



City of Pontiac  
Finance Department, Purchasing Division  
47450 Woodward Avenue, Pontiac, MI 48342

## REQUEST FOR PROPOSALS

FOR

## HOUSING STUDY & NEEDS ASSESSMENT

SOLICITATION No. 23-690-006

<b>DEADLINE FOR QUESTIONS</b>	<b>DEADLINE TO SUBMIT BID</b>
Wednesday, August 2, 2023 Time: 2:00 pm EST Via BidNet (See inside instructions for meeting link)	Wednesday, September 13, 2023 Time: No later than 2 pm, EST

## **Project Overview**

The City of Pontiac's Community Development Department (City) is issuing a Request for Proposal (RFP) for a Housing Study and Needs Assessment for the City of Pontiac, Michigan. The City of Pontiac desires to conduct a housing study and needs assessment to help elected officials, City staff, stakeholders, and community members develop a meaningful sense of the housing market, as well as an understanding of key housing issues, and how they affect the City of Pontiac. The report is intended to offer community leaders and stakeholders a basis for formulating community-specific housing priorities, policy alternatives and intervention strategies, including land use and zoning decisions. The study should help guide decisions related to the allocation of public funds and other resources.

## **General Community**

The City of Pontiac is a municipality and is a 20-square mile city residing in Oakland County, Michigan and serves as the county seat for Oakland County. The City's economic roots are in the auto industry, and at one time home to the primary automobile assembly plant for the production of General Motor's Pontiac Brand said to be named after the city. The once thriving city has battled strong economic headwinds following the exit of automobile manufacturing from the area compounded by 2008-2009 and more recently, the economic impacts of the global pandemic.

The City of Pontiac is working to address community development needs in a variety of areas from economic development and housing to community and population health, small business and workforce development.

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## SCHEDULE

<b>Solicitation Process Milestone Schedule</b>	
Solicitation Posted	<b>Tuesday, June 20, 2023</b>
Pre-Bid Conference	<b>Tuesday, July 18, 2023</b> Pre-Bid Conference will occur at 2:00 pm EST via City Hall – Shrine Room – 1 <sup>st</sup> Floor <b>47450 Woodward Ave.</b>
Deadline to Submit Questions	<b>Wednesday, August 2, 2023 @ 2 pm EST</b>
City's Deadline to Respond to Questions via BidNet	<b>Thursday, August 17, 2023 @ 4 pm EST</b>
Deadline for Proposal Submission via BidNet & Public Opening	<b>Wednesday, September 13, 2023 @ 2 pm EST</b> (Submission Deadline) <b>Public Opening will occur at 2:30 pm EST via City Hall – Shrine Room – 1<sup>st</sup> Floor</b> <b>47450 Woodward Ave.</b> <b>Pontiac, Michigan 48342</b>
Scheduled Presentations	<b>The week of September 25, 2023</b>
Notice of Award	<b>The week of October 16, 2023</b>

### Scope of Work

The study should include an assessment of existing housing conditions, demographic and market demands, rent rates supported, and should identify critical housing gaps and issues. It should identify any current and anticipated unmet housing needs and provide an outlook toward anticipated housing demands over the next 10 years. The study will be used to identify focused housing priorities and provide policy alternatives and intervention strategies the City can use to guide decision making for the future housing needs.

The Consultant shall draft a report that specifically addresses the City's current and future housing needs. The report will include and address the following information:

- Demographic Review – current and in the future
- Housing Market Analysis – Citywide
- Housing Market Analysis – Downtown
- Housing Demands – Citywide
- Housing Demands – Downtown
- Existing Housing Stock
- Housing Issue Areas - Blight
- Housing Issue Areas – Gaps
- Housing Issue Areas – Barriers
- Economic Conditions

1. Employment and economic data, including employment, unemployment, and economic trends.
  2. Analysis of commuting patterns, major employers and employment growth and impacts on jobs/housing balance
  3. Compare local wages and resident incomes to the cost of housing and identify gaps. Compare findings regionally.
- Rental Housing Market- analyze stock, distribution, concentration, inventory balance and compare to the region.
  - Homeownership Market -analysis of current market and trends
  - Recommendations
    1. Strategies to deal with housing issues.
    2. Housing Assistance Programs
    3. Housing Related Investments
    4. Rationale for prioritization of projects
    5. City Code/Zoning Changes
    6. Marketing Efforts
    7. Examples of innovative programs from similarly situated communities.

The study should help answer the following questions:

1. How will anticipated economic, employment, and population growth impact housing demand especially when it comes to sensitive populations and workforce housing needs?
2. Based on market information, what are the current 5-year and 10-year housing needs? Where do gaps exist in terms of types and/or price range? Where should the needed housing types be located?
3. How are workforce and sensitive population housing needs impact in terms of price and community livability? What steps can be taken by the City to remedy that?
4. What Strategies and programs should the City pursue or provide for the development and or redevelopment of necessary housing? How should the City maximize the use of limited public funds to support the potential housing market?
5. What strategies and programs should the City pursue or provide for the development and/or redevelopment of necessary housing? How should the City maximize the use of limited public funds to support the potential housing market?
6. How can community partners (e.g., major employers, hospitals, schools district) support the city as a community of choice, and the preferred location for employees to live? How can the community partners support the development of quality housing or rehabilitation of existing housing in the city?
7. Does the current City code zoning allow for the recommended strategies? If not, what are the recommended best practices?

## **Responsibilities of the City**

The City of Pontiac will provide the following services as part of the total project:

1. The City will provide access to present and historic housing records (i.e., building files, assessors records) and maps.
2. Existing City plans and research will be made available upon request:
  - a. Pontiac's functional plan (i.e., sewer, water, transportation, parks, and recreation)
  - b. City of Pontiac's Municipal, zoning and building codes
3. Staff will assist in project management and administration. Staff will attend all meetings with the consultant and assist the consultant as a liaison between the public and the consultant, at the consultant's request.
4. Staff will coordinate and schedule all meetings involving the consultant.

## **Deliverables**

The following items shall be required in terms of products and deliverables for this project. Note that all products and materials, such as notes, digital files, imagery, video, reports, surveys, etc., contributing to the deliverable shall become the property of the City of Pontiac and shall be provided upon request:

- One or more printed/digital report(s) addressing the tasks noted above that include specifics actions, timelines, and recommendations as they apply to the final recommended project for consideration by the Planning Commission and City Council.
- The final report should be presented to the City council at a regularly scheduled meeting. An electronic version of final report presentation materials should also be provided.

## **Proposal Requirements**

The proposal must include:

1. Introductory letter and executive summary, the introductory letter should indicate that the firm accepts all terms and conditions contained in the Request for Proposal. The letter should indicate a contact person during the proposal process and be signed by an authorized representative of the consultant's firm. The letter should include a statement about the availability and commitment of the firm, including all team members and key professionals to provide these services to the City, The letter should serve as an executive summary, giving an overview of the firm's qualifications and project management approach.

## 2. Team Qualifications

- Describe the experience and qualifications of the firm.
- Describe the overall management structure of the project with attention to the interrelationship between the primary consultant and the other team members.
- Provide the identification and qualifications of all key personnel, including each one's experience with similar public sector projects. Describe the nature of their participation on the project team and list the percentage of time participants will be assigned to the project.

## 3. Proposed Management Approach

- Describe the firm's approach and method for facilitation and coordination input for projects, including the use of citizen boards and committees.
- Describe the methods to be used for communicating with the project team and the public.
- Describe how the consultant will manage overall quality control of the project.
- Describe the firm's experience evaluating change orders and track record for delivering projects within budget and on schedule.
- Describe the process that the firm will utilize to resolve disputes.

## 4. Timeline/Work Plan

Provide an overall timeline that specifies milestones for all tasks and key-subtasks. The project timeline can be modified upon mutual approval between the selected consultant and the contracting authority.

## 5. Budget

Please include an estimated all inclusive, budget based on the scope of service subcomponents and the proposed approach detailing the time and budget allotted by task. In the consultant budget submitted with the proposal, please indicate areas the City can provide assistance to minimize cost.

## 6. Representative Projects and References

List public sector projects for which the consultant has provided or is providing professional program/project management services which are most related to this program. Provide the following for each project listed:

- Project name and location
- Project owner
- Project description
- Total project cost
- Description of the professional services provided for the project.
- Reference/contact information for the project

## 7. Support Information

Support information may be provided that adds clarity as to the consultant's ability to meet the City of Pontiac's needs.

### **Evaluation and Selection**

All submitted statements will be thoroughly considered. After an initial review of proposals, finalists shall be selected for interviews. Consultants invited to interview will be given the opportunity to explain their proposals, describe their approach to the project, and communicate the experience of the consultant's team. After the interviews have been completed the City shall select a consultant or consultants and contracts shall be negotiated between the consultant(s) and on the contract within a period acceptable to the City. The City will terminate all proceedings with that consultant and request the second most acceptable consultant to enter negotiations. The City reserves the right to reject any and all statements, to waive technicalities, deviate from any procedure outlines herein or advertise for new proposals when the best interests of the city will be promoted.

### **General Evaluation Criteria**

The City of Pontiac will use the following criteria to evaluate submitted proposals:

1. The content, completeness, adherence to format, and appropriateness of the proposal.
2. The firm's reputation and experience with projects of a comparable nature.
3. Perceived creativity, innovation, quality control and commitment that the firm will bring to the project.
4. The experience and capabilities of the project manager and other staff who will be assigned to the project.
5. Demonstrated familiarity with housing studies and needs analysis.
6. References that indicate successful projects and successful client/team/consultant relationships.
7. The firm's ability to best meet the objectives of the city for the project.
8. The effectiveness of the firm's oral, written, graphic presentation skills.
9. Suggested citizen participation and involvement process.

The City award will be with only one contractor. The City, in cooperation with the Contractor, will establish timelines and a final scope of work through the Contract negotiation process.

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 bid proposal is to be based are available via solicitations posted on the City of Pontiac's Purchasing web page:

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

Please refer to the website for any addendums that may be issued. Purchasing recommends that respondents who submit proposals before the deadline are advised to continue monitoring the City's Purchasing web page for any addendums and notices that may be issued. Respondents may click on the MITN link on the Purchasing web page to access the City's BidNet web page, where all the City's solicitations and related documents are available.

The City reserves the right to cancel this solicitation, 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 questions regarding the solicitation process, please contact the Purchasing Manager (also referred to herein as Purchasing Agent") by sending an email to [Purchasing@pontiac.mi.us](mailto:Purchasing@pontiac.mi.us). Questions pertaining to the Scope of Work must be submitted electronically using BidNet. Responses to questions submitted will be posted to BidNet as an addendum.

Proposals should be organized in the sequence outlined below, in a professional manner, and is clear and concise. The proposal should demonstrate the contractor's ability to satisfy the requirements of the RFP.

Contractors should include the items below within the proposal and in the following order:

- A. Contractor's Certification Page and Receipt of Addendums (Attachment A).** Addendums are the City's clarification or modification to the RFP. The vendor must sign the RFP Vendor's Certificate page. The individual signing on behalf of the Contractor must be an officer, manager, partner, or other person legally authorized to bind the Contractor to the proposal.
- B. Contract Terms Acceptance.** The Contractor must provide a written statement that the Contractor will accept the terms of the City contract included with the proposal. Comments or requests for changes with regard to the contract terms and conditions must be included with the proposal. The willingness or ability of the City to accept or negotiate such suggested changes will be considered on a case-by-case basis. If a proposal contains requests for contract modifications, the decision to reject, accept, or further negotiate requested changes will be at the City's sole discretion. If the contractor normally seeks legal review of contract terms, this process should occur **prior** to proposal submission.



- C. Form of Entity and Certificate of Good Standing.** The Contractor must provide a description of the Contractor's form of entity (i.e., corporation, partnership, non-profit corporation, LLC, etc.) and the state of the Contractor's organization. If the Contractor is organized in a state other than Michigan or a country other than the United States of America, the Contractor shall comply with all laws concerning conducting business in Michigan, such as registration as a foreign entity with the Michigan Secretary of State. If laws require the Contractor to register with the Michigan Secretary of State (whether as a Michigan entity or as a non-Michigan entity), the Contractor shall do so before submitting its response to the RFP. The Contractor should include a copy of certificates of good standing from the state of its incorporation or organization and, if required to register, in Michigan. Certificates of good standing shall be dated 30 calendar days or newer from the date of the Contractor's RFP proposal.
- D. W-9.** The Contractor must include a completed and signed IRS Form W-9, signed within the last 30 calendar days.
- E. Contact Information.** The Contractor must provide a list identifying and providing contact information for the engagement manager, account manager or single point-of-contact for all matters pertaining to the contract resulting from the contract if awarded.
- F. Litigation Disclosure.** The Contractor must provide a list identifying any litigation in which the Contractor is involved or has been involved in the 18 months before the date of the RFP response submittal.
- G. Executive Summary.** The Contractor must provide an executive summary condensing and highlighting the contents of the proposal. The executive summary should provide the reader with an overall understanding of the proposal and the Contractor's approach and methodology, and should include descriptions of the following:
- a. The Contractor's current contractual workload from the perspective of how the Contractor's obligation to other clients may impact the performance of the work specified herein.
  - b. The Contractor's approach for managing acquisition or allocation of resources, and the ongoing management of those resources, and the management of deliverables during the term of the contract if awarded.
  - c. The administrative approach and project management techniques that the Contractor expects to employ during the contract term to ensure the coordination and timeliness of the work, the managerial techniques and tools proposed to control the work, and the methodologies proposed to enhance communications between the Contractor and the City.
- H. Suggested Scope and Timeline.** The contractor must provide a suggested Scope of Work with a suggested timeline.

- I. **References.** The Contractor should provide the last three projects of equal size and scope regardless of outcome for reference. Unexplained gaps in performance, service or like size project may result in proposals being disqualified. References should include (i) principal contact name, telephone number, and email, (ii) a brief description of work performed for each reference, and (iii) the timeframe for the work performed. The City reserves the right, at its discretion, to contact any organization or individual that may have knowledge of the Contractor for the purpose of verifying the information provided by the Contractor. The City will check references only as a method of determining the responsibility of responsive Contractor.
- J. **Technical Proposal.** The contractor must provide a technical proposal that presents a full and complete description of how the Contractor proposes to meet the requirements set forth in the Scope of Work. The Contractor should address the requirements in the same sequence as they are found in this RFP. Contractors should first repeat, in writing, the language from the RFP that describes which section of the RFP requirement to which the Contractor is responding (including the RFP section number). Then the Contractor should provide the response to that requirement. In addition, the Vendor should provide a detailed explanation of the proposed solution and indicate that the Contractor will comply with the complications set forth. Contractors must submit the technical proposal via BidNet (Envelope 1).
- K. **Price Proposal.** The price proposal must be separated from all other proposals. Contractors must submit the price proposal via BidNet (Envelope 2).
- L. **Proposal Submission.** A Contractor proposal package should consist of:
  - a. **An electronic version of Technical Proposal in addition to Section 1.1, Letters A-L** uploaded to BidNet. There are two envelopes for this solicitation in BidNet; one is for the Technical Proposal and the other is for the Price Proposal. Please upload the Technical Proposal and associated responses for Section 1.1, Letters A-L as one document. Upload the Price Proposal as a separate document. Supporting documents and additional attachments may be uploaded separately.
  - b. It is the Contractor's responsibility to ensure that the City receives the proposal before the proposal submission deadline indicated in the Solicitation Process Milestone Schedule located on page 1 of this solicitation.

## 2.1 **Examination and Selection of Proposals**

Before submitting a qualifications proposal, respondents shall carefully examine the specifications and shall fully inform themselves as to all existing conditions and limitations. The City may choose to ask clarification questions in writing and include the additional information gathered in the evaluation process.

## 2.2 Administrative Information

- A. **Modifications and Clarifications.** In the event that it becomes necessary to revise any part of this RFP, the City will publish an addendum on the BidNet web page for the City of Pontiac. The City's BidNet page is [City of Pontiac - Bid Opportunities and RFPs | BidNet Direct](#). It is the Contractor's responsibility to carefully and regularly monitor BidNet for any such postings. The City will NOT send out notification regarding updates.
- B. **Vendor Inquiries.** Unless otherwise noted, Contractors must email inquiries concerning this RFP to obtain clarification of requirements. The city will neither accept nor answer inquiries the City receives after the deadline indicated in the Solicitation Process Milestone Schedule. Email all inquiries to [Purchasing@pontiac.mi.us](mailto:Purchasing@pontiac.mi.us). Clearly identify your inquiries. Responses to Vendors' Inquiries will be published as an addendum on BidNet.
- C. **RFP Contact.** The City's Representative for this RFP is Alicia Martin, Purchasing Manager. The City's Representative will be the **sole** point of contact for Contractors with regard to this RFP. Contractors will direct all communications concerning the RFP to the City Representative at the email provided in this Section 1.3. Contractors will not contact City personnel in reference to this RFP and may not reply to verbal or written statements by City personnel concerning this RFP, except as otherwise provided in this RFP.
- D. **Public Opening.** The Public Opening of Proposals will occur on the date and at the time reflected in the Solicitation Process Milestone Schedule located on page 1 of this solicitation. The Public Opening of Proposals will be held by the Purchasing Manager. The Contractor must RSVP no less than 48 hours prior to the Close Date of December 1, 2024 in order to receive the link to access the opening. The RSVP must be emailed to [Purchasing@pontiac.mi.us](mailto:Purchasing@pontiac.mi.us). The Public Opening will only disclose the names of all Contractors who submitted a proposal for valuation by the City.
- E. **Confidential/Proprietary Information.** The City is a public entity whose records are subject to [Michigan's Freedom of Information Act \(FOIA\), MCL 15.231 et seq.](#). Once the City awards a contract, then all proposals, whether successful or not, will become public records subject to inspection to public inspection in accordance with FOIA. For this reason, the City requests that Contractors DO NOT submit in their proposals information that they consider trade secrets, or otherwise confidential or sensitive commercial, financial, personal, or security-related ("Confidential Information") except as absolutely necessary to respond to the RFP. **Contractors who decide that they need to submit Confidential Information in order to effectively respond to the RFP will follow this process:**

- a. Package the Confidential Information that is necessary to the RFP response in a file that is separate from the remainder of the RFP response.
- b. Mark the file with "Confidential Information" or similar words.
- c. Review the remainder of the proposal and ensure that it contains no Confidential Information.
- d. Include a statement in the proposal that (1) identifies the separately packed information marked "Confidential Information," and (2) describes the basis on which the Contractor wishes to exempt the content of the package from public inspection under FOIA.

Following this process may protect some Confidential Information from public disclosure to the extent allowed by FOIA and other applicable law. The City does not guarantee that following this process will in fact protect Confidential Information from FOIA disclosure.

**F. Expense Preparing Proposal.** The City will NOT reimburse firms for any expense incurred while preparing proposals in response to this RFP. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP unless clearly and specifically noted in the submitted proposal and confirmed in the written contract between the City and the selected firm.

**G. City Rights.** The City reserves the right to reject any or all proposals and to select and engage that firm deemed to best meet the City's needs, cost and other factors considered. The City reserves the right to waive any irregularity on non-compliance in any proposal, **including proposals submitted after the prescribed deadline.** During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarifications, or to allow correction of errors or omissions.

- a. The City reserves the right to retain all proposals submitted and to use any ideas in any proposal regardless of whether that firm is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposal, unless clearly specifically noted in the proposal submitted and confirmed in the written contract between the City and the selected firm.

### **2.3 Basis of Award**

The City will make awards to the Contractor whose acceptable offer will be the most advantageous to the City. An evaluation team, composed of representatives of the City, will evaluate proposals on a variety of quantitative and qualitative criteria. Upon receipt of proposals, the City will review to determine whether the proposal is acceptable or non-acceptable based on quality of information submitted in Section 1.1 of this solicitation and the following:

- a. Responsiveness of submittal to the RFP. The Contractor has submitted a proposal that is fully comprehensive, inclusive, and conforms in all respects to the RFP and all of its requirements, including all forms and substance (**weighted value of 15%**).
- b. Experience. Contractor's proven proficiency in the successful completion of similar projects (**weighted value of 30%**).
- c. Understanding of Scope of Work and Objectives. Contractor's ability to demonstrate a thorough understanding of the City's goals pertaining to this specific solicitation (**weighted value of 20%**).
- d. Approach and Methodology. Contractor has provided a clear interpretation of the City's objectives in regard to the Scope of Work, and a fully comprehensive plan to achieve successful completion (**weighted value of 25%**).
- e. Cost proposal (**weighted value of 10%**). Contractors' ability to clearly convey the commission structure and other associated costs.

### **3. TERMS AND CONDITIONS**

#### **3.1 Laws and Municipal Ordinances, Permits**

The respondent 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 items 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.

#### **3.2 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, Contractors 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.

### **3.3 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.

### **3.4 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.

### **3.5 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.

### **3.6 Sales Tax**

The City, by statute, is exempt from the State Sales and Use Tax, and Federal Excise Tax; therefore, all fees shall not include tax.

### **3.7 Income Taxes**

Contractor agrees to contact City of Pontiac Income Tax Division, Audit and Compliance Section, 47450 Woodward, Pontiac, Michigan, 48342, telephone (248) 758-3092, to establish reporting and withholding obligations under the City of Pontiac income tax ordinance. Contractors 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.

The 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. Contractors are not

eligible for the award if they have not filed or paid corporate and employee income tax to the City of Pontiac.

Web page URL: [http://www.pontiac.mi.us/departments/income\\_tax/index.php](http://www.pontiac.mi.us/departments/income_tax/index.php)

Tax forms URL: [http://www.pontiac.mi.us/departments/income\\_tax/tax\\_forms.php](http://www.pontiac.mi.us/departments/income_tax/tax_forms.php)

### **3.8 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. The price on the invoice must correspond to the pricing listed on purchase order and/or contract.
- b. Contractors must submit price lists in accordance with proposal 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.

**The original invoice must** be emailed to the City of Pontiac, Accounts Payable Division. The division's email is [accountspayable@pontiac.mi.us](mailto:accountspayable@pontiac.mi.us). Payment Terms are Net 30.

### **3.9 General Conditions**

It is the responsibility of the respondent to review General Conditions as specified. All funds must be quoted in US dollars.

### **3.10 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.

### **3.11 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 solicitation 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.

**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.

If any of the above coverages expire during the term of this contract, the Contractor shall deliver renewal certificates and/or policies to the City of Pontiac at least ten (10) days prior to the expiration date.



### 3.12 Subcontracting

The City of Pontiac **will not allow subcontracting** for this agreement unless a request to do so is made by the City. All persons working on this project shall be employees of the Contractor as defined by law.

### 4. NON-ASSIGNMENT OR TRANSFER

The service provided by Contractor shall not be sub-contracted, assigned or transferred by the Contractor, unless with express written permission by the City of Pontiac Mayor.

### 5. CITY RULES

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

### 6. TERM OF CONTRACT

The contract will commence once executed and continue until a property is obtained for the Community Development. The City anticipates that the Contractor who receives the contract award will complete the **Scope of Work based on the agreed upon schedule.**

The contractor shall disclose all projects for private development that may be in conflict with other City projects before execution of the contract.

The City's acceptance of a proposal and approval of the award of a contract shall not constitute a formed contract and the acceptance of a proposal and award of a contract shall be contingent and conditioned upon the parties' entry into and execution of a written contract acceptable to the City.

**Attachment A**  
**Contractor's Certification Page and Receipt of Addendums**

Attention: City of Pontiac

The individual indicated below shall be the daily single-point-of-contact and the primary point of contact to resolve any issues, clarify cost, clarify schedule, and answer any questions. This individual will be the project lead for the execution of the Scope of Work indicated therein until the Scope of Work is completed.

STATEMENT OF CERTIFICATOINS AND ASSURANCES

The Offeror does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Offeror has thoroughly reviewed this RFP, sample contract, and all pertinent appendices, exhibits, and attachments included as part thereof, and that we fully understand all elements required for the full completion of the project as defined therein.
2. The Offeror further certifies that, if selected as the successful Contractor, we will enter into the contract agreement included with this RFP.
3. The prices in Contractor's proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purposes of restricting competition as to any matter relating to such prices with any other contractors or with any other competitor.
4. The prices quoted in Contractor's proposal have not been and will not be knowingly disclosed directly or indirectly by respondent to any other contractor or competitor prior to the final date and time for submission of such proposal.
5. No attempt has been made or will be made by respondent to induce any other person, partnership, or corporation to submit or not to submit a proposal for the purpose of restricting competition.
6. The Response submitted in response to the RFP shall remain valid for at least 60 days subsequent to the date of the Response Opening and thereafter in accordance with any contract pursuant to the RFP.

By signature below, the signatory certifies legal authority to bind the responding entity to the provisions of this RFP and any contract awarded pursuant to it. The Owner may, at its sole discretion and at any time, require evidence documenting the signatory's authority to be personally bound or to legally bind the responding entity.

**DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHOIRZED TO DO SO BY THE ENTITY  
RESPONDING TO THIS RFP.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ EIN \_\_\_\_\_

Title \_\_\_\_\_

Name of Firm \_\_\_\_\_



**SAMPLE**  
CONTRACT DOCUMENT  
FOR

CITY OF PONTIAC  
[add general name of contract]

**PURCHASING CONTRACT TEMPLATE v2023**

**CITY OF PONTIAC – DEPARTMENT OF FINANCE**

**PURCHASING DIVISION**

**Contract Expiration Date: [add expiration date]**

**Contract - NOT TO EXCEED AMOUNT [add NTE Amount]**

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This Contract effective as of \_\_\_\_\_, 2023 ("Contract"), between the CITY OF PONTIAC, a Municipal corporation, whose address is 47450 Woodward Ave., Pontiac, Michigan ("City"), and [add Name of Contractor], a [add, State of Organization, for example, Michigan corporation, limited liability, limited partnership], whose address is [add Address of Contractor] ("Contractor"). In this Contract, either the City or Contractor may also be referred to individually as a "Party" or jointly as the "Parties".

This Contract is organized and divided into the following "Section" or "Sections" for the convenience of the Parties.

SECTION 1. CONTRACT DOCUMENTS AND DEFINITIONS

SECTION 2. CONTRACT EFFECTIVE DATE AND TERMINATION

SECTION 3. SCOPE OF CONTRACTOR'S SERVICES

SECTION 4. CITY PAYMENT OBLIGATION FOR CONTRACTOR'S SERVICES

SECTION 5. CONTRACTOR ASSURANCES AND WARRANTIES

SECTION 6. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION

SECTION 7. GENERAL TERMS AND CONDITIONS

In consideration of the mutual promises, obligations, representations, and assurances in this Contract, the Parties agree to the following:

**1. CONTRACT DOCUMENTS AND DEFINITIONS**

The following words and expressions when printed with the first letter capitalized as shown herein, whether used in the singular or plural, possessive or non-possessive, and/or either within or without quotation marks, shall be defined and interpreted as follows:

- 1.1.** "City" means the City of Pontiac, a Michigan Municipal Corporation, its council, elected officials and officers, departments and "City Agent" as defined below.
- 1.2.** "City Agent" means all elected and appointed officials, directors, council members, employees working on behalf of the City, volunteers, representatives, and/or any such persons' successors (whether such person act or acted in their personal representative or official capacities), and/or any persons acting by, through, under, or in concert with any of them. "City agent" shall also include any person who was a "City

## PURCHASING CONTRACT TEMPLATE v2023

- agent" anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and serving as an Agent.
- 1.3. "Contract Administrator" or "City Representative" means the individual by the City to act as a liaison between the City and the Contractor. Any questions or problems the Contractor may have concerning the work under this Contract should be directed to this individual.
  - 1.4. "Contract Documents" means the following documents which are included and fully incorporated into this Contract:
    - 1.4.1 **Exhibit A: Request for Proposal**
    - 1.4.2 **Exhibit B: [if applicable add – specific scope of services]**
    - 1.4.3 **Exhibit C: [If applicable – add any addendums incorporated as part of the RFP Process]**
  - 1.5. "Contractor Employee" means without limitation, any employees, officers, directors, members, managers, trustees, volunteers, attorneys, and representatives of Contractor, and also includes any Contractor licensees, concessionaires, contractors, subcontractors, independent contractors, contractor's suppliers, subsidiaries, joint ventures or partners, and/or any such persons, successors or predecessors, employees, (whether such persons act or acted in their personal, representative or official capacities), and/or any and all persons acting by, through, under, or in concert with any of the above. "Contractor Employee" shall also include any person who was a Contractor Employee at anytime during the term of this contract but, for any reason, is no longer employed, appointed, or elected in that capacity.
  - 1.6. "Subcontractor" includes only those having a direct contact with the Contractor in the way of labor. One who merely furnishes material to the Contractor is not included in this definition.
  - 1.7. "Claims" means any alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are imposed on, incurred by, or asserted against the City, or for which the City may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.
  - 1.8. "Day" means any calendar day, which shall begin at 12:00:00 a.m. and end at 11:59:59 p.m.
  - 1.9. "Working Day" means any calendar day except Saturday, Sunday, and legal holidays as determined by the City.
  - 1.10. "Written Notice" shall be considered properly served if delivered in person to the Contractor, or to a member or office of his/her company; also if delivered at, or sent by registered mail to, the last known business address of the Contractor.
  - 1.11. "Intellectual Property" means any developments, improvements, designs, innovation, and materials that may be the subject of a trademark/servicemark, copyright or patent, trade secrets or Proprietary Information.

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**1.12.** "Proprietary Information" means ideas, concepts, inventions and processes related to the development and operation of computer software and systems such as source code, object code, security procedures and passwords.

### 2. CONTRACT EFFECTIVE DATE AND TERMINATION

**2.1.** The effective date of this Contract shall be as stated on the first page of this Contract, and unless otherwise terminated or canceled as provided below, it shall end at 11:59:59 p.m. on the "Contract Expiration Date" shown on the first page of this Contract, at which time this Contract expires without any further act or notice of either Party being required. The Parties are under no obligation to renew or extend this Contract after Contract Expiration Date. Notwithstanding the above, under no circumstances shall this Contract be effective and binding and no payments to the Contractor shall be due or owing for any Contractor services until and unless:

**2.1.1.** This Contract is signed by a Contractor Employee, legally authorized to bind the Contractor.

**2.1.2.** Any and all Contractor Certificates of Insurance and any other conditions precedent to the Contract have been submitted and accepted by the City.

**2.1.3.** This Contract is signed by the City of Pontiac Mayor or his designee, as provided for on the signature page of this Contract, who shall be the final signatory to this Contract.

**2.2.** The City may terminate and/or cancel this Contract (or any part thereof) at any time during the term, any renewal, or any extension of this Contract, upon Thirty (30) days written notice to the Contractor, for any reason, including convenience without incurring obligation or penalty of any kind. Notwithstanding the above, if the City is being reimbursed for any cost or expenses incurred under this Contract by any third party, including any Federal, State or local governmental agency, and any such third party funding is terminated, the City may terminate, end or cancel this Contract immediately upon written notice to the Contractor. The effective date for termination or cancellation shall be clearly stated in the written notice.

**2.3.** The City's sole obligation in the event of termination is for payment for actual services rendered by the Contractor before the effective date of termination. Under no circumstances shall the City be liable for any future loss of income, profits, any consequential damages or any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination and/or cancellation of this Contract. The City shall not be obligated to pay Contractor any cancellation or termination fee if this Contract is cancelled or terminated as provided herein.

**2.5.** Under no circumstances shall the City be obligated to pay the contractor for any Services rendered or Goods delivered which have not been invoiced, as required herein, within sixty (60) days of the date such Goods were actually delivered to the City or Services were actually rendered pursuant to this Contract.

### 3. SCOPE OF CONTRACTOR'S SERVICES

**3.1** The Contractor shall provide [add brief explanation of services being provided] to the City of Pontiac. The Contractor shall perform all work identified in **Exhibits A** [if applicable other Exhibits].

## PURCHASING CONTRACT TEMPLATE v2023

- The Contractor will forward all questions, as they arise, to the City's [City officials names and titles], via email to: [City contact] and, [City contact].
- 3.2** 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.
- 3.3** 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, replace or restore the City for any loss or damage, normal wear and tear excepted.

### 4. CITY PAYMENT OBLIGATIONS FOR CONTRACTOR'S SERVICES

- 4.1.** Except as otherwise expressly provided for in this Contract, the City's sole financial obligation to the Contractor for any services under this Contract shall be:
- 4.1.1.** In no event, shall the City's amount due and owing the Contractor for any and all services rendered exceed the amount identified as the "NOT TO EXCEED AMOUNT" on the first page of this Contract. In the event the Contractor can reasonably foresee the total billings for its services will exceed this "NOT TO EXCEED AMOUNT", the Contractor shall provide the City with notice of this contingency at least fifteen (15) Days before this event.
- 4.1.2** The Contractor shall submit an invoice to the City which shall itemize all amounts due and/or owing by the City under this Contract, as the date of the invoice. The City shall have no obligation to make payment until a proper invoice of service is submitted. The City reserves the right to make partial payments on account of the amount due the Contractor as the work progresses.
- 4.1.** Method of Payment. Method of Payment as specified in **Exhibit A**. Contractor shall invoice on a monthly basis, in accordance with section 2.6 of the RFP, for services completed, no later than the 5<sup>th</sup> of each month, until the Scope of Services are complete. Contractor must email all invoices to [accountspayable@pontiac.mi.us](mailto:accountspayable@pontiac.mi.us) for processing. Final payment for the work performed under this Contract shall not be made until all work is satisfactorily performed and final clean-up has been performed. Contractor will be paid 30 days after completion of work as outlined in the Scope of Services after submission of a valid invoice.
- 4.2.** Under no circumstances shall the City be responsible for any cost, fee, fine, penalty, or direct, indirect, special, incidental or consequential damages incurred or suffered by Contractor in connection with or resulting from the Contractor's providing any services under this Contract.

## PURCHASING CONTRACT TEMPLATE v2023

- 4.3. The City has the right to offset any amounts due and owing to the Contractor should the City incur any cost associated with this Contract that is the obligations of Contractor under this Contract. This includes withholding payment in the amount of any City provided equipment, or supplies (if applicable) that are not returned by Contractor upon completion of the services provided under this Contract.
- 4.4. This Contract does not authorize any in-kind services by either Party, unless expressly provided herein.
- 4.5. Change Order Process. Changes in the Contract, Contract price or Scope of Work shall only occur in writing via a "Contract Change Order". Contract Change Orders shall be used to reflect additions to, reductions in, or changes to the Scope of Work (Exhibit A).
- 4.6. 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.

### 5. CONTRACTOR'S ASSURANCES, WARRANTIES AND DEFAULT

- 5.1. The Contractor certifies that all statements, assurances, records, and materials submitted to City in connection with securing this Contract have been truthful, complete and accurate in all respects. The Contractor agrees and understands that any material false statement, representation or omission made in connection with its seeking or obtaining this Contract may be grounds for canceling or terminating this Contract and/or debaring the Contractor from future City contracts. The City's right to cancel this Contract as provided herein shall be in addition to any other rights the City has to terminate or cancel this Contract.
- 5.2. Service Warranty. Contractor warrants that all services performed hereunder will be performed in a manner that complies with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 5.3. Business and Professional Licenses. The Contractor will obtain and maintain at all times during the term of this Contract all applicable business and professional licenses necessary to provide the contracted services.
- 5.4. Equipment and Supplies. The Contractor is responsible for providing equipment and supplies required to complete the specified services under the Contract unless otherwise expressly set forth in the Contract.
- 5.5. Taxes. The Contractor shall pay, its own local, state and federal taxes, including without limitation, social security taxes, and unemployment compensation taxes. The City shall not be liable to or be required to reimburse the Contractor for any federal, state and local taxes or fees of any kind.



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- 5.6. Contractor's Incidental Expenses.** Except as otherwise expressly provided in this Contract, the Contractor shall be solely responsible and liable for all costs and expenses incident to the performance of all services for the City including, but not limited to, any professional dues, association fees, license fees, fines, taxes, and penalties.
- 5.7. Taxes.** 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](http://www.pontiac.mi.us/departments/income_tax/index.php)

Tax forms URL: [http://www.pontiac.mi.us/departments/income\\_tax/tax\\_forms.php](http://www.pontiac.mi.us/departments/income_tax/tax_forms.php)

- 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.

### **5.8 Contractor Employees.**

- 5.8.1** The Contractor shall employ and assign qualified Contractor Employees as necessary and appropriate to provide the services under this Contract. Contractor shall ensure all Contractor Employees have all the necessary knowledge, skill, and qualifications necessary to perform the required services and possess any necessary licenses, permits, certificates, and governmental authorizations as may be required by law.
- 5.8.2** The Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. The Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employee.
- 5.8.3** (If Applicable) All Contractor Employees shall wear and display appropriate City provided identification at all times while working on City premises. The Contractor shall return all City provided identification when any of the following situations occur: (1) Upon completion of the last day of work provided under this Contract; (2) when a Contractor Employee has completed the work under this Contract; or (3) when a Contractor Employee no longer works for Contractor.

## PURCHASING CONTRACT TEMPLATE v2023

- 5.8.4** All Contractor Employees assigned to work under this Contract may, at the City's discretion, be subject to a security check and clearance by the City.
- 5.9. Contractor Employee-Related Expenses.** All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance) and the Contractor warrants that all Contractor Employees shall fully comply with and adheres to all of the terms of this Contract. The Contractor shall be solely and completely liable for any and all applicable Contractor Employee's federal, state, or local payment withholdings or contributions and/or any and all Contractor Employee related pension or welfare benefits plan contribution under federal or state law. The Contractor shall indemnify and hold the City harmless for all Claims against the City by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between the Contractor and any Contractor Employee, including, but not limited to, Worker's Compensation, disability pay or other insurance of any kind.
- 5.10. Full Knowledge of Service Expectations and Attendant Circumstances.** The Contractor warrants that before submitting its bid and entering into this Contract, it had a full opportunity to review the proposed services, examine all measurements, dimensions, and existing conditions of the work area for this Contract and to review all City requirements and expectations under this Contract. The Contractor is responsible for being adequately and properly prepared to execute and perform this Contract. The Contractor has satisfied itself in all material respects that it will be able to perform all obligations under the Contract as specified herein.
- 5.11. Independent Contractor.** The Contractor's Relationship to the City Is that of an Independent Contractor. Nothing in this Contract is intended to establish an employer-employee relationship between the City and either the Contractor or any Contractor Employee. All Contractor Employees assigned to provide services under this Contract by the Contractor shall, in all cases, be deemed employees of the Contractor and not employees, agents or sub-contractors of the City.
- 5.12. Default.** In addition, to a breach of the terms of any condition or warranty set forth in this Contract, the following events shall constitute a default of Contractor:
- Fails to supply complete labor and supervision in sufficient time and quantity to meet the City's progress schedule, as it may be modified.
  - Causes stoppage or delay of, or interference with, the project.
  - Fails to promptly pay its employees for work on the project.
  - Fails to pay worker's compensation or other employee benefits, withholding or any other taxes.
  - 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.

## PURCHASING CONTRACT TEMPLATE v2023

- Makes unauthorized changes in supervisory personnel without Notice to Contract Administrator.
- Fails in performance or observance of any of the provisions of the contract.
- Files a voluntary petition in bankruptcy or is adjudicated insolvent; obtains an order for relief under Section 301 of the Bankruptcy Code; 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; seeks or consents to or is acquiescent in the appointment of a trustee, receiver or liquidator of any of its assets or property; makes an assignment for the benefit of creditors; or Makes an admission, in writing, of its inability to pay its debts as they became due.

### 5.13. 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:

- 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.
- 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;
  - 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
  - Recover all reasonable attorneys' fees suffered or incurred by City by reason of, or as a result of, Contractor's default.

## 6. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION

- 6.1. Indemnification. The Contractor shall indemnify and hold the City harmless from any and all Claims which are incurred by or asserted against the City by any person or entity, alleged to have been caused or found to arise, from the acts, performances, errors, or omissions of the Contractor or Contractor's Employees, including, without limitations, all Claims relating to injury or death of any person or damage to any property.

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- 6.1.1** The indemnification rights contained in this Contract are in excess and over and above any valid and collectible insurance rights/policies. During the term of this Contract, if the validity or collectability of the Contractor's insurance is disputed by the insurance company, the Contractor shall indemnify the City for all claims asserted against the City and if the insurance company prevails, the Contractor shall indemnify the City for uncollectible accounts.
- 6.1.2** The Contractor shall have no rights against the City for any indemnification (e.g., contractual, equitable, or by implication), contribution, subrogation, and/or any other right to be reimbursed by the City except as expressly provided herein.
- 6.1.3** The Contractor waives and releases all actions, liabilities, loss and damage including any subrogated rights it may have against the City based upon any Claim brought against the City suffered by a Contractor Employee.
- 6.1.4** Contractor Provided Insurance.
- At all times during this Contract, including renewals or extensions, Contractor shall obtain and maintain insurance according to the specifications and requirements set forth in **Exhibit A, Section 2.10** Bonds and Insurance.

## 7. GENERAL TERMS AND CONDITIONS

- 7.1.** Cumulative Remedies. A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.
- 7.2.** Survival of Terms and Conditions. The following terms and conditions shall survive and continue in full force beyond the termination and/or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their very nature:
- "CONTRACTOR'S ASSURANCES AND WARRANTIES";
  - "CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION";
  - "Audit";
  - "Severability";
  - "Governing Law/Consent To Jurisdiction And Venue"; and
  - "Survival of Terms And Conditions".
- 7.3.** City Right to Suspend Services. Upon written notice, the City may suspend performance of this Contract if Contractor has failed to comply with federal, state, or local laws, or any requirements contained in this Contract. The right to suspend

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services is in addition to the City's right to terminate and/or cancel this Contract. The City shall incur no penalty, expense, or liability to Contractor if the City suspends services under this Section.

- 7.4.** No Third-Party Beneficiaries. Except as provided for the benefit of the Parties or except as specifically set forth in the Contract, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' rights in this Contract, and/or any other right, in favor of any other person or entity.
- 7.5.** Compliance with Laws. Contractor shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract, including zoning and building codes and MIOSHA guidelines.
- 7.6.** Permits and Licenses. Contractor shall be responsible for obtaining and maintaining throughout the term of this Contract all licenses, permits, certificates, and governmental authorizations necessary to perform all of its obligations under this Contract and to conduct business under this Contract. Upon request by the City, Contractor shall furnish copies of any permit, license, certificate or governmental authorizations necessary to provide services under this Contract. The Contractor shall deliver all certificates of inspection to the City, if applicable.
- The Contract Administrator or designee shall act as inspector for this project.
  - The inspector shall have access to the Work under this Contract.
- 7.7.** Discrimination. Contractor shall not discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, or handicap in violation of State and Federal law.
- Contractor shall promptly notify the City of any complaint or charge filed and/or determination by any Court or administrative agency of illegal discrimination by Contractor.
  - The City, in its discretion, may consider any illegal discrimination described above as a breach of this Contract and may terminate or cancel this Contract immediately with notice.
- 7.8.** Reservation of Rights. This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the City.
- 7.9.** Force Majeure. Notwithstanding any other term or provision of this Contract, neither Party shall be liable to the other for any failure of performance hereunder if such failure is due to any cause beyond the reasonable control of that Party and that Party cannot reasonably accommodate or mitigate the effects of any such cause. Such cause shall include, without limitation, acts of God, fire, explosion, vandalism, any law, order, regulation, direction, action, or request of the United

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States government or of any other government, national emergencies, insurrections, riots, wars, strikes, lockouts, work stoppages, or other labor difficulties. Reasonable notice shall be given to the affected Party of any such event. The Contractor is expected, through insurance or alternative temporary or emergency service arrangements, to continue its obligations under this contract in the event of a reasonably anticipated, insurable business risk such as business interruption and/or any insurable casualty or loss.

- 7.10.** Conflict of Interest. Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.321, et seq.), no contracts shall be entered into between the City, including all agencies and departments thereof, and any City Agent. To avoid any real or perceived conflict of interest, Contractor shall identify any Contractor Employee or relative of Contractor's Employees who are presently employed by the City. Contractor shall give the City notice if there are any City Agents or relatives of City Agents who are presently employed by Contractor.
- 7.11.** Grant Compliance. If any part of this Contract is supported or paid for with any state or federal funds granted to the City, the Contractor shall comply with all applicable grant requirements.
- 7.12.** Contract Administrator. Each Party may designate an employee or agent to act as Contract Administrator. The City's Contract Administrator shall be responsible for such activities as monitoring deliverables and funding, addressing the quality of services provided by the Contractor, reviewing invoices and submitting requests to the City's procurement authority for any contract modification in accordance with terms of this Contract.
- 7.13.** Access and Records. Contractor will maintain accurate books and records in connection with the services provided under this Contract for thirty-six (36) months after end of this Contract, and provide the City with reasonable access to such book and records.
- 7.14.** Audit. Contractor shall allow the City's Finance Director Division, or an independent auditor hired by the City, to perform finance compliance audits with the authority to access all pertinent records and interview any Contractor Employee throughout the term of this Contract, and for a period of three years after final payment.
- Contractor shall explain any audit finding, questionable costs, or other Contract compliance deficiencies to the City within thirty (30) business days of receiving the draft audit report. Contractor's written response shall include all necessary documents and information that refute the draft audit report, and an action plan to resolve the audit findings. A copy of the Contractor's response will be included in the final report. Failure by the Contractor to respond in writing within thirty (30) business days shall be deemed acceptance of the draft audit report, and will be noted in the final report.
- 7.15.** Delegation /Subcontract/Assignment.

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- The Contractor shall not assign, delegate, or subcontract any part of this Contract without the prior written consent of the City.
  - The rights and obligations under this Contract shall not be diminished in any manner by assignment, delegation or subcontract.
  - Any assignment, delegation, or subcontract by Contractor must include a requirement that the assignee, delegee, or subcontractor will comply with the rights and obligations contained in this Contract.
  - The Contractor shall remain primarily liable for all work performed by any subcontractors. The Contractor shall remain liable to the City for any obligations under the Contract not completely performed or incorrectly performed by any Contractor delegee or subcontractor.
  - The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors.
  - Should a subcontractor fail to provide the work as required by the Contract, the Contractor shall contract with another entity to perform the work in a timely manner. Any additional costs associated with securing a competent subcontractor and performing the required work shall be the sole responsibility of the Contractor.
  - If any part of the Contractor's services depends upon the work of any other contractor or subcontractor, the Contractor shall inspect and promptly report to the City any defects in such work that shall render it unsuitable. The failure to inspect and report shall constitute an acceptance of the other contractor's or subcontractor's services.
- 7.16.** This Contract cannot be sold. The City reserves the right to let other contracts in connection with this Work even if of like character to the Work under this Contract. The Contractor shall coordinate his work with theirs.
- 7.17.** Contractor Bankruptcy. In the event that a Petition in Bankruptcy is filed and there is an assignment of this Contract by a Court, the City may declare this Contract null and void.
- 7.18.** Non Exclusive Contract. No provision in this Contract limits, or is intended to limit, in any way the Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, this Contract is a non-exclusive agreement and the City may freely engage other persons to perform the same work that the Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee the Contractor or any Contractor Employee any number of fixed or certain number or quantity of hours or services to be rendered to the City.
- 7.19.** No Implied Waiver. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any right or remedy under this Contract shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Contract. No waiver of any term, condition, or provision of this Contract, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Contract. No waiver

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by either Party shall subsequently affect its right to require strict performance of this Contract.

- 7.20.** Severability. If a court of competent jurisdiction finds a term, condition, or provision of this Contract to be illegal or invalid, then the term, condition, or provision shall be deemed severed from this Contract. All other terms, conditions, and provisions of this Contract shall remain in full force and effect. Notwithstanding the above, if Contractor's promise to indemnify or hold the City harmless is found illegal or invalid, Contractor shall contribute the maximum it is permitted to pay by law toward the payment and satisfaction of any Claims against the City.
- 7.21.** Captions. The section and subsection numbers, captions, and any index to such sections and subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this contract. Any use of the singular or plural number, any reference to the male, female, or neuter genders, and any possessive or nonpossessive use in this contract shall be deemed the appropriate plurality, gender or possession as the context requires.
- 7.22.** Notices. Notices given under this Contract shall be in writing and shall either be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given when one of the following occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail

For the Contractor: [Contractor's contact information]

For the City: [Contractor's contact information]

- 7.23.** Contract Modifications or Amendments. Any modifications, amendments, waivers, or releases to this Contract must be in writing and agreed to by both Parties. Unless otherwise agreed, the modification, amendment, waiver, or release shall be signed by an expressly authorized Contractor Employee and by



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the same person who signed the Contract for the City or other City Agent as authorized by the City.

- 7.24.** Precedence of Documents. In the event of a conflict between the terms and conditions in any of the documents comprising this Contract, the conflict shall be resolved as follows:
- The terms and conditions contained in this main Contract document shall prevail and take precedence over any allegedly conflicting provisions in all other Exhibits and documents.
- 7.25.** Governing Laws/Consent to Jurisdiction and Venue. This Contract shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the Sixth Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Contract to enforce such judgment in any appropriate jurisdiction.
- 7.26.** Contractor Use of Confidential Information. The Contractor and/or Contractor Employees shall not reproduce, provide, disclose, or give access to Confidential Information to any third party, or to any Contractor Employee not having a legitimate need to know any such information and data, and shall not use the Confidential Information for any purpose other than performing its services under this Contract. Notwithstanding the foregoing, Contractor may disclose the Confidential Information if required by law, statute or other legal process; provided that Contractor (i) gives City prompt written notice of an impending disclosure, (ii) provides reasonable assistance to City in opposing or limiting the disclosure, and (iii) makes only such disclosure as is compelled or required.
- This Contract imposes no obligation upon Contractor with respect to any Confidential Information which Contractor can establish by legally sufficient evidence: (i) was in the possession of, or was known by Contractor, prior to its receipt from the City, without an obligation to maintain its confidentiality; or (ii) is obtained by Contractor from a third party having the right to disclose it, without an obligation to keep such information confidential.
  - As used in this Contract, Confidential Information means all information that the City is required or permitted by law to keep confidential.
- 7.27.** Contractor Use of City Licensed Software. Except as otherwise set forth in the Exhibits A and C. i order for the Contractor to perform its services under this Contract, the City may permit Contractor or Contractor Employees to access certain copyrighted Software licensed to the City. Contractor or Contractor Employees shall not: transfer, remove, use, copy, or otherwise provide or make available any such copyrighted Software or Documentation to any other person or entity, for any purpose, without the prior written consent of the City and/or the licensor. Furthermore, neither the Contractor nor Contractor Employee shall

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produce a source listing, decompile, disassemble, or otherwise reverse engineer any copyrighted Software. Neither the Contractor nor Contractor Employee shall use any copyrighted software contrary to the provisions of any applicable Software license agreement or state or federal law.

**7.28.** Entire Contract. This Contract represents the entire Contract and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements or Contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

The undersigned executes this Contract on behalf of Contractor and the City, and by doing so legally obligates and binds Contractor and the City to the terms and conditions of this Contract.

FOR THE CONTRACTOR:

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

FOR THE CITY OF PONTIAC:

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Tim Greimel, Mayor

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Tim Sadowski, Finance Director

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Alicia Martin, Purchasing Manager

APPROVED AS TO SCOPE OF CONTRACTOR SERVICES:

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

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**Exhibit A**

**Request for Proposal**



