

# REQUEST FOR PROPOSAL

**RFP # 20-03**

## **Land Application of Municipal Wastewater Biosolids**

City of Ann Arbor  
Public Services Area/WWTP



**Due Date: January 22, 2020 by 2:00 p.m. (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**

The purpose of this Request for Proposal (RFP) is to select a Contractor to provide services for the land application of municipal wastewater biosolids (liquid) from the Ann Arbor Wastewater Treatment Plant (WWTP) located at 49 Old Dixboro Road Ann Arbor, MI 48105.

### **B. QUESTIONS AND CLARIFICATIONS / DESIGNATED CITY CONTACTS**

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 January 8, 2020 at 11:00 a.m.**, and should be addressed as follows:

Scope of Work/Proposal Content questions shall be e-mailed to Keith Sanders, Assistant Manager WWTSU - ksanders@a2gov.org

RFP Process and Compliance questions shall be e-mailed to Colin Spencer, Buyer - CSpencer@a2gov.org

Should any prospective offeror be in doubt as to the true meaning of any portion of this RFP, or should the prospective offeror find any ambiguity, inconsistency, or omission therein, the prospective offeror shall make a written request for an official interpretation or correction by the due date for questions 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 MITN.info and it shall be the prospective offeror'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**

A pre-proposal meeting will be held:

WHEN: January 7, 2020 at 1:00 p.m.  
WHERE: Ann Arbor Wastewater Treatment Plant (WWTP)  
49 Old Dixboro Road, Ann Arbor, MI 48105

A site tour will be provided during this pre-proposal meeting, which will be the only opportunity for Contractors to have access to the WWTP staff for a guided tour. It is recommended that Contractors personally inspect the WWTP to gain detailed

knowledge of operating and loading conditions prior to submitting proposals. Contractors shall determine to their own satisfaction the conditions to be encountered, the difficulties involved and all other factors that may affect the work proposed.

The meeting is not mandatory; however, it is highly recommended that interested offerors attend the meeting. The purpose of this meeting is to discuss the project with prospective offerors and to answer any questions concerning RFP# 20-03. Any questions and answers furnished in the pre-proposal meeting will not be official until verified in writing through an addendum.

#### **D. PROPOSAL FORMAT**

To be considered, each firm must submit a response to this RFP using the format provided in Section III. No other distribution of proposals is to be made by the prospective offeror. An official authorized to bind the offeror 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 offeror'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 proposals, and open only those fee proposals. The City will then determine which, if any, firms will be interviewed. During the interviews, the selected firms will be given the opportunity to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. The City further reserves the right to interview the key personnel assigned by the selected offeror to this project. If the City chooses to interview any respondents, the interviews will be tentatively held the **week of January 27, 2020**. Offeror 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, January 22, 2020 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 must be clearly marked: **“RFP# 20-03 – Land Application of Municipal Wastewater Biosolids”** 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 C - City of Ann Arbor Non-Discrimination Declaration of Compliance**

- **Attachment D - City of Ann Arbor Living Wage Declaration of Compliance**
- **Attachment E - 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 C, D and E) 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 proposal is subject to disclosure under this provision. This act also provides for a complete disclosure of contracts and attachments thereto.

## **H. TYPE OF CONTRACT**

A sample of the Services Agreement is included as Appendix A. Those who wish to submit a proposal to the City are required to review this sample agreement carefully. **The City will not entertain changes to its Services Agreement.**

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

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

## **I. NONDISCRIMINATION**

All offerors proposing to do business with the City shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the Section 9:158 of the Ann Arbor City Code. Breach of the obligation not to discriminate as outlined in Attachment C 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 offeror must comply with all applicable requirements and provide documentary proof of compliance when requested.

## **K. CONFLICT OF INTEREST DISCLOSURE**

The City of Ann Arbor Purchasing Policy requires that the consultant complete a Conflict of Interest Disclosure form. A contract may not be awarded to the selected offeror 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. PRICE**

The price for services provided under this contract shall be for three (3) years from the date of May 18, 2020 with specified periodic adjustments. Following the third year, the contract term may be renewed for up to two (2) one (1) year periods provided that by 90 days prior to the end of the contract both parties agree in writing to an extension.

Periodic adjustments to the price for services offered under this contract shall be calculated using one of the following two methods:

1. A Consumer Price Index Adjustment (CPIA), applied to the price for services, calculated on July 1 each year, equal to 80% of the appropriate Bureau of Labor Statistic Indexes: Consumer Price Index for All Urban Consumers (CPI-U) (Detroit Area, 1982-84-100).
2. Alternatively, a Fuel Cost Adjustment (FCA) may be applied. The FCA would be applied to the portion of the price for services attributed to fuel cost at the time of the proposal. The FCA will fluctuate with the cost of diesel fuel as published by the US Department of Energy (DOE) website, Midwest PADD2, for diesel fuel as published on the internet at <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>. If after review the FCA exceeds a level of 30% higher or lower than the baseline fuel index level as recorded during December 2019 by the DOE, an adjustment would be applied to the price for services. FCA reviews will be conducted and become effective on April 1 and August 1 of each contract year for the duration of the agreement.

**The Contractor must declare a preference of calculation method for specified periodic adjustments with submission of the written proposal.**

## **M. SURETY BOND**

The successful Contractor shall provide a Performance Bond to the City of Ann Arbor for \$750,000 on a form as provided in Appendix B. The Performance Bond shall be executed in a manner and by a Surety Company authorized to transact business in Michigan and satisfactory to the City Attorney.

## **N. COST LIABILITY**

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

## **O. DEBARMENT**

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

## **N. PROPOSAL PROTEST**

All proposal protests must be in writing and filed with the Purchasing Manager within five (5) business days of the award action. The 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.



<b>Activity/Event</b>	<b>Anticipated Date</b>
Non-mandatory Pre-Proposal Meeting	January 7, 2020 1:00 p.m.
Written Question Deadline	January 8, 2020, 11:00 a.m.
Addenda Published (if needed)	Week of January 6, 2020
Proposal Due Date	January 22, 2020, 2:00 p.m. (Local Time)
Tentative Interviews (if needed)	Week of January 27, 2020
Selection/Negotiations	February 2020
Expected City Council Authorizations	March 2020

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

**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. Project Description**

The City utilizes contracted services for the application of municipal wastewater biosolids to farmland during certain portions of the year, which coincide with typical farming practices, and disposes biosolids in a landfill during the balance of the year. Land application usually occurs during the months of April, May, June, July, August, September, October, November and December. It is estimated that current technology in use generates approximately 2,300,000 gallons of biosolids each month at a solids concentration of approximately 5.2%. The yearly amount of biosolids currently land applied is approximately 16,000,000 gallons. Actual biosolids production and concentration may vary depending upon WWTP operations.

Periods of land application are dependent upon weather, soil conditions and plant operations. All work done shall be in compliance with United States Environmental Protection Agency (USEPA) guidance for 40 CFR 503, Michigan Department of Environmental Quality (EGLE) guidance for Part 24 regulations, and the WWTP Residuals Management Plan (RMP).

### **B. City's Responsibilities**

1. Provide personnel to oversee contract administration and to address questions on the contract.
2. Operate and maintain the biosolids production unit processes.
3. Provide stabilized biosolids in compliance with USEPA guidance for 40 CFR 503, EGLE guidance for Part 24 regulations, and the RMP.

### **C. Contractor's Responsibilities**

1. The Contractor shall be responsible for the following operations and all costs thereof:
  - a. Providing necessary management services to maintain compliance with USEPA guidance for 40 CFR 503, EGLE guidance for Part 24 regulations, and the RMP including RMP modifications and RMP modification submittals as they become necessary.
  - b. Provide adequate equipment to remove biosolids at a rate necessary to prevent excessive accumulations of biosolids at the WWTP. The WWTP shall solely determine what constitutes an excessive accumulation of biosolids at the WWTP.
2. Efficiently and safely load biosolids into transport vehicles and transport the

biosolids to approved application sites in compliance with all applicable safety and transport regulations.

3. Provide labor and equipment to properly apply biosolids at agronomic rates as outlined in the RMP and applicable regulations. Once biosolids removal from the plant begins, it will continue without affecting the WWTP's operation as determined by the plant manager or his designee until it is mutually agreed to cease removal. If the Contractor experiences equipment failures, the Contractor shall have the equipment fixed or replaced by end of the workday to avoid a biosolids backlog. The Contractor shall submit a plan to the WWTP for approval to address how the Contractor will manage conditions when the Contractor is unable to haul due to wet weather. The plan shall address the timeframe to remove the backlog of solids along with the normal quantity of biosolids needed to be hauled before negatively affecting the WWTP.
4. If the Contractor cannot remove biosolids so as not to negatively affect the WWTP's operation, the City will make such arrangements. The Contractor shall be responsible for any fees in excess of what would have been paid to the Contractor had they removed the biosolids.
5. The Contractor shall submit a spill response plan for City approval within ten (10) days of the contract start date. The approved plan shall include response timeframes, Contractor representatives and contact information, the list of companies and contact information that the contractor will hire to completely clean the spillage, including washing and vacuuming. Clean up of all spills shall be to the satisfaction of the City, governmental agencies, regulatory agencies and any affected property owners in the spill area.

D. Management

1. The Contractor shall designate its administrator of this contract, and shall submit a detailed data sheet with the bid proposal describing the administrator's experience and education.
2. The Contractor shall establish and maintain good public relations with landowners and farmers participating in the program, as well as the general public. Disagreements with, or dissatisfaction of the landowner, farmer, or general public shall be reported to the WWTP as soon as possible.
3. The Contractor shall check in at the beginning of each workday and check out at the end of each workday with designated WWTP staff, at a minimum. All changes to the work schedule for any reason shall be communicated directly to designated WWTP staff within one hour of the Contractor becoming aware of the change in conditions.

E. Acquisition of Land Application Sites

1. The Contractor shall provide services to locate and acquire EGLE permitting of suitable farmland for the exclusive use of the WWTP. This includes all soil sampling and analyses using methods in compliance with applicable regulations. Application sites shall meet the requirements for land application as determined by the EGLE and the RMP and shall be located in Michigan.
2. Proposed farmland application sites shall be properly documented as specified in the RMP and applicable regulations. Copies of the documentation will be submitted to the WWTP for approval prior to submittal to the EGLE. Notification of site approvals will be made to adjacent landowners, local governing bodies, and county officials as required by applicable regulations and the RMP or as requested by the WWTP.
3. The Contractor shall notify the WWTP at least 90 days before the expiration of a site approval. The Contractor shall submit the required information for the noticed site(s) for re-approval after receiving notification from the WWTP to proceed.
4. The Contractor shall become familiar with currently approved application sites.

F. Loading and Transport of Biosolids

1. The Contractor shall drive safely at all times.
2. The Contractor shall promptly notify the WWTP in event of a biosolids spill or regulatory problem. The Contractor shall provide for the prompt clean up of any spill from the Contractor's equipment or due to the actions of the Contractor's employees. The Contractor shall reimburse the WWTP for any costs incurred due to such spills or if the WWTP cleans up such spills.
3. Transportation routes shall be designed to minimize travel through densely populated areas or near community gathering places such as churches or schools.
4. The Contractor shall comply with the load restrictions placed on certain roads, including when seasonal load restrictions are in effect. No extra compensation will be granted while operating under seasonal load restriction requirements on haul routes.
5. The Contractor shall load and seal all vehicles such that biosolids are not spilled from the vehicle. All vehicles shall be cleaned of any biosolids prior to leaving the WWTP and again prior to leaving the application site. The Contractor will be responsible for any spilled biosolids during loading and transportation activities.

6. If there are complaints about odor or spillage from transportation equipment, the Contractor shall take the necessary steps to promptly correct the complaints and shall promptly notify the WWTP of any such complaints.

G. Land Application of Biosolids

1. Prior to biosolids application, the field will be flagged to reflect staging areas, isolation requirements, and areas of unacceptable soil types. Proper mapping of each field and coordination with field crews may be an acceptable whole or partial substitute for flagging when approved by the WWTP and done in compliance with any applicable federal and/or state regulations.
2. The Contractor shall schedule application of biosolids as near as possible to the time the farmer expects to till the soil if soil tilling is a constraint. In any case, the farmer shall be notified at least 24 hours prior to biosolids hauling and/or subsurface injection.
3. The application of biosolids will be done by equipment with flotation type tires to minimize soil compaction and avoid ruts in the field. Contractor shall provide subsurface injection equipment to provide 100% coverage of biosolids by soil after injection to eliminate odors and to meet vector attraction requirements of 40 CFR 503. The WWTP may require Contractor to demonstrate equipment prior to award to ensure that these requirements are met.
4. Loading operations, biosolids transport and application will take place during daylight hours, Monday through Friday, unless otherwise approved by the WWTP. If the Contractor wishes to load, transport, or apply at other times, the Contractor will reimburse WWTP for any overtime or premium time expense. If the WWTP deems necessary, the Contractor shall provide loading operations, biosolids transport and application on weekends and/or holidays at no additional cost to the City.
5. The Contractor shall inspect the fields that received biosolids before leaving the site to ensure that foreign objects such as rocks or metal were not put on the field due to biosolids application. Fences or gates that were removed or damaged to facilitate equipment access to the fields must be replaced and if necessary repaired immediately after biosolids spreading operations to the landowner's satisfaction, at the Contractor's expense.
6. The amount of biosolids that are unloaded at the application site will not be more than the amount scheduled to be applied to that site for that crop year, if practical. The staging area (the area where biosolids are unloaded from the transport vehicle and loaded into the spreader) must be a portion of the field suitable for biosolids application and acceptable to the landowner and farmer.

Staging areas must meet application guidance criteria and must be completely tilled once application is completed.

7. The Contractor shall maintain and restore the condition of the staging area to the satisfaction of the landowner. Staging area operations will be conducted in such a manner as to minimize damage requiring such restoration.
8. The Contractor shall be responsible for meeting vector attraction reduction requirements as defined in 40 CFR 503 and Part 24 regulations. Application of biosolids shall be by subsurface injection only for liquid and cake biosolids applied to the land surface shall be incorporated into the soil within six (6) hours after application to the land.

#### H. Equipment

1. The Contractor shall keep their equipment in good operating condition and in compliance with applicable regulations. All maintenance shall be done at the Contractor's expense. WWTP facilities shall not be used for equipment maintenance except as previously agreed upon by the Contractor and the WWTP. The Contractor shall properly dispose of any materials and/or debris resulting from their maintenance activities.
2. Equipment used to remove biosolids from the biosolids storage tank shall be replaced should breakdown occur. If equipment is not replaced, the WWTP can, at the Contractor's expense, bring in equipment deemed necessary to maintain operations. Such expenses will be itemized and deducted from any amount due the Contractor.
3. Disabled vehicles will be towed or pulled at the Contractor's expense. No WWTP equipment will be used for this purpose.
4. Equipment shall not be stored on site overnight or over the weekend. If extenuating circumstances occur, the Contractor shall obtain permission from the WWTP to store equipment on site overnight or over the weekend before doing so on a case-by-case basis.

#### I. Analytical Services

1. The Contractor shall provide services to collect and analyze, on a monthly basis, a representative sample of biosolids during the months application takes place. Analyses performed shall be for total metals and plant nutrient constituents as specified in the RMP and required by the EGLE. Analytical methods shall be in accordance with applicable regulations and results will be provided on a dry weight basis.

2. The Contractor shall provide services for all routine soil fertility analyses associated with land application of WWTP biosolids in a manner consistent with applicable regulations and the RMP.

J. Reports

1. The Contractor shall provide a duplicate daily summary report. The report shall include the date of the report and the volume, driver name, tanker ID number and destination for each load transported that date. At the end of each day, one copy of the report is to be given to the WWTP. The other copy will be attached to the pertaining invoice. One invoice per month detailing the previous month's activity is to be submitted.
2. The Contractor shall provide a monthly report to the WWTP. The report shall be on a site-by-site basis and use the EGLE Biosolids Recycling Tracking Sheet (EQP 5850) or a format approved by the WWTP. The report shall include a copy of biosolids analytical data for the reported month and appropriate signed certifications. The report shall be submitted by the fifteenth day of the month following the reported month or a date agreed to by the WWTP.
3. The Contractor shall provide an annual report to the WWTP. The annual report shall contain, on a site by site basis, the site name, the EGLE site number, the Contractor's site number if different from the EGLE site number, owner name, operator name, applicer name, latitude and longitude of the site, township name, range and section, acres, acres used, crop, application rate (tons per acre), whether or not cumulative load was required, whether or not 90% CPLR application rate was reached if applicable, and if the site is located in Indian Country. Information requested in the report may be modified by the WWTP as needed. This information will be provided for the time period of October 1 to September 30 or another time period requested by the WWTP. The annual report shall be submitted on or before the Monday of the third week of the October following the reporting period. The format of the report shall be approved by the WWTP.
4. The Contractor shall ask the site operator and owner if they want copies of soil fertility data and monthly reports specific to their site and provide copies of these documents if so requested. Copies of signed land agreements and site restrictions will be provided to the site operator and landowner. There will be no charge to the site operator or owner for these documents.

K. Utilities

Cost of additional, necessary utilities and their installation and hook-up shall be borne by the Contractor unless previously agreed to in writing by the WWTP.

L. Measurement and Payment



1. The method of measurement for liquid biosolids transported shall be based on any of the following and will be determined by the WWTP.
  - a) Flow Meter - A meter installed at the WWTP that measures the number of gallons loaded into a tanker unit.
  - b) Storage Tank - Volume of biosolids per inch of tank draw down. The storage tank shall be measured when beginning work and again when hauling is completed. The number of inches of biosolids removed times the gallons per inch of biosolids in the tank shall be used for determining the volume of biosolids removed.
  - c) Tanker Loads - The number of tanker loads transported times the certified capacity of each tanker. Each tanker utilized for transportation of biosolids must be certified for volume and a Statement of Certification for each unit must accompany the proposal.
  - d) Other – A method agreed to by the WWTP and Contractor.
2. If during the term of the contract, tanker units are modified or if additional tanker units are added to the equipment to be utilized, the Contractor shall notify the WWTP and submit a Statement of Certification prior to utilizing the modified or new unit for transportation of biosolids.
3. The measure of liquid biosolids hauled will be based on each gallon hauled and shall be determined by the WWTP using one or more of the methods described in the previous section.
4. Payment for volume hauled will be made within thirty (30) days of acceptance of the work specified on the invoice by the Contract Administrator. Any early payment discounts shall be noted on the proposal form.

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

### **PROPOSAL FORMAT**

Offerors 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 firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work.

#### B. Past Involvement with Similar Projects – 30 points

The written proposal must include a list of specific experiences that indicate proven ability in the land application of municipal WWTP biosolids. A summary of related projects performed by the organization and subcontractors detailing the scope of work for each project is appropriate in this section. A contact person and telephone number should be listed with each project for reference. A minimum of three references shall be provided.

### C. Proposed Work Plan – 30 points

1. A detailed work plan is to be provided which presents methods, techniques, approaches, etc. to accomplish the work of the project. The plan shall delineate: who will be doing the work, what work is to be done, when it is to be done and in what fashion. Where appropriate, the work plan shall include a time line schedule depicting the sequence and duration of tasks, including time for necessary approvals. The work plan shall identify the progress milestones. Additionally, the plan shall include a list of equipment available for land application of WWTP biosolids. The equipment age and condition shall be described.
2. Additional project elements suggested by the Offeror are to be included in the work plan and identified as Offeror suggested elements.
3. Identify all of those, if any, who will be subcontracted to assist the Offeror with this project, and the extent of work for which they will be responsible. Include similar reference data for subcontractors and employees as requested above for the main Offeror.
4. Include example documentation used to report land application activities including example daily, monthly and annual reports.
5. Include any other information that the Offeror believes to be pertinent but not specifically asked for elsewhere.

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

### D. Fee Proposal - 20 points

1. Fee quotations shall be submitted in a separate sealed envelope and as part of the proposal. The Offeror(s) selected to be interviewed shall be capable of justifying the details of the fee proposal relative to the plan of work.
2. The fee proposed must include the total cost per gallon of liquid biosolids. The standard contract is included in Section IV of this RFP.
3. Fee proposals will only be opened for the formal interview, at which time the proposed fees will also be discussed. Unopened fee proposals will be returned to those Offeror(s) that were not interviewed and after the completion of this selection process.

#### 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 firms 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 firm to be a candidate for an interview. The committee may contact references to verify material submitted by the offerors.
2. The committee then will schedule interviews with the selected firms if necessary. The selected firms will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal.
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 offeror, 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 firms interviewed will then be re-evaluated by the above criteria (A through D), and adjustments to scoring will be made as appropriate. After evaluation of the proposals, further negotiation with the selected firm may be pursued leading to the award of a contract by City Council, if suitable proposals are received.

The City reserves the right to waive the interview process and evaluate the offerors 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 but will not be rejected as non-responsive for being bound. 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 they are a person in the offeror's firm/organization responsible for the decisions regarding the fees being offered in the Proposal and has not and will not participate in any action contrary to the terms of this provision.

## **ADDENDA**

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

Each offeror must acknowledge in its proposal all addenda it has received. The failure of an offeror to receive or acknowledge receipt of any addenda shall not relieve the offeror 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 – Signature Page

Attachment B - Legal Status of Offeror

Attachment C – Non-Discrimination Ordinance Declaration of Compliance Form

Attachment D – Living Wage Declaration of Compliance Form

Attachment E – Vendor Conflict of Interest Disclosure Form

Attachment F – Non-Discrimination Ordinance Poster

Attachment G – Living Wage Ordinance Poster

Appendix A – Sample Service Agreement

Appendix B – Performance Bond Form

**ATTACHMENT A  
PROPOSAL SUBMITTAL FORM AND SIGNATURE PAGE FOR  
REQUEST FOR PROPOSAL# 20-03**

RESPONSE: Are these items included in your proposal? Respond Yes, No, or NA – Explain No or NA in Respondent Comments

- \_\_\_\_\_ ANY EXCEPTION TO THE TERMS AND CONDITIONS AND SPECIFICATIONS HAVE BEEN IDENTIFIED and IT IS UNDERSTOOD THAT SUCH EXCEPTIONS MAY RESULT IN BY BID BEING DEEMED NONCONFORMING. (If no exception, indicate not applicable)
  
- \_\_\_\_\_ All requested documents requested have been included (for example, the Bid Bond or certified check.)
  
- \_\_\_\_\_ Reference list is attached.
  
- \_\_\_\_\_ Required performance, labor and material bonds and proof of insurance will be provided, if my firm receives the award.
  
- \_\_\_\_\_ The undersigned, RESPONDENT having examined the proposal terms and conditions and specifications, hereby proposes and agrees to perform, the services required within the time stipulated, all work required to be performed, and to provide labor materials, tools, expendable equipment and insurance necessary to complete, in a workmanlike manner, all of the work required for the City to make use of its services in strict conformity with the specifications and addenda.

Signature below certifies that I have carefully reviewed the City's terms, conditions, and specifications on this Request For Proposal and have clearly indicated in writing any exceptions my company is making to these terms, conditions, and specifications and am authorized to offer such services. **Respondent agrees to honor its proposal for a period of 120 days from the proposal due date.**

Therefore, I/we, the undersigned, hereby agree to provide the services and/or materials as specified if an award is made to my firm without any additional charges, terms, and/or conditions.

COMPANY NAME: \*  
STREET/P. O. BOX:  
CITY, STATE, AND ZIP CODE:  
DATE: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_  
AUTHORIZED SIGNATURE: \_\_\_\_\_

PRINTED NAME OF SIGNER: \_\_\_\_\_  
TITLE OF SIGNER: \_\_\_\_\_

\* NOTE: If the RESPONDENT is a corporation, the legal name of the corporation shall be set forth above together with the signature of authorized officer or agents. If RESPONDENT is a partnership, the true name of the firm shall be set forth with the signature of the partners authorized to sign contracts on behalf of the partnership. If RESPONDENT is an individual, his signature shall be placed above.  
Specific questions concerning your proposal should be directed to Keith Sanders via the contact information specified in Section 1,C of the RFP.

**ATTACHMENT B  
LEGAL STATUS OF OFFEROR**

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

The Respondent is:

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

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

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

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

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

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

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

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

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

Email \_\_\_\_\_





**ATTACHMENT D  
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 E**

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

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

<b>Conflict of Interest Disclosure*</b>	
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/> <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.

<b>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:</b>		
<b>Vendor Name</b>	<b>Vendor Phone Number</b>	
<b>Signature of Vendor Authorized Representative</b>	<b>Date</b>	<b>Printed Name of Vendor Authorized Representative</b>

**ATTACHMENT F  
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](http://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](http://www.a2gov.org/humanrights). Then submit it to the Human Rights Commission by e-mail ([hrc@a2gov.org](mailto: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](mailto: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 G

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](mailto:cspencer@a2gov.org)**

**APPENDIX A: SAMPLE SERVICES AGREEMENT**

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

**SERVICES AGREEMENT BETWEEN**  
**\_\_\_\_\_**  
**AND THE CITY OF ANN ARBOR**  
**FOR \_\_\_\_\_**

This agreement ("Agreement") is between 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) \_\_\_\_\_, with its address at \_\_\_\_\_ (State where organized) \_\_\_\_\_ (Partnership, Sole Proprietorship, or Corporation). City and Contractor are referred to collectively herein as the "Parties." The Parties agree as follows:

**I. DEFINITIONS**

Administering Service Area/Unit means Public Services Area Wastewater Treatment Services Unit.

Contract Administrator means Public Services Administrator, 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: Land Application of Municipal Wastewater Biosolids (Liquid).

**II. DURATION**

This Agreement shall become effective on May 18, 2020, and shall remain in effect until satisfactory performance of all services or May 17, 2023, whichever occurs first, unless terminated for breach or as provided for in this Agreement. This Agreement may be renewed for up to two (2) one (1) year periods provided that by 90 days prior to the end of the contract or renewal period both parties agree in writing to an extension.

**III. SERVICES**

A. The Contractor agrees to provide 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 ("Contract Documents"), including all written modifications incorporated into any of

the documents, which are incorporated as part of this Agreement:

This Agreement and Exhibits  
Request for Proposal (RFP) No. 20-03\_ and all Addendum thereto (if any)  
Response to RFP No. 20-03 by 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, the requirement(s) of the document listed first above 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 compensation 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. The Contractor shall also comply with and be subject to the City of Ann Arbor policies applicable to independent contractors
- 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. 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) 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 from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, 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 Agreement; 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-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 Agreement, 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 Agreement and the Ann Arbor City Code of Ordinance are silent as to definitions of terms required in determining 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 Agreement.

## **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.
- F. 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 person 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 below 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

With a copy to: The City of Ann Arbor  
ATTN: Office of the City Attorney  
301 East Huron Street, 3<sup>rd</sup> Floor  
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 Exhibits A, B, and C, and the other Contract Documents, 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. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

**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.

**[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]**

**FOR CONTRACTOR**

By \_\_\_\_\_  
Type Name

Its \_\_\_\_\_

This \_\_\_ day of \_\_\_\_\_, 20\_\_\_

**FOR THE CITY OF ANN ARBOR**

By \_\_\_\_\_  
Christopher Taylor, Mayor

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

This \_\_\_ day of \_\_\_\_\_, 20\_\_\_

**Approved as to substance**

By \_\_\_\_\_  
Howard S. Lazarus, City Administrator

\_\_\_\_\_  
Type Name  
Service Area Administrator

**Approved as to form and content**

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

**EXHIBIT A  
SCOPE OF SERVICES**

**(Insert/Attach Scope of Work & Deliverables Schedule)**



## **EXHIBIT B COMPENSATION**

### General

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

(insert/Attach Negotiated Fee Arrangement)

**EXHIBIT C  
INSURANCE REQUIREMENTS**

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 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 04 13 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 Project General Aggregate  
\$1,000,000 Personal and Advertising Injury  
\$2,000,000 Completed Operations Aggregate
  3. 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. 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 limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
  4. Pollution Liability Insurance coverage in the minimum amount of \$1,000,000 per claim which shall include contractor pollution liability, transportation pollution liability, non-owned disposal site liability, and a waste brokering endorsement. The City must be named as an additional insured.

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.
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- 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 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 Agreement, 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: PERFORMANCE BOND FORM**

(1) \_\_\_\_\_ of \_\_\_\_\_ referred to as "Principal"), and \_\_\_\_\_, a corporation duly authorized to do business in the State of Michigan (referred to as "Surety"), are bound to the City of Ann Arbor, Michigan (referred to as "City"), for \$ \_\_\_\_\_, the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by this bond.

(2) The Principal has entered a written contract with the City dated for \_\_\_\_\_, 20\_\_ , \_\_\_\_\_ for:

\_\_\_\_\_ and this bond is given for that contract. For public works contracts, this bond is in compliance with Act No. 213 of the Michigan Public Acts of 1963, as amended, being MCL 129.201 et seq.

(3) Whenever the Principal is declared by the City to be in default under the contract, the Surety may promptly remedy the default or shall promptly:

- (a) complete the contract in accordance with its terms and conditions; or
- (b) obtain a bid or bids for submission to the City for completing the contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, arrange for a contract between such bidder and the City, and make available, as work progresses, sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which Surety may be liable hereunder, the amount set forth in paragraph 1.

(4) Surety shall have no obligation to the City if the Principal fully and promptly performs under the contract.

(5) Surety agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying it shall in any way affect its obligations on this bond, and waives notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work, or to the specifications.

**SIGNED AND SEALED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Name of Surety Company)

\_\_\_\_\_  
(Name of Principal)

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Signature)

Its \_\_\_\_\_  
(Title of Office)

Its \_\_\_\_\_  
(Title of Office)

Approved as to form:

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Stephen K. Postema, City Attorney

Name and address of agent:

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