



December 30, 2015

## REQUEST FOR PROPOSAL EIGHTH STREET PLANNING AND DESIGN CHARRETTE

### INTENT

The City of Traverse City (City) is requesting proposals from qualified consultants (Consultant) for a contract to conduct a planning and design charrette for the Eighth Street corridor, from Union Street to Barlow Street, across the central part of the City. The selected Consultant will develop a charrette that builds upon the [City's Corridor Master Plan](#) with a focus on Eighth Street, but also recognizing its relationship to the surrounding neighborhoods. A central issue for the community has been the street design of Eighth Street. This charrette is intended to plan and design not only the street, but include surrounding land uses to develop comprehensive approach for the entire corridor.

The City intends to select a proposal on qualifications, ability, relevant experience, cost, and other pertinent factors. The Consultant will be required to accept a Consultant Agreement with the City for this work. A sample Consultant Agreement is attached to this RFP.

### LOCATION



## TIMELINE

<u>Activity</u>	<u>Date</u>
Issuance of the RFP	December 30, 2015
Deadline for Submissions	2:00 p.m., Tuesday January 26, 2016
Interviews for Three Consultants (Three qualifying RFP Respondents will be selected)	Tuesday, February 2, 2016
Selection of Consultant by City Commission	Tuesday, February 16, 2016
Trip One to Traverse City by Consultant: (Project Start-Up Meeting)	1 <sup>st</sup> Week of March, 2016
Trip Two to Traverse City by Consultant: (Walking Tour, Stakeholder Interviews, Public Kick-off)	3 <sup>rd</sup> Week of March, 2016
Community Training Session: (Coordinated by Local Team)	3 <sup>rd</sup> Week of April, 2016
Trip Three to Traverse City by Consultant: (Charrette)	May 16 to May 20, 2016
Trip Four to Traverse City by Consultant: (Charrette Report and Approval)	3 <sup>rd</sup> Week of June, 2016

## BUDGET RANGE

The budget range for these services is \$95,000 to \$105,000. Respondents should indicate the number of hours for each professional on the charrette team. Information on food, travel, and lodging expenditures will be provided by the consultant team.

## SCOPE OF SERVICES

### 1.0 GENERAL SERVICES

- 1.1 The consultant shall generally utilize the charrette process established by the National Charrette Institute (NCI) and should have staff holding NCI certificates in the administration of that process.
- 1.2 The consultant shall provide extensive public engagement services to ensure a successful charrette process including but limited to, media interviews,

press releases, use of social media, etc. Public engagement services will be supported by the City of Traverse City and other agencies.

- 1.3 The Consultant shall provide ongoing content for City social media and website including description of charrette process, related articles and stories, charrette products.
- 1.4 The Consultant shall participate in regular project calls with the City.

## 2.0 CHARRETTE PREPARATION

- 2.1 Project Start-up Meeting (Trip One). Participate in a Project Start-up Meeting with the City and key project partners. The purpose of the meeting is to create a shared understanding of the details of the project process and to prepare for Trip Two. During the meeting the participants will review and revise the City created drafts of the project objectives, measures, charrette products and the stakeholder analysis and outreach plan. Plans will also be made for the tour, stakeholder interviews and public kick-off meeting (Trip Two).
- 2.2 Base Data Assessment. The City will provide all relevant existing related community-planning reports, plans, and studies from local planning agencies, universities, and community advocacy groups for the consultant's review. If the base data assessment provided by the City is incomplete, the Consultant may make recommendations for additional data.
  - [Corridors Master Plan](#)
  - [City of Traverse City Master Plan](#)
  - [City of Traverse City Master Plan Elements \(Transportation, Urban Design, Natural Resources\)](#)
  - [Complete Streets Resolution](#)
  - [Draft Form Based Code West Front Street](#)
  - [Boardman Lake Avenue Report \(Powerpoint\)](#)
  - [Woodmere Planning Charrette Report](#)
  - [URS Report on 8<sup>th</sup> Street Restriping December 2014 report](#)
  - [Evolution of 8<sup>th</sup> Street \(Tim Lodge, City Engineer\)](#)
  - [TC-TALUS Long Range Plan](#)
  - [Grand Traverse County Housing Inventory and Housing Strategy](#)
  - [Housing Target Market Analysis for Grand Traverse County](#)
- 2.3 Kick-off Meeting and Events (Trip Two).
  - 2.3.1 **Walking Tour**: Participate in a walking tour of the study area with staff and key stakeholders such as elected officials, property and businesses owners and local residents.
  - 2.3.2 **Stakeholder Interviews**. Lead a daylong series of stakeholder interviews. Three, 50 minute interviews will be held in parallel each hour with three to six participants. The city will be responsible meeting invitations and logistics.
  - 2.3.3 **Project Public Kick-off Meeting**. The meeting purpose is to inform the community about the project purpose process and background and to

elicit information from the community about the study area. The meeting should include interactive small group exercises.

2.4 Charrette Logistics.

- 2.4.1 **Meeting Venues:** Provide the City with a list of furniture and equipment requirements for the charrette venues.
- 2.4.2 **Charrette Scheduling:** Work with the City to refine and revise the charrette schedule as new information becomes available. Assist the city with the logistical requirements and agendas for all meetings held during the charrette.
- 2.4.3 **Travel, Food, and Lodging:** Consultant will provide for travel, food and lodging for charrette team members during the charrette.

**3.0 5-DAY CHARRETTE**

3.3 Charrette Products. The consultant will conduct a 5-day charrette to produce a draft 8th Street Corridor Plan that includes a land use plan, an economic development strategy, a transportation plan with street sections, lighting and landscaping, a stormwater and utility plan and a form-based development code. The draft version of the [Traverse City Form Based Code](#) written for West Front Street will provide the basic code format. Products will include illustrative drawings and renderings.

3.4 Charrette Process (Trip Three).

- 3.4.1 **Charrette Opening Public Meeting:** Conduct a public meeting in order to establish a community understanding of the project background purpose, process, roles and opportunities for community involvement; and, use hands-on drawing exercises and other methods to elicit public input on such topics as community values, and future vision.
- 3.4.2 **Alternative Concepts Development:** Create a minimum of three plan concepts based on community input from Charrette Opening Public Meeting, the Project Objectives and Measures, as well as engineering, environmental, policy and the Corridor Master Plan.
- 3.4.3 **Initial Stakeholder Reviews:** Review the alternative concepts with regulatory agencies and primary stakeholders such as landowners and community leaders.
- 3.4.4 **Open House:** Conduct a public open house to present the alternative concepts and to facilitate a dialogue among all of the relevant viewpoints represented. Gather the information necessary to narrow the alternative concepts into a preferred plan.
- 3.4.5 **Preferred Plan Synthesis:** Draft a preferred plan by accounting for all of the information from the open house and merging the high performing elements of the alternative concepts with newly developed design elements.
- 3.4.6 **Final Stakeholder Reviews:** Review the preferred plan with regulatory agencies and primary stakeholders as necessary.

- 3.4.7 **Final Charrette Public Meeting:** Present a concise and comprehensive summary of project goals, the charrette process and all elements of the preferred plan. Gather community input through an open discussion or open house format.

#### **4.0 POST-CHARRETTE MEETINGS AND REPORT**

- 4.3 Public Communications. The day following the charrette provide the City with the proceedings and products of the charrette for posting on the City website.
- 4.4 Document Review and Revisions. Perform all necessary final feasibility studies of the charrette documents. Create a draft revision of the charrette documents.
- 4.5 Draft Report. Produce a draft report that concisely describes the project, the process, and the plan. The report should cover the entire project process, highlighting stakeholder involvement and decision-making processes. The documents should be capable of educating those who did not participate in the process previously.
- 4.6 Final Project Public Meetings (Trip Four). Hold a work session with City Commission then conduct a public meeting to present the recommended revisions of the preferred plan.
- 4.7 Final Report. Make final revisions to the report based on the input from the City and the final public meeting.
- 4.8 Final Plan Adoption. Plan will be adopted by the City Commission.

#### **5.0 COMPOSITION OF CHARRETTE PERSONNEL**

- 5.3 Composition of Consultant Team. The Consultant team will consist of the following specialties: urban design, planning, landscape architecture, traffic engineering, civil engineering, form-based codes and public involvement.
- 5.4 Composition of Local Team. The local team consists of:
- Russell A, Soyring, AICP, Planning Director, City of Traverse City (Co-Project Manager)
  - Jean Derenzy, Deputy Director, Grand Traverse County Planning & Development (Co-Project Manager)
  - Timothy J. Lodge, PE, City Engineer, City of Traverse City
  - Dave Green, Director of Public Services, City of Traverse City
  - Tim Arends, Executive Director, Traverse City Light & Power
  - John Sych, AICP, Director, Grand Traverse County Planning & Development

## **CONTRACT**

The selected Consultant will be required to enter into an agreement for this project. A sample Consultant Agreement is attached. All requirements of the agreement, these specifications and the Consultant's proposal will become contractual obligations of the Consultant.

## **SUBMISSION OF PROPOSALS**

Interested firms must submit three (3) copies of sealed proposals and one (1) electronic copy (USB, CD/DVD) which should include at a minimum the following information:

1. Firm names and introduction.
2. Qualifications of staff to be assigned to this project. Describe where personnel will be physically located while they are engaged in the project.
3. Examples of experience with similar projects.
4. Narrative in which the firm delineates their understanding of what is being requested by the City in this proposal including the items of work they will accomplish for the City, noting any work items they may feel should normally be accomplished under or related to this request, but in their opinion are beyond the scope of what is being requested and therefore not part of this proposal.
5. The methodology, approach or work plan, including timelines, which would be used to complete the project.
6. Proposal Sheet with "Not to Exceed" project cost.

Three (3) sealed proposals and 1 electronic copy (USB, CD/DVD) must be submitted to City of Traverse City, Planning Department, 400 Boardman Avenue, Traverse City, MI 49684, clearly marked "**Eighth Street Planning and Design Charrette**" on the outside of the envelope, no later than **2:00 p.m. on Friday, January 26, 2016**. Telefaxed or e-mail proposals will not be accepted. Questions may be addressed to Russell Soyring, Planning Director, 231-922-4465.

## **EVALUATION OF PROPOSALS**

All proposals received shall be subject to evaluation by the City of Traverse City. This evaluation will be conducted in the manner appropriate, as may be deemed by the City, for the selection of a firm for the purpose of entering into a contract to perform this project. Price alone shall not be the basis for the award of this work, but shall be only one of the components considered. The City does not intend to award a contract for this work solely on the basis of any response made to this request. The following facts, along with other items, will be considered:

1. The firm's expertise and experience as related to the required work.
2. The firm's understanding of the project scope and quality of the firm's project approach.
3. The cost and time scheduled as proposed.

4. Qualifications and availability of the key staff members proposed to work on this project.
5. Involvement of the firm in similar types of projects, reference responses and quality of work on previous projects.

All proposals must include “not to exceed” cost figures for the Eighth Street Planning and Design Charrette.

## **INSURANCE**

The Firm is required to provide and maintain at all times during this project the following insurance. Certified copies, setting forth the limits and coverage, shall be furnished to the City Engineer before commencing with any work. The policy shall contain endorsements stating that a 10-day notice will be given to the City prior to termination or any change in the policy and shall describe the project and provide coverage for the following terms:

- A. Comprehensive General Liability Insurance with limits of liability not less than \$1,000,000 per occurrence and/or aggregate combined single limit with the City listed as an additional insured. Professional liability insurance coverage in the amount of \$1,000,000 minimum.
- B. Motor Vehicle Liability Insurance, including applicable no-fault coverage, combined single limit bodily injury and property damage shall be maintained during the life of the contract. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- C. Workers Compensation Insurance, including Employers’ Liability Coverage in accordance with all applicable statutes of the State of Michigan.
- D. If any of the insurance is canceled, the Firm shall cease operations, and shall not resume until new insurance is obtained.

## **SUPPLEMENTAL INFORMATION AND REQUIREMENTS**

The City of Traverse City reserves the right to waive any informality or defect in any proposal, to accept any proposal or parts thereof or to reject any or all proposals, should it deem it to be in the best interest of the City of Traverse City to do so. The City reserves the right to revise the contents of the proposal and to negotiate all aspects of this proposal and any future agreement with the successful firm of the City's choice. The City further accepts no responsibility for expenses which may be incurred in the preparation of such proposals. The selected firm shall be expected to comply with all applicable State and Federal laws in the performance of services. Submittals to the City are considered public information. The City has the right to

disclose information contained in the submittals. The City further reserves the right to photocopy, circulate or otherwise distribute any material submitted in response to the Request for Proposal (R.F.P.). Original materials which the consultant may wish returned shall be clearly marked to be returned to them.

The selection of the successful firm shall be made without regard to race, color, sex, age, religion, sexual preferences, handicap, political affiliation, veteran status, or national origin. The City is an Equal Opportunity Employer.

The selected Firm will be required to enter into a Consultant Agreement for this project. A sample agreement is attached.

Any questions regarding this request for proposal shall be submitted in writing to the Planning Director at least seven (7) days prior to the deadline for submitting the request for proposal. Written answers to questions, which in the opinion of the City may change or substantially clarify the request for proposal, will be submitted to all prospective firms.

#### **INQUIRIES**

Please direct any questions concerning any part of these specifications to Russell Soyring, Planning Director, at (231) 922-4465, between the hours of 8:00 a.m. and 5:00 p.m., Monday-Friday, or by e-mail at [rsoyring@traversecitymi.gov](mailto:rsoyring@traversecitymi.gov).

**PROPOSAL SHEET**

**TITLE: Eighth Street Planning and Design Charrette**

**DUE DATE: 2:00 p.m. on Tuesday, January 26, 2016**

Having carefully examined the attached R.F.P. and any other applicable information, the undersigned proposes to furnish all items necessary for and reasonably incidental to the proper completion of this proposal.

**The undersigned represents that they have experience with similar projects.**

The undersigned submits this proposal and agrees to meet or exceed all requirements and specifications listed on the R.F.P., unless otherwise indicated in writing and attached hereto.

The undersigned certifies, as of the date of this proposal, not to be in arrears to the City of Traverse City for debt or contract or is in any way a defaulter as provided for in Section 152, Chapter XVI of the Charter of the City of Traverse City.

The undersigned understands and agrees, if selected to be awarded this work, to enter into an agreement with the City to supply this work.

The undersigned understands that the City reserves the right to accept any or all proposals in whole or in part and to waive irregularities in any proposal in the interest of the City. The Proposal will be evaluated and awarded on the basis of best value to the City. The decision criteria to be used, but will not be limited to, is price, accessories, options and overall capability to meet the needs of the City.

The undersigned agrees that the proposal may not be withdrawn for a period of 60 days from the actual date of the opening of proposals.

Not to Exceed Project Cost \$ \_\_\_\_\_

Submitted by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name and Title (Print)

\_\_\_\_\_  
Company Address

\_\_\_\_\_  
Phone                      Fax

\_\_\_\_\_  
City,                      State,                      Zip

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Sole proprietorship/partnership/corporation

\_\_\_\_\_  
If corporation, state of corporation

**ADDENDUM NO. 1**

**PROJECT:**     **EIGHTH STREET PLANNING AND DESIGN CHARRETTE**  
**ISSUED:**     **Monday, January 11, 2016**  
**FROM:**       **Russell Soyring, Planning Director**

This addendum is to amend the Request for Proposals for the above referenced project as follows:

The Proposal Sheet (page 9 of 9) incorrectly listed the due date. It used to read, "DUE DATE: 2:00 p.m. on Friday, January, 26, 2016," and has been corrected to read, "DUE DATE: 2:00 p.m. on Tuesday, January 26, 2016."

Please include the revised Proposal Sheet attached to this Addendum.

**Addendum Acknowledgement:**

This Addendum No. 1 shall be attached to and shall become part of the RFP. Consultants must acknowledge this Addendum in the spaces provided herein and it must be included with the RFP submittal provided to the City. **FAILURE TO ACKNOWLEDGE RECEIPT OF THIS ADENDUM MAY CAUSE REJECTION OF PROPOSAL.**

**ACKNOWLEDGED:**

Consultant: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**PROPOSAL SHEET**

**TITLE: Eighth Street Planning and Design Charrette**

**DUE DATE: 2:00 p.m. on Tuesday, January 26, 2016**

Having carefully examined the attached R.F.P. and any other applicable information, the undersigned proposes to furnish all items necessary for and reasonably incidental to the proper completion of this proposal.

**The undersigned represents that they have experience with similar projects.**

The undersigned submits this proposal and agrees to meet or exceed all requirements and specifications listed on the R.F.P., unless otherwise indicated in writing and attached hereto.

The undersigned certifies, as of the date of this proposal, not to be in arrears to the City of Traverse City for debt or contract or is in any way a defaulter as provided for in Section 152, Chapter XVI of the Charter of the City of Traverse City.

The undersigned understands and agrees, if selected to be awarded this work, to enter into an agreement with the City to supply this work.

The undersigned understands that the City reserves the right to accept any or all proposals in whole or in part and to waive irregularities in any proposal in the interest of the City. The Proposal will be evaluated and awarded on the basis of best value to the City. The decision criteria to be used, but will not be limited to, is price, accessories, options and overall capability to meet the needs of the City.

The undersigned agrees that the proposal may not be withdrawn for a period of 60 days from the actual date of the opening of proposals.

Not to Exceed Project Cost \$ \_\_\_\_\_

Submitted by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name and Title (Print)

\_\_\_\_\_  
Company Address

\_\_\_\_\_  
Phone                      Fax

\_\_\_\_\_  
City,                      State,                      Zip

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Sole proprietorship/partnership/corporation

\_\_\_\_\_  
If corporation, state of corporation

**ADDENDUM NO. 2**

**PROJECT:**     **EIGHTH STREET PLANNING AND DESIGN CHARRETTE**  
**ISSUED:**     **Friday, January 15, 2016**  
**FROM:**       **Russell Soyring, Planning Director**

This addendum is to amend the Request for Proposals for the above referenced project as follows:

The Timeline (page 2 of 9) incorrectly listed the date of the planned consultant interviews. It used to read, "Interviews for Three Consultants Tuesday, February 4, 2016" and has been corrected to read, "Interviews for Three Consultants Tuesday, February 2, 2016."

**Addendum Acknowledgement:**

This Addendum No. 2 shall be attached to and shall become part of the RFP. Consultants must acknowledge this Addendum in the spaces provided herein and it must be included with the RFP submittal provided to the City. **FAILURE TO ACKNOWLEDGE RECEIPT OF THIS ADENDUM MAY CAUSE REJECTION OF PROPOSAL.**

**ACKNOWLEDGED:**

Consultant: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF TRAVERSE CITY  
CONSULTANT AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the CITY OF TRAVERSE CITY, a Michigan municipal corporation, of 400 Boardman, Traverse City, Michigan, 49684, (the "City"), and \_\_\_\_\_, a (sole proprietorship/partnership/corporation) of \_\_\_\_\_, (if a corporation, state of incorporation) (the "Consultant");

WHEREAS, the City desires to engage the services of the Consultant to furnish technical and professional assistance concerning the project which is described as:

[BRIEF DESCRIPTION OF PROJECT]

and the Consultant wishes to furnish such technical and professional service to the City and has represented that the Consultant has the education, expertise, capability and the necessary licenses to perform such services;

THEREFORE, the parties mutually agree as follows:

1. Agreement Documents. The following shall be deemed to be a part of this Agreement and incorporated herein.
  - A. Notice
  - B. Request for Proposals/Bids
  - C. Consultant's Proposal/Bid
  - D. Schedule of Payments
  - E. Timetable for Activities
2. Scope of Services. The Consultant shall provide services in accordance with and as set forth in the Agreement documents.
3. Compensation and Method of Payment. The City shall pay to the Consultant and the Consultant agrees to accept as full compensation for services under this Agreement the total sum of \$ \_\_\_\_\_ in accordance with the Schedule of Payments.
4. Period of Performance. The services to be rendered under this Agreement shall commence within \_\_\_\_\_ working days of execution hereof. Performance shall be in accordance with the Timetable for Activities.
5. Independent Contractor. The relationship of the Consultant to the City is that of an independent contractor and in accordance therewith, the Consultant covenants and agrees to conduct itself consistent with such status and that neither it nor its employees, officers or agents will claim to be an officer, employee or agent of the City or make any claim, demand or

application to or for any rights or privileges applicable to any officer or employee of same, including but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. The parties do not intend the services provided by the Consultant to be a joint venture.

6. The Consultant's Responsibility. The Consultant shall perform the work in a good and workmanlike manner and assumes the risk in performing under this Agreement. The Consultant shall be solely responsible and answerable in damages for all improper work, accidents or injuries to person or property.

7. Recovery of Money. Whenever, under this Agreement, any sum of money shall be recoverable from or payable by the Consultant to the City, the same amount may be deducted from any sum due to the Consultant under this Agreement or under any other contract between the Consultant and the City. The rights of the City are in addition and without prejudice to any other right the City may have to claim the amount of any loss or damage suffered by the City on account of the acts or omissions of the Consultant.

8. Disclosure by City Commissioner. Pursuant to 1968 Public Act 317, a City Commissioner with a pecuniary interest in a business submitting a bid for which the City may enter into a contract or issue a service/purchase order is required to publicly disclose their pecuniary interest prior to awarding the contract or issuing the service/purchase order. A form is provided and should be included with the bid.

9. Indemnity. The Consultant shall indemnify and save harmless the City, its officers, agents and employees from and against any and all claims, liabilities, losses, damages, actual attorney fees and settlement expenses arising from bodily injury or death of any persons and damage or loss of any property resulting or arising out of or in connection with the willful or negligent acts, omissions, or errors of the Consultant or its employees, agents, servants and subcontractors. Losses include damages the City may sustain as a result of the failure of the Consultant to comply with the provisions of this Agreement. The Consultant shall not be obligated to indemnify the City for the City's own negligence. This indemnification provision shall not be limited by reason of insurance coverage of any type. This provision is not intended to waive the defense of governmental immunity that may be asserted by the City in an action against them.

The City hereby reserves the right to select its own counsel, in defense of any matter arising hereunder, and no payment or acknowledgment of liability, loss, fine, penalty or charge shall be made against the City without its express written consent. This indemnity shall survive the expiration and termination of this Agreement. However, this survival shall be no longer than the expiration of the applicable statute of limitation.

The Consultant expressly acknowledges and agrees that this indemnification provision is intended to be as broad and inclusive as is permitted by law and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and

effect. This provision shall survive the termination of this Agreement.

**USED WHEN CITY IS NAMED AS ADDITIONAL INSURED:**

10. Insurance. The Consultant agrees not to change and agrees to maintain the following insurance throughout the period of performance of this Agreement. The Consultant will upon execution of this Agreement provide a certificate of insurance to the City Clerk. The policy shall contain endorsements stating that at least a 10-day notice will be given to the City prior to termination or any change in the policy; and in the case where Consultant is required to name the City as additional insured, shall provide an endorsement stating that the City has been named as an additional insured onto such policy for all claims arising out of the Consultant's work. Should any required insurance be cancelled, materially reduced or expired, all activities under this Agreement shall immediately cease until substitute insurance in compliance with all requirements hereof has been procured and evidence thereof presented to the City. Upon request by the City Clerk, Consultant shall provide a full copy of any insurance policy for insurance coverage required under this agreement within ten (10) days of request. This time frame may be extended by the City Clerk in cases where the policy has not been issued.

**USED WHEN CITY IS NOT NAMED AS ADDITIONAL INSURED:**

10. Insurance. The Consultant agrees not to change and agrees to maintain the following insurance throughout the period of performance of this Agreement. The Consultant will upon execution of this Agreement provide a certificate of insurance to the City Clerk. The policy shall contain endorsements stating that at least a 10-day notice will be given to the City prior to termination or any change in the policy. Should any required insurance be cancelled, materially reduced or expired, all activities under this Agreement shall immediately cease until substitute insurance in compliance with all requirements hereof has been procured and evidence thereof presented to the City. Upon request by the City Clerk, Consultant shall provide a full copy of any insurance policy for insurance coverage required under this agreement within ten (10) days of request. This time frame may be extended by the City Clerk in cases where the policy has not been issued.

A. Commercial General Liability. The Consultant shall acquire and maintain commercial general liability insurance coverage in the amount of \$1,000,000 per occurrence with the City being named as additional insured for all claims arising out of the Consultant's work, including completed operations coverage (if required in the Request for Proposals/Bids). For contracts in excess of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000), the Consultant shall provide ISO general aggregate endorsement CG 25 03 which provides a project specific aggregate of \$2 million for general liability.

B. Professional Liability. The Consultant shall also acquire and maintain professional liability insurance coverage in the amount of \$1,000,000 minimum per

occurrence or, if per occurrence is unavailable to the Consultant, on a claims made basis with a three (3) year reporting period; or in the alternative, the Consultant must continuously maintain the required Professional Liability coverage on a claims made basis for the duration of the project plus three years after project completion. If the Consultant's Professional Liability policy is canceled or not renewed and replacement coverage without an equivalent retro date is not procured, then the Consultant must purchase a three-year Extended Reporting Period at the Consultant's expense (if required in the Request for Proposals/Bids).

C. Workers Compensation. The parties shall maintain suitable workers compensation insurance pursuant to Michigan law and the Consultant shall provide a certificate of insurance or copy of state approval for self insurance to the City Clerk upon execution of this Agreement.

11. Compliance with Regulations. The Consultant shall comply with all applicable statutes, rules and regulations of all federal, state and local governments and agencies having jurisdiction, and bears the risk of any such authorities or changes thereto.

12. Standard of Conduct. The Consultant shall render all services under this Agreement according to generally accepted professional practices for the intended use of the work or project.

13. The City's Obligation. The City shall provide the Consultant with all information currently available to the City upon request of the Consultant. The City Manager shall designate a City employee to be the City's representative for purposes of this Agreement.

14. Non-Discrimination. The parties agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Breach of this covenant may be regarded as a material breach of this Agreement.

15. Prohibition Against Assignment. This Agreement is intended to secure the service of the Consultant because of its ability and reputation and none of the Consultant's duties under this Agreement shall be assigned, subcontracted, or transferred without the prior written consent of the City Manager. Any assignment, subcontract or transfer of the Consultant's duties under this Agreement must be in writing.

16. Third Party Participation. The Consultant agrees that despite any subcontract entered into by the Consultant for execution of activities or provision of services related to the completion of this project, the Consultant shall be solely responsible for carrying out the project pursuant to this Agreement. The Consultant shall specify in any such subcontract that the subcontractor shall be bound by this Agreement and any other requirements applicable to the

Consultant in the conduct of the project unless the City Manager and the Consultant agree to modification in a particular case. The Consultant shall not subcontract unless agreed upon in writing by the City.

17. Third Party Beneficiaries. This Agreement confers no rights or remedies on any third party, other than the parties to this Agreement and their respective successors and permitted assigns.

18. Interest of the Consultant. The Consultant represents that its officers and employees have no interest and covenant that they will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of the Consultant's services and duties hereunder. The Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed. The Consultant further covenants that neither it nor any of its principals are in default to the City.

19. Covenant Against Contingent Fees. The Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach of violation of this warranty, the City shall have the right to annul this Agreement without liability, or in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

20. Qualifications of the Consultant. The Consultant specifically represents and agrees that its officers, employees, agents and contractors have and shall possess the experience, knowledge, and competence necessary to qualify them individually for the particular duties they perform hereunder.

21. Notice. Whenever it is provided in this Agreement that a notice or other communication is to be given or directed to either party, the same shall be given or directed to the respective party at its address as specified in this Agreement, or at such other address as either party may, from time to time, designate by written notice to the other.

22. Amendments. This Agreement may be modified from time to time, but such modifications shall be in writing and signed by both parties.

23. Termination.

A. For Fault. If the City Manager determines that the Consultant has failed to perform or will fail to perform all or any part of the services, obligations, or duties required by this Agreement, the City Manager may terminate or suspend this Agreement in whole or in part upon written notice to the Consultant specifying the portions of this Agreement and in the case of suspension shall specify a reasonable period not more than thirty (30) days nor less than fifteen (15) days from receipt of the notice, during which

time the Consultant shall correct the violations referred to in the notice. If the Consultant does not correct the violations during the period provided for in the notice, this Agreement shall be terminated upon expiration of such time. Upon termination, any payment due the Consultant at time of termination may be adjusted to cover any additional costs occasioned the City by reason of the termination. This provision for termination shall not limit or modify any other right to the City to proceed against the Consultant at law or under the terms of this Agreement.

B. Not for Fault. Whenever the City Manager determines that termination of this Agreement in whole or in part is in the best interest of the City or in the event that termination is required by any state or federal agency, the City Manager may terminate this Agreement by written notice to the Consultant specifying the services terminated and the effective date of such termination. Upon termination, the Consultant shall be entitled to and the City shall pay the costs actually incurred in compliance with this Agreement until the date of such termination.

24. Force Majeure. If because of force majeure, either party is unable to carry out any of its obligations under this Agreement (other than obligations of such party to pay or expend money for or in connection with the performance of this Agreement), and if such party promptly gives to the other party concerned written notice of such force majeure, then the obligations of the party giving such notice will be suspended to the extent made necessary by such force majeure and during its continuance, provided the effect of such force majeure is eliminated insofar as possible with all reasonable dispatch. "Force Majeure" means unforeseeable events beyond a party's reasonable control and without such party's fault or negligence, including, but not limited to, acts of God, acts of public enemy, acts of the federal government, acts of another party to this Agreement, fire, flood, inclement weather, epidemic, quarantine restrictions, strikes and embargoes, labor disturbances, the unavailability of raw materials, legislation, charter amendments or referendum, orders or acts of civil or military authority, injunctions, or other causes of a similar nature which wholly or substantially prevent performance. If the suspension of work lasts for more than 30 days, the City may terminate this Agreement.

25. Delay. If the Consultant is delayed in the completion of the work due to force majeure or otherwise, the time for completion may be extended for a period determined by the City in its sole discretion to be equivalent to the time of such delay. The City may terminate this Agreement if the delay lasts for more than 30 days. Upon termination by the City, the Consultant shall be entitled to the costs actually incurred in compliance with this Agreement less any costs incurred by the City as a result of the delay until the date of such termination, but not more than the maximum Agreement amount.

26. Interpretation. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. This Agreement was drafted at the joint direction of the parties. The pronouns and relative words used herein are written in the neuter and singular. However, if more than one person or entity joins in this Agreement on behalf of

the Consultant, or if a person of masculine or feminine gender joins in this Agreement on behalf of the Consultant, such words shall be interpreted to be in the plural, masculine or feminine as the sense requires. In the event that any term, clause or provision of this Agreement conflicts with any term, clause, or provision contained in any attachments to this Agreement, this Agreement's terms shall prevail.

27. Venue. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Grand Traverse, State of Michigan.

28. Dispute Resolution. If any party has a dispute with another regarding the meaning, operation, or enforcement of any provision of this Agreement, the disputing parties agree to meet and confer to negotiate a resolution of the dispute. They further agree as follows:

A. Mediation. If they are unable to resolve the dispute themselves and before formally instituting any other dispute mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of MCR 2.411, to bring them together in at least one mediation session.

B. Arbitration. If they are unable to resolve the dispute through mediation, it may be decided by final and binding arbitration according to the rules and procedures of the American Arbitration Association or a similar agreed to organization or arbitrator. Judgment upon the award rendered by the arbitrator may be entered in Circuit Court.

C. Venue. All meetings, hearings and actions to resolve the dispute shall be in Grand Traverse County.

D. Notice. Written notice of a claim shall be given to the other party not later than 90 days after the occurrence giving rise to the dispute becomes known or should have become known. Negotiations and mediation shall occur within 60 days after such notice. Unless a longer time is agreed upon, arbitration must be demanded within 120 days after such notice and, if not, the claim is deemed waived. Arbitration must be demanded within this time limit even if negotiation or mediation has not occurred, but the arbitrator must direct the parties to mediation before issuing an award.

29. Reuse of Documents. All documents and electronic files delivered to the City are instruments of service in respect of the project. Nevertheless, all documents and electronic files delivered to the City shall become property of the City upon completion of the work and payment in full of all monies due the Consultant. Copies of the City-furnished data that may be relied upon by the Consultant are limited to the printed copies (also known as hard copies) that are delivered to the Consultant. Files on electronic media of text, data or graphics or of other types that are furnished by the City to the Consultant are only for convenience of the Consultant. Any conclusion of information obtained or derived from such electronic files will be at the user's sole risk. Economic benefit to the City for having these files is predicated on the files being

media form, software release number and hardware operating system number as utilized by the Consultant. Copies of documents that may be relied upon by the City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files on electronic media of text, data or graphics or of other types that are furnished by the Consultant to the City shall be in a compatible software format for use by the City. Any conclusions or information obtained or derived from such electronic files will be at the user's sole risk. Electronic file copies of drawings will not contain the Consultant's seal or the identification of the Consultant in the title block.

30. Freedom of Information Act. The Consultant acknowledges that the City may be required from time to time to release records in its possession by law. The Consultant hereby gives permission to the City to release any records or materials received by the City as it may be requested to do so as permitted by the Freedom of Information Act, MCL 15.231 *et seq.* Provided, however, that the Consultant shall not be held liable for any reuse of the documents prepared by the Consultant under this Agreement for purposes other than anticipated herein.

31. Digital Signatures. The parties hereto acknowledge and agree under the Uniform Electronic Transactions Act, MCL 450.832, *et seq.* that this Agreement may be executed with the electronic signature of any person authorized and required to sign on behalf of the parties hereto.

32. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

33. No Waiver. No waiver by any party of any default by another party in the performance of any portion of this Agreement shall operate or be construed as a waiver of any future default, whether like or different in character.

34. Entire Agreement. This Agreement, together with all items incorporated herein by reference, constitutes the entire agreement of the parties and there are no valid promises, conditions or understandings which are not contained herein. It is understood that should the Consultant recommend further work concerning the project, the City is under no obligation to engage the Consultant in such work.

35. Authority to Execute. The parties agree that the signatories appearing below have the authority and are duly authorized to execute this Agreement on behalf of the party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF TRAVERSE CITY

By \_\_\_\_\_  
James C. Carruthers, Mayor

By \_\_\_\_\_  
Benjamin C. Marentette, City Clerk

CONSULTANT

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (print or type)

APPROVED AS TO SUBSTANCE:

\_\_\_\_\_  
Martin A. Colburn, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Lauren Tribble-Laucht, City Attorney

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## SCOPE OF SERVICES

[Request for Proposals/Bids and the Consultant's Proposal/Bid inserted here]

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## SCHEDULE OF PAYMENTS

Payments may be made to the Consultant after satisfactory service and upon receipt of a valid invoice approved by the City.

Final payment shall be made upon completion of all the Consultant's services. Total payment including expenses shall be \$\_\_\_\_\_.

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## TIMETABLE FOR ACTIVITIES

The Consultant's services shall commence within \_\_\_\_ working days after execution of this Agreement. The schedule of activities shall follow the City's Request for Proposals/Bids and the Consultant's Proposal/Bid attached hereto and incorporated herein by reference.

Services shall be completed not later than \_\_\_\_\_.

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