

REQUEST FOR PROPOSAL

RFP # 979

PUBLIC EMPLOYEE MEDICAL, OPTICAL AND DENTAL BENEFITS PLAN COVERAGE CARRIER SERVICES

City of Ann Arbor
Human Resources



Due Date: August 30, 2016 by 2:00pm (local time)

Issued By:

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

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SECTION I - GENERAL INFORMATION

A. OBJECTIVE

This RFP is being issued by the City of Ann Arbor in accordance with their requirement under Michigan Public Employers Health Benefit Act (P.A. 106 of 2007). All insurers, METs, MEWAs, VEBAs, or other insured, self-insured, or alternatively mixed-funded and administered arrangements are invited at this time to submit their proposals for full consideration.

A selected carrier(s) will be required to insure all benefits-eligible City of Ann Arbor employees, retirees and their eligible dependents regardless of pre-existing conditions.

Lines of Coverage

The lines included in the PA 106 bid process include:

1. Active Medical
2. Active Prescription
3. Active Dental
4. Active Vision
5. Retiree Medical – Non-Medicare
6. Retiree Medical – Medicare

The City of Ann Arbor is not accepting any proposals from agents, brokers, contractors, or otherwise independent sales representatives. City of Ann Arbor's Agent of Record is Marsh & McLennan Agency Michigan. MMA-MI will be assisting the City of Ann Arbor in the evaluation of all valid proposals received from suitable potential bidders.

B. QUESTIONS ABOUT AND CLARIFICATIONS OF THE REQUEST FOR PROPOSAL

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

All questions shall be submitted on or before August 16 at 2:00 p.m., and should be addressed as follows:

Scope of Work/Proposal Content questions emailed to Jessica Hull,
Employee Benefits Supervisor at JHull@a2gov.org

RFP Process and Compliance questions to Colin Spencer, Purchasing
Manager at CSpencer@a2gov.org

Respondents may request claims, eligibility, and plan summaries by contacting the City's Agent, Marsh & McLennan Agency, via email, above. All requested and

available information will be shared within two days of such requests, provided the appropriate HIPAA Business Associate Agreement (APPENDIX B) is executed.

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

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

C. PRE-PROPOSAL MEETING

There will be no pre-proposal meeting.

D. PROPOSAL FORMAT

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

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

E. SELECTION CRITERIA

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

The fee proposals will not be reviewed at the initial evaluation. After initial evaluation, the City will determine top carriers, and open only those fee proposals. The City will then determine which, if any, carriers will be interviewed. During the interviews, the selected carriers will be given the opportunity to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. The City further reserves the right to interview the key personnel assigned by the selected carrier to this project. If the City chooses to interview any respondents, the interviews will be tentatively held in September 2016. Carrier must be available on these dates.

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

F. SEALED PROPOSAL SUBMISSION

All proposals are due and must be delivered to the City Procurement Unit on, or before, August 30, 2016 at 2:00 p.m. (local time). Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each respondent must submit in a sealed envelope

- **one (1) original proposal**
- **three (3) additional proposal copies**
- **one (1) digital copy of the proposal preferably on a flash drive as one file in PDF format**

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

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

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

Proposals submitted must be clearly marked: "RFP# 979 - Public Employee Medical, Optical And Dental Benefits Plan Coverage Carrier Services" and list the carrier's name and address.

Proposals must be addressed and delivered to:

City of Ann Arbor
c/o Customer Service
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 on the due date. No immediate decisions will be rendered.

Hand delivered proposals must be date/time stamped by the Customer Service Department at the address above in order to be considered. Delivery hours are 9:00 a.m. to 3:00 p.m. Monday through Friday, excluding Holidays.

The City will not be liable to any carrier for any unforeseen circumstances, delivery, or postal delays. Postmarking on the due date will not substitute for receipt of the proposal. Carriers are responsible for submission of their proposal. Additional time

will not be granted to a single carrier. However, additional time may be granted to all carriers at the discretion of the City.

A proposal will be disqualified if:

1. **The fee proposal is not contained within a separate sealed envelope.**
2. **The fee proposal is submitted as part of the digital copy. Provide fee proposal in hard copy only.**
3. **The forms provided as Attachment B - City of Ann Arbor Non-Discrimination Declaration of Compliance, Attachment C - City of Ann Arbor Living Wage Declaration of Compliance, Attachment D - Vendor Conflict of Interest Disclosure Form of the RFP Document must be included in submitted proposals.**

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

G. DISCLOSURES

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

H. TYPE OF CONTRACT

The City intends to enter into an annual contract with a carrier for administration of a medical, dental, and vision plan with an effective date of January 1, 2017. Subject to approval of the Ann Arbor City Council, the contract may be renewed for up to three consecutive additional like terms.

The contents of the proposal submitted by the successful carrier and this RFP shall become a part of any contract awarded pursuant to this solicitation. The successful carrier shall be expected to sign a contract with the City similar to that attached. Those who wish to submit a proposal to the City are required to review the this sample agreement carefully. **The City will not entertain changes to its Professional Services Agreement.**

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

I. NON-DISCRIMINATION REQUIREMENTS

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

J. WAGE REQUIREMENTS

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

K. CONFLICT OF INTEREST DISCLOSURE

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

L. COST LIABILITY

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

M. DEBARMENT

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

N. AWARD PROTEST

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

O. SCHEDULE

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

The following is the schedule for this RFP process.

Activity/Event	Anticipated Date
Written Question Deadline	August 16, 2016 by 2:00pm (local time)
Proposal Due Date	August 30, 2016 by 2:00pm (local time)
Tentative Interviews (if needed)	Month of September 2016
Selection/Negotiations	TBD
Expected City Council Authorizations	TBD

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

P. IRS FORM W-9

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

Q. RESERVATION OF RIGHTS

1. The City reserves the right in its sole and absolute discretion to accept or reject any or all proposals, or alternative proposals, in whole or in part, with or without cause.
2. The City reserves the right to waive, or not waive, informalities or irregularities in terms or conditions of any proposal if determined by the City to be in its best interest.
3. The City reserves the right to request additional information from any or all carriers and to make whatever investigation deemed necessary to determine the carrier is qualified to carry the terms, conditions, services and all related aspects of the offered proposal.

4. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested within RFP.
5. The City reserves the right to determine whether the scope of the project will be entirely as described in the RFP, a portion of the scope, or a revised scope be implemented.
6. The City reserves the right to select one or more carriers to perform services.
7. The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the carrier of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted.
8. The City reserves the right to disqualify proposals that fail to respond to any requirements outlined in the RFP, or failure to enclose copies of the required documents outlined within RFP.

SECTION II - SCOPE OF SERVICES

A. CLIENT HISTORY AND OVERVIEW

CLIENT OVERVIEW

Item	Detail
Organization Name	City of Ann Arbor
Address Line 1	220 East Huron
City, State, Zip Code	Ann Arbor, MI 48104
Company Website	www.a2gov.org/
SIC Code	9121
General Line of Business	Government/Public
Medical Enrolled (Active)	610 contracts
Medical Eligible (Active)	643 contracts
Medical Enrolled (Medicare / Non-Medicare Retirees)	861 contracts
Medical Eligible (Medicare / Non-Medicare Retirees)	861 contracts
Dental Enrolled (Active)	639 contracts
Dental Eligible (Active)	643 contracts
Vision Enrolled (Active)	638 contracts
Vision Eligible (Active)	643 contracts

EMPLOYEE CLASS BREAKDOWN, ELIGIBILITY RULES, AND FUNDING

Employee Class	Eligibility Rule	New Hire Waiting Period	Medical Funding Strategy
COAM Police Command Union	30 hours per week	After six months of employment	High Option: Contributory Low Option: Non-Contributory
AAPOA Police Officers Union	30 hours per week	After three months of employment	High Option: Contributory Low Option: Non-Contributory
AFSCME Union	30 hours per week	After three months of employment	High Option: Contributory Low Option: Non-Contributory
AAFD Firefighters Union	30 hours per week	After three months of employment	High Option: Contributory Low Option: Non-Contributory
Teamsters Supervisors Union	30 hours per week	After three months of employment	High Option: Contributory Low Option: Non-Contributory
Police Professional Assistants Union	30 hours per week	After six months of employment	High Option: Contributory Low Option: Non-Contributory
Salaried Non Union	30 hours per week	After three months of employment	High Option: Contributory Low Option: Non-Contributory
Community / Public Service Admin Union	30 hours per week	After six months of employment	High Option: Contributory Low Option: Non-Contributory

Deputy Chiefs Union	30 hours per week	After six months of employment	High Option: Contributory Low Option: Non-Contributory
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RELEVANT CLIENT HISTORY AND OVERVIEW

The CoAA has contracted administrative and stop loss services from Blue Cross Blue Shield for many years. Effective April, 2009 the client moved Rx management and administration to Express Scripts.

The City has moved all active units to a common plan design: one low (no contribution, higher deductible PPO) and one high (contribution, lower deductible PPO) plan design.

Union agreements have been negotiated and additional consideration will be given to union impact for any proposal submitted.

Retirees retain the plan and contribution plan they had when they retired from the City. This has resulted in a large number of retiree plans with minor variations. Currently, both the non-Medicare and Medicare retirees are self-funded with BCBSM, serving also as the administrator and stop-loss vendor. Due to the BCBSM policy of not allowing splitting of retirees, any Medicare proposals must include a non-Medicare retiree solution for coverage.

CARRIER HISTORY

Carrier Name	Funding Method	Time Period
BCBSM (Med)	Self-funding	1963 - current
Express Scripts (Rx)	Self-funding	2009 - current
Delta Dental (Dental)	Fully-Insured	10 years+
EyeMed (Vision)	Self-funding	2011 – current

MARKETING PURPOSE / GOALS TO ACHIEVE

The City of Ann Arbor is performing a market review to assess if the City and its employees are currently receiving the most competitive pricing and benefits available. Concurrently, the City is satisfying its Public Act 106 bidding requirement.

Objectives are to preserve the current level of coverage and overall security, offering ‘substantially the same’ coverage as currently in place, in accordance with the bargained commitments made by the City to its various labor groups. Cost and sustainability in pricing are of paramount importance to the City as well as to the active and retiree population.

Specific goals of the City include but are not limited to:

- Lowest claim unit cost (e.g. optimal ‘discounts’)
- Excellent network access

- Excellent network management
- Effective medical and pharmacy utilization management
- Highly detailed and client-accessible utilization and cost reporting
- Dedicated customer service for the City and its employees
- Maximum flexibility with regard to plan design
- Lowest appropriate administration/overhead expense
- Expert clinical guidance and resource application when assisting the City in establishing effective plan design
- Meaningful performance guarantees through service commitments and cost targets
- Multiple year pricing guarantees
- Overall cost reduction
- Preservation of coverage terms consistent with the current plan design and provisions negotiated in good faith with the City’s organized labor groups

Your RFP should include comments/responses of at least 250 words, but not more than 1000 words, addressing each of the points above, separately.

B. REQUESTED PLAN DESIGN

REQUESTED PLAN DESIGN(S)

Item	Detail
Coverage Effective Date	1/1/17
Commission Level Requested	Medical –\$5,204 per month Rx - \$.29 per member per month Dental – Flat \$2.51 per contract per month Vision – Flat 5%

1. Match current plan designs as closely as possible.
2. Please review all appendix exhibits and complete as necessary.

Important Note: If you are unable to match current benefits **EXACTLY**, clearly state where your proposal differs on a separate exhibit.

C. CONDITIONS

Each respondent shall fully acquaint themselves with conditions relating to the scope and restrictions attending the execution of the work under the request for proposal. Respondents shall thoroughly examine and be familiar with the specifications.

The failure or omission of any respondent to receive or examine any form, instrument, addendum, or other document or to acquaint themselves with conditions there existing shall in no way relieve them from any obligation with respect to its bid or to the contract.

The carrier, as such and as respondent, shall make its own determination as to conditions and shall assume all risk and responsibility and shall complete the work in and under whatever conditions it may encounter or create without extra cost to the City.

All applicable State laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over the work to be performed shall apply to the contract throughout, and the same as though herein written out in full.

SECTION III - MINIMUM INFORMATION REQUIRED

PROPOSAL FORMAT

Carriers 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 clearly marked "Fee Proposal")
- E. Authorized Negotiator
- F. Attachments

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

A. Professional Qualifications – 20 points

1. State the full name and address of your organization and, if applicable, the branch office or other subsidiary element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include whether it is licensed to operate in the State of Michigan.
2. Include the name of executive and professional personnel by skill and qualification that will be employed in the work. These personnel must be a licensed physicians, licensed psychologist or licensed psychiatrist. 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 and qualifications are required for all proposed project personnel, including all subcontractors. Qualifications and capabilities of any subcontractors must also be included.
3. State history of the carrier, in terms of length of existence, types of services provided, etc. Identify the technical details that make the carrier uniquely qualified for this work.

B. Past involvement with Similar Projects – 30 points

The written proposal must include a list of specific experience in the project area and indicate proven ability in implementing similar projects for the carrier **and** the individuals to be involved in the project. All respondents shall demonstrate their experience in providing insurance coverage by furnishing a list of Michigan municipalities and/or companies that utilize their services. This list must show at least 3 municipalities and/or companies, each having a minimum of 500 employees. The name, title, and telephone number of a contact person at each of the references shall be provided..

Include responses to each City goal listed in Section II.

C. Proposed Work Plan – 30 points

Provide a detailed and comprehensive description of how the Carrier intends to provide the services requested in this RFP. This discussion shall include, but not be limited to: how the project(s) will be managed, communication and coordination, the working relationship between the carrier and City staff, and the company's general philosophy in regards to providing the requested services.

All carriers must furnish a complete exhibit of plan material (booklets, certificates, application forms, etc.). Include a description of the type of technology/website available to the City and its employees.

Carriers shall be evaluated on the clarity, thoroughness, and content of their responses to the above items.

D. Fee Proposal - 20 points

Fee schedules shall be submitted in a separate, sealed, envelope as part of the proposal. Fee quotations are to include the names, title, hourly rates, overhead factors, and any other relevant details. The proposal should highlight key staff and positions that would likely be involved with projects. Carriers shall be capable of justifying the details of the fee proposal relative to personnel costs, overhead, how the overhead rate is derived, material and time.

E. Authorized Negotiator

Include the name, phone number, and e-mail address of persons(s) in your organization authorized to negotiate the agreement with the City

F. Attachments

Legal Status of Carrier, Conflict of Interest Form, Living Wage Compliance Form, and the Non-Discrimination Form must be completed and returned with the proposal. These elements should be included as attachments to the proposal submission.

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 carriers for further consideration. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested for evaluation. A proposal with all the requested information does not guarantee the proposing carrier to be a candidate for an interview. The committee may contact references to verify material submitted by the carriers.
2. The committee then will schedule interviews with the selected carriers if necessary. The selected carriers will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal.

3. The interview must include the project team members expected to complete a majority of work on the project, but no more than six members total. The interview shall consist of a presentation of up to thirty minutes (or the length provided by the committee) by the carrier, including the person who will be the project manager on this contract, followed by approximately thirty minutes of questions and answers. Audiovisual aids may be used during the oral interviews. The committee may record the oral interviews.
4. The carriers interviewed will then be re-evaluated by the above criteria (A through C), and adjustments to scoring will be made as appropriate. After evaluation of the proposals, further negotiation with the selected carrier may be pursued leading to the award of a contract by City Council, if suitable proposals are received.

The City reserves the right to waive the interview process and evaluate the carriers based on their proposals and fee schedules alone and open fee schedules before or prior to interviews.

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.

Work to be done under this contract is generally described through the detailed specifications and must be completed fully in accordance with the contract documents.

Any proposal that does not conform fully to these instructions may be rejected.

PREPARATION OF PROPOSALS

Proposals should have no plastic bindings. Staples or binder clips are acceptable. Proposals should be printed double sided on recycled paper. Proposals should not be more than 30 sheets (60 sides), not including required attachments and resumes.

Each person signing the proposal certifies that he or she is the person in the carrier's carrier/organization responsible for the decision as to the fees being offered in the Proposal and has not and will not participate in any action contrary to the terms of this provision.

ADDENDA

If it becomes necessary to revise any part of the RFP, notice of the addendum will be posted to the City of Ann Arbor web site www.A2gov.org for all parties to download.

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

SECTION IV - ATTACHMENTS

Attachment A – Legal Status of Respondent

Attachment B - Non-Discrimination Ordinance Declaration of Compliance Form

Attachment C – Living Wage Declaration of Compliance Form

Attachment D – Vendor Conflict of Interest Disclosure Form

Attachment E – Non-Discrimination Ordinance Poster

Attachment F – Living Wage Ordinance Poster

**ATTACHMENT A
LEGAL STATUS OF RESPONDENT**

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

The Respondent is:

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

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

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

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

_____, Date: _____,
Signature

(Print) Name _____ Title _____

Company: _____

Address: _____

Contact Phone _____ Fax _____

Email _____



ATTACHMENT D

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

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

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

Conflict of Interest Disclosure*	
Name of City of Ann Arbor employees, elected officials or immediate family members with whom there may be a potential conflict of interest.	<input type="checkbox"/> Relationship to employee <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <input type="checkbox"/> Interest in vendor's company <input type="checkbox"/> Other (please describe in box below)

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

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

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

ATTACHMENT E
CITY OF ANN ARBOR NON-DISCRIMINATION ORDINANCE

Relevant provisions of Chapter 112, Nondiscrimination, of the Ann Arbor City Code are included below. You can review the entire ordinance at www.a2gov.org/departments/city-clerk

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

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

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

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

Complaint Procedure: If any individual has a grievance alleging a violation of this chapter, he/she has 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action or 180 calendar days from the date when the individual should have known of the alleged discriminatory action to file a complaint with the city's Human Rights Commission. If an individual fails to file a complaint alleging a violation of this chapter within the specified time frame, the complaint will not be considered by the Human Rights Commission. The complaint should be made in writing to the Human Rights Commission. The complaint may be filed in person with the City Clerk, by e-mail (hrc@a2gov.org), by phone (734-794-6141) or by mail (Ann Arbor Human Rights Commission, PO Box 8647, Ann Arbor, MI 48107). The complaint must contain information about the alleged discrimination, such as name, address, phone number of the complainant and location, date and description of the alleged violation of this chapter.

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

ATTACHMENT F

CITY OF ANN ARBOR LIVING WAGE ORDINANCE

RATE EFFECTIVE APRIL 30, 2016 - ENDING APRIL 29, 2017

\$12.93 per hour

If the employer provides health care benefits*

\$14.43 per hour

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

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

ENFORCEMENT

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

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

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

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

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

APPENDIX A: SAMPLE PROFESSIONAL SERVICES AGREEMENT

If a contract is awarded, the selected Firm(s) will be required to adhere to a set of general contract provisions which will become a part of any formal agreement. These provisions are general principles which apply to all contractors/service providers to the City of Ann Arbor. The required provisions are:

**SAMPLE PROFESSIONAL SERVICES AGREEMENT BETWEEN

AND THE CITY OF ANN ARBOR
FOR _____**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48103 ("City"), and _____

("Contractor") a(n) _____
(State where organized) (Partnership, Sole Proprietorship, or Corporation)

with its address at _____
agree as follows on this _____ day of _____, 20____.

The Contractor agrees to provide 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 and delivered to City by Contractor under this Agreement

Project means _____.
Project name

II. DURATION

This Agreement shall become effective on _____, 20____, and shall terminate on _____.

The contract may be renewed for no more than three successive annual terms upon mutual agreement of the parties and approval of Ann Arbor City Council..

III. SERVICES

- A. The Contractor agrees to provide _____
type of service
("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 quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. The Contractor 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 Contractor may rely upon the accuracy of reports and surveys provided to it by the City (if any) 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. INDEPENDENT CONTRACTOR

The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to any other Party shall be that of an independent contractor. Each Party will be solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement.

V. COMPENSATION OF CONTRACTOR

- A. The Contractor 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 Contractor, and approved by the Contract Administrator.
- B. The Contractor will be compensated for Services performed in addition to the Services described in Section III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.
- C. The Contractor shall keep complete records of work performed (e.g. tasks performed/hours allocated) so that the City may verify invoices submitted by the Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

VI. INSURANCE/INDEMNIFICATION

- A. The Contractor 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 act(s) or omission(s) giving rise to the claim were made by the Contractor, 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 satisfactory to the City demonstrating it has obtained the policies and endorsements required by Exhibit C.

- B. Any insurance provider of Contractor 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, Contractor 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 Contractor or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.

VII. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Contractor agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The Contractor further agrees to comply with the provisions of Section 9:158 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. If the Contractor is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code, the Contractor agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor 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.

VIII. WARRANTIES BY THE CONTRACTOR

- A. The Contractor warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills, experience, and professional licenses necessary to perform the Services specified in this Agreement.
- C. The Contractor 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 Contractor 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.
- E. The Contractor warrants that its proposal for services was made in good faith, it arrived at the costs of its proposal independently, without consultation, communication or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Contractor to induce any other perform or firm to submit or not to submit a proposal for the purpose of restricting competition.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor 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 Contractor of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Contractor 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, Contractor 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 Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. 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. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.

- 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 Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor 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 Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.
- D. The provisions of Articles VI and VIII shall survive the expiration or earlier termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

XII. REMEDIES

- A. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty or immunity of the Parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- C. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.

XIII. 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 CONTRACTOR, 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

(insert name of Administering Service Area Administrator)

301 E. Huron St.
Ann Arbor, Michigan 48103

XIV. CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. 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.

XV. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., Deliverables) prepared by or obtained by the Contractor 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 Contractor 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 Contractor.

Unless otherwise stated in this Agreement, any intellectual property owned by Contractor prior to the effective date of this Agreement (i.e., Preexisting Information) shall remain the exclusive property of Contractor 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.

XVI. CONFLICTS OF INTEREST OR REPRESENTATION

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor 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.

Contractor agrees to advise the City if Contractor has been or is retained to handle any matter in which its representation is adverse to the City. The City's prospective consent to the Contractor's representation of a client in matters adverse to the City, as identified above, will not apply in any instance where, as the result of Contractor's representation, the Contractor has obtained sensitive, proprietary or otherwise confidential information of a non-public nature that, if known to another client of the Contractor, could be used in any such other matter by the other client to the material disadvantage of the City. Each matter will be reviewed on a case by case basis.

XVII. 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.

XVIII. EXTENT OF AGREEMENT

This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Contractor 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. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

FOR CONTRACTOR

By _____
Type Name
Its

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor
By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

City Administrator

Type Name
Service Area Administrator

Approved as to form and content

Stephen K. Postema, City Attorney

**EXHIBIT A
SCOPE OF SERVICES**

(Insert/Attach Scope of Work & Deliverables Schedule)

**EXHIBIT B
COMPENSATION**

General

Contractor shall be paid for those Services performed pursuant to this Agreement inclusive of all reimbursable expenses (if applicable), in accordance with the terms and conditions herein. The Compensation Schedule below/attached states nature and amount of compensation the Contractor may charge the City:

(insert/Attach Negotiated Fee Arrangement)

**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). The certificates of insurance shall meet the following minimum requirements.

A. The Contractor shall have insurance that meets the following minimum requirements:

1. Professional Liability Insurance or Errors and Omissions Insurance protecting the Contractor 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 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements which diminish the City's protections as an additional insured under the policy. 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. 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 A.3 above 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. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. 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. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. 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

Health Insurance Portability and Accountability Act (HIPAA) BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the "Agreement") is made and entered into as of the _____ day of _____, 2016 (hereinafter the "Date") by and between the City of Ann Arbor, on behalf of the health plans of City of Ann Arbor (hereinafter "Covered Entity"), and [vendor] (hereinafter "Business Associate").

Recitals

WHEREAS, the Department of Health and Human Services ("HHS") has promulgated regulations at 45 C.F.R. Parts 160-164, implementing the privacy and electronic security requirements set forth in the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended by American Recovery and Reinvestment Act of 2009 (P.L. 111-5, ARRA) ("HIPAA");

WHEREAS, Business Associate acknowledges that certain provisions of HIPAA have been amended in ways that directly regulate Business Associate's obligations and activities with respect to PHI;

WHEREAS, HIPAA provides, among other things, that Covered Entity is permitted to disclose Protected Health Information (as defined below) to Business Associate and allow Business Associate to obtain and receive Protected Health Information, if Covered Entity obtains satisfactory assurances in the form of a written contract that Business Associate will appropriately safeguard the Protected Health Information; and

WHEREAS, Business Associate will create, receive, maintain or transmit certain Protected Health Information in conjunction with the services being provided by Business Associate to Covered Entity, thus necessitating a written agreement that meets the applicable requirements of HIPAA. Both parties have mutually agreed to satisfy the foregoing regulatory requirements through this Agreement.

NOW THEREFORE, Covered Entity and Business Associate agree as follows:

1. Definitions; Applicability.

(a) All terms not defined herein shall have the meaning ascribed to them in HIPAA.

(b) This Agreement shall apply only with respect to and to the extent that Business Associate creates, receives, maintains or transmits PHI for or on behalf of Covered Entity.

2. Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law.

(b) Business Associate agrees to use commercially reasonable and appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.

(c) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware. In event of a Breach of Unsecured PHI by Business Associate or any of its officers, directors, employees, or subcontractors, Business Associate shall promptly notify Covered Entity in accordance with 45 C.F.R. 164.410.

(d) Business Associate and Covered Entity agree to mitigate, to the extent practicable, any harmful effect that is known to it arising out of a use or disclosure of Protected Health Information in violation of the requirements of this Agreement.

(e) Business Associate agrees to ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate agrees to substantially similar restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

(f) Business Associate agrees to provide access to Protected Health Information in a Designated Record Set, in the time and manner Required by Law, to Covered Entity or, as directed by Covered Entity, to an Individual, in order to meet the requirements under 45 C.F.R. 164.524. Business Associate may impose a reasonable cost-based fee for the provision of copies of PHI in a Designated Record Set in accordance with 45 C.F.R. 164.524(c)(4).

(g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 C.F.R. 164.526 at the request of Covered Entity or an Individual, and in the time and manner Required by Law.

(h) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate, on behalf of Covered Entity, available to the Secretary, for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with HIPAA.

(i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.

(j) Business Associate agrees to provide to Covered Entity, upon request and in the time and manner Required by Law, an accounting of disclosures of an Individual's Protected Health Information, collected in accordance with Section 2(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528. If Covered Entity requests an accounting of an Individual's Protected Health Information more than once in any twelve (12) month period, Business Associate will impose a reasonable fee for such accounting in accordance with 45 C.F.R. 164.528(c).

(k) Business Associate agrees to comply, where applicable, with Subpart C of 45 CFR Part 164 to maintain the security of the Electronic Protected Health Information and to prevent unauthorized uses or disclosures of such Electronic Protected Health Information. Business Associate shall report to the Covered Entity any Security Incident that results in the unauthorized use or disclosure of Protected Health Information of which it becomes aware.

3. Permitted Uses and Disclosures by Business Associate

(a) Business Associate may use or disclose Protected Health Information to perform its obligations and services to Covered Entity, provided that such use or disclosure would not violate HIPAA if done by Covered Entity.

(b) Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate or as otherwise permitted by HIPAA.

(c) Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity.

4. OBLIGATIONS OF COVERED ENTITY.

4.1 Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520, as well as any changes to that notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate, in writing, of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522.

(d) Covered Entity warrants and represents that it shall provide to, or request from, the Business Associate only the minimum Protected Health Information necessary for Business Associate to perform or fulfill a specific function required or permitted hereunder.

(e) If Protected Health Information is transmitted by electronic transfer or sent in physical media by or on behalf of Covered Entity, Covered Entity shall transmit all such Protected Health Information to Business Associate in an encrypted format, to be mutually agreed by the parties.

4.2 Permissible Requests by Covered Entity. Covered Entity represents and warrants that it has the right and authority to disclose Protected Health Information to Business Associate for Business Associate to perform its obligations and provide services to Covered Entity, and

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would violate HIPAA, other applicable laws or Covered Entity's privacy notice, if done by Covered Entity.

5. Term and Termination

(a) Term. The provisions of this Agreement shall take effect as of the earlier of (i) the Date, or (ii) September 23, 2013 (such date, the "Effective Date"), and shall continue for so long as Business Associate provides services to Covered Entity.

(b) Termination for Cause. Upon the parties mutual agreement that there has been a material breach by Business Associate which does not arise from any breach by Covered Entity, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within a mutually agreeable time, or immediately terminate this Agreement if cure of such breach is not possible.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall request, in writing, Protected Health Information that is in the possession of subcontractors of Business Associate.

(2) In the event the Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall extend the protection of this Agreement to such Protected Health Information and limit further uses or disclosures to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

6. Miscellaneous

(a) Regulatory References. A reference in this Agreement to a section in HIPAA means the section as in effect or as amended, and for which compliance is required.

(b) Amendment. Upon the enactment of any law or regulation affecting the use or disclosure of Protected Health Information, or the publication of any decision of a court of the United States or any state relating to any such law or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, the parties agree to negotiate in good faith to amend the Agreement as necessary to comply with such law or regulation.

(c) Survival. The obligations of Business Associate under section 5(c)(2) of this Agreement shall survive the termination of this Agreement.

(d) Interpretation; Entire Agreement. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits both parties to comply with HIPAA. This Agreement constitutes the complete agreement between the parties relating to the matters specified herein,

and supersede all prior representations or agreements, whether oral or written, with respect to such matters.

(e) No third party beneficiary. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.

(f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

XXX Company,

On behalf of: the Health Plans of Covered Entity

By:

Name:

Title:

By:

Name:

Title:
