

CITY OF ANN ARBOR
INVITATION TO BID



Fairview Cemetery Services

ITB No. 4535

Due Date: April 25, 2018 at 2:00 PM (Local Time)

City Clerk's Office

Issued By:

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

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City of Ann Arbor Non-Discrimination Ordinance Declaration Form and Notice

City of Ann Arbor Living Wage Ordinance Declaration of Compliance and Notice

INSTRUCTIONS TO BIDDERS

General

The City of Ann Arbor's Procurement Office is soliciting bids for cemetery services and grounds maintenance for Fairview Cemetery based on the specifications provided herein. The pricing provided for this ITB shall be firm for two (2) years. Upon mutual agreement between the City and the vendor the pricing provided in this ITB may be extended (or altered) for two (2) additional two (2) year periods not to exceed six (6) years in total.

Any Bid which does not conform fully to these instructions may be rejected.

Preparation of Bids

Bids should be prepared providing a straight-forward, concise description of the Bidder's ability to meet the requirements of the ITB. Bids shall be written in ink or 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 Bid.

Bids must be submitted on the "Bid Forms" provided with each blank properly filled in. If forms are not fully completed it may disqualify the bid. No alternative bid will be considered unless alternative bids are specifically requested. If alternatives are requested, any deviation from the specification must be fully described, in detail on the "Alternate" section of Bid form.

Each person signing the Bid certifies that he/she is the person in the Bidder's firm/organization responsible for the decision as to the fees being offered in the Bid and has not and will not participated in any action contrary to the terms of this provision.

Questions or Clarification / Designated City Contacts

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

All questions shall be due on or before **April 5, 2018 at 2:00 p.m.** and should be addressed as follows:

Specification/Scope of Work questions emailed to Dena Waddell, dwaddell@a2gov.org
Bid Process and Compliance questions emailed to Colin Spencer, CSpencer@a2gov.org

Any error, omissions or discrepancies in the specification discovered by a prospective contractor and/or service provider shall be brought to the attention of Colin Spencer at cspencer@a2gov.org after discovery as possible. Further, the contractor and/or service provider shall not be allowed to take advantage of errors, omissions or discrepancies in the specifications.

Addenda

If it becomes necessary to revise any part of the ITB, notice of the Addendum will be posted to Michigan Inter-governmental Trade Network (MITN) www.mitn.info and/or City of Ann Arbor web site www.A2gov.org for all parties to download.

Each Bidder must in its Bid, to avoid any miscommunications, acknowledge all addenda which it has received, but the failure of a Bidder to receive, or acknowledge receipt of; any addenda shall not relieve the Bidder of the responsibility for complying with the terms thereof.

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

Bid Submission

All Bids are due and must be delivered to the City of Ann Arbor Procurement Unit on or before **April 25, 2018 at 2:00 p.m. (Local time)**. Bids submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each Bidder must submit one (1) original Bid and one (1) Bid copy in a sealed envelope clearly marked: ITB No. 4535 – Fairview Cemetery Services.

Bids must be addressed and delivered to:

City of Ann Arbor
Procurement Unit,
c/o Customer Services, 1st Floor
301 East Huron Street
Ann Arbor, MI 48104

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

The following forms provided within this ITB Document must be included in submitted bids.

- **Vendor Conflict of Interest Disclosure Form**
- **City of Ann Arbor Non-Discrimination Ordinance Declaration of Compliance**
- **City of Ann Arbor Living Wage Ordinance Declaration of Compliance**

Bids that fail to provide these completed forms listed above upon bid opening will be rejected as non-responsive and will not be considered for award.

Hand delivered bids will be date/time stamped/signed by the Procurement Unit or City Customer Service at the address above in order to be considered. Normal business hours are 9:00 a.m. to 3:00 p.m. Monday through Friday, excluding Holidays. The City will not be liable to any Bidder for any unforeseen circumstances, delivery or postal delays. Postmarking to the Due Date will not substitute for receipt of the Bid. Each Bidder is responsible for submission of their Bid.

Additional time for submission of bids past the stated due date and time will not be granted to a single Bidder; however, additional time may be granted to all Bidders when the City determines in its sole discretion that circumstances warrant it.

Award

The City intends to award a Contract/Purchase Order to the lowest responsible Bidder(s) providing the best value to the City. The City may, at its sole discretion, award line-by-line in the best interest of value to the City.

Responsible bidder means a bid submitted, which conforms in all aspects of the requirements set forth in the invitation to bid. All aspects could include references, past experience, past performance, and qualifications.

Official Documents

The City of Ann Arbor officially distributes bid documents from the Procurement Unit or through the Michigan Intergovernmental Trade Network (MITN). Copies of the bid documents obtained from any other source are not Official copies. Addenda and other bid information will only be posted to these official distribution sites. If you obtained City of Ann Arbor Bid documents from other sources, it is recommended that you register on www.MITN.info and obtain an official Bid.

Taxes

Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the bid figure(s). The City will furnish the successful bidder with tax exemption certificates when requested.

Withdrawal of Bids

After the time of opening, no Bid may be withdrawn for the period of one-hundred and twenty (120) days.

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 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.

Living Wage Requirements

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.

Conflict Of Interest Disclosure

The City of Ann Arbor Purchasing Policy requires that prospective Vendors complete a Conflict of Interest Disclosure form. A contract may not be awarded to the selected Vendor 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 Vendor Conflict of Interest Disclosure Form is attached.

Debarment

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

Disclosures

After bids are opened, all information in a submitter's bid is subjected to disclosure under the provisions of Michigan Public Act No. 442 of 1976, as amended (MCL 15.231 et seq.) known as the "Freedom of Information Act." The Freedom of Information Act also provides for the complete disclosure of contracts and attachments thereto except where specifically exempted.

Bid Protest

All Bid protests must be in writing and filed with the Purchasing Agent within five (5) business days of the award action. The bidder must clearly state the reasons for the protest. If a bidder contacts a City Service Area/Unit and indicates a desire to protest an award, the Service Area/Unit shall refer the bidder to the Purchasing Agent. The Purchasing Agent will provide the bidder 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 prospective 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.

Cost Liability

The City of Ann Arbor assumes no responsibility or liability for costs incurred by the Bidder prior to the execution of a contract with the City. By submitting a bid, a bidder agrees to bear all costs incurred or related to the preparation, submission and selection process for the bid.

Reservation of Rights

The City of Ann Arbor reserves the right to accept any bid or alternative bid proposed in whole or in part, to reject any or all bids or alternatives bids in whole or in part and to waive irregularity and/or informalities in any bid and to make the award in any manner deemed in the best interest of the City.

INVITATION TO BID

City of Ann Arbor
Guy C. Larcom Municipal Building
Ann Arbor, Michigan 48107

Ladies and Gentlemen:

The undersigned, as Bidder, declares that this Bid is made in good faith, without fraud or collusion with any person or persons bidding on the same Contract; that this Bidder has carefully read and examined the bid documents, including City Nondiscrimination requirements, Vendor Conflict of Interest Form, Living Wage requirements, Instructions to Bidders, Bid Forms, General Service Agreement, General Conditions, Detailed Specifications, and all Addenda, and understands them when applicable. The Bidder declares that it conducted a full investigation of the work proposed and is fully informed as to the nature of the work and the conditions relating to the work's performance.

The Bidder acknowledges that it has not received or relied upon any representations or warrants of any nature whatsoever from the City of Ann Arbor, its agents or employees, and that this Bid is based solely upon the Bidder's own independent business judgment.

In accordance with these bid documents, and Addenda numbered _____, the undersigned, as Bidder, proposes to deliver to the City all product/services herein described for the amounts set forth in the Bid Forms.

The Bidder declares that it has become fully familiar with the liquidated damage clauses for completion times and for compliance with City Code Chapter 112, understands and agrees that the liquidated damages are for the non-quantifiable aspects of non-compliance and do not cover actual damages that may be shown and agrees that if awarded the Contract, all liquidated damage clauses form part of the Contract.

Bidder further agrees that the cited provisions of Chapter 14 and Chapter 23 form a part of this Contract.

The Bidder declares that it has become familiar with the City Conflict of Interest Disclosure Form and certifies that the statement contained therein is true and correct.

In submitting this Bid, it is understood that the right is reserved by the City to accept any Bid, to reject any or all Bids, to waive irregularities and/or informalities in any Bid, and to make the award in any manner the City believes to be in its best interest.

SIGNED THIS _____ DAY OF _____, 201__.

Bidder's Name

Authorized Signature of Bidder

Official Address

(Print Name of Signer Above)

Telephone Number

Email Address for Award Notice

LEGAL STATUS OF BIDDER

(The Bidder shall fill out the appropriate form and strike out the other three.)

Bidder declares that it 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 Bid, is authorized to execute contracts.

NOTE: 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 in the county of _____, whose members are (list all members and the street and mailing address of each) (attach separate sheet if necessary):

* An individual, whose signature with address, is affixed to this Bid: _____ (initial here)

Authorized Official

_____ **Date** _____, 201__

(Print) Name _____ Title _____

Company: _____

Address: _____

Contact Phone () _____ Fax () _____

Email _____

SCOPE OF SERVICES

A. Inspection of Work Site

Before submitting a bid, each bidder shall inspect Fairview Cemetery (1401 Wright Street at Kellogg) to arrive at a clear understanding of the conditions under which the work is done. Awarded Contractor is held to have compared the premises with the specifications, and to have satisfied himself as to all conditions affecting the execution of the work. Claims of extra payments based on lack of knowledge of existing circumstances will not be allowed.

B. Experience

Minimum of three years past experience in cemetery burials and maintenance. Contractor must have knowledge of procedures and applicable laws and regulations for interment and disinterment's. Must be able to determine and recognize grave and ground disturbance. Contractor must be able to prepare ground and site for interments and disinterment's.

C. Mowing

Mowing, trimming and edging of grounds shall be maintained at a height no greater than 3". Vegetation shall be carefully trimmed from around all markers as to not cause damage. The area to be maintained is approximately nine acres. Contractor will be required to mulch leaves each Fall.

D. Grounds and Road Maintenance

Contractor will keep grounds clean of dead plants/flowers, litter, small limbs (hanging or on ground), items left by the grieving and etc. Grounds must have a clean and neat appearance.

E. Internments and Disinterment's

Contractor will open and close grave spaces, seven days a week, for both full and cremation burials as needed. The normal burial time is Monday-Friday, 8-5 pm. Occasionally, it may be necessary to open a committed gravesite for disinterment that may result in another reburial at another location or be the result of medical investigations.

F. Grave Space Finishing

Newly opened grave spaces must be finished to grade, seeded and irrigated in a reasonable amount of time. Sunken graves (for any reason) must also be filled and reseeded continually as part of grounds maintenance.

G. Marker Foundation Installations

Contractor will install quality marker foundations on a timely basis as needed and provide information to city when foundations are installed. Customers will pay any fees or costs associated with foundation installations directly to the contractor per industry standard.

H. Pesticides

Contractor must comply with all City and State pesticide regulations.

I. Storage Building

Storage space for equipment is not currently available at Fairview Cemetery.

J. Availability

Contractor must be available for burials seven days-a-week including holidays. There must be reasonable means to reach the Contractor for questions and information, normally between the hours of 8:00 a.m. and 5:00 pm, Monday through Friday. Contractor must be available to funeral homes for questions and burial information during their business hours, seven days-a-week.

K. Labor, Materials and Equipment

Contractor shall be responsible for supplying all labor, material and equipment as necessary, unless otherwise specified.

L. Public Needs and Records

From time to time it may be necessary for Contractor to show burial plots to the public, which are available for purchase, and answer questions pertaining to past burials, maintenance and markers.

M. City Of Ann Arbor Responsibilities

The City of Ann Arbor will over-see and pay Contractor. The City will sell, keep records and receive payments for Fairview Cemetery. The City will provide topsoil, remove dead trees, grade surface road, remove trash and plow snow except as noted. The city will also provide a designated location to dump excavated soil from gravesites.

N. Invoice Submission

The expectation that invoices submitted include a detailed description of the work performed including but not limited to the maintenance of the property.

BID FORM

Company Name: _____

PRIMARY MAINTENANCE:

Contractor hereby offers to furnish labor, material and equipment to maintain Fairview Cemetery grounds for:

\$ _____ per month - Monthly April through September

\$ _____ per month - Monthly, October through March

\$ _____ Combined 12 month cost

INTERMENTS AND DISINTERMENTS:

Contractor will provide service of opening and closing of graves 8-5 pm. This cost includes final condition of gravesite to have 100% turf cover at finished grade.

\$ _____ For each full grave burial

\$ _____ For each cremations burial

AFTER 5PM/WEEKENDS/HOLIDAYS:

Contractor will provide service of opening and closing of graves, after 5 pm, on weekends and holidays, 8:00 am to 5:00. This cost includes final condition of gravesite to have 100% turf cover at finished grade.

\$ _____ For each full grave burial

\$ _____ For each cremations burial

SUNKEN GRAVES:

Contractor will fill to finish grade, seed, and irrigate graves that have sunken over time.

\$ _____ per grave.

SPECIAL CLEAN UPS AND VANDALISM: If it so happens that special clean-ups or repairs to grounds or markers becomes necessary due to storms or vandalism at a fee of

\$ _____ per hour

\$ _____ per marker for repair

\$ _____ per marker re-setting

The City must be notified prior to commencing these jobs.

ROAD PLOWING: It is the City's responsibility to plow snow, however if snow fall occurs on a day of burial and the City has not plowed, Contractor will clear snow for a fee of

\$ _____ per plowing

REFERENCES

Please list three references where your company has or is currently maintaining cemeteries similar to the one being proposed by the City of Ann Arbor. Failure to list references may result in your company being disqualified.

	CITY/ENTITY	CONTACT PERSON	E-MAIL/PHONE
1.			
2.			
3.			

YEARS OF EXPERIENCE

In relation to the Reference section please list your years of experience and Scope of work performed for each reference. The years of experience responses must correspond to the number system within the reference section above.

- 1.
- 2.
- 3.

GENERAL CONDITIONS

ESTIMATED QUANTITIES

Quantities stated are estimated and not guaranteed. The quantities stated will be used for award purposes only and are based up an average of actual annual usage.

DOWN PAYMENTS

Any bid proposal submitted which requires a down payment or prepayment of any kind prior to delivery and acceptance of the item, as being in conformance with the specifications will not be considered for award.

PURCHASE ORDER

The successful bidder will be issued a purchase order from the City of Ann Arbor, which will create a bilateral contract between the City and the successful bidder. The purchase order shall commit the bidder to perform the contract in accordance with the specifications and the terms and conditions of the purchase order.

The terms and conditions of the Purchase Order are provided herein.

CONTRACT TERM

The pricing provided for this ITB shall be firm for two (2) years. Upon mutual agreement between the City and the vendor the pricing provided in this ITB may be extended (or altered) for two (2) additional two (2) year periods not to exceed six (6) years in total.

APPENDIX A: SAMPLE PURCHASE 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:

GENERAL 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 48104 ("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") and to furnish all materials, equipment and labor necessary and to abide by all the duties and responsibilities applicable to it for the Project in accordance with the requirements and provisions of the following documents, including all written modifications incorporated into any of the documents, which

are incorporated as part of this Agreement:

Contract and Exhibits

Invitation to Bid No. _____ and all Addendum thereto (if any)

Bid Proposal of Contractor, dated _____, and restated and attached as Exhibit A.

The contract documents are complementary and what is called for by any one shall be binding. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper execution of the Project. Materials or work described in words that so applied have a well-known technical or trade meaning have the meaning of those recognized standards.

In case of a conflict among the contract documents listed above in any requirement(s), the requirement(s) of the document listed first shall prevail over any conflicting requirement(s) of a document listed later.

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.

Contractor does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.

V. COMPENSATION OF CONTRACTOR

- A. The Contractor shall be paid on the basis of the bid

price restated in Exhibit B The total fee to be paid the Contractor for the Services shall not exceed _____ (\$_____). 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. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- 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. WAGE REQUIREMENTS

Under this Contract, the Contractor shall conform to Chapter 14 of Title I of the Code of the City of Ann Arbor as amended; which in part states "...that all craftsmen, mechanics and laborers employed directly on the site in connection with said improvements, including said employees of subcontractors, shall receive the prevailing wage for the corresponding classes of craftsmen, mechanics and laborers, as determined by statistics for the Ann Arbor area compiled by the United States Department of Labor. At the request of the City, any contractor or subcontractor shall provide satisfactory proof of compliance with the contract provisions required by the Section."

Where the Contract and the Ann Arbor City Ordinance are silent as to definitions of terms required in determining contract compliance with regard to prevailing wages, the definitions provided in the Davis-Bacon Act as amended (40 U.S.C. 278-a to 276-a-7) for the terms shall be used.

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.

Contractor agrees that all subcontracts entered into by the Contractor shall contain similar wage provision covering subcontractor's employees who perform work on this contract.

VIII. NON-DISCRIMINATION

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 Title IX 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.

IX. REPRESENTATIONS AND 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 licenses (if applicable) necessary to perform the Services it is to provide pursuant to this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services it is to provide pursuant to this Agreement.
- D. The Contractor certifies that it has no personal or financial interest in the Project other than the fee it is to receive under this Agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services it is to provide pursuant to this Agreement. Further Contractor agrees and certifies that it does not and will

not employ or engage any person with a personal or financial interest in this Agreement.

- E. The Contractor certifies 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. Further Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.

- E. The Contractor warrants that its bid was made in good faith, it arrived at the costs of its bid 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 bid for the purpose of restricting competition.

X. 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.

XI. 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.

XII. 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 IX 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.

XIII. 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.

XIV. 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 48104

XV. 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.

XVI. 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.

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 _____
Howard S. Lazarus, City Administrator

[signatures continue on next page]

Approved as to substance

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 and required endorsements 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. 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 limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

B. Insurance required under A.2 and 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.



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;"/> <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

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.

**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 \$13.22/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 \$14.75/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

**CITY OF ANN ARBOR
LIVING WAGE ORDINANCE**

RATE EFFECTIVE APRIL 30, 2018 - ENDING APRIL 29, 2019

\$13.22 per hour

If the employer provides health care benefits*

\$14.75 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**