

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
Material Testing Consultants
AND THE CITY OF ANN ARBOR
FOR 2023 GEOTECHNICAL AND ENVIORMENTAL SERVICES**

This agreement ("Agreement") is between the City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and Material Testing Consultants ("Contractor"), a(n) Michigan Registered Corporation, with its address at 693 Plymouth Ave NE, Grand Rapids, MI 49505. City and Contractor are referred to collectively herein as the "Parties." The Parties agree as follows:

I. DEFINITIONS

Administering Service Area/Unit means City of Ann Arbor Engineering.

Contract Administrator means Nicholas Hutchinson, P.E., acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for and delivered to City by Contractor under this Agreement.

Project means 2023 Geotechnical and Environmental Services.

II. DURATION

Contractor shall commence performance upon execution of the contract. This Agreement shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in Article XI. The terms and conditions of this Agreement shall apply to the earlier of the Effective Date or Commencement Date.

III. SERVICES

- A. The Contractor agrees to provide Professional Engineering ("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the compensation shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.

- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. The Contractor shall perform its Services for the Project in compliance with all statutory, regulatory, and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement. The Contractor shall also comply with and be subject to the City of Ann Arbor policies applicable to independent contractors.
- D. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City (if any) except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. INDEPENDENT CONTRACTOR

The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to any other Party shall be that of an independent contractor. Each Party will be solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement.

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

V. COMPENSATION OF CONTRACTOR

- A. The Contractor shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Contractor, and approved by the Contract Administrator.
- B. The Contractor will be compensated for Services performed in addition to the Services described in Article III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.
- C. The Contractor shall keep complete records of work performed (e.g. tasks performed, hours allocated, etc.) so that the City may verify invoices submitted by the Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

VI. INSURANCE/INDEMNIFICATION

- A. The Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death or property damage that may arise under this Agreement; whether the act(s) or omission(s) giving rise to the claim were made by the Contractor, any subcontractor, or anyone employed by them directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit C. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- B. Any insurance provider of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses, including attorney's fees, resulting or alleged to result, from any acts or omissions by Contractor or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.

VII. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Contractor agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The Contractor further agrees to comply with the provisions of Section 9:158 of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

- B. Living Wage. If the Contractor is a “covered employer” as defined in Chapter 23 of the Ann Arbor City Code, the Contractor agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor agrees to pay those employees providing Services to the City under this Agreement a “living wage,” as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

VIII. WARRANTIES BY THE CONTRACTOR

- A. The Contractor warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills, experience, and professional licenses (if applicable) necessary to perform the Services pursuant to this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services pursuant to this Agreement.
- D. The Contractor warrants that it has no personal or financial interest in the Project other than the fee it is to receive under this Agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services it is to provide pursuant to this Agreement. Further Contractor agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. The Contractor warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes. Further Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.
- F. The Contractor warrants that its proposal for services was made in good faith, it arrived at the costs of its proposal independently, without consultation, communication or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Contractor to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

- G. The person signing this Agreement on behalf of Contractor represents and warrants that she/he has express authority to sign this Agreement for Contractor and agrees to hold the City harmless for any costs or consequences of the absence of actual authority to sign.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Contractor of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor

written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.

- D. The provisions of Articles VI and VIII shall survive the expiration or earlier termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

XII. REMEDIES

- A. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty or immunity of the Parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- C. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.

XIII. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated below or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to:

Material Testing Consultants
693 Plymouth Ave NE
Grand Rapids, MI 49505

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor
Mr. Nicholas Hutchinson, P.E.
City of Ann Arbor
Engineering Unit
301 E. Huron St.
Ann Arbor, Michigan 48104

With a copy to: The City of Ann Arbor
ATTN: Office of the City Attorney
301 East Huron Street, 3rd Floor
Ann Arbor, Michigan 48104

XIV. CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XV. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., Deliverables) prepared by or obtained by the Contractor as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Contractor as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Contractor.

XVI. CONFLICTS OF INTEREST OR REPRESENTATION

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

Contractor agrees to advise the City if Contractor has been or is retained to handle any matter in which its representation is adverse to the City. The City's prospective consent to the Contractor's representation of a client in matters adverse to the City, as identified above, will not apply in any instance where, as the result of Contractor's representation, the Contractor has obtained sensitive, proprietary or otherwise confidential information of a non-public nature that, if known to another client of the Contractor, could be used in any such other matter by the other client to the material disadvantage of the City. Each matter will be reviewed on a case by case basis.

XVII. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVIII. EXTENT OF AGREEMENT

This Agreement, together Exhibits A, B, and C, constitutes the entire understanding between the City and the Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

XIX. ELECTRONIC TRANSACTION

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

XX. EFFECTIVE DATE

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR Material Testing Consultants

By _____

Name: Steven M. Elliott, P.E., MSCE

Title: President

Date: _____

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Date: _____

Approved as to substance

Brian Steglitz, P.E, Service Area
Administrator

Milton Dohoney Jr., City Administrator

Approved as to form and content

Atleen Kaur, City Attorney

EXHIBIT A SCOPE OF SERVICES

The contract includes performance of soil borings and pavement cores at various locations and depths throughout the City. The work for this contract will be on an “as needed” basis.

Many of the borings requested through this contract will likely consist of 5-foot deep borings for road resurfacing/reconstruction projects. In addition, there will likely also be deeper borings for utility replacement and stormwater infiltration projects. Most of the borings will be located within, or adjacent to, public streets.

The City may also request that environmental drilling or direct push drilling be performed at sites of known or suspected contamination.

It is the City’s intent to bundle work together as much as possible to reduce mobilization and overhead costs, however some requests for work may still need to be performed separately as needed. For purposes of this contract, a “bundle” will be defined as each request for work from the City. The City may request an estimate on each bundle of work prior to beginning the work. Such estimates shall be performed at no cost to the City.

The work to be performed by Material Testing Consultants, Inc., shall include:

- Performing soil borings in locations as directed by the City. Each soil boring shall include pavement cores in order to determine existing pavement thickness. This shall also include coring through any concrete pavement or base that may be encountered. Soil borings will extend to the depth indicated, as measured from the top of the existing pavement.
- Careful measurement and recording on the boring logs of all pavement and aggregate base thicknesses. The composition and description of the aggregate base shall also be reported on the boring logs (i.e. natural aggregate or crushed limestone). Sufficient samples of aggregate base and sand subbase materials shall be obtained in order to perform sieve analysis testing if requested by the City.
- Continuous sampling on all soil borings for the first 2½ feet below the existing pavement surface.
- Measuring and recording the distance of the actual boring location from the nearest curb line and from another permanent feature (such as a drainage structure, driveway opening, etc). Sampling locations will be marked in the field by a representative of the City of Ann Arbor. Boring locations shall not be offset for reasons other than avoiding conflicts with existing utilities, parked cars, trees, or other unmovable obstacles.
- Preparing boring logs describing in detail the soil types encountered and results of laboratory analysis, as well as the locations of the soil borings and cores.
- Preparing a geotechnical report describing the results of the soils investigation and making recommendations as appropriate. The geotechnical report will also provide a summary table of the soil boring results, which shall include, at a minimum, the street name and limits, range of asphalt thicknesses encountered, thickness and description of base course encountered, a brief description of subgrade soils, estimated Resilient Modulus, and

analysis of any laboratory results. One report shall be prepared per “bundle” of projects, as requested by the City.

- Any laboratory testing required to provide comprehensive soil boring logs and/or geotechnical reports. This shall include, at a minimum, visual engineering classification of all samples (in accordance with the USCS) as well as moisture content and soil strength tests on cohesive samples. All core thicknesses shall be measured in the laboratory to verify measurements obtained in the field. Laboratory testing shall be included in the cost of the soil borings.
- Additional laboratory testing as requested by the City, such as gradation analysis or permeability.
- Obtaining the proper permits from the City of Ann Arbor and supplying the necessary traffic control during drilling operations. The selected firm will need to obtain Right Of Way Permits and Lane Closure Permits (when necessary) from the City of Ann Arbor. The fees for these permits shall be waived. If necessary, the Consultant shall rent parking meter bags (at the Consultant’s cost) to assure access to soil borings in areas where parking meters are present.
- Performing environmental soil borings or direct push drilling at sites of known or suspected contamination. Environmental drilling, which requires the drill rig, augers and other equipment to be decontaminated prior to drilling operations, shall be done in accordance with EPA standards.
- Performing environmental direct push drilling (i.e. Geoprobe), which uses a percussion hammer to push and vibrate into the ground, instead of rotating. The soil samples shall be collected in 5' plastic liners, so that volatile organics are not exposed to the atmosphere, resulting in better analysis.
- Preparing a site specific environmental work plan and Health and Safety plan for the City’s review and approval prior to performing environmental soil borings or direct push drilling at sites of known or suspected contamination.
- Collecting of soil and groundwater samples suitable for submittal for analytical evaluation for PNAs, VOCs, metals or other analysis requested by the City. These samples, including trip blanks, shall be collected and delivered to City staff or a suitable laboratory using the standard chain of custody protocols.
- Implementation of traffic control for all major streets in conformance with the most current edition of the Michigan Manual of Uniform Traffic Control Devices (MMUTCD).
- All services shall be performed in compliance with all applicable EPA, ASTM, MDOT, and City Standards and Specifications, and shall be performed under the direction of a Michigan licensed professional engineer, employed by the selected firm.

**EXHIBIT B
COMPENSATION**

General

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

All time for project management, engineering time, secretarial time, MISSDIG coordination, obtaining permits, and other miscellaneous staff time shall be included in the appropriate items of work on the table below, and shall not be paid for separately.

No charges for items not listed below shall be made without prior authorization by the City. The total amount of fees to be paid under this Agreement shall not exceed \$275,000.00

| Service Description (see below) | Units | Unit Price |
|----------------------------------------------------------|-------|------------|
| Mobilization | Each | \$ 1,200 |
| Traffic Control | Day | \$ 425 |
| Two-Person Flagging Crew | Hour | \$ 325 |
| Soil Borings | LF | \$ 40 |
| Pavement Core (including the aggregate base) | Each | \$ 200 |
| Geotechnical Report | Each | \$2,200 |
| Conventional Laboratory Testing | Each | \$ 25 |
| Sieve Analysis | Each | \$ 150 |
| Laboratory Permeability Test | Each | \$ 350 |
| Loss-on-Ignition Test | Each | \$ 150 |
| Infiltration Testing (in accordance with the WCWRC Rule) | Each | \$ 450 |
| Environmental Work plan and Health & Safety Plan | Each | \$ 600 |
| Environmental Soil Borings | LF | \$ 57 |
| Environmental Direct Push Bore | LF | \$ 42 |
| Environmental Soil Sample | Each | \$ 100 |
| Environmental Groundwater Sample | Each | \$ 200 |

Mobilization: This item includes all mobilization costs for each bundle of projects on which work is requested.

Traffic Control: This item includes all temporary signs, cones, barrels, arrow boards, and/or other traffic control devices necessary to conform to the MMUTCD and to safely complete the work.

Two-Person Flagging Crew: This hourly rate includes all costs associated with providing flag persons as necessary for traffic control on major streets.

Soil Borings: Includes all staff time and equipment costs involved with performing soil borings, including all coordination with MISS DIG. Also includes backfilling and cold-patching the borehole.

Conventional Laboratory Testing: This item consists of all laboratory testing necessary to prepare the soil boring logs, including visual engineering classification (VEC) on all samples; and moisture content and strength testing (Qp) on all native cohesive samples. Charges shall be on a per sample basis.

Geotechnical Report: As described in Section II, for each bundle of projects submitted.

Sieve, Permeability, & Loss-on-Ignition Tests: Additional laboratory testing to be performed in accordance with applicable ASTM standards, as requested by the City. The appropriate type of laboratory permeability test will be project dependent and will be determined by the City of Ann Arbor and the Consultant based on soil type encountered during drilling operations.

Environmental Work plan and Health & Safety Plan: The includes the preparation of a site specific environmental work plan and Health & Safety Plan, which shall be submitted to the City for review and approval prior to commencing drilling operations. A photoionization detector(s) with 10.6 eV and/or 11.7 eV lamps, depending on the nature of contaminants, may be required during drilling operations.

Environmental Soil Borings: Includes all staff time and equipment costs involved with performing environmental soil borings, including all coordination with MISS DIG. Also includes proper disposal of soil cuttings, grouting the borehole and/or cold-patching the borehole.

Environmental Direct Push Bore: Includes all staff time and equipment costs involved with performing environmental direct push borings, including all coordination with MISS DIG. Also includes proper disposal of soil cuttings, grouting the borehole and/or cold-patching the borehole.

Environmental Soil and Groundwater Samples: These items include the collection of soil and groundwater samples suitable for submittal for analytical evaluation per the approved work plan. The samples shall be labeled and stored under chilled condition in suitable containers. Delivery to the City or an approved laboratory shall be arranged as soon as practical and before the sample holding time limit expires.

**EXHIBIT C
INSURANCE REQUIREMENTS**

From the earlier of the Effective Date or the Commencement Date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall have, at a minimum, the following insurance, including all endorsements necessary for Contractor to have or provide the required coverage.

A. The Contractor shall have insurance that meets the following minimum requirements:

1. Professional Liability Insurance or Errors and Omissions Insurance protecting the Contractor and its employees in an amount not less than \$1,000,000.

2. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit

3. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:

| | |
|-------------|---------------------------------------------------------------------------------------------------|
| \$1,000,000 | Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined |
| \$2,000,000 | Per Project General Aggregate |
| \$1,000,000 | Personal and Advertising Injury |

4. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

- B. Insurance required under A.3 and A.4 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.
- C. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this Agreement, the Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.