



PROFESSIONAL SERVICES CONTRACT

This agreement (hereinafter “Agreement”) by and between the **City of Pontiac, 47450 Woodward Avenue, a Michigan Municipal Corporation, Pontiac, MI 48342**, (hereinafter the “City”), and **Ernst & Young LLP, 777 Woodward Avenue, Suite 1000, Detroit, MI 48226** (hereinafter referred to as “Consultant,”), collectively, “Parties” entered into on **July 29, 2024**.

1. Applicable Law: This Agreement and all related disputes shall be governed by and interpreted in accordance with the laws of the State of Michigan.

2. Scope of Services: Consultant shall provide all materials, labor, equipment, supplies, superintendence, insurance and other accessories and services necessary in accordance with the Scope of Services (“Services”) attached in Exhibit 1. Consultant shall perform the work in accordance with the Standard General Conditions and any Special Conditions provided for in this contract and warrants to the City that all advice and in conformance with the contract documents. **See Exhibit 1.**

All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. In addition to any other remedies the City may have, if, within one year of the date of substantial completion of work, or within one year after acceptance by the City, or within such longer period of time as may be prescribed by law, any of the work is found to be defective or not in accord with the contract documents, Consultant shall correct promptly after receipt of a written notice from the City to do so, unless the City has previously given Consultant a written acceptance of such condition.

3. Contract Documents: The following documents, together with this Agreement, form the entire Agreement, and they are as fully a part of the Agreement as if attached hereto or repeated herein. If any conflicts exist between the terms and conditions of this Agreement and the following numbered list of documents, the terms and conditions of this Agreement are controlling.

- **Exhibit 1-Scope of Work**
- **Exhibit 2-E&Y Staff Hourly Rates**

4. Compensation: The City shall be bound and only responsible to pay for such services as are used within thirty (30) days of submission of proper invoices, releases, affidavits, and the like. Notwithstanding, the contract price shall not exceed Twenty-Five-Thousand Dollars (\$25,000) per month. Consultant recognizes that the City does not guarantee it will require any set number of hourly services. Consultant’s services will be utilized as needed and as determined

solely by the City of Pontiac. Consultant expressly acknowledges that it, without limitation, has no right to payment of an amount exceeding the amount set forth in this Section. Consultant agrees that oral agreements by City officials to pay a greater amount are not binding.

- (a) Consultant shall submit itemized invoices for all services provided under this Agreement identifying:
 - (i) The City of Pontiac purchase order number
 - (ii) The date of service
 - (iii) The name of the person providing the service and a general description of the service provided.
 - (iv) The unit rate and the total amount due.

Invoices shall be submitted

to: City of Pontiac

Accounts Payable

Via email to AccountsPayable@pontiac.mi.us

It is solely within the discretion of the City as to whether Consultant has provided a proper invoice. The City may require additional information or waive requirements as it sees fit.

5. Standards of Performance: Consultant agrees to perform pursuant to the Agreement in a timely and professional manner consistent with standards in the profession or industry. Consultant agrees that all of the obligations required by it under this Agreement shall be performed by it or by others employed by it and working under its direction and control.

- A. The Consultant shall provide all Services for the Project in accordance with the terms and conditions of this Agreement. The Consultant's performance of Services shall be as a professional Consultant to the City to conduct the activities of Project and to provide the technical documents and supervision to achieve the City's compliance with American Rescue Plan Act federal, state and local rules and regulations.
- B. In administering this Agreement, the City may employ the services of other consultants as needed to fulfill the City's objectives. The Consultant shall provide a list of all sub-consultants which the Consultant intends to utilize upon request by the City. The list shall include such information on the qualifications of the sub-consultants. The City reserves the right to review the sub-consultants proposed, and the Consultant shall not retain a sub-consultant to which the City has a reasonable objection.
- C. The Consultant shall provide the City with a list of the proposed key personnel of the Consultant and its sub-consultants to be assigned to the City. This list shall include information on the professional background of each of the assigned personnel as may be along with their contact information including email address, office phone number and other ways to contact assigned personnel. **See Exhibit 2**

In the event that key personnel become unavailable to Consultant at any time, Consultant shall replace the key personnel and sub-consultants with personnel or sub-consultants having substantially equivalent or better qualifications than the key personnel or sub-consultant being replaced, as approved by the City.

6. Standard of Care: By execution of this Agreement, the Consultant represents and warrants that:

A. The Consultant is an experienced professional firm having the skill, legal capacity, and professional ability necessary to perform all the Services required under this Agreement to advise and administer services having this scope and complexity; and will perform such Services pursuant to the standard of care set forth in subsections B through K of this Agreement.

B. When applicable law requires that Services be performed by licensed professionals, the Consultant shall, or shall require the Services be provided by and through qualified professionals licensed in Michigan. The City understands and agrees that the Services of the Consultant and sub-consultants are performed for the benefit of the City.

C. The Consultant has the capabilities and resources necessary to perform the obligations of this Agreement.

D. The Consultant either is, or will become, in a manner consistent with the standard of care set forth in this Agreement, familiar with all current laws, rules, regulations and guidance which are applicable to ARPA.

E. All documents prepared by the Consultant shall be prepared in accordance with its standard of care in an effort to accurately reflect and incorporate all such laws, rules, and regulations.

F. Consultant represents and warrants to City that:

(1) Consultant has the power and authority to enter into and perform this Agreement;
(2) When executed and delivered, this Agreement shall be a valid and binding obligation of the Consultant enforceable in accordance with its terms;

(3) Consultant shall, at all times during the term of this Agreement be duly licensed to perform the Services, and if there is no licensing requirement for the profession or services, be duly qualified and competent;

(4) the Services under this Agreement shall be performed in accordance with the Scope of Work and other services that may be needed from time to time utilizing the professional skill, care and standards of other professionals performing similar services under similar conditions;

G. All documents prepared by Consultant pursuant to this Agreement shall accurately reflect, incorporate and comply with current laws, rules, regulations and ordinances which are applicable and shall be complete and functional for the purposes intended (except as to any deficiencies which are due to causes beyond the control of Consultant);

H. All documents prepared by the Consultant pursuant to this Agreement shall accurately reflect existing conditions for the Scope of Services to be performed;

I. The Consultant shall be responsible for any negligent inconsistencies or omissions in the documents prepared by the Consultant. While Consultant cannot guarantee that the various documents required under this Agreement are completely free of all minor human errors and omissions, it shall be the responsibility of Consultant throughout the period of performance under this Agreement to use due care and perform with professional competence. Consultant will, at no additional cost to City, correct any and all errors and omissions in any and all documents prepared by Consultant or jointly with Consultant;

J. Any review of or acceptance by the City of Services or documents prepared by Consultant will not relieve the Consultant of any responsibility for complying with the standard

of care set forth herein. The Consultant is responsible for all services under this Agreement, and agrees that it may be liable for all its negligent acts, errors, or omissions, if any, relative to the Services;

K. The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations and/or warranties provided.

7. Claims and Disputes: Consultant agrees that, except for a claim seeking solely injunctive relief, all claims, disputes, and other matters arising out of or relating to this agreement shall be resolved as set forth in Appendix 1 attached hereto. Any arbitration under this Section shall also be subject to the following provisions:

- (a) The costs of the arbitration shall be split and borne equally between the parties and such costs are not subject to shifting by the arbitrator.
- (b) This provision shall survive the expiration or termination of this Agreement in perpetuity.
- (c) Any and all arbitration shall be conducted in Oakland County, Michigan.

8. City Income Tax Withholding: Consultant and any subcontractor engaged in this contract shall withhold from each payment to his employees the City income tax on all of their compensation subject to City tax, after giving effect to exemptions. Such withholding shall be at a rate equal to 1% of all compensation paid to the employee who is a resident of the City of Pontiac, and ½% of the compensation paid to the employee who is a non-resident of the City of Pontiac.

These taxes shall be held in trust and paid to the City of Pontiac in accordance with City ordinances and State law. Any failure to do so shall constitute a material breach of this contract.

9. Disclaimer of Contractual Relationship With Subcontractors: Nothing contained in the contract documents shall create any contractual relationship between the City and any Contractor or Sub-subcontractor.

10. Certification, Licensing, Debarment, Suspension and Other Responsibilities: Consultant warrants and certifies that to the best of its knowledge Consultant and/or any of its principals are properly certified and licensed to perform the duties required by this contract in accord with laws, rules, and regulations, and is not presently debarred, suspended, proposed for debarment or declared ineligible for the award of any Federal contracts by any Federal agency. Consultant may not continue to or be compensated for any work performed during any time period where the debarment, suspension or ineligibility described above exists or may arise in the course of Consultant contractual relationship with the City. Failure to comply with this section constitutes a material breach of this Contract. Should it be determined that Consultant performed work under this contract while in non-compliance with this provision, Consultant agrees to reimburse the City for any costs that the City must repay to any and all entities.

11. Force Majeure: Neither party shall be responsible for damages or delays caused by Force Majeure or other events beyond the control of the other party, and which could not reasonably

have been anticipated or prevented. For purposes of this Agreement, Force Majeure includes, but is not limited to, adverse weather conditions, floods, epidemics or pandemics, war, riot, strikes, lockouts, and other industrial disturbances; unknown site conditions, accidents, sabotage, fire, and acts of God. Should Force Majeure occur, the Parties shall mutually agree on the terms and conditions upon which the services may continue within seven days of the discovery of the event.

11. Good Standing: Consultant must remain current and not be in default on any obligations due the City of Pontiac, including the payment of taxes, water & sewer costs, fines, penalties, licenses, or other monies. Violations of this clause shall constitute a substantial and material breach of this contract, which shall constitute good cause for the termination of this contract.

12. Indemnification: To the fullest extent permitted by law, Consultant agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees, boards and commission, volunteers and agents (“Client Indemnified Parties”) against any and all third party claims and resulting losses, including all reasonable costs connected therewith, arising out of: (a) any bodily injury to or death of, or any physical damage to tangible property of, any Client Indemnified Parties to the extent that such injury or damage results from the negligent or intentionally wrongful act or omission of Consultant in connection with the Services or (b) the infringement by any Services upon any copyright, trademark, trade secret or U.S. patent of a third party, provided that Consultant shall have no indemnification obligation under clause (b) of this paragraph to the extent that the infringement arises out of or results from information provided by, or on behalf of the City (“City Information”), use of the Services other than as contemplated in this Agreement, any alteration or modification to the Services by anyone other than Consultant, any combination of the Services with materials not provided by Consultant, or Consultant’s compliance with the City’s designs, specifications, requests or instructions in the creation of the Services. Should the Consultant fail to indemnify the City in the above-mentioned circumstances, the City may exercise its option to deduct the cost that it incurs from any payments due under this Agreement or may file an action in a court of competent jurisdiction. This provision shall survive the termination and/or expiration of this agreement, in perpetuity.

13. Independent Contractor: No provision of this contract shall be construed as creating an employer-employee relationship. It is hereby expressly understood and agreed that Consultant is an “independent contractor” as that phrase has been defined and interpreted by the courts of the State of Michigan and, as such, Consultant is not entitled to any benefits not otherwise specified herein.

14. Insurance/Worker’s Compensation: Consultant shall not commence work under this contract until he has procured and provided evidence of the insurance required under this section. All coverage shall be obtained from insurance companies licensed and authorized to do business in the State of Michigan unless otherwise approved by the City’s Finance Department. Policies shall be reviewed by the City’s Finance Department for completeness and limits of coverage. All coverage shall be with insurance carriers acceptable to the City of Pontiac. Consultant shall maintain the following insurance coverage for the duration of the contract.

- (a) Commercial General Liability coverage of not less than one million dollars (\$1,000,000) combined single limit with the City of Pontiac, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers, named as "Additional Insureds." The additional insured status may be satisfied by blanket endorsement. This coverage shall be written on an ISO occurrence basis form and shall include Bodily Injury, Personal Injury, Property Damage, Contractual Liability, Products and Completed Operations, Independent Contractors; and Broad Form Commercial General Liability Endorsement. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether said other available coverage be primary, contributing, or excess.
- (b) Professional Liability/Errors & Omissions - Consultant shall provide the City with proof of coverage for Professional Liability/Errors & Omissions insurance covering any damages caused by any negligent error, omission, or any act for the Project, its plans, drawings, specifications or project manual, and all related work product of the Consultant. Professional Liability insurance to be provided shall have limits of not less than \$2,000,000 for each claim, incident or occurrence and \$2,000,000 annual aggregate.
- (c) Workers Compensation Insurance in accordance with Michigan statutory requirements, including Employers Liability coverage.
- (d) Commercial Automobile Insurance in the amount of not less than \$1,000,000 combined single limit per accident with the City of Pontiac, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers, named as "Additional Insureds." The additional insured status may be satisfied by blanket endorsement. This coverage shall be written on ISO business auto forms covering Automobile Liability, code "any auto."

Contractor shall furnish the City with two certificates of insurance for all coverage requested with original endorsements for those policies requiring the Additional Insureds. The additional insured status may be satisfied by blanket endorsement. All certificates of insurance must provide the City of Pontiac with not less than thirty (30) days advance written notice in the event of cancellation, non-payment of premium, non-renewal, or any material change in policy coverage. In addition, the wording "Endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" must be removed from the standard ACORD cancellation statement. These certificates must identify the City of Pontiac, Finance Department, as the "Certificate Holder." Consultant must provide, upon request, certified copies of all insurance policies. If any of the above policies are due to expire during the term of this contract, Consultant shall deliver renewal certificates and copies of the new policies to the City of Pontiac at least ten days prior to the expiration date. Consultant shall ensure that all subcontractors utilized obtain and maintain all insurance coverage required by this

provision.

15. Laws and Ordinances: Consultant shall obey and abide by all of the laws, rules and regulations of the United States, State of Michigan, Oakland County and the City of Pontiac applicable to Consultant's performance of the Services during the performance of this agreement.

16. Modifications: Any modifications to this Agreement must be in writing and signed by the parties or the authorized employee, officer, board or council representative of the parties authorized to make such contractual modifications under State law and local ordinances.

17. No Third-Party Beneficiary: This Agreement is for the sole benefit of the parties and their respective successors, 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.

18. Non-Assignability: Neither Party may assign or transfer any interest in this contract without the prior written consent of the other Party; provided, however, that Consultant may assign or novate any of its rights and obligations under this Agreement in whole or in part to (i) any other member of the EY network and any entity operating under a common branding arrangement with a member of the EY network ("EY Firm") and/or (ii) any entity resulting from, or established as part of, a restructuring, sale or transfer of an EY Firm, in whole or in part, provided further that any such assignment or novation does not materially affect continuity of the Services. Consultant shall provide the City with notice of any such assignment or novation.

19. Non-Disclosure/Confidentiality: Except as otherwise permitted by this Agreement, neither party may disclose to third parties any information (other than Tax Advice) provided by or on behalf of the other that ought reasonably to be treated as confidential (including, in the case of EY, Client Information). Either party may, however, disclose such information to the extent that it:

- A) is or becomes public other than through a breach of this Agreement;
- B) is subsequently received by the recipient from a third party who, to the recipient's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information;
- C) was known to the recipient at the time of disclosure or is thereafter created independently;
- D) is disclosed as necessary to enforce the recipient's rights under this Agreement; or
- E) must be disclosed under applicable law, legal process or professional regulations.

Consultant uses other EY Firms, Consultant's and EY Firm's subcontractors, members, shareholders, directors, officers, partners, principals or employees ("EY Persons"), and external service providers of Consultant and other EY Firms and their respective subcontractors ("Support Providers") who may have access to confidential information in connection with delivery of the Services as well as to provide internal support services utilized by Consultant, including but not limited to: (a) administrative support, (b) accounting and finance support, (c) network coordination, (d) IT functions including business applications, system management, and data security, storage and recovery, and (e) conflict checking, risk management and quality reviews.

EY shall be responsible for any use or disclosure of Proprietary Information by other EY Firms, EY Persons or Support Providers to the same extent as if EY had engaged in the conduct itself.

20. Non-Discrimination: The Consultant shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, and all other federal, state, and local fair employment practices and equal opportunity laws and covenants. Consultant shall not discriminate against any employee or applicant for employment with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, association with the federal government, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position or status with respect to public assistance. A breach of this covenant is a material breach of this Agreement.

21. Anti-Lobbying: The Consultant shall not use any of the funds paid through this Agreement for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2) or for the purpose of litigation against the State or City.

22. Ethics: Consultant acknowledges receipt of Pontiac City Charter §6.107 and agrees that Consultant and its staff shall abide by the terms therein and participate in any training provided by the City as may be necessary from time to time.

23. Confidentiality: Subject to the terms of Section 19, Consultant shall maintain the confidentiality of information of City, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent Consultant from establishing a claim or defense in an adjudicatory proceeding. Consultant shall require the sub-consultants to execute similar agreements to maintain the confidentiality of information of City.

24. Conflict of Interest: Except with City's prior written consent, Consultant's employee(s) providing Services under this Agreement shall not engage in any activity, or accept any employment, interest or contribution that would or would reasonably appear to compromise their professional judgment with respect to the described services, including without limitation, concurrent employment on any project in direct competition with the services provided to the City, and will provide copies of any such agreements within ten (10) days of the full execution of such agreements.

25. Survival: All rights and obligations shall cease upon termination or full performance of this Agreement, except for the rights and obligations set forth in Consultant's Standard of Care, Indemnity, Termination of Agreement; Governing Law; Venue; Consent to Jurisdiction, Access to Records, Confidentiality, and Survival.

26. Counterparts: This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

27. Merger Clause: This Agreement and any attached Exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. No amendment, consent, or waiver of terms of this Agreement shall bind either party unless in writing and signed by all Parties. Any such amendment, consent, or waiver shall be effective only in the specified instance and for the specific purpose given. Consultant, by the signature below of its authorized representative, acknowledges having read and understood this Agreement and the consultant agrees to be bound by its terms and conditions.

28. Notices: Notices to the City of Pontiac shall be deemed sufficient if in writing and mailed, postage prepaid, addressed to **City of Pontiac Grants and Philanthropy Department and City Clerk, City of Pontiac, 47450 Woodward, Pontiac, Michigan 48432**, or to such other address as may be designated in writing by the City from time to time. Notices to Consultant shall be deemed sufficient if in writing and mailed, postage prepaid, addressed to **E&Y, Attn: _____, 777 Woodward Avenue, Suite 1000, Detroit, MI 48226** or to such other address as may be designated in writing by Consultant from time to time.

29. Records Property of City: All documents, information, reports and the like required to be delivered to the City by Consultant in accordance with this contract shall become the sole property of the City and shall be disclosed to the City upon request. However, any intellectual property developed by Consultant, (but not City Information contained in them), shall be the property of Consultant.

30. Severability: If any terms of this Agreement or the application of them to any person or circumstance are determined to be null and void, ineffectual, invalid or unenforceable by any competent tribunal, the remaining terms or the application of the terms to persons or circumstances other than to those which were determined to be invalid or unenforceable shall not be affected and shall continue in full force and effect.

31. Subcontracting: No subcontract work, if permitted by the City, shall be started prior to the written approval of the subcontractor by the City. The City reserves the right to accept or reject any subcontractor.

32. Termination: Except as otherwise set forth in this Agreement, either party may terminate the Agreement, or any particular Services, upon thirty (30) days' prior written notice to the other. The City, through its City Attorney, may terminate this agreement upon actual notice to Consultant and within the written timeframe. Consultant, upon receiving such notice and prorated payment upon termination of this contract shall give to the City all pertinent records, data, and information created up to the date of termination to which the City, under the terms of this contract, is entitled. Any partially completed materials provided pursuant to this Section shall be on an "as-is" basis not subject to any warranty whether express or implied and any use of such partially completed materials shall be at the City's sole risk.

In addition, EY may terminate a Contract, or any particular Services, immediately upon written

notice to Client if EY reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations. Client shall pay EY for all work-in-progress, Services already performed, and approved expenses incurred by EY up to and including the effective date of the termination or expiration of a Contract, as well as any applicable termination fees set forth in the applicable Contract. Payment is due within thirty (30) days following the date of the invoice for these amounts.

33. Time of Performance: Consultant's services shall commence promptly upon receipt of the notice to proceed and shall be conducted forthwith and without unreasonable delay. Consultant and City hereby agree that this Agreement will be fully performed as needed by the City.

34. Union Compliance: Consultant agrees to comply with all regulations and requirements of any national or local union(s) that may have jurisdiction over any of the materials, facilities, services, or personnel to be furnished by the City. However, this provision does not apply if its application would violate Public Act 98 of 2011.

35. Waiver: Failure of the City to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any term, covenant, or condition. Any waiver or relinquishment of any right or power hereunder at any one or more times shall not be deemed a waiver or relinquishment of that right or power at any other time.

36. Electronic Signatures: This Agreement may be signed by the parties hereto by means of electronic signature, utilizing Adobe Acrobat or a like program with similar security features.

37. Effective Date: This contract shall be effective on July 29, 2024.

38. Governing Law: This Agreement shall be governed by and enforced in accordance with the laws of the State of Michigan.

39. Venue: The Parties consent to venue in Oakland County courts should any action be brought to enforce the terms of this Agreement in which a party is seeking solely injunctive relief.

40. Limitation of Liability: The parties have mutually agreed the following limitations of liability (which also apply to others for whom Services are provided under this Agreement):

- (a) Neither party will be responsible, in contract or tort, under statute or otherwise, for any amount with respect to loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, whether or not the likelihood of such loss or damage was contemplated.
- (b) The City (and any others for whom Services are provided) may not recover from Consultant, in contract or tort, under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services that directly caused the loss under

the Agreement during the twelve (12) months preceding the date of the event giving rise to the loss. This cap is an aggregate cap across all claims under the Agreement prior to such date.


- (c) The City shall make any claim relating to the Services or otherwise under this Agreement no later than one (1) year after the City became aware (or ought reasonably to have become aware) of the facts giving rise to any alleged such claim and in any event, no later than two (2) years after the completion of the particular Services.

The limitations set out in Sections (b) and (c) above will not apply to losses or damages caused by Consultant's fraud or willful misconduct or to the extent prohibited by applicable law or professional regulations.

The City (and any others for whom Services are provided under this Agreement) may not make a claim or bring proceedings relating to the Services or otherwise under this Agreement against any other EY Firm or EY Person. The City shall make any claim or bring proceedings only against Consultant.

Whole Agreement: This Agreement and the documents cited herein contain the entire understanding between and among the parties concerning these matters and supersedes any prior understandings and agreements between and among them respecting the subject matter of this Agreement.

FOR THE CONSULTANT:

DocuSigned by:

 F85783391B144CA...
 Ernst & Young LLP
 10/25/2024
 Date

Its Managing Director

CITY OF PONTIAC, a Michigan Municipal Corp.:

Signed by:

 32918E04E310418...
 10/23/2024
 Date

Its Mayor

APPROVED AS TO FORM:

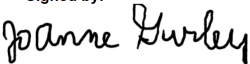
Signed by:

 DE421C1A941C407...
 City Attorney
 10/23/2024
 Date

Exhibit 1 -- Statement of Work

This Statement of Work, dated October 15, 2024 (this “SOW”), is made by Ernst & Young LLP (“we” or “EY”) and the City of Pontiac, (“you”, “City”, or the “Client”), pursuant to the Agreement, dated July 29, 2024 (the “Agreement”), between EY and the City of Pontiac.

Except as otherwise set forth in this SOW, this SOW incorporates by reference, and is deemed to be a part of, the Agreement. The additional terms and conditions of this SOW shall apply only to the advisory Services covered by this SOW and not to Services covered by any other Statement of Work pursuant to the Agreement. Capitalized terms used, but not otherwise defined, in this SOW shall have the meanings in the Agreement, and references in the Agreement to “you” or “Client” shall be deemed references to you.

If you ask us to begin work before you execute and return this SOW to us, you will be deemed to have agreed to its terms.

Scope of Services

We will provide advisory services in connection with your request for professional management services for Federal recovery funding including American Rescue Plan Act (“ARPA”) funding (the “Matter”). Under your direction, we will complete the steps documented in this Scope of Services and consult with you where you require our assistance. We contemplate performing the following services over the term of the engagement. We will not be preparing a written EY branded documentation or reports.

We may, in addition, perform one or more of the following procedures as we consider necessary to express a professional conclusion on the matters you identify:

Recovery Plan and Administration of ARPA Funds:

- ▶ Identify and detail the planned ARPA initiatives, other federal funding programs and related legislation, regulations, policies, rules and reporting requirements.
- ▶ Assist the City with establishing a comprehensive recovery portfolio by reviewing multiple funding streams from various federal and state programs, particularly those identified in COVID-19 related legislation.
- ▶ Upon identifying the relevant ARPA and federal funding, assess and catalog available funding to prioritized needs, including the creation of a strategy that defines when and how funds should be used, from most to least restrictive, to maximize all resources.
- ▶ Identify performance objectives to support Treasury reporting beginning with an Annual Recovery Plan
- ▶ Develop the implementation roadmap including technical requirements, program support, reporting, and communications.
- ▶ Develop a financial blueprint that will support analyzing the City’s economic loss to support calculations of revenue replacement, current financial sustainability requirements and through the future budget cycles.
- ▶ Ongoing throughout the engagement, EY will provide the City with continued guidance regarding the ARPA, including monitoring for changes in legislation, regulations and/or policies. These

activities will include review of the elements of the financial blueprint based on updated financial and performance information.

- ▶ EY will establish a project management office (PMO) that will provide ongoing support to overall project management, tracking of milestones and work products and provide routine communication with the City. Specific activities to be undertaken by the PMO include the following:
 - Plan for program and project implementation, including budgets, timelines, and an accountability structure.
 - Provide an oversight structure that will track compliance with ARPA related requirements, state and federal reporting requirements, cost tracking activities, auditing related activities and closeout activities.
 - Collaboratively design and develop monitoring and reporting dashboards (continuously assess and enhance the reporting process, procedures and dashboards).
 - Oversight activities will also include oversight regarding the tracking of outcomes of the recovery spending, including assessing how funds reached communities most impacted by COVID-19.
 - Oversight activities related to relevant subgrantee risk management, anti-fraud and related auditing services.
 - Interacting with Executive Level staff to provide spending updates and review progress weekly or within an established timeframe on budgeting, awards and disbursements.
 - Work with legal and purchasing departments to ensure compliance with programmatic rules, Uniform Guidance, and governmental accounting standards and City procedures

Cost Tracking and Reporting:

We will assist the City with expanding their processes to track relevant costs and assisting the city with their related accounting and fiscal management needs. Specific activities to be undertaken include the following:

- ▶ Support the City with cost and documentation collection, tracking and the reporting of funds expenditures including providing guidance on allowable expenditures.
- ▶ Review funding projects to ensure they are evaluated prior to award disbursement and tracked from disbursement to reporting in alignment with applicable rules and deadlines
- ▶ Provide accounting and finance support related to federal grants monitoring and oversight. Accounting and finance support would include assisting the City with establishing a process to meet federal reporting requirements. Assist the City with preparing required federal reporting and completing other close-out activities related to ARPA funds.
- ▶ Advise the City on designing programs and initiatives that are evidence-based or promising and have clear goals to produce equitable outcomes and other relevant results, such as creating a tracking and monitoring process to assess the outcomes of recovery spending, including spending related to communities hardest hit by COVID-19.
- ▶ Developing policies and processes for monitoring federally funded activities implemented by sub-recipients, such as local outside organizations, agencies and private-not-for profits, including communication of the required terms and conditions to sub-recipients.

- ▶ Assist the City with developing and implementing a process to prevent fraud, waste and abuse relative to distributed funds. This process may include developing a process to assess the risk of potential recipients and/or recipients of funding. An aspect of the risk assessment may include performing business intelligence procedures to identify potential past unethical behavior and risk factors.
- ▶ Develop and execute a data and document transition plan when the projects close.

Close out:

- ▶ Initial development of close-out strategies (checklists, document retention requirements, federal reporting requirements, etc.)
- ▶ Assist the City in its response to requests from Federal, State, or City internal or external auditors.

We will not be preparing a written EY branded narrative report (i.e.,) indicating the work performed and our result. We currently do contemplate assisting the City prepare documentation necessary for the management of the Matter and for inclusion of the City's reporting pursuant to the U.S. Treasury's reporting requirements.

Limitations on scope

We will not provide litigation services, opinions, or expert witness services in connection with this matter. We will also not provide any accounting or GAAP conclusions. We may be able to provide such services under a separate Statement of Work.

The Services are advisory in nature. EY will not render an assurance report or opinion under the Agreement, nor will the Services constitute an audit, review, examination, or other form of attestation as those terms are defined by applicable professional standards. None of the Services or any Reports will constitute any legal opinion or advice. None of the Services or any Reports will constitute any tax opinion or advice. Our procedures are not designed to and may not detect any or all fraudulent activities or illegal acts.

We will not identify, address or correct any errors or defects in any computer systems, other devices or components thereof ("Systems"), whether or not due to imprecise or ambiguous entry, storage, interpretation or processing or reporting of data. We will not be responsible for any defect or problem arising out of or related to data processing in any Systems.

Unless discussed and mutually agreed to in advance, EY will not participate in recorded meetings.

Your specific obligations

You shall notify us promptly in writing upon becoming aware of (A) changes in the status of the Matter in connection with which the Services are provided, or (B) objections or issues with respect to the performance of the Services.

Final decision on all funding approvals will be made by the City and physical disbursement of funds will be executed by the City.

You shall make all management decisions and perform all management functions in relation to your Federal funding. You will provide oversight for EY's work by designating appropriate staff from City to coordinate EY's efforts within the City and coordinate interactions with applicants, state agency representatives, or other Federal funding sources, as required.

You shall designate appropriate staff relative to technical programmatic, accounting and finance issues, questions or requests who possess the technical ability to review and understand EY's work. You shall review and be responsible for the final approval of all EY deliverables.

- We shall support review and approval processes for expenses charged to the fund, including any grant applications, and prepare or to assist with preparing any reports that are required for the Committee, the Board and for the federal government.
- We shall track expenses manually since information may not be available in your accounting system in time to prepare the necessary reports. We also shall reconcile manually tracked information to what is in the accounting system when it is finally posted to the accounting system.

Specific additional terms and conditions

We may utilize certain third-party software and hardware (the "engagement tools") to perform the Services. The engagement tools are provided "as is," and none of EY or any other party involved in the creation, production or delivery of any engagement tool makes any warranties, express or implied, with respect to any thereof, including, without limitation, any implied warranty of merchantability or fitness for any particular purpose or use, or any warranty that the operation of any engagement tool will be uninterrupted, error free or that it will be compatible with any of your hardware or software.

We cannot and do not provide any assurance that our work and findings will either support or contradict any particular position. You agree that, because the Services are limited in nature and scope, they cannot be relied upon to unreasonably discover all documents and other information, or provide all analyses, that may be important to you or any matter.

Notwithstanding anything to the contrary in the Agreement or this SOW, we do not assume any responsibility for any third-party products, programs or services, their performance or compliance with your specifications or otherwise.

We have reviewed our available records to determine whether potential conflicts might arise out of our performance of the Services. However, the very nature, diversity, magnitude, and size of the Ernst & Young organization and its past and present professional relationships does not allow us to be certain that each and every possible relationship or potential conflict has come to our attention. If additional relevant relationships or potential conflicts come to our attention, we will promptly notify you.

If the performance of the Services is challenged on the basis of an alleged conflict of interest or alleged violation of independence requirements, including the requirements of the Sarbanes-Oxley Act of 2002 and the regulations promulgated thereunder you will promptly notify us, and we may engage our own legal counsel to contest any such challenge.

You shall not, while we are performing the Services hereunder and for a period of 12 months after they are completed, solicit for employment, or hire, any EY personnel involved in the performance of the Services, provided, that you may generally advertise available positions and hire EY personnel who either respond to such advertisements or who come to you on their own initiative without direct or indirect encouragement from you.

Compliance with U.S. immigration requirements may require EY to provide certain information to the U.S. Citizenship and Immigration Services ("USCIS") to confirm that EY employees on certain visas are, in

fact, EY employees and not employees of Client or other clients of EY. This will include providing certain information regarding work locations to support compliance with the visa requirements. As such, EY may disclose to USCIS information regarding this SOW, including Client’s identity and location, as well as redacted agreements. Upon providing this information, EY will request that USCIS keep any such information confidential. In further support of these legal requirements, the U.S. Department of Labor (DOL) regulations, at 20 CFR § 655.734(a)(1)(ii)(A), require the posting of notice of a Labor Condition Application (LCA) in instances where individuals holding H-1B visas will be working on Client’s premises. EY and Client will work together to develop an appropriate notice as required.

EY resources will be operating at all times as an employee of and under the direction and control of Ernst & Young U.S. LLP’s management, and all activities including supervision, hiring and firing decisions, and performance evaluations are controlled by Ernst & Young U.S. LLP. Client will not have the right to control EY resources. At all times, EY resources will receive direction from an EY Manager while on-site at Client premises.

Timetable

Unless otherwise agreed, and subject to the General Terms and Conditions of the Agreement, we expect to perform the Services beginning in July 29, 2024 and through November 2026.

Contacts

You have identified Ms. Lisa Campbell as your contact with whom we should communicate about these Services. Your contact at EY for these Services will be Brian Jarzynski.

Fees

The General Terms and Conditions of the Agreement address our fees and expenses generally. The obligation to pay our fees is not contingent upon the nature of our findings or the outcome of the Matter.

You shall pay our fees for the Services based on actual time incurred at the following hourly rates, plus expenses:

<u>Rank</u>	<u>Hourly rate</u>
Partner/Principal/Executive Director	\$360
Senior Manager	\$350
Manager	\$300
Senior	\$270
Staff/Associate	\$200


We will bill you for our fees and expenses incurred (and applicable taxes, if any) once per month, in summary fashion, including information as to total hours and applicable rates. Payment is due upon receipt of our invoice in compliance with Michigan law and state fiscal policies and procedures. All amounts due must be paid to us in full before we will issue any Report or provide testimony, or upon settlement or other resolution of the Matter.

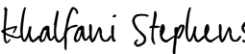
In witness whereof, the parties have executed this SOW as of the date set forth above.

EY Signature:

Signed by:

F85783391B144CA...
Brian Jarzynski

Signed by:

By: 02918F04F010410...
Timothy Greimel, Mayor

Signed by:

34A8A6F81407411...
Khalfani Stephens, Deputy Mayor

APPROVED AS TO FORM:

Signed by:

02918F04F010410...
JoAnne Gwiley, Law Director

EXHIBIT 2- STAFF HOURLY RATES

Ernst & Young

Title	Rate per hour
Managing Director	\$360.00
Senior Manager	\$350.00
Manager	\$300.00
Senior	\$270.00
Staff/Assistant	\$200.00

APPENDIX 1

Dispute Resolution Procedures

Mediation

A party shall submit a dispute to mediation by written notice to the other party or parties. The mediator shall be selected by the parties. If the parties cannot agree on a mediator, the International Institute for Conflict Prevention and Resolution (“CPR”) shall designate a mediator at the request of a party. Any mediator must be acceptable to all parties and must confirm in writing that the mediator is not, and will not become during the term of the mediation, an employee, partner, executive officer, director, of or beneficial owner with significant influence over any EY Firm audit client.

The mediator shall conduct the mediation as the mediator determines, with the agreement of the parties. The parties shall discuss their differences in good faith and attempt, with the mediator’s assistance, to reach an amicable resolution of the dispute. The mediation shall be treated as a settlement discussion and shall therefore be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. The mediation proceedings shall not be recorded or transcribed.

Each party shall bear its own costs in the mediation. The parties shall share equally the fees and expenses of the mediator.

If the parties have not resolved a dispute within 90 days after written notice beginning mediation (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute shall be settled by arbitration. In addition, if a party initiates litigation, arbitration, or other binding dispute resolution process without initiating mediation, or before the mediation process has terminated, an opposing party may deem the mediation requirement to have been waived and may proceed with arbitration.

Arbitration

The arbitration will be conducted in accordance with the procedures in this document and the CPR Rules for Non-Administered Arbitration (“Rules”) as in effect on the date of the Agreement, or such other rules and procedures as the parties may agree. In the event of a conflict, the provisions of this document will control.

The arbitration will be conducted before a panel of three arbitrators, to be selected in accordance with the screened selection process provided in the Rules. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability

of any of these procedures, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. No potential arbitrator may be appointed unless the arbitrator has agreed in writing to these procedures and has confirmed in writing that the arbitrator is not, and will not become during the term of the arbitration, an employee, partner, executive officer, director, of or beneficial owner with significant influence over any EY Firm audit client.

The arbitration panel shall have no power to award non-monetary or equitable relief of any sort or to make an award or impose a remedy that (i) is inconsistent with the agreement to which these procedures are attached or any other agreement relevant to the dispute, or (ii) could not be made or imposed by a court deciding the matter in the same jurisdiction. In deciding the dispute, the arbitration panel shall apply the limitations period that would be applied by a court deciding the matter in the same jurisdiction, and shall have no power to decide the dispute in any manner not consistent with such limitations period.

Discovery shall be permitted in connection with the arbitration only to the extent, if any, expressly authorized by the arbitration panel upon a showing of substantial need by the party seeking discovery.

All aspects of the arbitration shall be treated as confidential. The parties and the arbitration panel may disclose the existence, content or results of the arbitration only in accordance with the Rules or applicable professional standards. Before making any such disclosure, a party shall give written notice to all other parties and shall afford them a reasonable opportunity to protect their interests, except to the extent such disclosure is necessary to comply with applicable law, regulatory requirements or professional standards.

The result of the arbitration shall be binding on the parties, and judgment on the arbitration award may be entered in any court having jurisdiction.