="checkbox"/> Other _____

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

I certify that the information provided is true and correct by my signature below:

\_\_\_\_\_  
 Signature of Vendor Authorized Representative                      Date                      Printed Name of Vendor Authorized Representative

**PROCUREMENT USE ONLY**

- Yes, named employee was involved in Bid / Proposal process.
- No, named employee was not involved in procurement process or decision.

**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 St., Ann Arbor, Michigan 48104 ("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 consulting engineering 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 or within a Work Statement 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 or the applicable Work Statement. Payment shall be made monthly, unless another payment term is specified in Exhibit B or applicable Work Statement, following receipt of invoices submitted by the Consultant, and approved by the Contract Administrator. Total compensation payable for all Services performed during the term of this Agreement shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_).
- 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 payable according to the fee schedule 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 in Exhibit C, 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. In the case of all contracts involving on-site work, the Contractor shall provide to the City, before the commencement of any work under this contract, documentation demonstrating it has obtained the policies required by Exhibit C.
- B. 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.

- C. To the fullest extent permitted by law, 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 from any acts or omissions by the Consultant or its employees and agents occurring in the performance of or breach in this Agreement.

## **VI. COMPLIANCE REQUIREMENTS**

- A. Nondiscrimination. The Consultant agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of Section 209 of the Elliot-Larsen Civil Rights Act (MCL 37.2209). The Contractor further 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.
- 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); 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.

## **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, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to the Consultant except the obligation to pay for Services actually performed under the Agreement before the termination date.
- 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 delivered to the respective party in the manner described herein to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other.

Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONSULTANT, it shall be addressed and sent to:

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor  
301 E. Huron St., POB 8647  
Ann Arbor, Michigan 48104  
Attn:

## **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 \_\_\_\_\_

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

Type Name: \_\_\_\_\_

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

Its \_\_\_\_\_

**Approved as to substance**

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

---

Craig Hupy, Public Services Area  
Administrator

**Approved as to Form and Content**

---

Stephen K. Postema, City Attorney

**SAMPLE AGREEMENT EXHIBITS**

EXHIBIT A

(negotiated scope of work based on accepted terms of Proposal)

EXHIBIT B

(negotiated compensation based on accepted terms of Proposal)

EXHIBIT C

**INSURANCE REQUIREMENTS**

Effective the date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall provide certificates of insurance to the City on behalf of itself, and when requested any subcontractor(s).

- A. The certificates of insurance shall meet the following minimum requirements.
  - 1. Errors or Omissions or Professional Liability insurance in an amount not less than \$1,000,000 protecting Consultant and its employees.
  - 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 or current equivalent. 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 or current equivalent.. 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 2 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. 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 Contractor supplies a copy of the endorsements required on the policies. Upon request, the Contractor 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 Contractor shall deliver proof of renewal and/or new policies to the Administering Service Area/Unit at least ten days prior to the expiration date.

APPENDIX B

NON-DISCLOSURE AGREEMENT  
BETWEEN (Consultant) AND THE CITY OF ANN ARBOR

Whereas, the City of Ann Arbor, with municipal offices at 100 N. Fifth Avenue, Ann Arbor 48107 (“City”) is the owner of certain confidential information relating to its water system and components thereof, which is or may be classified as exempt or restricted information under the Michigan Freedom of Information Act and federal bioterrorism and homeland security laws (collectively referred to as “Confidential Information”).

Whereas, (Consultant) (referred to as “Receiver”) is desirous of receiving, reviewing, and/or evaluating the Confidential Information for the sole and exclusive purpose of (Project).

It is hereby agreed:

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

(details of information to be given to the Consultant)

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

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

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

That, Receiver will not make or authorize to be made any copies of any reports, plans, drawings or electronic data files supplied by the City and showing or describing or embodying the Confidential Information unless authorized by the City in writing. At any time and for any reason, prior to the completion of the work performed by the Receiver, the City may request and Receiver agrees it will return all of the said reports, plans, drawings or electronic data files together with any reports, drawings or electronic data files, including any independent notations of the Confidential Information, made by Receiver showing or describing or embodying the

Confidential Information or any part thereof to the City immediately. After completion of the work, the Receiver shall return to the City any drawings, extracts, reproductions, or other documentation comprising the Confidential Information, in whatever format or media, including any independent notations of the Confidential Information made by Receiver showing or describing or embodying the Confidential Information or any part thereof. In addition, access shall be controlled by the Receiver to all Confidential Information generated as part of the work performed by the Receiver. Although the Receiver is permitted to maintain copies of their work, dissemination of this Confidential Information is not permitted without written authorization from the City.

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

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

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

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

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

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

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

CITY OF ANN ARBOR

(Consultant)

By: \_\_\_\_\_  
Steven D. Powers Date  
Its: City Administrator

By: \_\_\_\_\_  
Date  
Print Name: \_\_\_\_\_  
Its:

Approved as to substance:

\_\_\_\_\_  
Craig Hupy  
Public Services Area Administrator

Approved as to form:

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