

City of Traverse City
Request for Proposals (RFP)
Sanitary Sewer Evaluation Study (SSES)

RFP Release Date:	March 1, 2024
RFP Questions Due:	March 14, 2024 at 5:00 PM
RFP Answers Due:	March 21, 2024 at 5:00 PM
Submittal Due Date:	April 2, 2024 at 10:00 AM
Selection Process Complete:	April 15, 2024
Email Address:	tcmanage@traversecitymi.gov

INTRODUCTION

The City of Traverse City (CITY) is requesting proposals from professional engineering firms for a Sanitary Sewer Evaluation Study (SSES) which includes a study and analysis of the existing and future capacity of our sanitary sewer collection system along with recommendations for sanitary sewer collection system improvements to evaluate system reliability and capacity. As part of this study, specific locations of Inflow and Infiltration (I&I) must be identified and recommendations to mitigate and reduce I&I shall be made. Please find below some general statements relating to the project and the general scope of services being sought.

BACKGROUND & GENERAL SCOPE OF SERVICES REQUESTED

Traverse City's wastewater collection system includes approximately 90 miles of sanitary sewer mains from 6-inch to 30-inch diameter and eight (8) lift stations. The Front Street lift station is the largest and conveys approximately 2.5 million gallons per day (MGD) average flow from substantial collection areas from the east and west 24-inch trunk line sewers to the Traverse City Regional Wastewater Treatment Plant (TCRWWTP). The TCRWWTP capacity is 8.5 MGD and can adequately treat up to 17 MGD instantaneous peak hourly flow.

Traverse City's west side sewer interceptor collects and transports wastewater from the west side

REQUEST FOR PROPOSALS
Sanitary Sewer Evaluation Study
Page 2

of Traverse City, portions of Garfield Township, and all of the Elmwood Township sewer service area. The west side sewer is one of two major tributaries to the City's Front Street lift Station (largest of 8 City lift stations since another sanitary sewer trunk line flows into this lift station from the east). An inverted siphon conveys the west side sewer under the Boardman River just west of Union Street. From there it parallels the south side of the Boardman River easterly to Park Street, turns south to Front St, then turns east to the Front Street Lift Station.

In 2001, the City procured the west side interceptor study which is included as a reference document in this RFP. The study concluded that there was a significant amount of I&I entering the sewer system at that time. Based on interim findings of this report, the City conducted dye testing of flat roofs in the downtown area during the summer of 2001. Roof drains from several roofs were found to be connected to the sanitary sewer system and a variety of others could not be confirmed as to the direction of discharge. During large wet weather events, wastewater has been observed to overflow into the Boardman River. This was observed to be due to sewer exfiltration occurring upstream and immediately downstream of the siphon. Recently, in 2020 during the record high water levels in Lake Michigan (East and West Grand Traverse Bay) and the Boardman River, several Sanitary Sewer Overflows (SSOs) occurred into the Boardman River at the south side of the siphon during large storm events that were deemed to be greater than 50-year, 200-year and 500-year storm events. One SSO occurred at the upstream (north) side of the siphon concurrently with the south side SSO during the largest event. In 2020, unusually high ground water levels increased I&I as well as flooding of streets and low areas due to storm sewer capacity exceedance leading to these SSOs. Release of raw wastewater to surface water is a violation of State and Federal laws. Furthermore, these releases may endanger public health. Clean surface waters are important to the residents and Traverse City commerce and tourism. In late 2020, the City purchased and installed four (4) portable sewer meters and a digital rain gauge to measure sanitary sewer flows and capture significant rain events. Various locations have been metered on the west side interceptor from late summer in 2020 to present and flow and rain gauge data will be provided for this study. The City has commissioned this study to investigate this problem by identifying solutions to reduce I&I, control the release of wastewater from the collection system and reduce overall flows and treatment costs at the

REQUEST FOR PROPOSALS
Sanitary Sewer Evaluation Study
Page 3

TCRWTP.

The area served by the west side interceptor is largely residential. However, there are also significant commercial land use areas within the area served by this interceptor such as Munson Medical Center and the Grand Traverse Commons/Old State Hospital grounds. In Elmwood Township, the M-22 commercial corridor contributes flow to the west side interceptor via a sewer pump station and forcemain. Currently, the approximate population served by (or tributary to) the west side interceptor is 14,172 compared to 11,194 in 2001. The interceptor serves the west side of Traverse City and portions of Elmwood and Garfield Townships.

The majority of the west side interceptor sewer in Traverse City is constructed from vitrified clay pipe (VCP). The portion of the sewer system within the City is older than areas within the townships. Construction drawings indicate that the Boardman River siphon was constructed in 1931. The west side interceptor runs parallel to Kid's Creek and the Boardman River south of the West Grand Traverse Bay shoreline. A portion of the interceptor is constructed upon the footings of a retaining wall along the south side of the Boardman River (river wall) between Union and Park Street. Over time, the river flow scoured soil from beneath the river wall footing, exposing wooden support pilings up to 3 feet or more in places as discovered during an underwater dive inspection in 2020. The undermining of the footing support soil caused great concern for the overall stability of the river wall putting the 24-inch sewer main which rests on top of the wall footing in jeopardy. Therefore, a plan was put into place to address this critical issue that could cause a catastrophic failure of the 24-inch sewer main.

In 2022-23, a Clean Water State Revolving Fund (CWSRF) project was completed in two phases. Phase 1 between Cass and Park Streets, consisted of stabilizing the existing river wall and footing structure since there was no room physically in the alley between the building and wall to move the sewer main. New steel sheet-piling was installed just in front of the existing concrete wall toward the river and the void space between the sheet piling, concrete wall and below the footing was filled with grout. A new concrete cap was poured over the two walls and new railing was installed.

REQUEST FOR PROPOSALS
Sanitary Sewer Evaluation Study
Page 4

Phase 2 included relocating the west trunk line sewer away from the river wall and upsizing it from 24-inch to 30-inch diameter main from east of Union to near Cass Street. Approximately 412 lineal feet of new 30-inch polyvinyl chloride (PVC) sewer main was constructed away from the river wall, near the center of the alley and the existing 24-inch sewer was abandoned in place along the river wall. This segment of 30-inch sewer needs to be updated in the sewer model.

Sewers in the townships are newer. The majority of township sewers are reportedly constructed from PVC pipe with premium (gasketed) joints.

The water level in the Boardman River near the mouth in West Grand Traverse Bay is approximately equivalent to the elevation of Lake Michigan. The levels of the Great lakes were near their all-time lows in 2001, then again in 2013. Lake level records show that 2001 lake levels were below the invert of the majority of the length of the west side interceptor and tributary sewers except at the location of the inverted siphon and approximately 1500 feet of the interceptor upstream of the Front Street Pump Station. However, average and high lake levels are higher than the inverts of many of the sewers in the lower reaches of the interceptor.

GENERAL TASKS REQUIRED

1. Perform Global Assessment of Study Area – west side interceptor sewer (priority) and the remaining City sewer collection system
2. Develop investigative approach
3. Define study area boundary
4. Define technology applications and field methods to apply (field inspections, dye testing and smoke testing)
5. Complete detailed evaluation of subareas
6. Prioritize order of investigation
7. Determine where and when field methods will be applied
8. Manage and analyze collected data
9. Update sewer model
10. Perform quality check

REQUEST FOR PROPOSALS
Sanitary Sewer Evaluation Study
Page 5

11. Provide draft report for City review and comments
12. Provide final report with recommendations for reducing I&I in the study area, including design and construction cost estimates.

Available Information for RESPONDING CONSULTANTS

The reference documents 1 – 5 below can be reviewed at the following link:

[SSES Folder Reference 1-7](#)

1. West Side Interceptor Study 2001
2. Sanitary Sewer System Update for City Commission July 27, 2020
3. Interim West Side Trunk Line Flow Monitoring Report October 18, 2021
4. Presentation - Infiltration and Inflow Update at City Commission October 25, 2021
5. Estimation of Inflow & Infiltration for the Traverse City Wastewater Treatment Plant 2021, Commissioner Werner
6. CWSRF Project Plan 2021
7. 2017 SAW Grant Report

Available Information for the SELECTED CONSULTANT

1. City of Traverse City Sewer System Model for West Trunk Line Sewer in SewerGems
2. Master Sewer Agreement 2017 (Elmwood, Garfield, Peninsula, Acme, and East Bay Townships)
3. Sewer Flow Monitoring Data 2020-24
4. TCRWWTP Flows and Historical Flow Data
5. Water Billing/Consumption Records
6. Other documents upon request, if available

SUBMITTAL REQUIREMENTS

CONSULTANTS responding to this REQUEST should submit their Proposals in the format

REQUEST FOR PROPOSALS
Sanitary Sewer Evaluation Study
Page 6

outlined below. Proposals shall not exceed a total of 20 pages on 8.5"x11" sheets, no smaller than 11 point font. Sheets sized 11"x17" will count as two pages.

A. BUSINESS ORGANIZATION: State the full name and address of your organization and, if applicable, any branch office or other subordinate element that will assist in performing the work. State whether it operates as an individual, partnership, or corporation. If a corporation, include the state in which it is incorporated.

B. STATEMENT OF THE PROBLEM: State in succinct terms your understanding of the problem presented by this REQUEST, along with additional relevant insights.

C. MANAGEMENT SUMMARY:

1. Narrative

Include a narrative summary description of the proposed effort and of the products and services that the RESPONDING CONSULTANT will deliver. If any support must be provided by a subconsultant, said subconsultant must indicate their willingness and capability to perform the work. Provide information requested in item "A" above for any subconsultant.

2. Technical Work Plan

The RESPONDING CONSULTANT shall provide a general technical plan and schedule for accomplishing the work. Specify data needed to complete the study and analysis for the existing and future demands of our water treatment and distribution systems and to prepare recommendations for water system improvements to increase system reliability and capacity.

3. Tasks and Schedule

The RESPONDING CONSULTANT shall provide a list of tasks and time duration to complete the draft and final Sanitary Sewer Evaluation Study.

REQUEST FOR PROPOSALS
Sanitary Sewer Evaluation Study
Page 7

4. Experience

The RESPONDING CONSULTANT shall provide examples of direct experience with at least five projects of this type. Provide specific information regarding project descriptions, costs (including the consultant's fee), starting and completion dates. Provide the name, address and telephone number of contact persons for these projects. Provide one or two sample Sanitary Sewer Evaluation Study reports for similar projects or the best representation of the RESPONDING CONSULTANTS direct experience in projects of this type.

5. Personnel

The RESPONDING CONSULTANT must be able to staff a project team that possesses the talent and expertise necessary to achieve all project objectives. Include the number of executive and professional personnel by skill and qualification that will be employed in the work. Show where personnel will be physically located while they are engaged in the project. Show key individuals by name and title. Resumes are required for proposed key project personnel.

D. ADDITIONAL INFORMATION/COMMENTS: Include any other information believed to be pertinent but not specifically requested elsewhere in the REQUEST. The CITY will use all information submitted to assess the reasonableness of RESPONDING CONSULTANT'S qualifications.

E. Deliverables

1. One (1) electronic copy of the final report shall be provided to the CITY.
2. The sanitary sewer system model shall be provided to the CITY in digital format compatible with SewerGems water modeling software.
3. All reports, water models and supporting data shall become property of the CITY.
4. All reports and modeling shall meet the requirements of the EPA Handbook, Sewer System Infrastructure and Analysis and Rehabilitation, EPA/625/6-91/030 October 1991 or most recent version.

ADDITIONAL REQUIREMENTS AND EXPECTATIONS

Acceptance of Statement of Qualifications Content

The contents of this REQUEST, its attachments, and the response thereto, may be incorporated into and become contractual obligations if a contract ensues. Failure of the successful RESPONDING CONSULTANT to accept these obligations may result in cancellation of a proposed contract. The CITY reserves the right to interview key personnel assigned by the RESPONDING CONSULTANT to this project.

SUBMITTAL INSTRUCTIONS

A CONSULTANT shall submit one (1) electronic pdf copy of its Proposal to the following email address **no later than 10 a.m. March 19, 2024: tcmanage@traversecitymi.gov..** “SANITARY SEWER EVALUATION STUDY” shall be the subject line of email.

SELECTION CRITERIA

The CITY will initially evaluate RESPONDING CONSULTANTS and their response based upon the following factors:

- < Technical Expertise and Experience
- < Key Staff and Availability
- < Past Similar Work including Sample Reports/Studies
- < General Work Plan
- < Project-Specific Elements
- < Project Completion Schedule
- < Proposal Cost (Not-To-Exceed)
- < Key personnel interviews (if applicable)

SELECTION PROCESS/PROJECT SCHEDULE

CITY Selection from Response to REQUEST's

The CITY, upon reviewing all information provided, shall then select one of the RESPONDING CONSULTANTS for recommendation of award to the City Commission as the SELECTED CONSULTANT. The CITY and the SELECTED CONSULTANT may, by mutual consent, agree to modify the Scope of Services and the project cost to conform to budget limitations.

Project Start Up

The project shall commence following the date of execution of the Consultant Agreement (see attached Standard Consultant Agreement).

GENERAL PROVISIONS

The CITY reserves the right to reject any and all Proposals, or any parts thereof, or to solicit new Proposals and to award contracts as deemed in the community's best interest. All plans and other documents resulting from the contract shall become the property of the CITY. Further, the CITY is not liable for any cost that may be incurred by a consultant responding to this REQUEST. The SELECTED CONSULTANT shall be expected to comply with all applicable State and Federal laws in the performance of services. Proposals to the CITY are considered public information. The CITY has the right to disclose information contained in the Proposals.

The selection of the successful consultant 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. It is anticipated that this contract will be a cost-plus-fixed-fee type of contract with a maximum total Not-To-Exceed Cost. In general, the contract schedule may be determined by the CONSULTANT, however, it should not exceed one year from execution of the consultant agreement.

REQUEST FOR PROPOSALS
Sanitary Sewer Evaluation Study
Page 10

Any questions regarding this request for proposal shall be submitted in writing to tcmanage@traversecitymi.gov by the date listed on page 1 of this RFP. Answers will be posted to the City website <https://www.traversecitymi.gov/government/city-departments/city-managers-office/city-bids-and-rfps.html> under this RFP by the date listed on page 1 of this RFP.

INSURANCE REQUIREMENTS

As outlined in the attached standard Consultant Agreement.

SAMPLE AGREEMENT

CITY OF TRAVERSE CITY
CONSULTANT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20____, 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 shall be decided by final and binding arbitration according to the rules and procedures of Michigan's Uniform Arbitration Act being PA 371 of 2012, MCL 691.1681 et seq or as otherwise agreed to by the parties. The parties shall mutually agree to the selection of an arbitrator and if they are unable to agree, the arbitrator shall be appointed by the chief judge of the 13th Circuit Court. Judgment upon the arbitrator's award may be entered in Grand Traverse County 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 require the parties to participate in at least one mediation session 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.

36. Iran Economic Sanctions Act. The Consultant certifies that it is not an Iran linked business as defined under the Iran Economic Sanctions Act (MCL 129.311 *et seq.*) and will not, during the performance of this Contract, violate the provisions of the Iran Economic Sanctions Act, as amended.

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

CITY OF TRAVERSE CITY

By _____
Amy Shamroe, Mayor

By _____
Benjamin C. Marentette, City Clerk

CONSULTANT

APPROVED AS TO SUBSTANCE:

Elizabeth Vogel, City Manager

APPROVED AS TO FORM:

Lauren Tribble-Laucht, City Attorney

By _____
Signature

Name and Title (print or type)

SCOPE OF SERVICES

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

SAMPLE

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 \$_____.

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 _____.

SAMPLE