

REQUEST FOR PROPOSAL

RFP # 19-32

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

City of Ann Arbor
Human Resources



Due Date: September 20, 2019 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. Incumbent providers to the City of Ann Arbor are not required to respond to this RFP unless they are proposing a new service or arraignment. 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 September 11, 2019 at 10:00 a.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

Offerors may request claims, eligibility, and plan summaries by contacting Jessica Hull via email above. All requested and available information will be shared within five

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 offerors, the interviews will be tentatively held in October 2019. 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 proposal 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 on or before, September 20, 2019 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 USB/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 should be clearly marked: **“RFP# 19-32 – Public Employee Medical, Optical and Dental Benefits Plan Coverage Carrier Services”** and list the offeror’s name and address.

Proposals must be addressed and delivered to:
City of Ann Arbor
c/o Customer Service
301 East Huron Street
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 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding Holidays.

The City will not be liable to any prospective offeror for any unforeseen circumstances, delivery, or postal delays. Postmarking on the due date will not substitute for receipt of the proposal. Offerors are responsible for submission of their proposal. Additional time will not be granted to a single prospective offeror. However, additional time may be granted to all prospective offerors at the discretion of the City.

A proposal will be disqualified if the following required forms are not included with the proposal:

- **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**

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

Please provide the forms outlined above (Attachments B, C and D) within your narrative proposal, not within the separately sealed Fee Proposal envelope.

All proposed fees, cost or compensation for the services requested herein should be provided in the separately sealed Fee Proposal envelope only.

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, 2020. 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 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 offeror 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 proposal protests must be in writing and filed with the Purchasing Manager within five (5) business days of the award action. The offeror must clearly state the reasons for the protest. If an offeror contacts a City Service Area/Unit and indicates a desire to protest an award, the Service Area/Unit shall refer the offeror to the Purchasing Manager. The Purchasing Manager will provide the offeror with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee, whose decision shall be final.

Any inquiries or requests regarding this procurement should be only submitted in writing to the Designated City Contacts provided herein. Attempts by the offeror to initiate contact with anyone other than the Designated City Contacts provided herein that the offeror believes can influence the procurement decision, e.g., Elected Officials, City Administrator, Selection Committee Members, Appointed Committee Members, etc., may lead to immediate elimination from further consideration.

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 (all times local):

Activity/Event	Anticipated Date
Written Question Deadline	September 11, 2019, 10:00 a.m.
Addenda Published (if needed)	Week of September 9, 2019
Proposal Due Date	September 20, 2019, 2:00 p.m.
Tentative Interviews (if needed)	Week of October 14, 2019
Selection/Negotiations	October/November, 2019
Expected City Council Authorizations	November/December, 2019

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 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.

R. ENVIRONMENTAL COMMITMENT

The City of Ann Arbor recognizes its responsibility to minimize negative impacts on human health and the environment while supporting a vibrant community and economy. The City further recognizes that the products and services the City buys have inherent environmental and economic impacts and that the City should make procurement decisions that embody, promote, and encourage the City's commitment to the environment.

The City encourages potential vendors to bring forward emerging and progressive products and services that are best suited to the City's environmental principles.

SECTION II - SCOPE OF SERVICES

A. BACKGROUND

Proposals are being solicited for demonstration of compliance with requirements imposed by the PUBLIC EMPLOYEES HEALTH BENEFIT ACT, also P.A. Act 106 of 2007, which is an Act to prescribe the conditions upon which public employers may provide certain benefits; to require the compilation and release of certain information and data; to provide certain powers and duties to certain state officials, departments, agencies, and authorities; and to provide for appropriations.

The City of Ann Arbor, being a public entity that sponsors a group health insurance program on behalf of both active and retired individuals, is complying with the periodic bid requirements of P.A. 106 by posting publicly this RFP for insurance and related administrative services.

For reference: https://www.michigan.gov/difs/0,5269,7-303-13648_60666_79511---,00.html

Bidders/offerors/insurers/vendors who reply to this RFP shall be required to demonstrate both short and long term value corresponding to their respective proposals. Value in this context shall include, but not be limited to, cost reduction, trend management, exposure mitigation, utilization management, performance guarantees, administrative simplification, minimal member impact, intensive and effective member communication/education/engagement, exceptional customer services, impeccable references and relevant experience and demonstrated record of success, fiduciary co-responsibility and acceptable indemnification provisions for the City, etc. Value, as defined, shall be construed and determined solely at the discretion of City personnel involved in this RFP effort.

Proposals for insurances, third party administrated arrangements, multiple employer risk-sharing/pooling, stoploss and related funding and risk management approaches are being accepted for consideration. Proposals for active members, pre-65 members, and post-65 (Medicare-eligible) members may be submitted on a stand-alone basis to address the unique coverage needs of each population segment, or bidders/offerors may submit combined proposals addressing the collective needs of the entire City group plan beneficiary population.

Please reference Section III (C) of this RFP.

B. CLIENT HISTORY AND OVERVIEW

CLIENT OVERVIEW

Item	Detail
Organization Name	City of Ann Arbor
Address Line 1	301 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)	653 contracts

Item	Detail
Medical Eligible (Active)	717 contracts
Medical Enrolled (Medicare / Non-Medicare Retirees)	904 contracts
Medical Eligible (Medicare / Non-Medicare Retirees)	910 contracts
Dental Enrolled (Active)	681 contracts
Dental Eligible (Active)	717 contracts
Vision Enrolled (Active)	665 contracts
Vision Eligible (Active)	717 contracts

EMPLOYEE CLASS BREAKDOWN, ELIGIBILITY RULES, AND FUNDING

Employee Class	Eligibility Rule	New Hire Waiting Period	Medical Funding Strategy
COAM Police Command Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
AAPOA Police Officers Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
AFSCME Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
AAFD Firefighters Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
Teamsters Supervisors Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
Police Professional Assistants Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
Salaried Non Union	20 hours per week	n/a	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
Community / Public Service Admin Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week
Deputy Chiefs Union	20 hours per week	89 days	High Option: Contributory Low Option: Non-Contributory for 30+ hours per week

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, with the contract issued through a relationship with the Keenan Purchasing Coalition.

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)	Self-funding	10 years+
EyeMed (Vision)	Fully-Insured	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	1/1/20
Commission Level Requested (embed in pricing proposal)	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 offeror shall fully acquaint themselves with conditions relating to the scope and restrictions attending the execution of the work under the request for proposal. Offerors shall thoroughly examine and be familiar with the specifications.

The failure or omission of any offeror 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 offeror, 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. 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 offerors 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 Offeror, 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 Offeror

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 OFFEROR**

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

The Offeror 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 offeror.*

*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.

Offeror 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 C
CITY OF ANN ARBOR
LIVING WAGE ORDINANCE DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that an employer who is (a) a contractor providing services to or for the City for a value greater than \$10,000 for any twelve-month contract term, or (b) a recipient of federal, state, or local grant funding administered by the City for a value greater than \$10,000, or (c) a recipient of financial assistance awarded by the City for a value greater than \$10,000, shall pay its employees a prescribed minimum level of compensation (i.e., Living Wage) for the time those employees perform work on the contract or in connection with the grant or financial assistance. The Living Wage must be paid to these employees for the length of the contract/program.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from compliance with the Living Wage Ordinance. If this exemption applies to your company/non-profit agency please check here No. of employees__

The Contractor or Grantee agrees:

- (a) To pay each of its employees whose wage level is not required to comply with federal, state or local prevailing wage law, for work covered or funded by a contract with or grant from the City, no less than the Living Wage. The current Living Wage is defined as \$13.61/hour for those employers that provide employee health care (as defined in the Ordinance at Section 1:815 Sec. 1 (a)), or no less than \$15.18/hour for those employers that do not provide health care. The Contractor or Grantor understands that the Living Wage is adjusted and established annually on April 30 in accordance with the Ordinance and covered employers shall be required to pay the adjusted amount thereafter to be in compliance with Section 1:815(3).

Check the applicable box below which applies to your workforce

Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage without health benefits

Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage with health benefits

- (b) To post a notice approved by the City regarding the applicability of the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance, and investigating complaints or non-compliance.
- (e) To take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee covered by the Living Wage Ordinance or any person contracted for employment and covered by the Living Wage Ordinance in order to pay the living wage required by the Living Wage Ordinance.

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 or agrees to accept financial assistance in accordance with the terms of the Living Wage Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Living Wage Ordinance, obligates the Employer/Grantee 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 or grant of financial assistance.

Company Name

Street Address

Signature of Authorized Representative

Date

City, State, Zip

Print Name and Title

Phone/Email address



ATTACHMENT D

VENDOR CONFLICT OF INTEREST DISCLOSURE FORM
--

All vendors interested in conducting business with the City of Ann Arbor must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with the City of Ann Arbor’s conflict 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/humanrights.

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 believes there has been a violation of this chapter, he/she may file a complaint with the City's Human Rights Commission. The complaint must be filed within 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 allegedly discriminatory action. A complaint that is not filed within this timeframe cannot be considered by the Human Rights Commission. To file a complaint, first complete the complaint form, which is available at www.a2gov.org/humanrights. Then submit it to the Human Rights Commission by e-mail (hrc@a2gov.org), by mail (Ann Arbor Human Rights Commission, PO Box 8647, Ann Arbor, MI 48107), or in person (City Clerk's Office). For further information, please call the commission at 734-794-6141 or e-mail the commission at hrc@a2gov.org.

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.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND
MUST BE DISPLAYED WHERE EMPLOYEES CAN READILY SEE IT.

ATTACHMENT F

CITY OF ANN ARBOR LIVING WAGE ORDINANCE

RATE EFFECTIVE APRIL 30, 2019 - ENDING APRIL 29, 2020

\$13.61 per hour

If the employer provides health care benefits*

\$15.18 per hour

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

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

ENFORCEMENT

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

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

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

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

**For Additional Information or to File a Complaint contact
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:

PROFESSIONAL SERVICES AGREEMENT BETWEEN

AND THE CITY OF ANN ARBOR
FOR _____
(PSA_Over_25K_with_No_Auto_AI)

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St.
Ann Arbor, Michigan 48104 ("City"), and

("Contractor"), a(n) _____
(State where organized) (Partnership, Sole Proprietorship, or Corporation)
with its address at _____, agree as follows:

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

Contractor shall commence performance on _____, 20____ ("Commencement Date"). This Agreement shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in Article XI. The terms and conditions of this Agreement shall apply to the earlier of the Effective Date or Commencement Date.

III. SERVICES

A. The Contractor agrees to provide _____

("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 Article 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, etc.) 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 that 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. Prior to commencement of work under this Agreement, Contractor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit C. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- B. Any insurance provider of Contractor shall be 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-authorized 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 person 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.

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.

XIX. ELECTRONIC TRANSACTION

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement.

XX. EFFECTIVE DATE

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

FOR CONTRACTOR

By _____
Type Name

Its

Date: _____

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

Type Name
Service Area Administrator

Howard S. Lazarus, City Administrator

Approved as to form and content

Stephen K. Postema, City Attorney

**EXHIBIT A
SCOPE OF SERVICES**

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**

From the earlier of the Effective Date or the Commencement Date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall have, at a minimum, the following insurance, including all endorsements necessary for Contractor to have or provide the required coverage.

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 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that 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 Project General Aggregate
\$1,000,000 Personal and Advertising Injury
4. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

- B. Insurance required under A.3 and A.4 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 for any insurance listed herein.

- 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 and unqualified 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(s); name of insurance company; name(s), email address(es), and address(es) 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 may 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) and all required endorsements 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 and endorsements 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 (“BAA”) is made and entered into between the City of Ann Arbor (the “Covered Entity”) having its principal place of business at 301 East Huron Street, Ann Arbor, MI 48104, and _____ (“Business Associate” or “BA”), having its principal place of business at _____.

RECITALS

A. Covered Entity is a Michigan Municipal Corporation, and is a “covered entity” within the meaning of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”), the standards for the Privacy of Individually Identifiable Health Information (“Privacy Rule”), the standards for the Security of Electronic Protected Health Information (the “Security Rule”) and the Breach Notification Rule which regulations were promulgated by the United States Department of Health and Human Services (“DHHS”) pursuant to HIPAA and HITECH. The term “HIPAA” as used in this BAA refers to HIPAA, HITECH, and all of the Rules promulgated thereto.

B. BA provides _____ services to Covered Entity, which services necessarily involve the access to, generation of, use of, maintenance of, transmission of, or disclosure of health information that identifies individual patients (“Protected Health Information” or “PHI”) some of which is in electronic form (“Electronic Protected Health Information” or “E PHI”). Accordingly, BA is a business associate of Covered Entity pursuant to HIPAA.

C. Covered Entity is obligated by HIPAA to obtain “satisfactory assurances” from its business associates as a precondition to permitting a business associate to access, generate, use, maintain, or disclose PHI and E PHI on its behalf or in the course of performing services for it.

D. For the foregoing reasons, Covered Entity and BA desire to enter into an agreement that complies with all the requirements of HIPAA regarding business associate “satisfactory assurances.”

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, Covered Entity and BA agree as follows:

DEFINITION OF TERMS

Any terms used in this BAA that are defined in HIPAA shall have the same meaning when used in this BAA as they have in HIPAA.

OBLIGATIONS OF BUSINESS ASSOCIATE

BA is authorized to access, generate, maintain, use, disclose or transmit PHI and E PHI only as necessary and appropriate to perform the services described in the _____ agreement between BA and Covered Entity dated _____.

Except as otherwise limited in this BAA, BA may also use and disclose PHI and EPHI for the proper management and administration of BA or to carry out the legal responsibilities of BA, and as required by law, all in accordance with the terms of 45 CFR 164.502 and 164.504. BA may also use PHI and EPHI received from or pertaining to Covered Entity to de-identify the PHI or EPHI in any manner permitted by the Privacy Rule and the Office of Civil Rights (“OCR”) guidelines regarding de-identification. Once de-identified, BA may use this data for any lawful purpose since it is no longer PHI protected by HIPAA.

BA shall not use or further disclose PHI and EPHI other than as permitted or required by this BAA or as required by law. BA acknowledges that it is obligated to independently comply with the Security Rule, certain provisions of the Privacy Rule as mandated by HITECH, and the Breach Notification Rule, and that it may be directly liable to the government for fines and other sanctions imposed by DHHS, and the State Attorney General for non-compliance.

BA agrees to use appropriate safeguards to prevent use or disclosure of PHI and EPHI other than as provided for by this BAA. BA further agrees to implement the requirements of the Security Rule to protect EPHI in its possession, including administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. “Appropriate Safeguards” include, but are not limited to, physical, administrative and technical safeguards such as locking cabinets or rooms where PHI is housed, using computer passwords or other security measures to prevent unauthorized access to PHI in electronic format, providing encryption or comparable protection for EPHI at rest and in motion, implementing policies and procedures describing authorized access and use for BA’s work force, and human resources policies and procedures to enforce these rules.

In making a permitted or required use or disclosure of PHI or EPHI, BA shall comply with HIPAA’s minimum necessary requirements.

BA agrees to perform such activities as are necessary or appropriate to mitigate, to the extent practicable, any harmful effect that is either independently known to BA or brought to BA’s attention by Covered Entity, as a result of a wrongful use or disclosure of PHI or EPHI by BA. This obligation is in addition to the obligations stated in paragraph 2.7 of this BAA.

BA agrees to report to Covered Entity any use or disclosure of PHI or EPHI in violation of this BAA. Without limiting the generality of the first sentence of this paragraph, BA agrees to notify Covered Entity of any Breach of unsecured PHI or EPHI that BA discovers or should have discovered. BA further agrees to report to Covered Entity, at such time and in such manner as Covered Entity determines and requests, any successful security incident regarding EPHI of which it becomes aware. Security incidents could include the following types of activity, but are not limited to: attempts to gain unauthorized access to EPHI or a system that contains EPHI; unwanted disruption or denial of service to systems that contain EPHI; unauthorized use of a system for the processing or storage of EPHI data; changes to system hardware, firmware, or software characteristics without the owner’s knowledge, instruction, or consent. BA shall provide notification of a successful security incident or Breach within five (5) business days of the date upon which it discovered the Breach or successful security incident. BA shall provide to Covered Entity the following information regarding a Breach or successful security incident: the BA’s

name and point of contact; names, addresses, telephone numbers, and email addresses of each individual affected by a successful security incident or Breach; a description of the data involved in the security incident or Breach; a description of what happened (including the date of the successful security incident or Breach and the date of discovery) and how it happened; and a description of all internal steps that the BA has taken to prevent a future similar security incident or Breach. BA shall cooperate with Covered Entity in the investigation of a security incident or Breach, preparation and distribution of notices of the Breach to the affected individuals, and with providing notice to DHHS and media outlets as required by HIPAA. BA shall pay all expenses of applicable investigations and Breach notification whenever BA caused the security incident or Breach.

BA agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI or EPHI received from, or created or received by BA on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this BAA to BA, including that each such agent or subcontractor agrees to implement reasonable and appropriate safeguards to protect EPHI. BA shall accomplish this by executing a proper business associate agreement that is at least as stringent as this BAA with each such Subcontractor, as described in the Privacy Rule. BA further agrees that no Subcontractors located or doing business in foreign countries will be used, without the express prior written consent of the Covered Entity.

BA agrees to notify Covered Entity within five (5) business days of receipt of a request by an individual for access to the individual's PHI or EPHI. Once Covered Entity has determined that the individual is entitled to access to the requested PHI or EPHI pursuant to the Privacy Rule and so notifies BA (whether the individual's request was first made to BA or directly to Covered Entity), then BA shall provide access to PHI and EPHI in a Designated Record Set to an individual or to an individual's designee, in order to meet the inspection and copying requirements of the Privacy Rule. If the Covered Entity determines that the individual is not permitted access to PHI or EPHI pursuant to the Privacy Rule, then BA shall take such action as the Covered Entity requests in order to satisfy the Covered Entity's obligations under the Privacy Rule for denied requests for access.

BA agrees to notify Covered Entity within five (5) business days of receipt of a request by an individual to amend the individual's PHI or EPHI. When notified by Covered Entity that Covered Entity has agreed to an individual's request for an amendment to the individual's PHI or EPHI (whether the individual's request was first made to BA or directly to Covered Entity), BA shall make the amendment to PHI or EPHI in a Designated Record Set, and incorporate such amendments into the PHI and EPHI in a Designated Record Set. If Covered Entity does not agree to a requested amendment, BA shall take such action as Covered Entity requests in order to satisfy Covered Entity's obligations under the Privacy Rule for denied requests for amendment.

To the extent that BA is required pursuant to this BAA to carry out one or more of Covered Entity's obligations under the Privacy Rule, BA shall comply with the requirements of the Privacy Rule applicable to the Covered Entity's performance of such obligation.

BA agrees to make its internal practices, books, and records relating to its use and disclosure of PHI and EPHI available to Covered Entity or the Secretary of DHHS (or his/her designee), for purposes of the Secretary of DHHS (or his/her designee) determining Covered

Entity's and BA's compliance with HIPAA, or for purposes of Covered Entity's auditing and monitoring of BA's performance. In addition, Covered Entity may, at its option, conduct on-site audits of BA's handling of PHI and EPHI that BA received or generated on behalf of Covered Entity. If Covered Entity elects to conduct an on-site audit, Covered Entity shall give BA reasonable advance notice and use its best efforts not to disrupt BA's workflow during the audit. Covered Entity shall not have access to PHI or EPHI that BA received or generated for other entities besides Covered Entity.

BA agrees to document all disclosures of PHI and EPHI 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 PHI and EPHI in accordance with the Privacy Rule and HITECH. Within five (5) business days of Covered Entity's request, BA shall provide to Covered Entity the information so collected to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI and EPHI. To the extent that BA holds PHI or EPHI from an Electronic Health Record ("EHR") used by Covered Entity, BA further agrees to provide to a requesting individual an accounting of disclosures of EPHI it has made, including an accounting of disclosures for treatment, payment and health care operations during the three years prior to the individual's request. If an individual makes a request for an accounting of PHI or EPHI directly to BA in circumstances in which BA does not hold EPHI from an EHR, then BA shall notify the Covered Entity of the request within five (5) business days of receiving the request from the individual and provide the Covered Entity with the information about disclosures that BA has documented, in the same manner as if the individual's request was made directly to the Covered Entity.

BA agrees to honor any restriction on the use or disclosure of PHI or EPHI that Covered Entity agrees to, provided that Covered Entity notifies BA of such restriction.

BA shall establish specific procedures and mechanisms to implement BA's obligations pursuant to HIPAA and pursuant to this BAA. Such procedures and mechanisms shall be in writing, and shall be available to Covered Entity for review upon request.

OBLIGATIONS OF COVERED ENTITY

Covered Entity shall provide BA with the notice of privacy practices and minimum necessary policy that Covered Entity produces in accordance with the Privacy Rule, as well as any changes to such notice or policy.

Covered Entity shall notify BA of any restriction to the use or disclosure of PHI and EPHI that Covered Entity has agreed to in accordance with the Privacy Rule.

Covered Entity shall not request BA to use or disclose PHI or EPHI in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by Covered Entity, except for uses or disclosures of PHI for the proper administration and management of BA or as required by law.

TERM AND TERMINATION

The term of this BAA shall commence on the date it is signed by both parties and shall continue conterminously with the term of all services being performed by BA for or on behalf of Covered Entity that necessarily and routinely involve PHI and EPHI, unless sooner terminated in accordance with paragraph 4.2 hereof.

Upon Covered Entity's knowledge of a material breach by BA, or BA's knowledge of a material breach by Covered Entity, Covered Entity or BA (as applicable) shall, at its sole option, do either of the following:

Provide a 15 day opportunity for the breaching party to cure the breach to the satisfaction of the non-breaching party, or terminate this BAA and the services relationship with BA if the breaching party does not cure the breach to the satisfaction of the non-breaching party; or

Immediately terminate this BAA and the services relationship with BA without an opportunity to cure if the non-breaching party determines, in its sole discretion, that cure is not possible.

In addition to the termination for cause provisions stated in paragraph 4.2, this BAA may also be terminated in any of the following circumstances:

The services relationship between BA and Covered Entity is terminated for any reason;

The provisions of HIPAA are amended, modified or changed such that a BAA such as this is no longer mandated;

By the mutual agreement of Covered Entity and BA, provided that a new BAA is substituted if the services relationship continues between BA and Covered Entity and the relationship requires BA to access, use, generate, maintain, disclose or transmit PHI or EPHI.

Effect of Termination.

Except as provided in paragraph 4.4.2, upon termination of this BAA for any reason, BA shall return or destroy all PHI and EPHI received from Covered Entity, or created or received by BA on behalf of Covered Entity. This provision shall apply to PHI and EPHI that is in the possession of subcontractors or agents of BA. BA shall retain no copies of PHI or EPHI.

In the event that BA believes that returning or destroying PHI or EPHI in its entirety is infeasible, BA shall provide to Covered Entity an explanation of the conditions that make return or destruction infeasible. Upon Covered Entity's concurrence that return or destruction of PHI or EPHI is infeasible, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI and EPHI to those

purposes that make the return or destruction infeasible, for so long as BA maintains such PHI or EPHI.

If this BAA is terminated and not immediately replaced with a substitute business associate agreement, and if the Privacy Rule and/or the Security Rule in effect at that time continues to mandate the execution of a business associate agreement between covered entities and their business associates, then BA shall immediately terminate the services provided to Covered Entity to the extent that BA's services continue to necessarily and routinely involve access, use, generation, maintenance, disclosure or transmission of PHI or EPHI.

GENERAL PROVISIONS

BA shall indemnify, defend and hold harmless Covered Entity, its directors, officers, employees and agents (the "Indemnified Parties"), from and against any liabilities, claims, causes of action, and losses (including reasonable attorneys' fees) that result from or are related to any act or omission of BA that violates this BAA or HIPAA. Without limiting the generality of the foregoing, BA's obligation pursuant to this paragraph includes indemnifying, defending and holding harmless the Indemnified Parties from and against any civil or criminal fines imposed upon any Indemnified Party by the federal or state government pertaining to the privacy or security of PHI and EPHI.

BA agrees that the terms and conditions of this BAA shall be construed as a general confidentiality agreement that is binding upon BA even if it is determined that BA is not a business associate as that term is used in HIPAA.

Covered Entity and BA shall not be deemed to be partners, joint ventures, agents or employees of each other solely by virtue of the terms and conditions of this BAA. BA is an independent contractor of Covered Entity for all purposes, including the application of the federal common law.

This BAA shall not be modified or amended except by a written document that is signed by both parties. Covered Entity and BA agree to modify or amend this BAA if HIPAA changes in a manner that affects the terms and conditions of this BAA, or the obligations of covered entities and/or business associates.

Any communications between Covered Entity and BA regarding this BAA shall be in writing, whether or not oral communications have also occurred. Such communications shall be sent to Covered Entity and BA at the following addresses:

To Covered Entity: City of Ann Arbor Attn: City Attorney 301 East Huron Street, Third Floor Ann Arbor, MI 48104	To BA:
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Written communications may be sent by certified or registered U.S. Mail, receipted courier service, receipted hand delivery, receipted fax, or by receipted email.

No waiver of any provision of this BAA, including this paragraph, shall be effective unless the waiver is in writing and signed by the party making the waiver.

This BAA is entered into solely for the benefit of the parties, and is not entered into for the benefit of any third party, including without limitation, any patients of Covered Entity or their legal representatives.

This BAA is not assignable or delegable without the express advance written consent of the party not seeking to assign or delegate.

This BAA shall be governed by and construed in accordance with the laws of the United States of America and the laws of the state of Michigan. This BAA shall be interpreted and construed so as to render it compliant with HIPAA.

If any provision of this BAA is determined by a court of competent jurisdiction to be invalid or unenforceable, this BAA shall be construed as though such invalid or unenforceable provision were omitted, provided that the remainder of this BAA continues to satisfy all of HIPAA requirements for a business associate agreement. If it does not, then the parties shall immediately renegotiate this BAA so that it does comply with the requirements of HIPAA or terminate this BAA and the service relationship between the BA and Covered Entity to the extent that BA's services necessarily and routinely involve access, use, generation, maintenance, disclosure or transmission of PHI or EPHI.

This BAA contains the entire agreement between the parties pertaining to this subject matter, and supersedes all prior understandings, whether written or oral, regarding the same subject matter.

The provisions of this BAA dealing with indemnification, breach notification, the construction of this BAA as a general confidentiality agreement, and BA's obligations to return or destroy PHI and EPHI upon termination of this BAA and to maintain protections for any PHI and EPHI that is unfeasible to return or destroy upon termination of this BAA shall be deemed to be continuing obligations of BA that survive the termination of this BAA for any season.

[SIGNATURE PAGE FOLLOWS]

In Witness Whereof, the parties have executed this Business Associate Agreement on the dates noted below.

The City of Ann Arbor

By: Howard Lazarus
Its: City Administrator
Date: _____

[Business Associate]

By: _____
Its: _____
Date: _____