

# REQUEST FOR PROPOSAL

**RFP # 970**

## ICE CREAM MACHINE VENDING

City of Ann Arbor  
PARKS AND RECREATION  
SERVICES UNIT



**Due Date: April 28, 2016 by 10:00 a.m. (local time)**

Issued By:

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

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## **SECTION 1- GENERAL INFORMATION**

### **A. OBJECTIVE**

The purpose of this Request for Proposal (RFP) is to select a firm to provide ice cream vending services with the following components listed in Section II.

### **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 Wednesday April 20<sup>th</sup>, 2016, at 3:00 p.m., and should be addressed as follows:

Scope of Work/Proposal Content questions emailed to Brittany Ruthven, Recreation Supervisor at [bruthven@a2gov.org](mailto:bruthven@a2gov.org)

RFP Process and Compliance questions shall be e-mailed to Colin Spencer - [cspencer@a2gov.org](mailto:cspencer@a2gov.org)

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](http://a2gov.org) and [MITN.info](http://MITN.info) 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**

No Pre-Proposal Meeting will be held.

### **D. PROPOSAL FORMAT**

To be considered, each firm must submit a response to this RFP using the format provided in Section III. No other distribution of proposals is to be made by the consultant. An official authorized to bind the consultant 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 consultant'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 consultants, and open only those fee proposals. The City will then determine which, if any, firms will be interviewed. During the interviews, the selected firms will be given the opportunity to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. The City further reserves the right to interview the key personnel assigned by the selected consultant to this project. If the City chooses to interview any respondents, the interviews will be tentatively held the week of **May 1<sup>st</sup>, 2016**. Consultant 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 consultant'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, **April 28<sup>th</sup>, 2016, at 10:00 a.m.** (local time). Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

### **Each respondent must submit in a sealed envelope**

- **one (1) original proposal**
- **three (3) additional proposal copies**

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

- **one (1) original of the fee proposal**

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

Proposals submitted must be clearly marked: “RFP No.970 – Ice Cream Machine Vending” and list the consultant’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 consultant for any unforeseen circumstances, delivery, or postal delays. Postmarking on the due date will not substitute for receipt of the proposal. Consultants are responsible for submission of their proposal. Additional time will not be granted to a single consultant. However, additional time may be granted to all consultants 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 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 consultant’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**

A sample of the Services Agreement is included as Appendix A. 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 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.

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

## **I. HUMAN RIGHTS REQUIREMENTS**

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

## **J. WAGE REQUIREMENTS**

The Attachments provided herein outline the requirements for payment of prevailing wages or of a "living wage" to employees providing service to the City under this contract. The successful consultant 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 consultant complete a Conflict of Interest Disclosure form. A contract may not be awarded to the selected consultant 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 consultant prior to the execution of a Services Agreement. The liability of the City is limited to the terms and conditions outlined in the Agreement. By submitting a proposal, consultant agrees to bear all costs incurred or related to the preparation, submission, and selection process for the proposal.

**M. PROPOSAL PROTEST**

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

**N. 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.

<b>Activity/Event</b>	<b>Anticipated Date</b>
Submission of Questions Deadline	Wednesday, April 20 <sup>th</sup> , 2016
Proposal Due Date	Thursday, April 28 <sup>th</sup> , 2016 at 10:00 a.m.
Interview Contractors (if applicable)	Week of May 1 <sup>st</sup>
Contractor Selection	Week of May 8 <sup>th</sup>
Contractor Awarded and Given	Week of May 15 <sup>th</sup>

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

**O. IRS FORM W-9**

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

## **P. 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 consultants.
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 consultants to perform services.
7. The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted.
8. The City reserves the right to disqualify proposals that fail to respond to any requirements outlined in the RFP, or failure to enclose copies of the required documents outlined within RFP.



## **SECTION II - SCOPE OF SERVICES**

### **Background**

The City of Ann Arbor Parks & Recreation Services Unit currently utilizes a variety of Contractors and product lines for ice cream machine vending. It is the City's intent to stream line the purchasing process, promote continuity of product line across the varying facilities and in turn increase profit potential and reduce staff time dealing with multiple Contractors. It is the City of Ann Arbor's intention to award a sales and vending service contract to one Contractor who will provide all of the following services:

1. Ice cream machine vending machines at specified Parks and Recreation locations.

### **Ice cream Vending Machines**

The City has identified the following locations as appropriate sites for placement of ice cream vending machine(s) unless another location(s) is otherwise specified by the City:

<b>Buhr Park Pool &amp; Ice Arena</b> 2751 Packard Ann Arbor MI, 48104	1 ice cream vending machine
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Labor Day (September) through Memorial Day (May) – Fall/Winter  
Monday – Friday 3:00 p.m. – 11:00 p.m.  
Saturday & Sunday – 6:00 a.m. – 11:00 p.m.  
Memorial Day (May) through Labor Day – Spring/Summer  
Monday – Friday 7:00 a.m. – 9:00 p.m.  
Saturday & Sunday 10:00 a.m. – 9:00 p.m.

<b>Fuller Pool</b> 1519 Fuller Rd. Ann Arbor MI, 48105	2 ice cream vending machines
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Memorial Day (May) through Labor Day – Spring/Summer  
Monday – Friday 7:00 a.m. – 9:00 p.m.  
Saturday & Sunday 10:00 a.m. – 9:00 p.m.

<b>Veterans Pool &amp; Ice Arena</b> 2150 Jackson Ave Ann Arbor MI, 48103	1 ice cream vending machine
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Labor Day (September) through Memorial Day (May) – Fall/Winter  
Monday – Friday 10:00 a.m.. – Midnight

Saturday & Sunday – 10:00 a.m. – Midnight  
 Memorial Day (May) through Labor Day – Spring/Summer  
 Monday – Friday 8:00 a.m. – 9:00 p.m. Saturday & Sunday  
 10:00 a.m. – 9:00 p.m.

Final location selection shall be at the sole discretion of the City of Ann Arbor. Contractors should not submit proposals relying on any particular location identified above. In the event that a Contractor wishes to visit one of the specified locations prior to submitting a Proposal, it is the Contractor’s responsibility to schedule a site visit independently.

Contractors will be responsible for installation, removal, stocking, maintenance, and repair of the machines. Contractors will be responsible for all licenses required to market the stock within the machines. As part of their proposal, contractors are to disclose information regarding any subcontractors that will be involved with the delivery of vending services to the City. This information should include subcontractor’s adherence to the City’s living wage requirements and insurance coverage’s.

**A. Healthy Choice Vending**

1. Healthy Choice Product Stocking Percentages: Contractors are to supply vending items with regard to healthy ice cream options. Vending machine offerings should provide a variety of ample nutritious food choices that can be categorized into one of three ranks: “Healthiest/Healthier” (at a minimum, at least 60% of vending choices must fall into these categories), and “Limited” (no more than 40% of vending choices should fall into these categories). Contractor may also include information about which products are classified as organic, local, or documented as sustainably grown items. During the term of the Contract to result from this RFP, The City reserves the right to request a change to the percentage of healthy products stocked that comply with the “Healthiest,” “Healthier,” of “Limited” standards.

<b>Healthiest</b>	Calories: No more than 250 calories per serving Fat: No added fat, saturated fat, or trans fat Sugar: No sugar added. Sodium: No more than 150 mg per serving. Includes items with such as fat-free or low-fat plain yogurt, 100% fruit sorbet or sherbet with no added sweeteners
<b>Healthier</b>	Calories: No more than 250 calories per serving. Fat: No more than 35% of calories from total fat (excluding nuts and seeds. No more than 10% of calories from saturated fat. Zero calories from trans-fat.

	<p>Sugar: No more than 30 grams of sugar per serving</p> <p>Sodium: No more than 230 mg per serving.</p> <p>Includes items such as frozen yogurt, ice cream made with fat-free or low-fat-milk, 100% frozen fruit juice bars with no added sweetener</p>
<p><b>Limited</b></p>	<p>Calories: More than 250 calories per serving.</p> <p>Fat: More than 35% of calories from total fat (excluding nuts and seeds. More than 10% calories from Saturated Fat. More than zero calories from trans fat.</p> <p>Sugar: More than 30 gram of sugar per serving</p> <p>Sodium: More than 230 mg per serving.</p> <p>Includes items such as frozen custard, full-fat ice cream, full-fat yogurt, popsicles</p>

2. Promotion and Advertising: Contractor shall promote the sales of “Healthiest” items by providing a sign or label in close proximity to such items that clearly and conspicuously indicates that the item meets “Healthiest” criteria. Furthermore, the contractor shall not display or cause to be displayed any advertising that promotes products within the “Limited” criteria. To encourage purchase of healthier alternatives, we recommend that “Healthiest” and “Healthier” products be placed at eye level and along the right hand column of the vending machine.
  
3. Labeling: All ingredients must be declared on the product label, as required by the Food and Drug Administration. In a case that an article of food sold from a vending machine does not provide visible calorie information at the point of purchase, the vending machine shall provide a sign in close proximity to each article of food or the selection button that includes a clear and conspicuous statement disclosing the number of calories in the item. In the case of an article of food sold from a vending machine that does not allow the customer to examine the Nutrition Facts Panel before purchasing the item, nutrition information must be made available to customers upon request. Contractor shall provide information on how product nutrition will be advertised to the customer and for assuring freshness of product such as a visible expiration date.

**B. Product Selection and Pricing**

The variety and brand names of the items to be sold shall be spelled out within the “Qualifications” section of the proposal. All contractors must identify as part of their proposal whether such brands are available as a result of related marketing, sale or concession agreements with distributors and or/producers. Pricing strategies are critical to ensure purchase. Contractor will work with the City to ensure competitive pricing of “Healthiest” and “Healthier” products, at or below similar prices to “Limited” items. **(Include as a separate sheet attached to fee proposal).**

**C. Initial Installation**

Contractor shall provide transition plan for how long it will take from time of award to implementation of service plan including how machines will be added, moved, and removed from facilities. Vending machines and service should be operational no later than Monday May 23<sup>rd</sup> 2016.

**D. Stocking and Equipment Requirements**

1. Stocking: The City of Ann Arbor will provide the selected contractor the exclusive right to supply all ice cream vending machine products at these locations. During the term of the Contract, the contractor shall keep ice cream machines fully operational. During the term of the Contract, the contractor shall fully supply all products in a timely manner to keep all ice cream vending machines operating and fully supplied with product, change, and all other necessary supplies to allow the City of Ann Arbor and the contractor to maximize sales. “Healthiest” and “Healthier” products must be stocked as continuously as “Limited” products. The City reserves the right to conduct periodic audits of the products stocked in the machines to ensure compliance. Contractor shall supply options with regard to how machines will be stocked with items for sale; how machines will be stocked with change; and how cash will be collected from the machines.
  
2. Equipment:
  - i. *Condition of Equipment*: All equipment shall be up to date. This shall be interpreted as the latest models available at the execution of the signed contract. Initial equipment must include at a minimum: accept \$1, \$5, \$10 bills; credit/debit card acceptors; cash recycling capabilities; and remote monitoring capabilities that allow Contractor to wirelessly track mechanical issues and detect need for machine refill. Additional specifications may include Energy Star certified machines, and other energy conservation methods such as LED lighting. Machine dimensions and a description of the appearance should be provided in the proposal. Replacement equipment shall be made available to each

facility every 2 years for the duration of said contract if deemed necessary by the City of Ann Arbor.

- ii. *Maintenance and Repair*: Contractor shall be responsible for handling equipment maintenance, repair, and replacement. Contractor shall provide information on how equipment problems and vandalism issues will be handled including anticipated response time and a repair/replace procedure and contact numbers. In the event that a Contractor chooses to subcontract its services during the term of the contract, service calls made by City facilities should be handled through the Contractor directly.
- iii. *Equipment Malfunctions & Refunds*: Contractor shall provide written policy regarding the handling of reimbursement to facility for lost money in vending machines. In the event that a Contractor chooses to subcontract its services during the term of the contract, reimbursement funds given to City facilities to be dispersed for refunds must be handled through the Contractor directly.

#### **E. Ownership**

Vending machines located within Park and Recreation Facilities will be Contractor-owned. All machines of the Contractor that are placed in Park and Recreation Facilities are at the Contractor's sole risk. The Contractor releases the City of Ann Arbor from any claims arising from the loss of or damage to the Contractor's property.

#### **F. Revenue and Reports**

Contractor shall supply compensation rate to the City of Ann Arbor for vending machine sales. Compensation to the City of Ann Arbor for placement of the vending machines at the sites identified shall be based on a percent of gross sales as a part of the Contractor's agreement. During the contract, the Contractor shall provide a monthly gross receipt report of daily revenues, including an itemized report of sales of each item at each location. As part of their proposal, contractors are to supply options with regard to machine reports and how sales of specific items are tracked.

#### **G. References and Subcontractors**

Contractor must provide references for past-related work which includes contact person, agency, address, phone number, and dates of work for each reference. Be specific to the nature and volume of goods and/or services provided to each reference. In the event that a Contractor chooses to subcontract its services during the term of the contract, Contractor must provide references for its subcontractor's past related work in addition to its own references. Contractor must disclose

information about subcontractor that includes subcontractor's adherence to the City's living wage requirements and insurance coverage's.

Note: For any renewal period authorized by the City based on Contractor's proposal compensation is subject to renegotiation and a mutual agreement of the parties. If a mutual agreement of the parties is not reached within a reasonable period as determined by the City, the contract will not renew.

### **Duration of Contract**

Contractors will supply a proposal based on a (2) two-year agreement, tentatively from May 15<sup>th</sup> 2016, to May 14<sup>th</sup>, 2018.

The City may elect to renew the selected proposal for one additional period of the same length as the original contract (four (4) years total). For any renewal period authorized by the City product and supply cost will be subject to renegotiation and a mutual agreement of the parties. If a mutual agreement of the parties is not reached within a reasonable period as determined by the City, the contract will not renew.

### **Contract Incentive Program**

For the proposal contractors need to offer and articulate incentives they will offer for entering into an exclusivity partnership with the City of Ann Arbor. At a minimum, the contractor should be prepared to offer the incentives identified below **(Include as a separate sheet attached to fee proposal)**:

#### **2-year Contract**

##### 1. Sponsorship

- a. Sponsorship payments will be allocated to the Ann Arbor Parks & Recreation Scholarship Fund, which provides city residents access to park facilities and programs regardless of economic situation. The scholarship program provides income eligible families exposure to positive experiences, active lifestyles and mentors, as well as opportunities to gain and refine life skills, and to develop positive personal and social assets. The number of city residents who apply and qualify for Ann Arbor Parks & Recreation Scholarships continues to grow and the City is committed to providing this service for all of the community members in need.

Contractor shall identify the dollar amount that will be paid as a sponsorship per year to the City of Ann Arbor for a three-year contract. The sponsorship amount shall be paid at the time of signing the contract for the first year, and on this same date each subsequent year of the contract.

2. Additional incentives offered by the Bidder
  - a. Proposed incentives may include but are not limited to offers such as special event sponsorships, product donations to be used at City sponsored activities, and/or donations of merchandise to be used for parks programming and events.

## **SECTION III - MINIMUM INFORMATION REQUIRED**

### **PROPOSAL FORMAT**

Consultants should organize Proposals into the following Sections:

- A. Qualifications
- B. References
- C. Proposed Work Plan
- D. Authorized Negotiator
- E. Attachments
- F. Fee Proposal (include in a separate sealed envelope clearly marked "Fee Proposal")

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. Qualifications/Quality of Work – 15 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 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 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 firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work. Qualifications and capabilities of any subcontractors must also be included.
4. Identify brand names, the nutritional health standards of products based on healthy vending guidelines, and the quality of goods to be sold. This information may be presented using the chart provided in Attachment G.



B. References – 15 points

Provide at least three references for past-related work. Include contact person, agency, address, phone and dates of work for each reference. Be specific as to the nature of goods and/or services provided to each reference.

C. Proposed Work Plan – 30 points

A detailed work plan is to be presented which lists all tasks determined to be necessary to accomplish the work detailed in the scope of services. The work plan shall define resources needed for each task. In addition, the work plan shall include a timeline schedule depicting the sequence and duration of tasks showing how the work will be organized and executed. The consultant may propose tasks and deliverables outside of those listed above if they believe they are necessary to support the city's objectives.

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

D. 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

E. Attachments – 5 points

Legal Status of Consultant, 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.

F. Fee Proposal - 35 points

1. Fee quotations shall be submitted in a separate, sealed, envelope as part of the proposal. Present a proposal as spelled out in the duration of the Contract portion of the Scope of Services.
2. Supply a compensation rate to the City of Ann Arbor for vending machine sales. Compensation to the City of Ann Arbor for placement of the vending machines at the sites identified shall be based on a percent of gross sales as a part of the Contractor's agreement.
3. Provide a detailed description regarding the annual amount of sponsorship payments paid to the City of Ann Arbor.

Provide a detailed description regarding incentives that will be offered for entering into an exclusivity partnership with the City of Ann Arbor.

## **PROPOSAL EVALUATION**

1. The Selection Committee will evaluate each proposal by the above-described criteria and point system (A through E, based on 65 points). If one or more qualified proposals are identified, the separate fee proposals will be opened for qualified proposals and rescored based on all criteria (A through F) and a successful proposal will be chosen.
2. 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 firm to be a candidate for an interview. The committee may contact references to verify material submitted by the consultants.
3. The committee then will schedule interviews with the selected firms if necessary. The selected firms will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal.
4. 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 fifteen minutes by the consultant, 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.
5. The firms interviewed will then be re-evaluated by the above criteria (A through F), and adjustments to scoring will be made as appropriate. 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 waive the interview process and evaluate the consultants 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 be prepared providing a straightforward, concise description of the consultant's ability to meet the requirements of the RFP. Proposals shall be typewritten. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed and dated in ink by the person signing the proposal.

***Proposals should have no plastic bindings. Staples or binder clips are acceptable. Proposals should be printed double sided on recycled paper. Proposals should be no more than 15 sheets excluding resumes, past project descriptions and required forms.***

Each person signing the proposal certifies that he or she is the person in the consultant's firm/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 Michigan Inter-governmental Trade Network (MITN) [www.mitn.info](http://www.mitn.info) and/or the City of Ann Arbor web site [www.A2gov.org](http://www.A2gov.org) for all parties to download.

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

## **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 G – Product Description

**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 \_\_\_\_\_

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

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

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

Email \_\_\_\_\_

**ATTACHMENT B  
CITY OF ANN ARBOR DECLARATION OF COMPLIANCE**

**Non-Discrimination Ordinance**

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

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

The Contractor agrees:

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

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

---

Company Name

---

Signature of Authorized Representative Date

---

Print Name and Title

---

Address, City, State, Zip

---

Phone/Email address

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

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

Revised 3/31/15 Rev. 0

NDO-2



**ATTACHMENT D**



<b>VENDOR CONFLICT OF INTEREST DISCLOSURE FORM</b>
--

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 may be 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.



**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](http://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 at [aahumanrightscommission@gmail.com](mailto:aahumanrightscommission@gmail.com), 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](mailto:cspencer@a2gov.org)**

**ATTACHMENT G  
PRODUCT DESCRIPTION**

Item Description (serving size)	Servings Per Container	Sodium (g)	Sugar (g)	Total Fat (%)	Sat Fat (%)	Trans Fat (%)	Calorie s	Vending Price	Healthiest	Healthier	Limited

**APPENDIX A: SAMPLE 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 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 remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in Article XI.

**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.

#### **XV. 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**

\_\_\_\_\_  
Steven D. Powers, 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. 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

2. 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

3. 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.
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.