



CITY of NOVI CITY COUNCIL

Agenda Item E
December 18, 2017

SUBJECT: Approval of recommendation from the Consultant Review Committee to award the Agreements for Professional Engineering Services for Public Projects to Orchard, Hiltz and McCliment, AECOM – Great Lakes, and Spalding DeDecker for a period of five years, effective December 18, 2017.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The City currently uses three pre-qualified consultants to provide professional engineering services for public projects. The design phase and the construction phase services provided by these consultants are necessary for the implementation of the City's Capital Improvements Program. The current agreements for Public Project Engineering Services were awarded to Orchard, Hiltz & McCliment; Spalding DeDecker, and AECOM – Great Lakes (formerly URS Corporation) on December 17, 2012. The agreement contained a three-year term (through December 17, 2015) with two one-year renewals (approved for December 19, 2015 through December 18, 2016 and again for December 19, 2016 to December 18, 2017).

With the expiration of the current consulting agreements this month, the attached Request for Qualifications was advertised publicly on September 16, 2017 to solicit three pre-qualified engineering consultants. A total of ten firms submitted qualification packages by October 17, 2017. A cross-departmental team from Engineering, Community Development and Finance reviewed and scored the qualification packages using Qualification Based Selection (see attached November 20, 2017 memo for additional information). The firms with the top three scores were Orchard, Hiltz and McCliment, AECOM – Great Lakes, and Spalding DeDecker.

A fee curve was provided along with the RFQ from the consultants. Staff opened and reviewed only the three highest scoring consultants' proposed fee curves and compared them against the existing fee curves from the 2012 agreement. Staff met with the three consultants to gather feedback on any variances.

The attached Exhibit B shows the common fees that were developed following discussions with each firm. Staff recommends and the consultants have agreed to the new fee structure with the following highlights below (see attached Exhibit B for additional detail):

- Crew day costs for construction inspection are recommended to increase from \$640 per eight-hour day to \$700 per eight-hour day to reflect increases in costs since 2012.

- Fees were standardized for the three consultants for legal descriptions, survey crews, bridge inspections, dam inspections, PASER pavement management, concrete panel replacement (CPR) prioritization, non-motorized pathway management plans, grant writing, parking lot management, and general consulting.
- Depending on consultant staff expertise in grant writing and general consulting, the fee may be increased per the Engineering Senior Manager's discretion.
- Traffic signal design phase and contract administration fee tables were added to the established fee tables for road, pathway, water main, sanitary/storm sewer, and underground utility construction.

Engineering presented the list of firms and the recommended fee structure to the Consultant Review Committee on November 27, 2017. The committee provided a positive recommendation to contract with the three firms for a five-year term.

The attached Agreement for Professional Engineering Services for Public Projects will be provided to each consultant for execution as a general agreement. Each consultant will submit a specific scope and fee as determined by the fee schedule or a proposal if the project is not included in the standard fee schedule.

RECOMMENDED ACTION: Approval of recommendation from the Consultant Review Committee to award the Agreements for Professional Engineering Services for Public Projects to Orchard, Hiltz and McCliment, AECOM – Great Lakes, and Spalding DeDecker for a period of five years, effective December 18, 2017.



EXHIBIT A

November 29, 2017

SUMMARY OF CIVIL ENGINEERING CONSULTANT SERVICES 2017-2022 PUBLIC PROJECTS

A. General. This document serves as a *Summary of Civil Engineering Consultant Services for 2017-2022 Public Projects* and expected performance of the three (3) selected civil engineering consultants for civil engineering design and construction engineering services on water, sanitary sewer, storm sewer, roadway, traffic and pathway related projects as they are developed by the City.

The qualifications and approved fees for engineering design and construction services for public projects will remain in effect for a period up to five (5) years from the date of City Council approval (December 18, 2017 through December 18, 2022). The qualifications period may be extended beyond five years at the discretion of City Council.

The City followed a two-step selection process. The Statement of Qualifications was reviewed and the firms deemed the most qualified in the disciplines involved were selected for a short list. Those firms then participated in a process for developing standard fees and fee curves, common to all selected firms, associated with various types of projects, by way of negotiating each of the short-listed firms Request for Fee Proposals.

B. Minimum Qualifications. Firms selected have met the following minimum requirements:

- 1) All three firms have an established local office within thirty (30) miles of the Novi Civic Center (45175 Ten Mile Road, Novi MI) that is staffed with personnel who will provide civil engineering services to the City of Novi.
- 2) All three firms demonstrated that an adequate number of professionals are employed in the various fields required to complete the amount of work and the type of work contemplated in the RFO. With the exception of geotechnical/sub-surface investigation services, the firms shall perform all duties listed below in the Scope of Services section of this Summary without the use of sub-consultants.

- 3) All three firms employ a minimum of three (3) licensed professional engineers registered in the State of Michigan, and located in the local office, as outlined in Item 1 above.
- 4) All three firms employ at least one (1) licensed professional surveyor registered in the State of Michigan.
- 5) All three firms have at a minimum, ESRI® ArcGIS® Desktop (ArcView® & ArcInfo®), version 10 or better and AutoCAD® 2016 or higher to include AutoCAD® Map 3D software packages for record drawing preparation.
- 6) All three firms employ at least one person certified in administering Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act as enforced by the Michigan Department of Environmental Quality – Water Bureau. This person is located in the local office, as outlined in Item 1 above.

C. Scope of Services.

General Design and Construction Phase Scope of Services for Public Projects:

The following projects that have a design and construction phase are included as general projects under this contract for which a standard fee and scope were developed:

- Road Rehabilitation/Repair (no topography)
- Road Reclamation (some topography required)
- Road Reconstruction (requires topography)
- Traffic Signal Replacement (including ADA sidewalk compliance)
- Sidewalk/pathway construction (including ADA sidewalk compliance)
- Water main construction
- Sanitary sewer rehabilitation
- Storm Sewer rehabilitation/reconstruction
- Streambank stabilization
- Detention Basin retrofit

For road projects, the following definitions were used to categorize percentage fees for services rendered by the consultant:

- 1.) **Street Reconstruction** – Generally includes the removal of all existing asphalt or concrete surfaces, excavation of the road subgrade materials, and certain instances, water main replacement, storm sewer installation and/or sanitary sewer repairs. Depending on the extent of the utility work, curbs may be fully replaced. The road is rebuilt from the bottom-up, with new or reclaimed aggregate base and at least two layers of new asphalt or full section of new concrete.
- 2.) **Street Rehabilitation** – Generally includes the removal of the top two or two and a half inches (2" to 2 ½") of asphalt surface, replacement with one layer of asphalt surface, or joint/panel replacements of existing concrete. Street Rehabilitation includes spot curb repair, adjustment of utility structures in the street, and in some cases, addition or modification of storm sewer manholes and catch basins.

Generally speaking, the roadway gets a "face lift", with little to no improvements to the road subgrade.

- 3.) **Street Reclamation** – A hybrid of the "reconstruction" and "rehabilitation" methods, for asphalt roads includes grinding up the existing asphalt material with existing gravel base material, compacting it in place and paving new layers of asphalt over the top. Existing curb receives spot repairs where it may be severely cracked, broken or settled. Reclamation for concrete roads may vary the effort from segment to segment, between "reconstruction" and "rehabilitation" (mix-of-fixes) within a single project. Reclamation is a cost effective method for upgrading a street where the asphalt or concrete may be too deteriorated to receive a street rehabilitation treatment, but the existing utilities and curb and gutter are generally in good condition and do not need total replacement.

The Scope of Services for design and construction phase projects generally include the following:

- 1.) Meet with the City at the beginning of the project to verify the scope of the projects. A visit to each site is also included.
- 2.) If needed, develop specifications for geotechnical services and obtain proposals from one of the two pre-qualified geotechnical consultants, in the early stages of design. The City will expeditiously award a separate purchase order to the geotechnical consultant directly based on the recommendation from the Consultant. The geotechnical services will be excluded from the consultant's contract and the geotechnical firm will be paid directly by the City.
- 3.) Reviewing existing information available from the City. The City will provide information in the form of record drawings of existing roadways and utilities (as available), standard details, specifications, benchmarks, etc., as required to assist the Consultant in completing the work.
- 4.) If required, provide complete topographic survey of the project area. Log sheets may be allowed for repaving and rehabilitation areas. The survey must include and identify all trees measuring 6-inch d.b.h. and larger within 25 feet of project area, and the condition of such trees should be noted. All wetland boundaries shall be identified on the plan.
- 5.) Provide preliminary design and revised project cost estimate for the City's first review and comment.
- 6.) Provide final plans, contract documents and any update budget estimates for the project at the time of 90% (2nd) review. The final plans shall include profiles for all road reconstruction, pathway/sidewalks, water main, sanitary sewer construction (not rehab), and storm sewer construction projects. The front-end documents will be provided by the City of Novi, the specifications shall be prepared by the Consultant, and contract documents shall be prepared, printed, assembled, and distributed by the Consultant. A revised construction cost estimate shall be provided during this time as well.

- 7.) Prepare easement exhibits for up to 5 properties when necessary for the project. The City will provide title work and may use City staff/ROW sub-consultant to aide in obtaining the easements from the property owners.
- 8.) Contact and coordinate with all utility companies with facilities within the project limits including relocations of utilities and guy wires early in the design process and continue to coordinate as necessary to facilitate construction of the project.
- 9.) Coordinate with DTE Energy to facilitate the construction of any street lighting components of the project, if applicable.
- 10.) Coordinate all work with state and local agencies to acquire any permits required. (All local streets are under City of Novi jurisdiction and will not require a ROW permit). Permit fees are to be paid by the consultant and reimbursed at cost by the City.
- 11.) The plans shall be designed in accordance with the City of Novi Design and Construction Standards, Chapter 11 and Design Manual, Novi Code of Ordinances, and RCOC requirements as applicable. The final design shall incorporate all items listed above.
- 12.) The Consultant shall be responsible for specifying protection of existing survey monumentation and coordinating with the County surveyor as required.
- 13.) For projects in the RCOC right-of-way, the consultant shall meet with RCOC as needed to coordinate pedestrian signal improvements and ADA sidewalk upgrades needed for permit approval.
- 14.) The Consultant shall complete a soil erosion and sedimentation control plan for each project in compliance with Part 91 of P.A. 451 of 1994, Chapter 29 of the Novi Code of Ordinances and the City of Novi SESC Program Manual. The consultant shall also provide a completed SESC application, SESC Checklist and three (3) sets of plans at such time as the SESC plan has been approved by Engineering.
- 15.) The consultant shall provide a 'Progress Status Report – Design' to the Engineering Division every other Friday using the form provided by the Engineering Division.
- 16.) In addition to the submittals stated elsewhere in this scope, the Consultant shall provide the following submittals for each project:
 - The Consultant shall be responsible for the distribution of all bid documents and addenda to potential bidders and plan holders. The costs associated with the reproduction of the bidding documents shall be included in the design phase fees for the consultant and may be offset by charging plan holders for bidding documents.
 - The Consultant shall submit **one (1) full-size set** of plans, **three (3) half-size sets**, **one (1) copy** of the cost estimate and **one (1) CD/DVD/Flash Drive/FTP site** (containing all information) for review to the City Engineer for the preliminary design.
 - The Consultant shall submit **one (1) full-size set** of plans, **three (3) half-size sets**, **one (1) set** of specifications and a construction cost estimate and **one (1) CD/DVD/Flash Drive/FTP site** (containing all information) at 90% complete for review and comment.

- The Consultant shall distribute **three (3) sets** of as-bid drawings and specifications to the City at the time of construction bidding (clearly marked as "BID SET") along with all subsequent addenda at the same time they are sent to plan holders. The submittals shall be made to the following departments directly as shown in the schedule below:

Department	Bid Sets (Paper) AND All Addenda	Addenda Only	Electronic Version of Bid Set
City Clerk's Office 45175 W Ten Mile, Novi, MI 48375	1 set		
Department of Public Services - Engineering 26300 Lee BeGole Drive, Novi, MI 48375	2 sets	1 set	1 set
Sue Morianti, Purchasing 45175 W Ten Mile, Novi, MI 48375		1 set	

- The consultant shall also submit the as-bid drawings and specifications in pdf format to the City Engineer at the time of bidding as well as a CD/DVD/Flash Drive/FTP Site of the digital file converted to AutoCAD format.
 - The Consultant shall also provide all plan sets required for permit application submittal to any agencies as required.
 - At the end of the project, the consultant shall submit to City Engineering all project reports and documents, and written recommendation regarding final acceptance of the project. The Consultant, shall also prepare record drawings and transmit one (1) digital copy of the as-built plan in .TIF format (400 dpi minimum), one (1) plan copy, and a CD/DVD/Flash Drive/FTP Site containing the digital file of the record drawings in the City's standard format (AutoCAD), and provide such information to the Engineering Division within three (3) months following substantial completion of the project.
- 17.) As a part of the Design Phase, the Consultant shall prepare bid documents and provide assistance to the City Engineering and Purchasing Departments with the bidding of the project, including coordinating and facilitating the pre-bid meeting, preparation of contract addenda, plan revisions, responding to bidder inquiries, review of bids, and recommendation of award to City Engineering. All bidding activities shall be coordinated through the Engineering Division and Purchasing Department. Following the bid opening, the consultant shall provide to Sue Morianti, Purchasing Manager (via email smorianti@cityofnovi.org) the plan holders list for the project and documentation that all addenda, if any, were sent to all plan holders. The consultant shall copy the Project Manager in Engineering on this email. The consultant shall also

provide bid tabulation and award recommendation letter to Engineering (with a copy sent to the Purchasing Manager).

- 18.) Contract administration services shall include, but not be limited to: reviewing shop drawings furnished by the contractor at the pre-construction meeting, coordinating and running the pre-construction meeting, interpretation of plans and specifications, preparation and certification of pay estimates, preparation and submittal of progress reports, progress meetings, staking, project review, project close-out and record drawing preparation. The consultant shall provide a 'Progress Status Report – Construction' to the Engineering Division each Friday using the form provided by the Engineering Division.
- 19.) Construction Inspection services shall include, but not be limited to: full-time construction inspection during active construction, part-time inspection during restoration, testing, and other tasks that do not require full-time inspection (as determined by the City), ensuring compliance with contract documents, regular consultation with City Engineering, materials testing and final acceptance testing. Also part of construction inspection services shall be soil erosion and sedimentation control tasks (see detailed requirements below). The Consultant must also promptly attend to resident concerns and complaints as they become known.
- 20.) The City uses a crew day specification for inspection services. There will be no payment to the consultant for extra crew days that were not charged to the contractor. The intent of using crew days for inspection services is to provide a method for the consultant to recoup costs associated with slow progress by the contractor.
- 21.) During the construction phase the Consultant shall be responsible for administering and enforcing the soil erosion and sedimentation control plan as an agent for the City under the Authorized Public Agency (APA) program in compliance with the City of Novi *Authorized Public Agency Soil Erosion and Sedimentation Control Program Manual*. The Consultant shall also be responsible for soil erosion and sedimentation control inspections of the project for compliance with the approved soil erosion and sedimentation control plan. The inspections must be completed by an individual who has current certification through the Michigan Department of Environmental Quality under Part 91. The inspections must occur at regular intervals and soil erosion and sedimentation control inspection logs must be maintained and provided to City staff as required. The Consultant shall also be responsible for instituting corrective measures in the field to prevent soil erosion and sedimentation as required, and for overseeing the Contractor's Storm Water Operator.

Other Scope of Services

The selected consultants may be called upon to complete additional projects that are not part of the standard scope or standard fee schedule. Non-standard projects will include the following examples and would be awarded as necessary by the City, either through a proposal process or out-right to one of the other selected consultants:

- **Bridge Inspections:** A consultant may be called upon to complete bridge inspections for the City's ten bridges in 2018 and every 2 years thereafter. The bridge inspection shall be completed by the consultant in compliance with MDOT requirements.

- **Dam Inspections:** A consultant may be called upon to complete dam inspections for the City's four regulated dams.
- **Bridge Design:** A consultant may be called upon to design bridge repairs or rehabilitation work based on the outcome of the bridge inspection.
- **Survey work:** A consultant may be called upon to develop a parcel description as part of parcel splits or combinations, to verify a property or ROW boundary or other related types of projects.
- **Maintenance and Management Plans:** A consultant may be called upon to develop new or update existing management/maintenance plans for the City's road network (PASER); Concrete Panel Replacement (CPR) program; non-motorized facilities, and City-owned parking lots.
- **Grant Writing:** A consultant may be called upon to research opportunities for grant funding from outside sources and apply for those possible funds on behalf of the City.
- **Various studies:** A consultant may be called upon to complete various studies as needed by the City, to include but not limited to, Water System, Sanitary Sewer, Storm Water Master Plans, etc.

EXHIBIT B

ENGINEERING FEE SCHEDULE

COST OF CONSTRUCTION From To		ROAD RECONSTRUCTION		ROAD RECLAMATION		ROAD REHABILITATION		NON-MOTORIZED (SIDEWALKS, PATHWAYS & TRAILS)	
		Design Phase (% Construction)	Contract Admin (% Construction)	Design Phase (% Construction)	Contract Admin (% Construction)	Design Phase (% Construction)	Contract Admin (% Construction)	Design Phase (% Construction)	Contract Admin (% Construction)
\$ -	\$ 50,000	12.25%	8.75%	11.75%	8.25%	10.75%	7.25%	14.50%	9.25%
\$ 50,001	\$ 75,000	12.00%	8.25%	11.50%	8.00%	10.00%	7.00%	13.75%	8.75%
\$ 75,001	\$ 100,000	11.50%	8.25%	11.00%	7.75%	9.50%	7.00%	13.50%	8.50%
\$ 100,001	\$ 125,000	11.00%	8.00%	10.25%	7.50%	9.00%	6.50%	13.00%	8.25%
\$ 125,001	\$ 150,000	10.50%	8.00%	9.75%	7.50%	8.75%	6.25%	12.50%	7.75%
\$ 150,001	\$ 200,000	10.00%	8.00%	9.50%	7.50%	8.50%	6.25%	12.00%	7.75%
\$ 200,001	\$ 300,000	9.75%	7.50%	9.00%	7.00%	8.00%	5.75%	10.75%	7.25%
\$ 300,001	\$ 400,000	9.25%	7.50%	8.50%	6.75%	7.50%	5.50%	10.00%	7.25%
\$ 400,001	\$ 500,000	8.75%	7.00%	8.00%	6.25%	7.00%	5.00%	9.50%	7.25%
\$ 500,001	\$ 750,000	8.00%	6.75%	7.00%	5.75%	6.25%	4.25%	9.00%	7.00%
\$ 750,001	\$ 1,000,000	7.25%	6.25%	6.50%	5.25%	5.50%	3.50%	8.50%	6.25%
\$ 1,000,001	\$ 2,000,000	6.50%	5.50%	6.00%	4.50%	5.00%	3.00%	8.00%	5.75%
\$ 2,000,001	and greater	6.25%	4.75%	5.50%	4.00%	4.50%	2.75%	7.50%	5.00%

COST OF CONSTRUCTION From To		WATER MAIN CONSTRUCTION		SANITARY/STORM SEWER CONSTRUCTION		UNDERGROUND UTILITY REHABILITATION		TRAFFIC SIGNALS	
		Design Phase (% Construction)	Contract Admin (% Construction)	Design Phase (% Construction)	Contract Admin (% Construction)	Design Phase (% Construction)	Contract Admin (% Construction)	Design Phase (% Construction)	Contract Admin (% Construction)
\$ -	\$ 50,000	11.50%	8.75%	12.25%	8.75%	10.00%	7.00%	14.50%	7.50%
\$ 50,001	\$ 75,000	11.00%	8.25%	11.75%	8.25%	9.25%	6.75%	13.50%	7.00%
\$ 75,001	\$ 100,000	10.25%	8.00%	11.25%	8.00%	8.75%	6.75%	11.25%	7.00%
\$ 100,001	\$ 125,000	9.75%	7.50%	11.00%	7.50%	8.25%	6.25%	10.25%	6.75%
\$ 125,001	\$ 150,000	9.25%	7.25%	10.50%	7.50%	7.50%	6.25%	9.00%	6.50%
\$ 150,001	\$ 200,000	8.50%	7.00%	10.00%	7.00%	7.00%	6.25%	8.25%	6.00%
\$ 200,001	\$ 300,000	8.00%	6.75%	9.50%	6.75%	6.25%	5.75%	7.50%	5.75%
\$ 300,001	\$ 400,000	7.50%	6.75%	9.25%	6.75%	5.75%	5.50%	7.00%	5.50%
\$ 400,001	\$ 500,000	7.50%	6.75%	9.00%	6.75%	5.00%	5.00%	6.50%	5.50%
\$ 500,001	\$ 750,000	7.00%	6.00%	8.75%	6.00%	4.50%	4.75%	6.00%	5.00%
\$ 750,001	\$ 1,000,000	6.75%	5.50%	8.50%	5.50%	4.25%	4.50%	5.50%	5.00%
\$ 1,000,001	\$ 2,000,000	6.50%	5.00%	8.00%	5.00%	4.00%	4.00%	5.00%	4.50%
\$ 2,000,001	and greater	6.25%	4.50%	7.75%	4.50%	3.75%	3.50%	4.75%	4.50%

Other types of Work:

	Per/Costs	
Legal Descriptions and Exhibits	\$ 670.00	per property in addition to those included in base scope
Survey Crew (for miscellaneous work)	\$ 155.00	per hour all inclusive
Biennial Bridge Inspections (per MDOT requirements)	\$ 850.00	per bridge (ten bridges total)
Dam Inspections (per MDEQ/MDNR requirements)	\$ 1025.00	per dam (four regulated dams total)
PASER Pavement Management (map and ranking update)	\$ 6700.00	per year (City-wide for all publicly owned roadways)
Concrete Panel Replacement (CPR) Program Prioritization	\$ 6500.00	per year (City-wide for all publicly owned residential streets)
Non-Motorized Pathway Management & Maintenance Plan	\$ 7600.00	per year (City-wide within publicly owned right-of-ways)
* Grant Writing (research, writing, reporting & applying)	\$ 110.00	per hour all inclusive
Parking Lot Management & Maintenance Plan Update	\$ 5200.00	per year (City-owned parking lots)
* General Consulting (for miscellaneous work)	\$ 115.00	per hour all inclusive
Inspection Crew Day (per Exhibit B requirements)	\$ 700.00	per crew day

Notes:

- Design fees are determined by multiplying the construction cost estimate by the % fee shown in the above tables.
- Contract Administration fees are determined by multiplying the contractor's bid by the % fee shown in the above tables.
- Inspection fees are determined by multiplying the number of crew days provided by the contractor in the bid by the cost per crew day as defined above.
- See the Request for Proposals and Request for Qualifications regarding the specific scope of services included under each fee and for any exclusions (i.e. work performed by City staff as part of the project).
- All percentages and fees shall be considered 'all-inclusive'.
- * - Depending on consultant staff expertise needed, fee may be increased at the discretion of the Engineering Senior Manager.



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Elizabeth Kudla Saarela
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November 29, 2017

Aaron Staup, Construction Engineer
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: *Professional Engineering Services Contract Form*

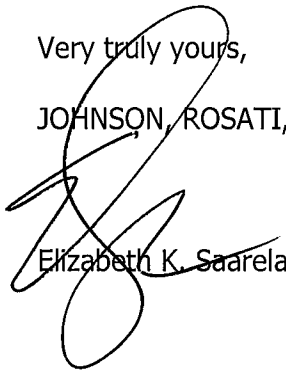
Dear Mr. Staup:

We have received and reviewed the proposed form Agreement for Professional Engineering Services for Public Projects between the City of Novi and Consultant. The Agreement is a modified form of the Agreement that the City has used for contracting with the with engineering firms pre-qualified by the Engineering Division for design of public infrastructure projects. The form that was previously used for the City's contracts has been modified to incorporate purchase orders and corresponding work plans, scope of services, and schedules for each individual project assigned to one of the three pre-qualified consultants. The contract previously incorporated "Supplemental Agreements" for each individual project. The modification of the Agreement to eliminate a "Supplemental Agreement" in place of the Purchase Order will eliminate duplicative language between the Agreements, will prevent conflicting language from being introduced on individual projects, and will streamline the administrative process within the Engineering Division for completing the documentation for each individual project assigned. Additionally, all insurance provisions have been reviewed and updated to correspond to the City's most recent requirements for insurance coverage verification. The modified Agreement is acceptable for the purposes provided.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth K. Saarela

Aaron Staup, Construction Engineer

November 29, 2017

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Enclosures

C: Cortney Hanson, Clerk
Jeffrey Herczeg, Director of Public Services
George Melistas, Engineering Senior Manager
Thomas R. Schultz, Esquire

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

**AGREEMENT FOR PROFESSIONAL ENGINEERING
SERVICES FOR PUBLIC PROJECTS**

BETWEEN

CITY OF NOVI

AND

CONSULTANT

This Agreement is effective this 18th day of December, 2017, and is between the **City of Novi**, 45175 Ten Mile Road, Novi, Michigan 48375 (hereafter "**City**") and

(hereafter "**Consultant**").

RECITALS:

The City desires to engage the professional services of the Consultant to perform design and construction engineering services for public projects on behalf of the City.

The Consultant desires to provide such services, as set forth below and in the attached and incorporated Exhibits, under the terms and conditions hereof.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. General Scope of Services and Term of Agreement:

- a. For and in consideration of payment by the City as provided in this Agreement, Consultant shall perform the services described herein, including the services described in Exhibit A—*Fee Proposal for Engineering Consultant Services*, if and when such services are assigned by the City to Consultant by execution and receipt of a Purchase Order, in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances, and in compliance with all terms and conditions of this Agreement.

- b. For design and construction engineering services for individual projects, if and when assigned to Consultant, including roadway construction and rehabilitation work, sidewalk and pathway construction, water main construction, sanitary sewer/storm sewer construction, underground utility rehabilitation, and traffic signal construction, consultant shall submit an individual work plan and schedule for each project assigned to Consultant by the City based upon the scope of the particular project as described in accordance with Exhibit B—*Engineering Fee Schedule* for that particular type of project and (as set forth in the “Work Plan, Schedule and Project Scope”), shall be assigned to Consultant by approval by the City of a Purchase Order. A Purchase Order shall be prepared for each individual project assigned to the Consultant. Consultant shall comply with the work description, insurance requirements, and other terms applicable to each individual project as set forth in the Work Plan, Schedule and Project Scope.
- c. The term of this Agreement shall be three years from the date set forth above, and will be open for review and negotiation by mutual agreement of Consultant and the City of Novi for two additional 1-year terms. However, either party may terminate this Agreement for any reason upon ninety (90) days’ written notice to the other party. This Agreement may be terminated by either party upon 7 days’ prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party
- d. This Agreement is based on the ordinances, policies, procedures, or requirements in effect on the date of the Agreement. Any additional office or field services required as a direct and apparent result of the change of such ordinances, policies, procedures, or requirements shall be negotiated to the mutual consent of the City and Consultant.
- e. City agrees that the plans, drawings, or other contracted services are primarily for the use of City. All documents prepared by the engineer, including tracings, drawings, estimates, specifications, field notes, investigations, studies, reports, computer files, field data, notes, etc., in connection with the performance of its duties under this agreement shall become the property of the City upon completion of the services and payment in full of all monies due to the Consultant with respect to the preparation of such document. Reuse of any such materials by City on any extension of any project or any other project without the written authorization of Consultant shall be at City’s sole risk. Consultant shall have the right to retain copies of all such materials.
- f. The parties to this Contract intend that the relationship between them created by this Contract is that of the service provider and service purchaser. It is expressly agreed, understood and intended that no employee-employer relationship shall exist or be established and that Consultant is an independent contractor who has been retained to render services to the City to achieve specific results in exchange for specified recompense. As an independent contractor, Consultant expressly agrees that: (a) In the performance of this Contract, the relationship of Consultant to the City shall be that of an independent contractor and not that of an

employee or agent of the City, and neither Consultant, nor any agent, employee or permitted subcontractor of Consultant, shall be or may be deemed to be the employee or agent of, or a servant to, the City; (b) Consultant will be solely responsible for payment of salaries, wages, and other compensation for its employees and agents; (c) Neither the Consultant nor any officer, agent, employee or subcontractor of the Consultant shall be eligible for coverage under or eligible to receive the benefits of the City's Workers' compensation, unemployment or health insurance, pension plans or other benefit plans; (d) Consultant is and shall perform under this Contract as an independent contractor, and no liability or responsibility with respect to benefits of any kind, including without limitation, medical/health benefits, Worker's compensation, pension rights, or other rights or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to either party as a result of the performance of this Contract; and (e) Consultant, as an independent contractor, is not authorized to enter into or sign any agreements on behalf of the City.

- g. Approval of the Work Plan, Schedule, Project Scope by the City shall not constitute nor be deemed release of the responsibility and liability of Consultant, its employees, associates, agents and subconsultants for the accuracy and competency of their designs, working drawings, and specifications, or other documents and services; nor shall that approval be deemed to be an assumption of that responsibility by the City for any defect in the designs, working drawings and specifications or other documents prepared by Consultant, its employees, subconsultants, and agents. After acceptance of final plan and special provisions by the City, Consultant agrees, prior to and during the construction of this project, to perform those engineering services as may be required by City to correct errors or omissions on the original plans prepared by Consultant and to change the original design as required.

2. Payment for Services:

- a. Consultant shall invoice City monthly on account of Consultant's services. City shall pay Consultant within thirty (30) calendar days of the time of receipt of invoice from Consultant on account. Subject to sub-paragraph 2(b) below, the City shall pay the undisputed portions of each progress invoice within thirty (30) days of the date of the invoice. If payment is not maintained on a thirty (30) day current basis, Consultant may suspend further performance until payments are current. All expenses required to complete the scope of services described herein, including but not limited to costs related to mileage, vehicles, reproduction, computer use, etc., shall be included in the basic fee and shall not be paid separately. However, as compensation for expenses that are not included in the standard scope of services, when incurred in direct connection with the project, and approved by the City, the City shall pay the Consultant its actual cost times a factor of 1.15.

- b. City agrees that the periodic billing from Consultant to City are presumed to be correct, conclusive with regard to the services provided, and binding on City unless City, within thirty (30) calendar days from the date of receipt of such billing, notifies Consultant in writing of alleged disagreements with regard to the billing. Errors or discrepancies in a billing recognized after 30 calendar days but not more than 180 calendar days after receipt of invoice from Consultant shall be resolved to the mutual satisfaction of both parties. After 180 calendar days after receipt of invoice from Consultant, the professional services provided by Consultant shall be viewed as acceptable and closed. Final billing under this agreement shall be submitted in a timely manner but not later than three (3) months after completion of the services. Billings for work submitted later than three (3) months after completion of services will not be paid. Final payment will be made upon completion of audit by the City.
- c. All fees and/or costs associated with or due to any governmental or review agencies arising from the services are the sole responsibility of the City.
- d. For individual projects assigned to Consultant in accordance with Section 1(b) above, a more specific procedure for submission and approval of billing statements may be set forth in the Work Plan, Schedule and Project Scope for each project. The City shall confirm the correctness of any progress estimates made for billing purposes, and may use the City's own Engineer for such purposes. Monthly statements for services shall be accompanied by such properly completed reporting forms and such other evidence of progress as may be required by the City.
- e. In the event of termination for a substantial failure by the Consultant to fulfill its obligations under this agreement through no fault of the City, Consultant shall be paid as compensation in full for services performed to that date an amount calculated in accordance with the Work Plan, Schedule and Project Scope for that particular project. Such amount shall be paid by the City upon Consultant's delivering or otherwise making available to the City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been prepared and/or accumulated by Consultant in performing the services up to the date of termination.

3. Indemnification and Liability:

- a. The Consultant agrees to indemnify and hold harmless the City, its elected and appointed officials and employees, from and against any and all claims, demands, suits, losses and settlements, including actual attorney fees incurred and all costs connected therewith, for any damages which may be asserted, claimed or recovered against the City by reason of personal injury, death and/or property damages which arises out of or is in any way connected or associated with the actions or inactions of the Consultant in performing or failing to perform the work. The Consultant agrees that it is its responsibility and not the responsibility of the City to safeguard the property and materials used in performing this Agreement. Further, this Consultant agrees to hold the City

harmless for any loss of such property and materials used pursuant to the Consultant's performance under this Agreement.

- b. The City and Consultant acknowledge that the Consultant's Scope of Services does not include any services related to the presence of any hazardous or toxic materials. In the event the Consultant or any other party encounters any hazardous or toxic materials, or should it become known to the Consultant that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the Consultant's services, the Consultant may, at its option and without liability for consequential damages, suspend performance of its services under this Agreement until such time as the City retains appropriate Consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.
- c. Consultant makes no representations concerning site conditions, and Consultant is not responsible for any liability that may arise out of the making or failure to make site surveys, or subsurface tests, or general testing; provided, however, that if the provision of such surveys and testing is required in order for Consultant to provide the particular service being rendered by Consultant under this Agreement, in accordance with the professional standard of care set forth in Paragraph 1.a. above, the making of such representations or the provision of such surveys and testing shall be required.
- d. In providing opinions of probable construction costs, it is recognized that neither the City nor the Consultant has control over the costs of labor, equipment, materials, contractor safety practices, or over a contractor's methods of determining prices or bidding. An opinion of probable construction costs shall be based on a reasonable professional judgment and experience, but shall not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work will not vary from the City's budget or from any opinion of probable cost prepared by the Consultant.
- e. Consultant shall not be liable for damages resulting from the actions or inactions of any governmental agencies, including, but not limited to, plan processing; provided, however, that this provision shall not relieve Consultant of its obligations under this Agreement, including all Exhibits hereto, with respect to its securing, or assisting the City in securing, various governmental permits and appraisals in a manner consistent with the standard of care set forth in Paragraph 1.a. above.
- f. Except as specifically set forth in the Work Description Exhibit, attached hereto as Exhibit A, the City acknowledges that Consultant is not responsible for the performance or work by third parties, including, but not limited to, construction contractors or their subcontractors.

4. Insurance:

- a. During the term of this Agreement, Consultant shall obtain and maintain in full force, at its own expense, the following insurance coverage in not less than the following amounts:
 - i. Worker's Compensation insurance relative to all Personnel engaged in performing services pursuant to this Agreement, with coverage not less than that required by applicable law,
 - ii. Comprehensive General Liability Public Liability, for occurrences while engaged in performing services pursuant to this Agreement, with coverage not less than the amount of \$1,000,000 per occurrence;
 - iii. Professional Liability (Including Errors and Omissions) Insurance in the amount of \$1,000,000 per claim;
 - iv. Automotive Insurance covering all owned, hired, and non-owned vehicles with insurance to comply with the Michigan No-Fault Insurance Law, including Regional Liability Insurance with minimum bodily injury limits of \$1,000,000 each occurrence and minimum property damage of \$1,000,000 per occurrence.
- b. Consultant shall be responsible for all deductibles contained in any insurance required hereunder.
- c. If during the term of this Agreement changed conditions or other pertinent factors should in the reasonable judgment of the City render inadequate existing insurance limits, the Consultant will furnish on demand such additional coverage as may reasonably be required under the circumstances. All such reasonable additional insurance coverage cost shall be paid for by the City of Novi, under valid and enforceable policies, issued by the insurers of recognized responsibility which are well-rated by national rating organizations and are acceptable to the City. The cost of insurance for individual projects shall be factored into the established fee curves in Exhibit B—*Engineering Fee Schedule* for each particular type of project
- g. All policies shall name the Consultant as the insured and shall be accompanied by an endorsement from the insurer that such policies shall not be canceled or reduced without at least thirty (30) days prior notice to the City.
- h. With the exception of Professional Liability, all insurance policies shall name the City of Novi, its officers, agents, and employees as additional insured, pursuant to endorsement. Certificates of Insurance and required endorsements evidencing such coverage shall be submitted to Sue Morianti, Purchasing Manager, City of Novi, 45175 Ten Mile Road, Novi, MI 48375-3024 prior to the commencement of performance under this Agreement and at least fifteen (15) days prior to the expiration dates of expiring policies.

- i. If any service is sublet in connection with this Agreement, the Consultant shall require each subcontractor to effect and maintain at least the same types and limits of insurance as fixed for the Consultant.
- j. The provisions requiring the Consultant to carry said insurance shall not be construed in any manner as waiving or restricting the liability of the Consultant under this Agreement.
- k. Coverage under the general and auto liability policies shall be considered to be the primary coverage rather than any policies and insurance or self-insurance retention owned or maintained by the City of Novi. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage is primary, contributing or excess.

5. Entire Agreement

- a. This Agreement, in conjunction with each applicable Purchase Order and corresponding Work Plan, Schedule and Project Scope which are incorporated herein contains the entire agreement between the City and Consultant relating to services to be provided by Consultant to the City. Any prior agreements, promises, negotiations, and representations not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by both City and Consultant.
- b. With respect to any direct conflict between the terms of this Agreement, Work Plan, Schedule and Project Scope as defined in Section 1(b) above, the terms of the Work Plan, Schedule and Project Scope shall control with respect to that individual project set forth in the particular the Work Plan, Schedule and Project Scope only. Notwithstanding this subsection, insurance, indemnification and liability requirements, shall be additional to those indemnity and hold harmless provisions set forth in any Work Plan, Schedule and Project Scope, except that Section 3(c) of this Agreement shall not apply to individual design and/or construction management projects.

6. Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

7. Jurisdiction and Venue of Contract.

This Contract shall be considered for all purposes, including the establishment of jurisdiction and venue in any court action between the parties, as having been entered into and consummated in the City of Novi, Oakland County, Michigan.

8. Assignment:

Neither City nor Consultant shall assign this Agreement without the prior written consent of the other.

9. Severability:

Waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on City and Consultant, unless the court's action or holding has the effect of frustrating the purpose of this Agreement.

10. Delays:

It is expected that the consultant will perform the work in a timely fashion in accordance with the schedule that is agreed upon at the commencement of each project. The City shall provide requested items within ten (10) working days of the request. Deliverables (review sets, bid documents, approval letters, rejection letters, sign-offs, punch lists, inspection reports, Inspector's Daily Reports or IDR's, etc.) shall be submitted to appropriate City staff no later than ten (10) working days after the work is performed.

Consultant is not responsible for delay caused by activities or factors beyond the Consultant's reasonable control, including but not limited to, delays by reason of strikes, lockouts, service slowdowns or stoppages, accidents, acts of God, failure of Client to furnish timely information or approve or disapprove of Consultant's services or product promptly, faulty performance by the City or the City's other contractors or government agencies. When such delays beyond the Consultant's reasonable control occur, City agrees Consultant is not responsible for damages nor shall Consultant be deemed to be in default of this Agreement.

No charges or claims for damages shall be made by the Consultant for delays or hindrances from any cause whatsoever during the progress of any portions of the services specified in this Agreement, except as hereinafter provided.

In case of a substantial delay on the part of the City in providing to the Consultant either the necessary information or approval to proceed with the service resulting through no fault of the Consultant, in delays of such extent as to require the Consultant to perform its services under changed conditions not contemplated by the parties, the City will be responsible for supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be in writing and accompanied by substantiating data.

When delays are caused by circumstances or conditions beyond the control of the Consultant as determined by the City, the Consultant shall be granted an extension of time for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the permitting of the Consultant to proceed to complete the services, or any part of them, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the City of any of its rights herein set forth.

11. Disclosure:

Consultant affirms that it has not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of the person's immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional design services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by Michigan law shall not be considered as a valuable gift for the purposes of this Agreement.

12. Nondiscrimination:

The Consultant shall not discriminate against any employee, or applicant for employment because of race, color, sex, age or handicap, religion, ancestry, marital status, national origin, place of birth, or sexual preference. The Consultant further covenants that it will comply with the Civil Rights Act of 1973, as amended; and the Michigan Civil Rights Act of 1976 (78 Stat. 252 and 1976 PA 4563) and will require a similar covenant on the part of the consultant or subcontractor employed in the performance of this Agreement.

13. Compliance With Laws:

This Contract and all of the Consultant's Professional Services and practices shall be subject to all applicable state, federal and local laws, rules or regulations, including without limitation, those which apply because the City is a public governmental agency or body. Consultant represents that it is in compliance with all such laws and eligible and qualified to enter into this Agreement.

14. Notices.

Written notices under this Agreement shall be given to the parties at their addresses on page one by personal or registered mail delivery to the attention of the following persons:

**City of Novi: Jeff Herczeg, Director of Public Services and Cortney Hanson,
Clerk, with a copy to Thomas R. Schultz, City Attorney**

Consultant:

15. Inspections, Notices, and Remedies Regarding Work.

During the performance of the professional services by Consultant, City shall have the right to inspect the services and its progress to assure that it complies with this Agreement. If such inspections reveal a defect in the work performed or other default in this Agreement, City shall provide Consultant with written notice to correct the defect or default within a specified number of days of the notice. Upon receiving such a notice, Consultant shall correct the specified defects or defaults within the time specified. Upon a failure to do so, the City may terminate this Agreement by written notice and finish the work through whatever method it deems appropriate, with the cost in doing so being a valid claim and charge against Consultant; or, the City may preserve the claims of defects or defaults without termination by written notice to Consultant.

All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and specifications shall be decided by the City. All questions as to the satisfactory and acceptable fulfillment of the terms of this agreement shall be decided by the City.

16. Dispute Resolution.

The parties agree to try to resolve any disputes as to professional engineering services or otherwise in good faith. In the event that the parties cannot resolve any reasonable dispute, the parties agree to seek alternative dispute resolution methods agreeable to both parties and which are legally permissive at the time of the dispute. The parties agree to use their best efforts to resolve any good faith dispute within 90 (ninety) days' notice to the other party. In the event the parties cannot resolve that dispute as set forth above, they may seek such remedies as may be permitted by law.

CITY OF NOVI

By

Robert J. Gatt, Mayor

By

Cortney Hanson, Clerk

CONSULTANT

By

MEMORANDUM



TO: VICTOR CARDENAS, ASSISTANT CITY MANAGER
FROM: GEORGE MELISTAS, ENGINEERING SENIOR MANAGER
AARON STAUP, CONSTRUCTION ENGINEER
SUBJECT: PUBLIC CIVIL ENGINEERING CONSULTING SERVICES
DATE: NOVEMBER 20, 2017

The City uses three pre-qualified consultants to provide professional engineering services for public projects. The design phase and construction phase services provided by these consultants are necessary for the implementation of the City's Capital Improvement Program. The current agreements for public projects that were awarded on December 17, 2012 to Orchard, Hiltz & McCliment; Spalding DeDecker Associates; and URS Corporation will expire on December 17, 2017. A Request for Qualifications (attached as Exhibit 1) was advertised publicly and reviewed by staff from several departments using Qualifications-Based Selection (QBS) criteria and resulted in a recommendation to retain the existing three pre-qualified firms.

QBS is a procedure whereby service providers are retained on the basis of qualifications (demonstrated capabilities and experience; understanding of the scope of services; staffing; and references from similar agencies), rather than price factors or fees. Under the QBS method, the procuring agency reviews the qualifications submitted by interested individuals and firms, ranks respondents, and then negotiates with the most qualified respondent for a mutually agreed upon contract.

The Engineering Division received formal proposal responses from ten (10) civil engineering consultant firms. Copies of each proposal were dispersed amongst the five (5) review panel members with a QBS rating and scoring form (attached as Exhibit 2). Upon completion of the reviews provided by the review panel, each score was tabulated into an aggregate scoring matrix table (attached as Exhibit 3). As can be seen by this table, all three of the existing 2012-2017 firms scored the highest.

The next step in the QBS process was to open, evaluate and negotiate the sealed fee proposals from each of the three highest qualified firms: AECOM, OHM & SDA (a copy of each fee proposal is attached as Exhibit 4, 5, & 6, respectively). It was quickly identified after reviewing the fee proposals, that each firm set their respective pricing relatively close to one another and also with only a slight increase from the existing 2012-2017 percentages. Therefore, we decided to do an average of each firm's percentage fees by category (attached as Exhibit 7). When doing averages, the numbers become quite irregular. So, we rounded up to the nearest 0.25%. We decided to round up (rather than round down) due to the fact that this contract requires a five-year commitment whereby

adjusting for economic inflation over that extended period seemed warranted and meritable. The final average (rounded) percentage fees were then tabulated into the ultimate fee schedule (attached as Exhibit 8) to be used by each of the selected firms should they be approved and awarded by the Consultant Review Committee.

To better qualify and quantify the results of the fees, we graphed each of the pre-determined project types (i.e., Reconstruction, Reclamation, Rehabilitation, Non-Motorized, Water Main, Sanitary/Storm, Underground Utilities and Traffic Signals) against the current 2012 fees (attached as Exhibits 9-16, respectively). Note - 'Reclamation' and 'Traffic Signal' job types were not offered as needed services in 2012, but were charted nonetheless to show fee curve tendencies.

Lastly, we met with the principles from each firm to discuss the fee tables and curves as provided earlier to negotiate any requests they may have had. All three were in favor of the averaged (rounded) fees as laid out by Engineering, but had two requests which we think can be accommodated should the requests become necessary. These two requests are described below:

Request #1 - The possibility of revisiting the fee schedule at the end of the third year and see if any adjustments can be made if the economy scale rises more than anticipated?

Request #2 - The fees provided by all three consultants for the 'Grant Writing' and 'General Consulting' items, under the *Other Types of Work* category are for typical staff effort but sometimes may require a specialty staff member at a higher dollar per hour rate.

The Engineering Division does not see any issues with accommodating these requests and will be negotiated properly on a case-by-case basis should they occur.

It is the opinion of the review panel that the QBS system worked as it should and that the three highest rated consulting firms selected are indeed the best three firms to provide sound design and construction phase services for the City of Novi at very reasonable rates. Also, attached for your review and consideration are copies of each of the three highest ranked consultant proposals.