



Department of Management Services
Purchasing Division
241 West South Street
Kalamazoo, MI 49007-4796
Phone: 269.337.8020
Fax: 269.337.8500
www.kalamazoo.org
cokpurchasing@kalamazoo.org

REQUEST FOR QUALIFICATIONS (RFQ)

The City of Kalamazoo, Michigan is soliciting qualifications for:

Project Name: Architectural, Structural Engineering and Landscape Architectural Consulting Services **Proposal Reference #: 90600-002.0**

RFP ISSUE DATE: November 8, 2019 Number of Copies Required: **8 + 1 electronic copy**

PROPOSAL DUE/OPENING DATE: December 10, 2019 @ 3:00 p.m. Local Time
Facsimile Proposals Will Not Be Accepted

MAILING ADDRESS & INSTRUCTIONS

Mail to:
Purchasing Division
241W. South Street
Kalamazoo, MI 49007

Questions about this RFQ should be directed to:
James Baker, PE, Public Services Director at
(269) 337-8768

You are invited to submit your qualifications for this project. Specifications, terms, conditions and instructions for submitting qualifications are contained herein.

All firms shall answer the questionnaire and submit all information requested herein in order for a submission to be responsive. **FAILURE TO DO SO MAY RESULT IN THE QUALIFICATIONS BEING REJECTED AS NON-RESPONSIVE.** The RFQ document shall be returned in its entirety, in a properly identified and sealed envelope to the Purchasing Division at the above address. **QUALIFICATIONS MUST BE RECEIVED BEFORE THE DUE DATE - LATE QUALIFICATIONS WILL NOT BE CONSIDERED.** The City reserves the right to postpone the qualifications opening for its own convenience.

Include on the Envelope the Project Name and Proposal Reference Number (above). All Envelopes Must Be Sealed.

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The City reserves the right to accept or reject any or all qualifications and/or proposals and waive informalities and minor irregularities in submissions received.

STATEMENT OF NO INTEREST

NOTE: If you DO NOT intend to submit a Statement of Qualifications, please return this form immediately.

The Purchasing Division of the City of Kalamazoo wishes to keep its vendors list file up-to-date. If, for any reason you cannot supply the commodity/service noted in this bid solicitation, this form must be completed and returned to remain on the particular bid list for future projects of this type.

If you do not respond to this inquiry within the time set for the qualification opening date and time noted, we will assume that you can no longer supply this commodity/service, and your name will be removed from this bidders list.

- _____ Specifications too "tight", i.e. geared toward one brand or manufacturer only (explain below).
- _____ Specifications are unclear (explain below).
- _____ We are unable to meet specifications.
- _____ Insufficient time to respond to the Request for Qualifications.
- _____ Our schedule would not permit us to perform.
- _____ We are unable to meet bond requirements.
- _____ We are unable to meet insurance requirements.
- _____ We do not offer this product or service.
- _____ Remove us from your vendor list for this commodity or service.
- _____ Other (specify below).

REMARKS: _____

SIGNED: _____ NAME: _____

(Type or Print)

TITLE: _____ DATE: _____

FIRM NAME: _____
(if any)

ADDRESS: _____
(Street address) (City) (State) (Zip)

PHONE: _____ FAX: _____

EMAIL: _____

**SECTION I
REQUEST FOR QUALIFICATIONS
INSTRUCTIONS**

1. **EXAMINATION OF DOCUMENT** - Before submitting qualifications, firms shall carefully examine the requirements and shall fully inform themselves as to all existing conditions and limitations.
2. **PREPARATION OF QUALIFICATIONS** - The response to the RFQ shall be legibly prepared in ink or typed. The qualifications submission shall be properly signed and the complete address of the firm given thereon. **Eight (8) paper copies** and **one (1) electronic copy** shall be provided and submitted to:

City of Kalamazoo
Purchasing Division
241 W. South Street
Kalamazoo, MI 49007

Submissions shall be tightly sealed in an envelope plainly marked **SEALED REQUEST FOR QUALIFICATIONS** and identified by project name, due date and time. Envelopes opened by mistake due to improper identification will be so documented and resealed. The Purchasing Division will maintain and guarantee confidentiality of the contents until the specified opening date and time.

3. **EXPLANATIONS** - Any explanation desired by the firm regarding the meaning or interpretation of the RFQ and attachments must be requested in writing and with sufficient time allowed for a reply to reach all prospective firms before the submission of their qualifications. Any information given will be furnished to all as an amendment or addendum to the RFQ, if such information would be prejudicial to uninformed firms. Receipt of amendments or addendum by a firm must be acknowledged in the RFQ by attachment or by letter or fax received before the time set for opening of qualifications. Oral explanation or instruction given prior to the opening will not be binding.
4. **WITHDRAWAL OF QUALIFICATIONS** - Qualifications may be withdrawn prior to opening by written or telegraphic request or in person by an authorized representative provided their identity is made known and a receipt is signed for the submission. Once proposals are received, they may not be withdrawn for at least **one-hundred twenty (120) days** after submission due date.
5. **LATE RFQ** - Any qualifications received at the office designated herein after the exact time specified for receipt will not be considered. NOTE: The City reserves the right to consider qualifications that have been determined by the City to be received late due to mishandling by the City after receipt of the qualifications and no award has been made.
6. **BROCHURES** - Illustrated brochures and professional records may be attached and submitted to augment data included in this application. If brochures include information requested in the application, the application may reference the appropriate pages of the brochure.
7. **COMPLETENESS** - All information requested herein shall be submitted with the RFQ. Failure to do so may result in rejection of the RFQ as non-responsive.

SECTION II
CONSULTANT PRE-QUALIFICATION - APPLICATION

1. Type of Request

(Select One)

- Initial Pre-Qualification
- Renewal
- Modification or Key Personnel Update

2. Consulting Firm Information – (identified as “Firm” in the remainder of application)

Firm Legal Name		Legal Address	
City	State	Zip Code	County
Phone Number	Fax Number		Website (optional)
Tax Identification Number (Federal ID):		Firm Established: Year _____ State _____	
Remittance Address:			
Firm is a: <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Limited Liability Partnership (LLP)			
Former firm name(s) if any, and year(s) in business:			
Branch office address (if work will be performed there):			
City	State	Zip Code	County
Phone Number	Fax Number		Website (optional)
Firm is certified as a: Minority Business Enterprise (MBE) or Women Business Enterprise (WBE) by the _____ Certification Program? <input type="checkbox"/> No <input type="checkbox"/> Yes (<i>Attach letter of certification</i>) Firm currently employs a Kalamazoo Promise Graduate? <input type="checkbox"/> No <input type="checkbox"/> Yes			

3. General Information

Number of professional registered engineers/surveyors currently employed by Firm (excluding temporary employees)			
Engineers In Michigan	_____	Engineers Outside of Michigan	_____
Surveyors In Michigan	_____	Surveyors Outside of Michigan	_____
Number of other personnel currently employed by Firm			
In Michigan	_____	Outside of Michigan	_____

4. Contact Information

Pre-Qualification Application Contact Information

Contact Person	<input type="checkbox"/> Ms.	First Name	Last Name
	<input type="checkbox"/> Mr.		
Mr.			
Title	Phone Number		Email
Address			
City	State	Zip Code	Fax number

Financial Contact Information

Contact Person	<input type="checkbox"/> Ms.	First Name	Last Name
	<input type="checkbox"/> Mr.		
Mr.			
Title	Phone Number		Email
Address		Type <input type="checkbox"/> Main/HQ <input type="checkbox"/> Billing Address <input type="checkbox"/> Mail Address	
		<input type="checkbox"/> MI Branch <input type="checkbox"/> Other _____	
City	State	Zip Code	Fax number

5. Administrative Pre-Qualification

(This section is required with first submittal of a work type and at renewal time.)

<p><input type="checkbox"/> By submitting this application, the firm certifies that it is not presently suspended, debarred, or voluntarily excluded from participating in procurement activities by the State of Michigan or any agency of the United States government, and that a proposed suspension or debarment is not pending.</p> <p><input type="checkbox"/> If this box is checked, the consultant has attached information relating to a current or pending suspension, debarment, or voluntary exclusion.</p>

6. General Terms

Please see SECTION V: TERMS AND CONDITIONS

Part 1A
Qualifying Experience

IMPORTANT: Submit resumes OR Complete one Part 1A for each person listed in Part 1.

Name:		
Role in this work type for which pre-qualification sought:		
Years Experience:		
Years experience with current firm:		
Education (degree and specialization):		
Current Professional Certification/Licensure (state & discipline):		
Other professional qualifications (publications, organizations, training, awards, etc.):		
Relevant Project Experience (fields are expandable)		
Title, Owner, Contact Person, Phone # and Location (City & State):	Date started and date completed:	
	Professional Services	Construction (if applicable)
Description (brief scope, size, cost, etc.) & Specific Role:	<input type="checkbox"/> Check if project performed with current firm	
Title, Owner, Contact Person, Phone # and Location (City & State):	Date started and date completed:	
	Professional Services	Construction (if applicable)
Description (brief scope, size, cost, etc.) & Specific Role:	<input type="checkbox"/> Check if project performed with current firm	
Title, Owner, Contact Person, Phone # and Location (City & State):	Date started and date completed:	
	Professional Services	Construction (if applicable)
Description (brief scope, size, cost, etc.) & Specific Role:	<input type="checkbox"/> Check if project performed with current firm	
Title, Owner, Contact Person, Phone # and Location (City & State):	Date started and date completed:	
	Professional Services	Construction (if applicable)
Description (brief scope, size, cost, etc.) & Specific Role:	<input type="checkbox"/> Check if project performed with current firm	
Title, Owner, Contact Person, Phone # and Location (City & State):	Date started and date completed:	
	Professional Services	Construction (if applicable)
Description (brief scope, size, cost, etc.) & Specific Role:	<input type="checkbox"/> Check if project performed with current firm	

9. Additional Questions

Describe how your firm intends to work with the owner to provide professional engineering and consulting services and any value-added qualities your firm is able to bring to projects under this contract.
Identify any additional professional consulting firm(s) or other subcontractor(s) you will use to work on this project and their expected role(s).

10. Pricing

Provide a schedule of hourly rates and, if applicable, the multiplier (% markup on materials, if any) used to determine fees. **This schedule should be included in a separate sealed envelope.**

11. Certification

By submitting this application, the applicant certifies that all statements and supporting documentation submitted in this application package are true and correct and include all material information necessary to identify and explain the operations of the applicant. Applicant hereby authorizes and requests any person, agency or firm to furnish any pertinent information requested by the City of Kalamazoo deemed necessary to verify the statements made in this application. This certification constitutes a material representation. Any misrepresentation will be grounds for denying or revoking pre-qualification and for initiating action under federal or state laws concerning false statements.

Signature: _____
Name: _____
Title: _____
Date: _____

CITY OF KALAMAZOO
LOCAL PREFERENCE POLICY AND CERTIFICATION

When evaluating the qualifications of the responses received for professional service contracts, the location of Kalamazoo County professional firms will be given additional consideration. The City of Kalamazoo is the sole determiner whether a professional firm qualifies as a Kalamazoo County firm and the ranking of its qualifications as compared to the qualifications of the other professional firms being considered.

During the qualifications evaluation process, an additional weight of approximately two percent will be added to the qualifications of Kalamazoo County professional firms in recognition of the positive economic impact resulting from contracting with them. This weight is given over and above any score already given for location of the firm as it relates to increased efficiency and effectiveness as a result of the proximity of the firm to the City. It is understood, however, that due to the subjective nature of the qualifications evaluation process, and the number and weight of all criteria used, it is impossible to apply a precise, numerical local preference score to those proposals.

To qualify as a Kalamazoo County professional firm, the business must meet both the following criteria:

1. Have a physical presence in Kalamazoo County by maintaining a permanent office in Kalamazoo County and with employees working in Kalamazoo County.
2. Have paid real or personal property taxes related to said business to the City of Kalamazoo, County of Kalamazoo or other municipal corporation within Kalamazoo County in the previous tax year, except that a non-profit entity need not meet this requirement.

This local preference policy applies only to purchases for professional services that are over \$25,000. If more than 50% of the contract is sub-contracted to firms located outside of Kalamazoo County that proposal does not qualify for the local preference policy outlined above. The local preference policy will not apply if prohibited by law. The Purchasing Agent has the authority to make final determination if the bidder qualifies as a Kalamazoo County bidder as set forth herein. The Purchasing Agent may take into account the permanency of the business in Kalamazoo, and whether the business appears to be claiming to be a Kalamazoo County business solely or primarily to qualify as a Kalamazoo County business under this Resolution, and any other material factors.

CERTIFICATION

If you qualify as a Kalamazoo County professional firm and wish to be considered for the local preference provisions as provided above please certify that fact by providing the information requested below and attesting to its accuracy.

Firm Name: _____

Street Address of Business: _____

City, State, and Zip Code: _____

Number of employees working in Kalamazoo County: _____

Name the city or township to which business real and/or personal property taxes are paid or provide non-profit status:

The above information is accurate:

Signature: _____ Date: _____

Name: _____

Title: _____

CITY OF KALAMAZOO EX-OFFENDER POLICY CHECKLIST

As part of the City’s commitment to reducing unacceptable poverty, encouraging rehabilitation, reducing recidivism and strengthening families in Kalamazoo, the City has updated its Purchasing Policy to ensure that firms with whom the City does business share in this commitment by utilizing hiring practices that do not unfairly deny people with arrest and conviction records gainful employment. *(Important: This requirement also extends to any subcontractors the bidder intends to use to fulfill the contract for goods or services being sought from the City.)*

Part I: Proof that the bidder does not inquire about an individual’s past arrest or criminal history on the bidders employment application form

- Attach a copy of the current application for employment being used by the bidder

Part II: Certification that the bidder does not use an individual’s past arrest or criminal history to unlawfully discriminate against them by checking *one or more* of the following:

- That pursuant to federal or state law bidder is precluded from hiring persons with certain criminal records from holding particular positions or engaging in certain occupations by providing a cite to the applicable statute or regulation; if checking this box, provide a citation to the applicable statute or rule upon which the bidder is relying:_____
- That bidder conducts criminal history background checks only as necessary, and only after making a conditional offer of employment; that any withdrawal of an offer of employment to an individual because of a past criminal history is job-related and consistent with business necessity after the individual has been provided an individualized assessment opportunity to review and challenge or supplement the history of past criminal conduct being relied upon by the bidder;
- That the use by bidder of criminal history background checks complies with the U.S. Equal Employment Opportunity Commission’s Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions and that the bidder has not had a determination rendered against it in past 7 years that it discriminated against a person through the use of an individual’s arrest or criminal history

I CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE.

Date

Signature

Printed Name

Position

**SECTION III
INDEMNITY AND INSURANCE**

Contractor, or any of their subcontractors, shall not commence work under this contract until they have obtained the insurance required under this paragraph, and shall keep such insurance in force during the entire life of this contract. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan and acceptable to the City of Kalamazoo within ten (10) days of the Notice of Award. The requirements below should not be interpreted to limit the liability of the Contractor. All deductibles and SIR's are the responsibility of the Contractor.

The Contractor shall procure and maintain the following insurance coverage:

Workers' Compensation Insurance including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and aggregate. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent, if not already included and (E) XCU coverage if the nature of the contract requires XC or U work.

Automobile Liability including Michigan No-Fault Coverages, with limits of liability not less than \$1,000,000 per occurrence, combined single limit for Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

Additional Insured: Commercial General Liability and Automobile Liability, as described above, shall include an endorsement stating that the following shall be *Additional Insureds*: The City of Kalamazoo, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. It is understood and agreed that by naming the City of Kalamazoo as additional insured, coverage afforded is considered to be primary and any other insurance the City of Kalamazoo may have in effect shall be considered secondary and/or excess.

To the fullest extent permitted by law the Contractor agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Kalamazoo, its elected and appointed officials, employees, agents and volunteers, and others working on behalf of the City of Kalamazoo against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City of Kalamazoo, by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises out of, or is in any way connected or associated with this contract.

Cancellation Notice: All policies, as described above, shall include an endorsement stating that it is understood and agreed that thirty (30) days, or ten (10) days for non-payment of premium, Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to: City of Kalamazoo, Purchasing Division, 241 W. South Street, Kalamazoo, MI 49007.

Proof of Insurance Coverage: The Contractor shall provide the City of Kalamazoo at the time that the contracts are returned by him/her for execution, or within 10 days of Notice of Award, whichever is earlier, a Certificate of Insurance as well as the required endorsements. In lieu of required endorsements, if applicable, a copy of the policy sections where coverage is provided for additional insured and cancellation notice would be acceptable. Copies or certified copies of all policies mentioned above shall be furnished, if so requested.

INDEMNITY AND INSURANCE

Continued

If any of the above coverages expire during the term of this contract, the Contractor shall deliver renewal certificates and/or policies to City of Kalamazoo at least ten (10) days prior to the expiration date.

Scope of Coverage: The above requirements and conditions shall not be interpreted to limit the liability of the Contractor under this Contract, but shall be interpreted to provide the greatest benefit to the City and its officers and employees. The above listed coverages shall protect the Contractor, its employees, agents, representatives and subcontractors against claims arising out of the work performed. It shall be the Contractor's responsibility to provide similar insurance for each subcontractor or to provide evidence that each subcontractor carries such insurance in like amount prior to the time such subcontractor proceeds to perform under the contract.

SPECIAL INSURANCE REQUIREMENTS

The selected proposer shall provide insurance coverage as follows:

- A. Comprehensive professional (errors and omissions) liability insurance with limits no less than \$500,000 aggregate which shall insure against acts which are in the nature of professional services performed by engineering consulting and design firms. If a contract is entered into, the Contractor shall maintain such insurance during the life of the contract.

SECTION IV SCOPE OF WORK

1. INTRODUCTION

The City of Kalamazoo is seeking to pre-qualify professional consulting and design service firms for architecture, structural engineering, and/or landscape design on an as-needed basis to provide assistance to City departments in support of various projects.

The projects may be for work on City facilities or for economic development. The departments that primarily will be using these services are: Community Planning & Economic Development, Parks and Recreation, Public Services and Public Safety.

2. OBJECTIVE OF THE REQUEST FOR QUALIFICATIONS

The objective of the Request for Qualifications (RFQ) is to seek qualified firms to provide the following consulting services, as required:

- Architecture – Urban Planning and Design
- Architecture – Smaller Scope
- Landscape Architecture
- Structural Engineering
- New Construction

A selection committee will choose the most qualified firms with general and/or specialized experience to provide these services. Respondents to this RFQ will be ranked according to evaluation criteria and their demonstrated abilities. When the services of a professional design consultant are required, the project will be matched with the qualifications and a proposal will be requested for the work.

As projects are identified, appropriate City project managers will ask one or more pre-qualified firm(s) to complete and submit a Request for Proposal for the actual work to be performed. The consultant's proposal shall use the enclosed terms and conditions as a basis for any contract resulting from this pre-qualification process.

3. DESIRED QUALIFICATIONS

The consultant shall have a thorough knowledge of building construction and technology, and/or “specialized” knowledge of structural design, urban design or landscaping; including urban parks and/or site development. The consultant should have experience in the design and construction of multi-residential, commercial, industrial and mixed-use buildings in an urban context. Experience in the design and construction of special-use buildings and projects involving building renovations and retro-fits is also desired.

It is anticipated that firms with specialized experiences in historic preservation, riverfront development, New Urbanism, brownfield redevelopment, designing for security, leadership in energy and environmental design, designing public spaces and parking, recreational parks and facilities, innovative solutions for urban settings and business or industrial park development will

DESIRED QUALIFICATIONS (cont)

be highly desirable. Ability to partner with or assemble a project team of civil or structural engineers, geo-technical engineers, environmental consultants, or other specialized service providers is desired. Firms willing to provide small renovation work or small installation/implementations are also required.

Knowledge of the City of Kalamazoo, including its neighborhoods, commercial and industrial areas, along with work experience in the City, is considered desirable. AIA certification or Professional Engineering certifications are required; familiarity with ADA laws and standards; knowledge of storm water management laws and best practices desired.

4. QUALIFIED STAFF

Identify and attach resumes for the staff who will be assigned to City projects should your firm be selected to provide architectural, structural engineering or landscape design consulting services. Resumes should include a representative list of projects completed in the previous two years by that staff person.

5. AVAILABILITY

The consultant(s) shall provide services and support on an as-needed basis. Response to work requests must be timely and efficient to meet project demands.

6. AWARD CRITERIA AND SELECTION

The criteria used to measure a firm's qualifications will include:

- 6.1 Experience of firm, general and/or specialized, both in terms of longevity and representative of projects similar in nature to the area(s) qualifications are submitted for.
- 6.2 Capacity of firm in terms of number of employees and capability of providing the services requested, in the area(s) qualifications are submitted for.
- 6.3 Qualifications and experience of staff, especially those individuals who will be assigned to specific projects.
- 6.4 Experience, qualifications and staff size available to provide field inspection.
- 6.5 Client references for services performed on similar projects.
- 6.6 Location of firm's home or satellite office(s) where services will be performed.
- 6.7 Staff's experience with LEED projects.
- 6.8 Standard hourly rates

7. SELECTION PROCESS

This Request for Qualifications is part one of a two-step process. The City will first select consulting firm(s), who, based upon qualifications, the City believes will best be able to provide the required professional services. Those firms will be placed on a pre-qualified list. The second step will be asking firms to submit proposals for performing the professional services at the time the specific project is initiated.

Selection of the firms to be pre-qualified will be performed by a committee made up of representatives from various City Departments. Information requested, either in writing or by oral presentation, shall be provided at no additional cost to the City.

8. CONFLICT OF INTEREST

To protect the interest of the City of Kalamazoo, the successful firm for professional services will not be considered as an eligible contractor or subcontractor on any actual construction of these projects.

9. CONTRACT MANAGER

James Baker, Public Services Director, hereinafter referred to as the Contract Manager or the designated representative shall be the City's representative under the contract. The Contract Manager shall have general supervisory authority over the services provided herein by the Consultant / Professional Firm. Mr. Baker may appoint other City of Kalamazoo staff to be project manager over specific improvement projects.

10. POST DUE DATE INFORMATION

After receiving qualifications, the City may request further information or clarification in selected areas. Requested information shall be provided by the proposer either in writing or by oral presentations at no additional cost to the City.

11. PRE-QUALIFICATION PERIOD AND EXTENSIONS

The pre-qualification shall be in effect for a five (5)-year period commencing March 1, 2020 and continuing through February 28, 2025. Additional firms may apply to be added to the current pre-qualification period once yearly by submitting the CONSULTANT PRE-QUALIFICATION - APPLICATION during the month of January. These applications must be received by 4:30 PM on, or before, the final Friday of January each year.

There will be zero (0) extensions available for this pre-qualification. However, the City may, from time to time, find it necessary to continue this pre-qualification on a month-to-month basis only, not to exceed a six (6) month period. Such month-to-month extended periods shall be by mutual agreement of both parties and made in writing, with all provisions of the original pre-qualification, or any extension thereof, remaining in full force and effect.

12. **TERMS AND CONDITIONS**

The City's standard Terms and Conditions, which will become a part of the Request for Proposal, are attached for your information. It is expected that these terms and conditions will form any contract resulting from this Request for Qualifications process. If any additional terms and conditions are proposed, they shall be submitted with the qualification and will be considered during the selection process.

13. **QUESTIONS**

Questions relative to general qualifications submission requirements may be addressed to Craig Hull, Buyer at (269) 337-8444. Questions relative to the specifications may be addressed to James Baker, Public Services Director, at (269) 337-8768.

**SECTION V
TERMS AND CONDITIONS**

1. AWARD OF CONTRACT

- A. The contract will be awarded to that responsible proposer whose proposal, conforming to this solicitation; will be most advantageous to the City according to the criteria outlined herein. The City reserves the right to accept or reject any or all proposals and waive informalities and minor irregularities in proposals received.
- B. Notification of award will be in writing by the Purchasing Manager. Upon notification, the Consultant/ Professional Firm (hereinafter Firm) shall submit to the Purchasing Division all required insurance certificates and such other documentation as may be requested or required hereunder. Upon their receipt and subsequent approval by the City, the Purchasing Manager will forward to the Firm a written **NOTICE TO PROCEED**. Work shall **NOT** be started until such **NOTICE TO PROCEED** is received by the Firm.
- C. Unilateral changes in proposal prices by the proposer shall not be allowed. However, the City, at its sole option, reserves the right to negotiate with proposers.

2. REQUEST FOR PROPOSAL AS CONTRACT

As projects are identified, appropriate City project managers will ask one or more of the pre-qualified firms to complete and submit a Request for Proposal for the actual work to be performed. A separate agreement containing the consultant's proposal, these terms and conditions, and any addenda are the basis for any contract resulting from the pre-qualification process.

3. SUBCONTRACTORS - NON ASSIGNMENT

Proposers shall state in writing any and all sub-contractors to be associated with this proposal, including the type of work to be performed. The Firm shall cooperate with the City of Kalamazoo in meeting its commitments and goals with regard to maximum utilization of minority and women-owned business enterprises.

The Firm hereby agrees and understands that the contract resulting from this proposal shall not be transferred, assigned or sublet without prior written consent of the City of Kalamazoo.

4. TAXES

The City of Kalamazoo is exempt from all federal excise tax and state sales and use taxes. However, depending upon the situation, the vendor or Firm may not be exempt from said taxes and the City of Kalamazoo is making no representation as to any such exemption.

5. INVOICING

All original invoice(s) will be sent to the Finance Division, 241 W. South Street, Kalamazoo, MI 49007 or via email at apinvoice@kalamazoocity.org. Faxed copy of invoice(s) will not be accepted, unless it is to replace an original invoice that was lost in the mail. The Finance Division processes payments after receipt of an original invoice from the Contractor and approval by the department.

The City of Kalamazoo policy is to pay invoice(s) within 30 days from the receipt of the original invoice, if the services or supplies are satisfactory and the proper paper work and procedures have been followed. In order to guarantee payment to the vendor on a timely basis, the vendor needs to receive a purchase order number before supplying the City of Kalamazoo with goods or services. All original, and copies of original invoice(s), will clearly state which purchase order they are being billed against.

The City of Kalamazoo is a government municipality and therefore is tax exempt from all sales tax. Our tax exempt number is 38-6004627.

The vendor is responsible for supplying the Finance Division with a copy of their W-9 if they are providing a service to the City of Kalamazoo.

6. PAYMENTS

Unless otherwise specified by the City in this proposal, the Firm will be paid in not more than thirty (30) days after receipt of a properly executed invoice, the sum stipulated herein for service rendered and accepted. Payments are processed by the Budget and Accounting Division after receipt of an original invoice from the Firm and approval by the department.

7. CHANGES AND/OR CONTRACT MODIFICATIONS

The City reserves the right to increase or decrease services or requirements, or make any changes necessary at any time during the term of this contract, or any negotiated extension thereof. Price adjustments due to any of the foregoing changes shall be negotiated and mutually agreed upon by the Firm and the City.

Changes of any nature after contract award which reflect an increase or decrease in requirements or costs shall not be permitted without prior approval by the Purchasing Manager. City Commission approval may also be required. **SUCH CHANGES, IF PERFORMED IN ADVANCE OF PURCHASING MANAGER APPROVAL, MAY BE SUBJECT TO DENIAL AND NON-PAYMENT.**

8. LAWS, ORDINANCES AND REGULATIONS

The Firm shall keep themselves fully informed of all local, state and federal laws, ordinances and regulations in any manner affecting those engaged or employed in the work and the equipment used. The Firm and/or employees shall, at all times, serve and comply with such laws, ordinances and regulations.

Any permits, licenses, certificates or fees required for the performance of the work shall be obtained and paid for by the Firm.

This contract shall be governed by the laws of the State of Michigan.

9. RIGHT TO AUDIT

The City or its designee shall be entitled to audit all of the Firm's records, and shall be allowed to interview any of the Firm's employees, throughout the term of this contract and for a period of three years after final payment or longer if required by law to the extent necessary to adequately permit evaluation and verification of:

- A. Firm's compliance with contract requirements,
- B. Compliance with provisions for pricing change orders, invoices or claims submitted by the Firm or any of their payees.

10. HOLD HARMLESS

If the negligent acts or omissions of the Contractor/Vendor or its employees, agents or officers, cause injury to person or property, the Contractor/Vendor shall indemnify and save harmless the City of Kalamazoo, its agents, officials, and employees against all claims, judgments, losses, damages, demands, and payments of any kind to persons or property to the extent occasioned from any claim or demand arising therefrom.

11. DEFAULT

The City may at any time, by written notice to the Firm, terminate this contract and the Firm's right to proceed with the work, for just cause, which shall include, but is not limited to the following:

- A. Failure to provide insurance and bonds (when called for), in the exact amounts and within the time specified or any extension thereof.
- B. Failure to perform the services within the time specified herein, or any extension thereof.
- C. Failure to make progress if such failure endangers performance of the contract in accordance with its terms.
- D. Failure to perform in compliance with any provision of the contract.
- E. **Standard of Performance** - Firm guarantees to perform the services rendered herein in accordance with the accepted standards of the industry or industries concerned herein, except that if the specifications calls for higher standards, then such higher standards shall be provided.

Upon notice by the City of the Firm's failure to comply with such standards or to otherwise be in default of this contract in any manner following the Notice to Proceed, the Firm shall immediately remedy said defective performance in a manner acceptable to the City. Should the Firm fail to immediately correct said defective performance, said failure shall be considered a breach of this contract and grounds for termination of the same by the City.

In the event of any breach of this contract by the Firm, the Firm shall pay any cost to the City caused by said breach including but not limited to the replacement cost of such services with another Firm.

The City reserves the right to withhold any or all payments until any defects in performance have been satisfactorily corrected.

In the event the Firm is in breach of this contract in any manner, and such breach has not been satisfactorily corrected, the City may bar the Firm from being awarded any future City contracts.

DEFAULT (cont.)

- F. All remedies available to the City herein are cumulative and the election of one remedy by the City shall not be a waiver of any other remedy available to the City, either listed in this contract or available by operation of law.

12. INDEPENDENT CONTRACTOR

At all times the Firm, any of its employees, or its sub-contractors, and their subsequent employees shall be considered independent contractors and not as City employees. The Contractor shall exercise all supervisory control and general control over all workers' duties, payment of wages to Contractor's employees and the right to hire, fire and discipline their employees and workers. As an independent contractor, payment under this contract shall not be subject to any withholding for tax, social security or other purposes, nor shall the Contractor or its employees be entitled to City paid sick leave, pension benefit, vacation, medical benefits, life insurance or workers' unemployment compensation or the like.

13. MEETINGS

The Firm and/or Project Supervisor shall be available to meet with the Department Head or Project Manager at a mutually agreeable time to discuss problems, issues or concerns relative to the contract. Either party may call a meeting at any time. When such a request for a meeting is made, the meeting date shall, in no case exceed five (5) working days after the request; and, if in the sole opinion of the Department Head, the severity of the circumstance warrants, no more than one (1) working day.

14. INSPECTION OF WORK SITE

Before submitting bids for their work, the Firm shall be responsible for examining the work site and satisfy itself as to the existing conditions under which they will be obliged to operate, or that in any way affects the work under this contract. No allowance shall be made subsequently in behalf of the Firm for any negligence on his/her part.

15. CONSTRUCTION PHASE SERVICES - If included in scope of work

The Firm shall make visits to the site at intervals deemed appropriate by the Firm for the various stages of construction to observe as an experienced and qualified design professional the progress and quality of the executed work of contractor(s) and to determine in general if such work is proceeding in compliance with the contract documents. The Firm shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work. The Firm shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by contractor(s) or the safety precautions and programs incident to the work of contractor(s); however, the Firm shall determine if the work is in compliance with the contract documents. During such site visits, and on the basis of on-site observations, the Firm shall keep the City informed of the progress of the work and shall inform the City of known material defects and deficiencies in such work.

CONSTRUCTION PHASE SERVICES (cont)

Based on the Firm's on-site observations as an experienced and qualified design professional, and on review of applications for payment and the accompanying data and schedules, determine the amount(s) owing to the contractor(s) and recommend, in writing, payments to contractor(s) in such amounts; such recommendations of payment will constitute a representation to the City, based on such observations and review that the work has progressed to the point indicated, that to the best of the Firm's knowledge, information and belief, the quality of such work is in compliance with the contract documents (subject to the evaluation of such work as a functioning project upon substantial completion, the results of any subsequent tests called for in the contract documents, and to any qualifications stated in its recommendation); but by recommending any payment, the Firm will not be thereby deemed to have represented that it has made an examination to ascertain how or for what purposed any contractor has used the monies paid on account of the contract price, or that title to any of the work, materials, or equipment has passed the City free and clear of any lien, claims, security interests or encumbrances, or that contractor(s) have completed their work exactly in accordance with the contract documents.

The Firm shall conduct an inspection to determine if the project is substantially complete and a final inspection to determine if the work has been completed in accordance with the contract documents, and if each contractor has fulfilled all of his obligations thereunder so that the Firm may recommend, in writing, final payment to each contractor and may give written notice to the City and the contractor(s) that the work is acceptable (subject to any conditions therein expressed) but any such recommendation and notice shall be subject to the limitations expressed in this Section.

16. CITY'S RESPONSIBILITIES

The City agrees to provide full, reliable information regarding its requirements for the Project and, at its expense, shall furnish the information, surveys and reports, if any, as described in the specifications. In addition, the City agrees to provide, at its expense and in a timely manner, the cooperation of its personnel and such additional information with respect to the Project as may be required from time to time, to be provided by the City for the performance of the Firm's work.

17. TERMINATION

This Agreement may be terminated by either the City or the Firm by giving written notice at least thirty (30) days prior to the date of termination.

- A. In the event of such termination by the Firm, the City, together with any other remedies which are legally available, may withhold any subsequent payment due under this agreement until such time as the services required to be performed under this Agreement have been completed by the City or another firm. In the event that the City incurs additional expenses caused directly or indirectly by the termination of this Agreement, together with such other remedies as are legally available, the City shall be entitled to deduct such expenses from any unpaid amount due to the Firm under this agreement.
- B. In the event of such termination by the City, the City shall pay the Firm for services and reimbursable expenses performed or incurred prior to the termination date plus all costs and expenses directly attributable to such termination for which the Firm is not otherwise compensated.

18. USE OF DOCUMENTS

A. Provided to the City:

All plans, drawings and specifications provided to the City under this Agreement shall become property of the City, and shall be deemed public records as required by Michigan law. The City shall be entitled to use such documents for its own municipal purposes only, and shall have no authority to sell them at a profit to any third party. Any use of such documents by the City for municipal purposes not related directly or indirectly to the scope of the services provided for by this Agreement shall create no liability for the Firm, and the City agrees to indemnify and hold the Firm harmless from any and all reasonable damages, losses, attorney fees, costs, and/or reasonable expenses which the firm may incur as a result of such use by the City.

B. Provided by the City:

All digital data derived from the City of Kalamazoo's Geographic Information System (GIS), Computer Aided Design (CAD) software, and the Global Positioning System (GPS) provided to the consultant for the purpose of this contract shall remain the property of the City of Kalamazoo. This contract limits the use of this digital data for the purpose of fulfilling the goals of this contract. Failure to comply can result in the termination of the contract and the removal of the contractor's name from future bid lists. Examples of digital data from GIS/CAD/GPS may include, but are not limited to; orthophotography, topographic contours, parcel/lot lines, street centerlines, utilities, hydrography, wells, zoning, building footprints, neighborhood boundaries, census tracts and blocks, voting districts, and school district boundaries.

19. CONFLICT OF INTEREST

The Firm shall not be allowed to work as a contractor or sub-contractor on any project within the scope of this contract which constitutes a conflict of interest.

20. NO WAIVER

Either party's failure to insist on strict performance of any term or condition of the contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

APPENDIX A

NON-DISCRIMINATION CLAUSE FOR ALL CITY OF KALAMAZOO CONTRACTS

The Contractor agrees to comply with the Federal Civil Rights Act of 1964 as amended; the Federal Civil Rights Act of 1991 as amended; the Americans With Disabilities Act of 1990 as amended; the Elliott-Larson Civil Rights Act, Act. No. 453, Public Act of 1976 as amended; the Michigan Handicappers Civil Rights Act, Act No. 220, Public Act of 1976 as amended, City Ordinance 1856 and all other applicable Federal and State laws. The Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation or gender identity that is unrelated to the individual's ability to perform the duties of the particular job or position. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability family status, sexual orientation or gender identity that is unrelated to the individuals ability to perform the duties of the particular job or position.
3. If requested by the City, the Contractor shall furnish information regarding practices, policies and programs and employment statistics for the Contractor and subcontractors. The Contractor and subcontractors shall permit access to all books, records and accounts regarding employment practices by agents and representatives of the City duly charged with investigative duties to assure compliance with this clause.
4. Breach of the covenants herein may be regarded as a material breach of the contract or purchasing agreement as provided in the Elliott-Larsen Civil Rights Act and City Ordinance 1856.
5. The Contractor will include or incorporate by reference the provisions of the foregoing paragraphs 1 through 4 in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission* and will provide in every subcontract or purchase order that said provision will be binding upon each subcontractor or seller.
6. The Contractor will not preclude a person with a criminal conviction from being considered for employment unless otherwise precluded by federal or state law. (for contracts over \$25,000)

The Elliott-Larson Civil Rights Act, Sec. 202 of Act. No. 453 of 1976 reads in part as follows:

Sec. 202. (1) An employer shall not:

- (a) Fail or refuse to hire, or recruit, or discharge or otherwise discriminate against an individual with respect to employment, compensation, or a term condition or privilege of employment because of religion, race, color, national origin, age, sex, height, weight or marital status.
- (b) Limit, segregate or classify an employee or applicant for employment in a way which deprives or tends to deprive the employee or applicant of an employment opportunity or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, height, weight or marital status.
- (c) Segregate, classify or otherwise discriminate against a person on the basis of sex with respect to a term, condition or privilege of employment, including a benefit plan or system.

* Except for contracts entered into with parties employing less than three employees.