

**EMPLOYMENT AGREEMENT BETWEEN
WILLIAM R. WHEELER AND THE CITY OF ANN ARBOR**

This Agreement is made May 1, 2010, between William R. Wheeler of 3445 Yellowstone Dr., Ann Arbor, Michigan 48105 ("Employee") and the City of Ann Arbor, a Michigan municipal corporation, having its offices at 100 North Fifth Avenue, Ann Arbor, Michigan 48104 ("City").

In consideration of the promises and the mutual agreements set forth below, it is agreed as follows:

1. (A) Employee agrees to provide the following services to the City as a Contract Employee:

Work will include, but will not necessarily be limited to:

Project management services to the City in connection with the Municipal Center project including assistance with, and coordination of, pay requests, RFIs, submittal packages, change orders, test reports, bulletins, proposal requests, LEED compliance, and any related work as required.

No Professional Engineering services will be provided.

- (B) Additionally, Employee agrees to perform other functions as may be required.

2. Employee shall receive as compensation for the covenants to be observed and services to be performed as set forth above, an hourly rate of seventy-four and 32/100 dollars (\$74.32) for services accepted by the City as meeting the standards under the contract. The total compensation under the contract shall not exceed one hundred twenty six thousand and no/100 dollars (\$126,000.00). Employee will work on days and hours agreed upon by Employee and the Public Services Area Administrator or her designee. Employee will not work any hours in excess of 40 in any week unless those hours are approved in advance by the Public Services Area Administrator. Employee will be reimbursed for reasonable and necessary expenses incurred in connection with this contract.

The Employee agrees to reduce his hourly rate of compensation by the same percentage of wage or benefit cut that may be implemented for non-union employees effective in the City's fiscal year beginning July 1, 2010. The reduced rate shall be applied only to hours worked after the effective date of any wage or benefit reduction.

3. This Agreement shall be in effect from May 1, 2010 to April 30, 2011, or until exhaustion of the one hundred twenty six thousand and no/100 dollars (\$126,000.00) maximum compensation, whichever comes first, unless terminated earlier under Paragraph 4.

4. This Agreement shall terminate upon the occurrence of any one of the following events:

- a. the demise of the Employee or the inability of the Employee to provide the services required under the Agreement; or
- b. the failure of the Employee to comply with the terms of this Agreement, including the Employee's failure to perform satisfactorily the requested services, as determined solely by City management.

This Agreement may also be terminated:

- a. by the City for no reason by giving at least 14 days advance written notice to the Employee; or
- b. by the Employee for no reason by giving at least 14 days advance written notice to the Public Services Area Administrator or her designee.

5. It is understood that Employee's relationship to the City under this Agreement shall be that of a contract employee as defined in the City's Human Resources Policies and Procedures. It is further understood that Employee will not receive any holiday pay, overtime pay, sick pay, vacation pay, retirement benefits, pension benefits, deferred compensation benefits, insurance benefits, or fringe benefits of any kind in any form, or be eligible to participate in any City benefit program as a result of this Agreement between the parties. For purposes of withholding social security, Medicare, federal and state income and other taxes from the fees paid to Employee under the Agreement, the City will treat Employee as an employee rather than as an independent contractor. Employee is not to be considered a regular, temporary, hourly or casual employee of the City for any purpose.

6. Employee shall not use, during or at any time after the termination of his employment with the City, for himself or for others, or divulge or convey to others, except authorized personnel of the City, any confidential information, knowledge or data of the City or that of the City's clients or customers. The Employee understands that all information he receives in the course of this work at the City is confidential information. The parties acknowledge and agree that the right and duty to disclose information is vested solely with the City.

7. Except as specifically provided herein, those Human Resources Policies and Procedures that are applicable to contract employees will apply to Employee.

8. The City will provide office space with a computer system, email, telephone, voicemail, general office support machine access and mobile communications device. The City will provide a parking space in the immediate vicinity of City Hall at no cost to the Employee. The City will also provide a proximity card to allow appropriate access to City facilities as determined by the Public Services Area Administrator or her designee. Employee agrees to comply with City security and computing policy requirements (attached as Exhibit A).

9. All notices and submissions required under this Agreement shall be by personal delivery, overnight delivery service, or by first-class mail, postage prepaid, to the address set forth above or such other address as either party may designate by prior written notice to the other.

10. There are no agreements or understandings, either oral or written, between the parties other than those set forth in this Agreement, and there are no agreements or understandings which in any way alter, modify, amend or otherwise change this Agreement. No alterations, modification, amendment or other change of this Agreement shall be binding on the parties unless in writing and approved by the City.

11. This Agreement shall be governed and construed in accordance with the laws of the State of Michigan. By executing this Agreement Employee and City agree to venue in a court of appropriate

jurisdiction sitting within Washtenaw County for the purposes of any action arising under this Agreement.

12. Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, should any provision of this Agreement be found void or invalid under applicable law, the remaining provisions shall be in full force and effect.

13. Employee warrants and agrees 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 or personal property taxes.

For the Employee

For City of Ann Arbor

William R. Wheeler

John Hieftje, Mayor

Jacqueline Beaudry, City Clerk

Approved as to substance

Approved as to form and content

Roger W. Fraser, City Administrator

Stephen K. Postema, City Attorney

Sue F. McCormick, Public Services Area
Administrator

EXHIBIT A
CITY OF ANN ARBOR
EMPLOYEE COMPUTING SYSTEMS' USER STATEMENT

Service Area administrators shall ensure that all current computing systems users under their authority receive a copy of the City of Ann Arbor Computing Systems' User Policy (AP #414) and return this completed statement to the Human Resources Department.

Failure to complete this statement within thirty (30) days may result in termination of computing systems' use privileges. Failure to complete this statement does not absolve a user's responsibility to comply with the policy.

Contracts for services that require access to the City's computer systems, in whole or in part, in connection with the provisions of services may include a provision requiring the Contractor, and/or its designated personnel, to execute a City Computing Systems' User Statement and comply, to the extent applicable, to the requirements of AP#414. Failure to complete this statement may, at the City's option, constitute a breach of contract and termination of services.

I hereby acknowledge that I have received a copy of the City of Ann Arbor Computing Systems' Use Policy. I have read and understand all the provisions specified in this policy and will adhere to them in my use of the City's computing systems.

User Signature: _____ Date: _____

Print Name: _____
First **Middle Initial** **Last**

Preferred Name: _____

Job Title: _____

Service Area/Unit: _____

Floor/Location: _____

IT Applications: _____

Supervisor: _____ Phone: _____

Witnessed by: _____ Date: _____

Please check this box <input type="checkbox"/> If the employee <u>DOES NOT</u> need to be set up for their own individual computer ID and / or e-mail.

Note: <u>ALL</u> employees must sign this sheet acknowledging the computer rules.
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