



Financial Services – Purchasing Division

NOTICE

Thank you for your inquiry regarding the City of Pontiac project listed below:

Audio/Video Technical Advisor Services

If your firm plans to submit a proposal on this project, please send an e-mail response to MMcKenzie@pontiac.mi.us with the following information:

Firm Name: _____

Project Name: _____

Firm's Contact Person: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

Postal Address: _____

The City of Pontiac Purchasing Division will use this information to communicate with you in the event an addendum or change to this project is issued. If you do not send this information to the City of Pontiac, you will not receive any follow-up notification of any changes to the project.

NOTICE TO RESPONDENTS

The City of Pontiac will open sealed proposals on **Monday, January 07, 2019 at 2:00 PM** prevailing local time in the City Hall Lion's Den conference room at 47450 Woodward Ave for:

Audio/Video Technical Adviser Services

You are invited to submit a proposal for this project. Sealed proposals may be mailed or delivered to the CITY OF PONTIAC, CITY CLERK, 47450 Woodward Ave., Pontiac, MI 48342 by **2:00 PM, Monday, January 07, 2019**. Envelopes should include the name and mailing address of the vendor on the outside and be plainly marked:

"Audio/Video Technical Adviser Services"

A **mandatory** pre-proposal meeting will be held in the City Council Chambers, located on the second floor in City Hall at 47450 Woodward Ave., Pontiac, MI 48342, on **Wednesday, December 19, 2018 at 10:00 AM**. The proposal and contract requirements will be discussed at said meeting and it is **mandatory** that all respondents attend.

No proposal submitted may be withdrawn for at least ninety (90) days after the actual opening of the proposal.

General specifications, description and conditions upon which the proposal is to be based are available at the City of Pontiac website:

Purchasing: <http://www.pontiac.mi.us/departments/finance/purchasing.php>

Please refer to the website for any addenda that may be issued. Respondents who submit proposals before the deadline are advised to continue to monitor the website for any addenda that may be issued. Proposal packages will also be mailed upon request.

The City reserves the right to reject any or all proposals, to waive any irregularities, and further reserves the right to accept any proposal or parts of proposals that it deems to best serve the interest of the City.

If you have any general questions regarding this RFQ, please contact the Purchasing Agent at (248) 758-3120 or send an email to MMcKenzie@pontiac.mi.us

If you have any **technical questions** regarding this RFQ, please contact the Cable Director at (248) 758-3013 or send an email to PBrown@pontiac.mi.us

1. INSTRUCTIONS TO RESPONDENTS

1.1 Qualifications to be Received

Qualifications for the Audio/Video Technical Adviser Services will be received at the Office of the City Clerk of the City of Pontiac, Michigan until **Monday, January 07, 2019 at 2:00 PM**, and immediately thereafter will be publicly opened and read.

Each qualification must be submitted in a sealed envelope and addressed to the City Clerk of the City of Pontiac. Each sealed envelope containing a response must be plainly marked on the outside as "**Audio/Video Technical Adviser Services**", and the envelope should bear on the outside the name of the respondent, his address, and the name of the project for which the response is submitted. If forwarded by mail, the sealed envelope containing the response must be enclosed in another envelope addressed to the City Clerk, City of Pontiac at 47450 Woodward Avenue Pontiac, MI. 48342.

Qualifications will be received during regular business hours at the place and up to the time stated in the advertisement. Any extension in time will be by official notification. Responses may be delivered in person or mailed, but their delivery is the respondent's entire responsibility. Any response received after the stated hour, even through the mail, will be returned unopened to the respondent.

1.2 Examination of Proposal Documents

Before submitting a qualifications proposal, respondent's shall carefully examine the specifications and shall fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal the sum to cover the cost of all items included on their response.

1.3 Basis of Award

The intention of the City is to award the contract for this job to the most qualified applicant whose skill set and past work history are equal to the task of completing the work in a satisfactory manner in the time period specified by the City. The successful respondent will demonstrate five (5) years of experience in public body (meeting room) experience with, successful development of at least two public bodies.

A maximum of one award of contract will be made to the most qualified consultant.

1.4 Pre-Proposal Meeting

A **mandatory** pre-proposal meeting will be held in the City Council Chambers, located on the second floor in City Hall at 47450 Woodward Ave., Pontiac, MI 48342, on **Wednesday, December 19, 2018 at 10:00 AM**. The proposal and contract requirements will be discussed at said meeting and it is **mandatory** that all respondents attend.

2. TERMS AND CONDITIONS

2.1 Laws and Municipal Ordinances, Permits

The respondent shall be fully informed of all laws and municipal ordinances and regulations in any manner affecting those engaged or employed in the work, or equipment and materials used in the work, and all others and any decrees of bodies or tribunals having any jurisdiction or authority over the same. The respondent shall at all times observe and comply with all such existing laws, codes, ordinances, regulations, orders, and decrees. In particular, all work shall be in compliance with the laws of the State of Michigan, City ordinances, as well as all other bodies having jurisdictional authority.

The “Contractor” shall be responsible for obtaining and paying for any and all permits that may be required for this project and shall be responsible for arranging all required inspections if needed.

2.2 Non-Discrimination

The respondent agrees to comply with the Federal Civil Rights Act of 1964 as amended; the Federal Civil Rights Act of 1991 as amended; the Americans with Disabilities Act of 1990 as amended; the Elliott-Larsen Civil Rights Act, Article 2, Act no. 453, Public Act of 1976 as amended; the Michigan Handicapper’s Civil Rights Act, Article 2, Act no. 220, Public Act of 1976, as amended and all other applicable federal, state and local laws and regulations. Specifically, Bidders and subcontractors are required not to discriminate against any employee or applicant for employment with respect to such person’s hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of such person’s height, weight, race, color, religion, national origin, ancestry, age, marital status, sex or disability, as defined by law. Breach of this covenant may be regarded as a material breach of the contract.

2.3 Indemnification

The “Contractor” shall indemnify, save and hold harmless, protect, and exonerate the City, its commissioners, board members, officers, employees, agents, representatives, and the State of Michigan, to the extent no greater than its relative degree of fault

2.4 Jurisdictional Authority

This contract shall be governed by and construed according to the laws of the State of Michigan and the successful respondent consents to the jurisdiction and venue of the courts in Oakland County, Michigan and of the United States District Court for the Eastern District, Southern Division.

2.5 Severability

The successful respondent will agree that the Contract is the completed and exclusive statement of the Contract between the parties. A judicial or administrative declaration on the invalidity of any one or more of the provisions of the Contract shall not invalidate the remaining provisions of this agreement.

2.6 Income Taxes

“Contractor” agrees to contact City of Pontiac Income Tax Division, Audit and Compliance Section, 47450 Woodward, Pontiac, Michigan, 48342, telephone (248) 758-3236, to establish reporting and withholding obligations under the City of Pontiac income tax ordinance.

“Contractor” will require the same of all subcontractors employing labor under this contract.

“Contractor” is required to withhold City of Pontiac income tax from wages paid to:

- a. Pontiac resident employees regardless of where they work for the employer; and
- b. Nonresident employees for work performed in the City.

“Contractor” is also required to file Pontiac income tax returns and to report and pay income tax on the net profits earned by the contractor in the City of Pontiac.

Web page URL: http://www.pontiac.mi.us/departments/income_tax/index.php

Tax forms URL: http://www.pontiac.mi.us/departments/income_tax/tax_forms.php

2.7 Compensation and Payment

All invoices submitted against the contract must identify the work performed in detail. Items not properly invoiced will not be paid. It is the vendor’s responsibility to ensure delivery of invoice(s) to the City. Invoices must meet the following conditions for payment:

- a. Price on invoice must correspond to the pricing listed on purchase order and/or contract.
- b. “Contractor” must submit price lists in accordance with bid requirements.
- c. All invoices will be original.
- d. Invoices will prominently display the requisition or purchase order number, if applicable.
- e. Invoices will be signed by the individual responsible for authorizing contract payments for the City of Pontiac.

Original invoice **must** be submitted to the City of Pontiac, Attn: Accounts Payable.

Payment Terms – Net 30

2.8 General Conditions

It is the responsibility of the respondent to review General Conditions as specified.

2.9 Quotations/Proposals

Respondent **MUST** submit **an original and four copies (one copy on a memory stick)**, of the bid quotation/proposal. The proposals will be reviewed by a committee made up of the Cable Director, Purchasing Agent and two others. Additionally, duplicate copies of all descriptive literature and/or samples must be provided as requested.

Responses to this Request for Proposals should contain the following information:

1. Background of Consultant – Names and qualifications of key personnel proposed for assignments for City of Pontiac projects and description of experience and qualifications.
2. Professional Qualifications – Describe professional qualifications, including certifications, education and special skills of those to be assigned to the City's project.
3. Management Capability – The experience of a prospective consultant in managing projects of a similar nature and ability to complete a project within time constraints as established by the City.
4. Work Proposal – Explain how the work will be accomplished, including any subcontracted tasks.
5. Comparable Projects – Provide at least three (3) references for similar projects completed by consultants in the last two (2) years.

2.10 Minor Deviations

Specifications referred to herein are used to indicate desired type, and/or construction, and/or operation or services rendered. Other products and/or services may be offered if deviations from specifications are minor and if all deviations are properly outlined and stated in the proposal document. Failure to outline all deviations may be grounds for rejection of your proposal.

The decision of the City of Pontiac, acting through the Purchasing Agent, shall be final as to what constitutes acceptable deviations from specifications.

2.11 Bonds and Insurance

Receipt of bonds and/or insurance is part of the process of determining which respondent may be recommended for award to the City Administrator. If cause is found to change the recommendation that your company be awarded the contract, or if the City Administrator does not approve the recommendation, the City shall not be liable for any costs incurred by you in the proposal process, including the cost of acquiring bonds and/or insurance.

The "Contractor", and any and all of their subcontractors, shall not commence work under this contract until they have obtained the insurance required under this paragraph. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with insurance carriers acceptable to City of Pontiac. The limits required below do not limit the liability of the Contractor. All deductibles and SIRs are the responsibility of the Contractor.

Workers' Compensation Insurance: The "Contractor" shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

Commercial General Liability Insurance: The "Contractor" shall procure and maintain said insurance during the life of this contract, for: Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$ 1,000,000 per occurrence and aggregate. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent, if not already included.

Motor Vehicle Liability: The "Contractor" shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, with limits of liability not less than \$1,000,000 per occurrence combined single limit for Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles. [For reference only]

Additional Insured: Commercial General Liability and Motor Vehicle Liability, as described above, shall include an endorsement stating the following shall be ***Additional Insureds:*** The City of Pontiac, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. It is understood and agreed by naming the City of Pontiac as additional insured, coverage afforded is considered to be primary and any other insurance the City of Pontiac may have in effect shall be considered secondary and/or excess.

Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance, and Motor Vehicle Liability Insurance, as described above, shall be endorsed to state the following: "It is understood and agreed Thirty (30) days, Ten (10) days for non-payment of premium, Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to: Risk Manager, City of Pontiac, 47450 Woodward Avenue, Pontiac, MI 48342."

Proof of Insurance Coverage: The "Contractor" shall provide the City of Pontiac, at the time the contracts are returned by him/her for execution, a Certificate of Insurance as well as the required endorsements. In lieu of required endorsements, if applicable, a copy of the policy sections where coverage is provided for additional insured and cancellation notice would be acceptable. Copies or certified copies of all policies mentioned above shall be furnished, if so requested.

2.12 Performance Bond

No bond shall be required.

2.13 Payment Bond

No payment bond shall be required unless the City agrees to subcontract.

2.14 Maintenance and Guarantee Bond

No bond shall be required.

2.15 Subcontracting

The City of Pontiac will not allow subcontracting for this agreement. All persons working on this project shall be employees of the Bidder as defined by law.

3. DESCRIPTION OF SERVICES

3.1 GENERAL Background information

The City of Pontiac is requesting Qualification Statements for the purpose of issuing a Contract for a Consultant to complete the following general scope of services including, but not limited to:

The Media Division serves the residents, businesses, non-profit organizations, boards and commissions, as well as internal clients with marketing, promotion, writing, still photography, video production, event presentation, training, education, documentation, emergency notification, and other special programs, inaugurations, State of the City Address, and the televising of City Council meetings.

City Council meetings are shot with six (6) remote-controlled cameras which send an SDI signal to a production switcher. Other important switcher sources are the character generator and video clip player (used for program openings). Live programs are aired on Comcast and AT&T cable via analog signal sent directly to each company's onsite encoder or modulator. Live programs are also recorded to DVD, our playback server and an off-site Video on Demand server. All outputs to these destinations are analog.

City Council has identified several issues while conducting meetings. Some issues identified are: trouble hearing speakers at the back of the auditorium even if a microphone is being used, feedback, and equipment issues (outdated technology, functionality, etc.). As an example, currently when presentations are conducted in the auditorium presenters will bring their presentations in on a DVD, flash drive, SD cards or laptop. The City's A/V system only has two (2) VHS decks, and their laptops can be connected to our system but there is no audio. The current environment does not allow for an efficient, cohesive, functional presentation type facility (City Council Chambers).

3.2 Scope of Service

The purpose of this project is to seek the assistance of a firm with Broadcast Studio design, acoustic and media (audio/visual) equipment experience to assist and define audio/visual improvements along with studio design improvements and infrastructure for the City of Pontiac Cable Office. The firm will provide recommendations to address the aging Audio Visual Technology used within the City Council Chambers, make recommendations to update aging broadcast television equipment and studio/meeting room design recommendations.

The consultant shall perform professional services as directed by City of Pontiac staff, including but not limited to the following:

- Evaluate and identify City Council Chambers acoustical problems.
- Evaluate City Council Chambers audio/visual equipment.
- Provide recommendations to update the presentation technology in the City Council Chambers.
- Review and provide assistance/recommendations for audio visual/media equipment to make sure equipment proposed will work with acoustical upgrades and integrate into the City's current system with ease.
- Provide recommendations to address acoustic issues within the City Council Chambers either through minor structural changes or through technology changes and/or updates.
- Prioritize acoustic improvements and audio/visual equipment upgrades with respect to operating budget (low cost to high cost) and define the order of importance for accomplishing each task.
- May include presentation of findings to City Council for their input
- Prepare construction cost estimates for the arrived at design solutions for acoustic repairs and audio/visual equipment upgrades
- Prepare and provide design and specifications for proposed improvements and equipment upgrades
- Prepare design, plans, and specifications for the City's solicitation
- Assist the City during bidding process which includes but is not limited to:
 - o Attending walk-through and responding to questions during bid process
 - o Attending any preconstruction meetings
 - o Submittal review
- Assist the City with contract administration during construction process

Please note that the drafting of the RFP for audio/video equipment that is identified during the evaluation will be done in conjunction with the Architectural Firm hired by the City to redesign the Council Chambers.

3.3 CONTRACTOR'S EMPLOYEES

The "Contractor" and the employees that the Contractor assigns to the City of Pontiac facilities shall be responsible employees that will comply with the following terms and conditions:

- 3.2.1 "Contractor" and its employees will report hazardous conditions and items in need of repair such as non-functioning lights, oil, other fluids, or litter that may pose a trip hazard to the City employee that is authorized to take action for resolution in a timely manner.

- 3.2.2 The City of Pontiac shall have the right to require the “Contractor” to dismiss any employee deemed incompetent, careless, or otherwise objectionable, or any personnel whose actions or appearance are deemed inconsistent with the best interests of the City. However, in this regard, the City of Pontiac shall not require the “Contractor” to take any action that would be in violation of state or federal laws or applicable union contracts.
- 3.2.3 It is assumed that all employees brought onto City properties by the “Contractor” will have the requisite skills to perform their designated tasks. Necessary training shall be performed at the Contractor's expense and untrained individuals shall not be brought onto the premises for so called "On the Job Training".
- 3.2.4 “Contractor” shall interview and screen all employees prior to bringing them on City premises. If any employee of the “Contractor” has had a criminal record, especially a felony conviction, the “Contractor” shall provide the employment applications to the designated representative of the City. Further, said employee may be restricted from working or entering specific City buildings or on specific properties at the sole discretion of the City.
- 3.2.5 “Contractor” shall provide a Supervisor or Foreman, acceptable to the City of Pontiac's representative, to direct the operations, and to coordinate and review procedures with the City's representative. Said General Supervisor shall be available to the City if it is required for City operations and shall not have responsibilities on any other of the Contractor's “accounts” which would conflict with the duties required of the City by this contract.
- 3.2.6 “Contractor” agrees that the services covered under this proposal shall be performed by qualified, competent, careful, and efficient employees, in the strictest conformity with the best practices and standards generally prevailing for the specific service being rendered, and in the strictest conformity with such practices and standards as may be prescribed by the City from time to time.

3.3 NON-ASSIGNMENT OR TRANSFER

The service provided for under the contract shall not be sub-contracted, assigned or transferred by the “Contractor”.

3.4 CITY RULES

Employees of “Contractor” shall comply with all instructions, and building regulations issued by representatives of the City of Pontiac.

3.5 TERM OF CONTRACT

The length of the contract is for one year which expires **December 31, 2019**. There will be an option for extension of the contract for year two and three. The City of Pontiac would inform the contractor a minimum of 30 days prior to expiration to enact optional years two and or three. The City has the right to break the agreement with 30 days' notice.

3.6 PROGRESS PAYMENTS/RETAINAGE

This contract is subject to progress payments.

THIS ENDS THE ABOVE SECTION
FOLLOWING PAGES ARE PROPOSAL FORMS AND SAMPLE CONTRACT

FORM OF PROPOSAL

To: City of Pontiac, Michigan _____, 2018

To All Here Present:

Having carefully examined the qualifications proposal for the proposed work, and being fully informed in regard to the conditions to be met in the prosecution and completion of the work, and having read and examined the Instructions to Respondents, Agreement, Bonds, General Conditions, Plans and Specifications pertaining to this work and agreeing to be bound accordingly, the undersigned proposes to furnish all the materials, labor, and other equipment as necessary in full accordance with and conformity to the plans and specifications for this work now on file in the office of the City's at and for the following named prices, to wit:

THIS QUALIFICATION PROPOSAL MUST BE SUBMITTED BACK TO THE CITY OF PONTIAC IN ITS ENTIRETY AS PART OF THE "CONTRACTORS" PROPOSAL SUBMISSION. MAKE SURE THAT ALL PAGES ARE COMPLETELY FILLED OUT AND THAT ALL INFORMATION REQUESTED IS COMPLETE. FAILURE TO DO SO MAY BE CAUSE TO REJECT YOUR QUALIFICATION PROPOSAL. IF A PROPOSAL IS NOT BEING SUBMITTED FOR A PARTICULAR AREA OF WORK, PLEASE MAKE A NOTATION IN THE PROPOSAL.

Proposal Submissions:

Responses to this Request for Proposals should contain the following information:

1. Background of Consultant – Names and qualifications of key personnel proposed for assignments for City of Pontiac projects and description of experience and qualifications.
2. Professional Qualifications – Describe professional qualifications, including certifications, education and special skills of those to be assigned to the City's project.
3. Management Capability – The experience of a prospective consultant in managing projects of a similar nature and ability to complete a project within time constraints as established by the City.
4. Work Proposal – Explain how the work will be accomplished, including any subcontracted tasks.
5. Comparable Projects – Provide at least three (3) references for similar projects completed by consultants in the last two (2) years.

UNDERSTANDING OF SERVICE: 20 points

Describe your understanding of the service or other issues you intend to propose. This information is to be based on the scope of services.

Include any work item that you believe should be added to the scope of services, or any work item that is in the current scope of services which you believe should be altered. Describe the benefit to the service, the increase/decrease in hours and the increase/decrease to the cost of proposal due to the revision to the work item.

QUALIFICATIONS OF TEAM: 50 points

The scoring for qualifications of team scoring will be one score based on the following information:

1. Structure of the Project Team (Personnel and Roles)

Describe the structure of the project team including the roles of all key personnel and sub-consultant/vendors. For each sub-consultant/vendor, describe role in service and include what percent of the named role that the sub-consultant/vendor is expected to provide.

The consultant/vendor is contractually obligated to supply the key personnel proposed for this service. This includes maintaining them at the capacity level proposed. Any change in key personnel or their capacity level must have written of City of Pontiac.

If applicable to the service, provide a communication plan of how the service team will communicate services information and resolve issues.

2. Staff Service Experience

Provide resumes for each of the key staff of the prime and sub-consultant/vendors. In addition to general resume information, the following information needs to be provided for service experience that is similar to the service being solicited:

- a. General description of the service.
- b. Role of person in the service.
- c. Service budget.
- d. Year service was completed.
- e. Name of client (agency or company).
- f. Role of consultant/vendors in the service. (It is not required that the submitting consultant/vendors have a role.)
- g. Name and phone number of person to contact for client.

The resume is limited to three pages per key staff member.

PAST PERFORMANCE: 30 points

The City of Pontiac will review relevant performance evaluations for the past five years for prime and sub-consultant/vendors that are being proposed. If the consultant/vendor has not previously worked for the City of Pontiac or has only had a few services opportunities that have been evaluated, this area should be used to provide other references for the City to contact. These would be in addition to those provided in the resumes from the previous section and are limited to work completed in the past five years by the consultant/vendor.

CITY OF PONTIAC - QUALIFICATIONS PROPOSAL

I, the undersigned, propose to provide services proposed in this contract as per specifications supplied by the City of Pontiac. No contract is active until a purchase order is issued to the successful respondent.

I further propose to deliver the above-described services for the City of Pontiac in first class operating manner in accordance with all specifications contained herein subject to purchaser's inspection of services performed.

I attest that the proposal includes all information necessary for the City of Pontiac to accept a qualified proposal.

Company Name: _____

Address: _____

Representative Signature: _____

Print Name: _____

Title: _____

Office # _____ Cell # _____

FAX# _____ Email: _____

Federal Tax Identification Number: _____

CONTRACT FOR [TYPE OF SERVICE]

1) Parties. The parties to this contract are the City of Pontiac, Michigan hereinafter referred to as the "City", and [NAME OF CONTRACTOR] hereinafter called the "Contractor".

2) Purpose. The purpose of this contract is for the City to engage the Contractor to provide [TYPE OF SERVICE] to the City (see Scope of Services below).

3) Scope of Services. The Contractor will provide all labor, materials, supplies, equipment and supervision to perform [TYPE OF SERVICE] in the City. The Contractor is to perform all work in accordance with generally accepted standards and practices.

4) General Terms and Conditions. This contract is hereby made subject to the terms and conditions included in the Scope of Services (see Exhibit "A" below) and Additional Terms and Conditions (see Exhibit "B" below).

5) Consideration. As consideration for the performance of the services referenced in the Scope of Services (see Exhibits "A" & "B" below), the City agrees to compensate the Contractor as follows:

[INSERT PAYMENT TERMS PER CONTRACT]

6) Period of Performance. This contract will become effective for the period beginning [TIME PERIOD], with [ANY RENEWAL OPTIONS] upon the approval and signature of the parties hereto.

7) Method of Payment. Contractor will be paid 30 days after completion of work as outlined in the Scope of Services after submission of a valid invoice.

8) Applicable Law. This contract shall be governed by and construed in accordance with the laws of the City of Pontiac, State of Michigan and applicable federal laws.

9) Compliance with Laws. The Contractor understands that the City is an equal opportunity employer and, therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Michigan, and City of Pontiac laws and regulations, as now existing and as may be amended or modified.

The Contractor is responsible for instructing and training their employees in appropriate safety measures. Employees will be responsible for maintaining a safe work environment while completing their tasks.

- a) The Contractor shall comply with the Michigan Right to Know Law (Amendments to Act 154), which requires that all employers within the State comply with federal Hazard Communications Standards (C.F.R. 1910.1200) and certain additional guidelines as of February 25, 1987. These Standards specify that employers develop a written hazard communication program, which is to be made available for workers or their designated representatives.
- b) The Contractor will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act
- c) The Contractor is responsible for all applicable state and federal social security benefits and unemployment taxes and agrees to indemnify and protect the City against such liability.

10) Requirements contract. During the period of the contract, the Contractor shall provide all the services described in the contract. The Contractor understands and agrees that this is a requirements contract and that the City shall have no obligation to the Contractor if no services are required.

EXHIBIT "A"

SCOPE OF SERVICES

The Contractor shall provide [TYPE OF SERVICE].

Except as otherwise provided herein, Contractor shall furnish all labor, supervision and services necessary to properly execute and complete the work.

[INSERT SPECIFICS OF RFP HERE]

EXHIBIT "B"

ADDITIONAL TERMS AND CONDITIONS

- 1) Attorneys' fees and expenses. Subject to other terms and conditions of this contract, in the event the Contractor defaults in any obligation under this contract, the Contractor shall pay to the City all costs and expenses (including, without limitation, investigative fees, court costs, and attorneys' fees) incurred by the City in enforcing this contract or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the City be obligated to pay any attorneys' fees or costs of legal action to the Contractor.
- 2) Authority to contract. The Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this contract; (b) that it is qualified to do business and in good standing in the State of Michigan; (c) that entry into and performance under this contract is not restricted or prohibited by any loan, security, financing, contractual, or other contract of any kind; and, (d) notwithstanding any other provision of this contract to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this contract.
- 3) Confidential information. Disclosure of any confidential information by the Contractor or its subcontractor without the express written approval of the City shall result in the immediate termination of this contract.
- 4) Confidentiality. Notwithstanding any provision to the contrary contained herein, it is recognized that the City of Pontiac is a public City of the State of Michigan and is subject to the laws regarding confidentiality. If a public records request is made for any information provided to the City pursuant to the contract, the City shall promptly notify the disclosing party of such request and will respond to the request only in accordance with the procedures and limitations set forth in applicable law. The disclosing party shall promptly institute appropriate legal proceedings to protect its information. No party to the contract shall be liable to the other party for disclosures of information required by court order or required by law.
- 5) Contractor personnel. The City shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by the Contractor. If the City reasonably rejects staff or subcontractors, the Contractor shall provide replacement staff or subcontractors satisfactory to the City in a timely manner and at no additional cost to the City. The day-to-day supervision and control of the Contractor's employees and subcontractors is the sole responsibility of the Contractor. Contractor personnel are subject to background checks by the Oakland County Sheriff Department and shall comply with all requirements as outlined in the Request for Quote.

6) Insurance.

Insurance companies, named insureds and policy forms shall be subject to the approval of the Pontiac Department of Public Works. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions, which reduce coverage provided to the City of Pontiac. Contractor shall be responsible to the City of Pontiac or insurance companies insuring the City of Pontiac for all costs resulting from both financially unsound insurance companies selected by Contractor and their inadequate insurance coverage. Contractor shall furnish the Pontiac Finance Department with satisfactory certificates of insurance or a certified copy of the policy, if requested by the Finance Department.

7) Ineligibility and suspension. The Contractor certifies to the best of its knowledge and belief, that it: (a) is not presently ineligible, suspended, proposed for ineligibility, declared ineligible, or voluntarily excluded from covered transaction by any federal department or the City or any political subdivision of the City or the State of Michigan; (b) has not, within a three year period preceding this proposal, been convicted of or had civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; (c) has not, within a three year period preceding this proposal, been convicted of or had civil judgment rendered against it for a violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (d) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs (b) and (c) of this certification; and, (e) has not, within a three year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.

8) Disclosure of confidential information. In the event that either party to this contract receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this contract.

9) Exceptions to confidential information. The Contractor and the City shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("disclosing party") which: (a) is rightfully known to the recipient prior to negotiations leading to this contract, other than information obtained in confidence under prior engagements; (b) is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer; (c) is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without

restriction; (d) is independently developed by the recipient without any reliance on confidential information; (e) is or later becomes part of the public domain or may be lawfully obtained by the City or the Contractor from any nonparty; or, (f) is disclosed with the disclosing party's prior written consent.

10) Default. If the Contractor:

- a) Fails to supply complete labor and supervision in sufficient time and quantity to meet the City's progress schedule, as it may be modified;
- b) Causes stoppage or delay of, or interference with, the project;
- c) Fails to promptly pay its employees for work on the project;
- d) Fails to pay worker's compensation or other employee benefits, withholding or any other taxes;
- e) Fails to comply with the safety provisions of the Contract or with any safety order, regulation or requirement of any governing authority having jurisdiction over this project;
- f) Makes unauthorized changes in supervisory personnel;
- g) Fails in performance or observance of any of the provisions of the contract;
- h) Files a voluntary petition in bankruptcy or is adjudicated insolvent;
- i) Obtains an order for relief under Section 301 of the Bankruptcy Code;
- j) Files any petition or fails to contest any petition filed seeking any reorganization or similar relief under any laws relating to bankruptcy, insolvency or other relief of debtors;
- k) Or seeks or consents to or is acquiescent in the appointment of a trustee, receiver or liquidator of any of its assets or property;
- l) Makes an assignment for the benefit of creditors; or
- m) Makes an admission, in writing, of its inability to pay its debts as they became due;

Then City, after giving Contractor written or oral (subsequently confirmed in writing) notice of such default and forty-eight (48) hours within which to cure such default, shall have the right to exercise any one or more of the following remedies:

- a) Require that Contractor utilize, at its own expense, additional labor, overtime labor (including Saturday and Sunday work) and additional shifts as necessary to overcome the consequences of any delay attributable to Contractor's default.
- b) Remedy the default by whatever means City may deem necessary or appropriate, including, but not limited to, correcting, furnishing, performing or otherwise completing the work, or any part thereof, by itself or through others (utilizing where appropriate any materials and equipment previously purchased for that purpose by Contractor) and deducting the cost thereof from any monies due or to become due to Contractor hereunder;
 - i) After giving Contractor an additional forty-eight (48) hours written (or oral, subsequently confirmed in writing) notice, terminate this Contract, without thereby waiving or releasing any rights or remedies against Contractor or its sureties, and, by itself or through others, take possession of the work, and all materials, equipment facilities, tools, scaffolds and appliances of Contractor relating to the work, for the purposes of costs and other damages under the contract and for the breach thereof; and
 - ii) Recover all reasonable attorneys' fees suffered or incurred by City by reason of, or as a result of, Contractor's default.

11) Failure to enforce. Failure by the City at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the City to enforce any provision at any time in accordance with its terms.

12) Final payment. Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, the Contractor shall execute and deliver to the City a release of all claims against the City arising under, or by virtue of, the contract, except claims which are specifically exempted by the Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the City's claims against the Contractor under this contract.

13) Force majeure. Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, and acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the

“force majeure events”). When such a cause arises, the Contractor shall notify the City immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the City determines it to be in its best interest to terminate the contract.

14) Indemnification. The Contractor shall indemnify, save and hold harmless, protect, and exonerate the City, its commissioners, board members, officers, employees, agents, representatives, and the State of Michigan, to the extent no greater than its relative degree of fault.

15) Independent contractor status. The Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the City. Nothing contained herein shall be deemed or construed by the City, the Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the City and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the City or the Contractor hereunder creates, or shall be deemed to create, a relationship other than the independent relationship of the City and the Contractor. The Contractor’s personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the City or the State of Michigan. Neither the Contractor nor its employees shall, under any circumstances be considered servants, agents, or employees of the City and the City shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The City shall not withhold from the contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, social security tax, or any other amounts for benefits to the Contractor. Further, the City shall not provide to the Contractor any insurance coverage or other benefits, including worker’s compensation, normally provided by the City for its employees.

16) Notices. All notices required or permitted to be given under this contract shall be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the Pontiac City Clerk’s Office to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the Contractor: [INSERT ADDRESS]

For the City: [INSERT ADDRESS AND DEPARTMENT]

- 17) Oral statements. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract shall be made in writing by the City and agreed to by the Contractor.
- 18) Ownership of documents and work papers. The City shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this contract, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to the City upon termination or completion of the contract. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. The Contractor shall be entitled to use such work papers only after receiving written permission from the City and subject to any copyright protections.
- 19) Priority. The contract consists of this contract with exhibits. Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this contract with exhibits and, if still unresolved, by reference to the bid. Omission of any term or obligation from this contract shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.
- 20) Quality control. The Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of the Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the City.
- 21) Record retention and access to records. Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the City or any duly authorized representatives shall have unimpeded, prompt access to any of the Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this contract shall be retained by the Contractor for three years after final payment is made under this contract and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three year period, the records shall be retained for one year after all issues arising out of the action are finally resolved or until the end of the three year period, whichever is later.
- 22) Right to inspect facility. The City may, at reasonable times, inspect the place of business of the Contractor or any subcontractor, which is related to the performance of any contract awarded by the City.

23) Severability. If any part of this contract is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the contract that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the contract as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

24) City property. The Contractor will be responsible for the proper custody and care of any City-owned property furnished for the Contractor's use in connection with the performance of this contract. The Contractor will reimburse the City for any loss or damage, normal wear and tear excepted.

25) Termination for convenience clause.

a) The City reserves the absolute right to terminate the contract in whole or in part, for the convenience of the City at its sole discretion on thirty (30) days written notice to the Contractor. The City has the right, upon its sole discretion only, to terminate the contract with cause by giving notice to the Contractor of such termination, specifying the effective date thereof, at least fourteen (14) days before the effective date of such termination, and the Contract shall terminate in all respects as if such date were the date originally given for the expiration of the Contract.

b) The Contractor shall be liable to the City for damages sustained by the City by virtue of any breach of the Contract by the Contractor, and any costs the City might incur enforcing or attempting to enforce the Contract, and the City may pursue legal remedies in the collection of fees to compensate for the damages sustained by the City.

c) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The City may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State of Michigan. The Contractor shall still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

29) Termination for default clause.

a) Default. If the Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in

this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the City may notify the Contractor in writing of the delay or nonperformance and if not cured in ten days or any longer time specified in writing by the City, the City may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the City may procure similar supplies or services in a manner and upon terms deemed appropriate by the City. The Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

- b) Contractor's Duties. Notwithstanding termination of the contract and subject to any directions from the City, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the City has an interest.
- c) Compensation. Payment for completed services delivered and accepted by the City shall be at the contract price. The City may withhold from amounts due the Contractor such sums as the City deems to be necessary to protect the City against loss because of outstanding liens or claims of former lien holders and to reimburse the City for the excess costs incurred in procuring similar goods and services.
- d) Excuse for Nonperformance or Delayed Performance. Except with respect to defaults of subcontractors, the Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if the Contractor has notified the City within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State of Michigan and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the contract requirements. Upon request of the Contractor, the City shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the City under the clause entitled "Termination for Convenience." (As used in this paragraph, the term "subcontractor" means subcontractor at any tier).

- e) **Erroneous Termination for Default.** If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (d) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience by the City, be the same as if the notice of termination had been issued pursuant to such clause.
- f) **Additional Rights and Remedies.** The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

30) **Termination upon bankruptcy.** This contract may be terminated in whole or in part by the City upon written notice to the Contractor, if the Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by the Contractor of an assignment for the benefit of its creditors. In the event of such termination, the Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.

31) **Third party action notification.** The Contractor shall give the City prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any entity that may result in litigation related in any way to this contract.

32) **Unsatisfactory work.** If, at any time during the contract term, the service performed or work done by the Contractor is considered by the City to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the City of Pontiac, the Contractor shall, on being notified by the City, immediately correct such deficient service or work. In the event the Contractor fails, after notice, to correct the deficient service or work immediately, the City shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor.

33) **Waiver.** No delay or omission by either party to this contract in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this contract shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this contract will void, waive, or change any other term or condition. No waiver by one party to this contract of a default by the other party will imply, be construed as, or require waiver of future or other defaults.

34) Taxes and Contributions. The Contractor hereby accepts and assumes exclusive liability for and shall indemnify, protect and save harmless the City from and against the payment of:

- a) Contractor agrees to contact the City of Pontiac Income Tax Division, Audit and Compliance Section, 47450 Woodward, Pontiac, Michigan 48342, to establish reporting and withholding obligations under the City of Pontiac Income Tax Ordinance. Contractors will require the same of all subcontractors employed to perform any work in the City of Pontiac.

Web page URL: http://www.pontiac.mi.us/departments/income_tax/index.php

Tax forms URL: http://www.pontiac.mi.us/departments/income_tax/tax_forms.php

- b) All contributions, taxes or premiums (including interest and penalties thereon) which may be payable under the Unemployment Insurance Law of any State, the Federal Social Security Act, Federal, State, County and/or Municipal Tax Withholding Act, Federal, State, County and/or Municipal Tax Withholding Laws, or any other law, measured upon the payroll of or required to be withheld from employees by whomsoever employed or engaged in the work to be performed and furnished under this contract.
- c) All sales, use, personal property and other taxes (including interest and penalties thereon) required by any Federal, State, County, Municipal or other law to be paid or collected by the Contractor or any of its vendors or any other person or persons acting for, through or under it or any of them, by reason of the performance of this work or the acquisition, furnishing, or use of any materials, equipment, supplies, labor, services or other items for or in connection with the work.
- d) All pension, welfare, vacation, annuity and other union benefit contributions payable, under or in connection with respect, to all persons; by whomsoever employed or engaged in the work to be performed and furnished under this Contract.

35) Bonds. The Contractor is required to execute bonds, with sureties acceptable to the City, as identified in the specifications, all of which are incorporated into this agreement.

In witness whereof, the parties hereto have affixed, on duplicate originals, their signatures on the date indicated below, after first being authorized so to do.

[CONTRACTOR]

DATE

By: _____
(Title)

City of Pontiac

DATE

By: _____
(Title)