

CONTRACT

THIS AGREEMENT is made on the _____ day of July, 2016, between the CITY OF ANN ARBOR, a Michigan Municipal Corporation, 301 East Huron Street, Ann Arbor, Michigan 48104 ("City") and Precision Concrete, Inc. ("Contractor") a Michigan Corporation, 1896 Goldeneye Drive, Holland MI 49424.

Based upon the mutual promises below, the Contractor and the City agree as follows:

ARTICLE I - Scope of Work

The Contractor agrees to furnish all of the materials, equipment and labor necessary; and to abide by all the duties and responsibilities applicable to it for the project titled "**2016 Sidewalk Cutting, ITB No. 4418**" in accordance with the requirements and provisions of the following documents, including all written modifications incorporated into any of the documents, which are incorporated as part of this Contract:

Non-discrimination and Living Wage Declaration of Compliance Forms (if applicable)	General Conditions
Vendor Conflict of Interest Form	Standard Specifications
Prevailing Wage Declaration of Compliance Form (if applicable)	Detailed Specifications
Bid Forms	Plans
Contract and Exhibits	Addenda
Bonds	

Except as otherwise explicitly stated herein, this Contract supersedes and replaces the Agreement between the City and the Contractor dated June __, 2016, and shall include and apply to all the obligations of both the City and the Contractor under that Agreement.

ARTICLE II - Definitions

Administering Service Area/Unit means **Project Management Services Unit**

Project means **2016 Sidewalk Cutting, ITB No. 4418**

ARTICLE III - Time of Completion

- (A) The work to be completed under this Contract began on the date specified in the Notice to Proceed issued by the City under the Agreement between the City and the Contractor dated June __, 2016, which this Contract otherwise supersedes.
- (B) The entire work for this Contract shall be completed by October 28, 2016.
- (C) Failure to complete all the work, up to the bid quantity or as designated by the City (whichever is fewer), within the time specified above, including any extension granted in writing by the Supervising Professional, shall obligate the Contractor to pay the City, as liquidated damages and not as a penalty, an amount equal to \$500 for each calendar day of delay in the completion of all the work. If any liquidated damages are unpaid by the Contractor, the City shall be entitled to deduct these unpaid liquidated damages from the monies due the Contractor.

The liquidated damages are for the non-quantifiable aspects of any of the previously identified events and do not cover actual damages that can be shown

or quantified nor are they intended to preclude recovery of actual damages in addition to the recovery of liquidated damages.

- (D) The Contract Time specified above is referred to as a one-year period or term. This Contract shall also include an option to extend the contract for up to two (2) additional one-year periods, subject to agreement by the City and the Contractor. An extension of the Contract will be at the same terms and conditions, including the same unit prices, in the original Contract. An extension will be dependent on the availability of funding.

ARTICLE IV - The Contract Sum

- (A) The City shall pay to the Contractor for the performance of the Contract, the unit prices as given in the Bid Form for the estimated bid total of: Two Hundred Fifteen Thousand, Four Hundred 00/100 Dollars (\$215,400.00) The Twenty-Five Thousand Dollar (\$25,000.00) amount in the Agreement between the City and the Contractor dated June __, 2016, is included in the foregoing estimated bid total.
- (B) The amount paid shall be equitably adjusted to cover changes in the work ordered by the Supervising Professional but not required by the Contract Documents. Increases or decreases shall be determined only by written agreement between the City and Contractor.

ARTICLE V - Assignment

This Contract may not be assigned or subcontracted without the written consent of the City.

ARTICLE VI - Choice of Law

This Contract shall be construed, governed, and enforced in accordance with the laws of the State of Michigan. By executing this agreement, the Contractor and the City agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this Contract. The parties stipulate that the venue referenced in this Contract is for convenience and waive any claim of non-convenience.

Whenever possible, each provision of the Contract will be interpreted in a manner as to be effective and valid under applicable law. The prohibition or invalidity, under applicable law, of any provision will not invalidate the remainder of the Contract.

ARTICLE VII - Relationship of the Parties

The parties of the Contract agree that it is not a Contract of employment but is a Contract to accomplish a specific result. Contractor is an independent Contractor performing services for the City. Nothing contained in this Contract shall be deemed to constitute any other relationship between the City and the Contractor.

Contractor certifies that it has no personal or financial interest in the project other than the compensation it is to receive under the Contract. Contractor certifies 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. City shall have the right to set off any such debt against compensation awarded for services under this agreement.

ARTICLE VIII - Notice

All notices given under this Contract shall be in writing, and shall be by personal delivery or by certified mail with return receipt requested to the parties at their respective addresses as specified in the Contract Documents or other address the Contractor may specify in writing.

ARTICLE IX - Indemnification

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney’s fees resulting or alleged to result, in whole or in part, from any act or omission, which is in any way connected or associated with this Contract, by the Contractor or anyone acting on the Contractor’s behalf under this Contract. Contractor shall not be responsible to indemnify the City for losses or damages caused by or resulting from the City’s sole negligence.

ARTICLE X - Entire Agreement

Except to the extent this Contract preserves and incorporates the obligations of the City and the Contractor under the Agreement between the City and the Contractor dated June __, 2016, this Contract represents the entire understanding between the City and the Contractor and it supersedes all prior representations or agreements whether written or oral. Neither party has relied on any prior representations in entering into this Contract. This Contract may be altered, amended or modified only by written amendment signed by the City and the Contractor.

FOR CONTRACTOR

By _____
Mark Bonkowski, President
Precision Concrete, Inc.

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

By _____
Howard S. Lazarus
City Administrator

By _____
Craig A. Hupy, PE
Public Services Area Administrator

Approved as to form and content

By _____
Stephen K. Postema, City Attorney