



Invitation to Bid
ITB-4078

Audio/Video Court Recording
System
for the 15th District Court
City of Ann Arbor, Michigan

CITY OF ANN ARBOR

INVITATION TO BID

AUDIO/VIDEO COURT RECORDING SYSTEM FOR 15TH DISTRICT COURT

BID NO. ITB-4078

DUE: April 9, 2010

Sealed bids will be received **(ORIGINAL PLUS TWO (2) COPIES)** by the Procurement Office, Fifth Floor, City Hall, 100 North Fifth Avenue, P.O. Box 8647, Ann Arbor, Michigan, 48107 on or before 2:00 p.m., April 9, 2010, at which time they will be opened and publicly read aloud.

Specifications are attached.

We have enclosed our Contract Compliance Forms, including Instructions and Living Wage Declaration of Compliance Form to be filled out and returned with your bid or you may submit an updated EEO-1 with your bid along with the Living Wage Compliance Form. Please see Exhibit B. Submittal of these completed forms is a requirement of this bid.

No bidder may withdraw his bid within **90** days after the date set for the opening thereof.

The City of Ann Arbor reserves the right to accept any bid, to reject any bid or all bids, to waive irregularities and/or informalities in any bid, and to make the award in any manner deemed in the best interest of the City.

Specifications referred to herein are used to indicate the desired type, and/or construction, and/or operation. An alternate may be offered if deviations from specifications are minor and if all deviations are properly outlined on a separate sheet. Failure to outline all deviations may be grounds for rejection of your bid (see attached specifications).

The decision of the City of Ann Arbor, acting through the Support Services Administrator, or his authorized representative, shall be final as to what constitutes acceptable deviations from specifications.

All envelopes must be marked, "COURT RECORDING SYSTEM BID NO. ITB-4078-15TH DISTRICT COURT" on the bottom left-hand corner of the envelope. We cannot be responsible for any bid not marked as stated above.

Authorized

Dee Lumpkin

Procurement Assistant

I. PROPOSAL INFORMATION

Definitions: "The City" is Ann Arbor, Michigan.

"Bidder": An individual or business submitting a bid to Ann Arbor.

"Contractor": One who contracts to perform work or furnish materials in accordance with a written contract.

Purpose of Proposal:

Ann Arbor, Michigan is accepting proposals for a new digital court recording system (software and equipment) to capture multi-channel audio and video.

The 15th District Court requires a new recording system for the District Court Facility that is currently being built and is to be completed by December, 2010 with a projected move-in date of January, 2011.

The City of Ann Arbor Information Technology Services Unit, in collaboration with the 15th District Court has selected FTR Gold Software to be the chosen software package for court recording.

As such, this project will include:

- a total of four (4) courtrooms located at 301 E. Huron St., Ann Arbor, MI 48104:

Proposal Terms:

- A. The City reserves the right to reject any and all proposals received as a result of this ITB. If a proposal is selected it will be the most advantageous regarding price, quality of service, the Contractors qualifications and capabilities to provide the specified service, and other factors which The City may consider. The City does not intend to award a contract fully on the basis of any response made to the proposal; the City reserves the right to consider proposals for modifications at any time before a contract would be awarded, and negotiations would be undertaken with that contractor whose proposal is deemed to best meet the City's specifications and needs.
- B. The City reserves the right to reject any or all bids, to waive or not waive informalities or irregularities in bids or bidding procedures, and to accept or further negotiate cost, terms, or conditions of any bid determined by The City to be in the best interests of The City even though not the lowest bid.
- C. The City reserves the right to award the ITB to a single vendor or multiple vendors as deemed in the best interest of the City. The selection of the vendor will be based upon evaluation by equipment users of features available, ease of use, experience of vendor and equipment in other similar applications, quality of the proposal and submittal of product data, product support and lowest cost.

Each courtroom shall be priced individually and then the total for all courtrooms summed and provided. The dollar amount used in the cost criteria of the evaluation will be the total for all courtrooms.

- D. Bids must be signed by an official authorized to bind the contractor to its provisions for at least a period of 90 days. Failure of the successful bidder to accept the obligation of the contract may result in the cancellation of any award.

- E. In the event it becomes necessary to revise any part of the ITB, addenda will be provided. Deadlines for submission of ITB's may be adjusted to allow for revisions.
- F. Proposals should be prepared simply and economically providing a straight-forward, concise description of the contractor's ability to meet the requirements of the ITB. Proposals shall be written in ink or typewritten. No erasures are permitted.

Mistakes may be crossed out and corrected and must be initialed in ink by the person **signing** the proposal.

II. BID

The bid shall include all of the following information: (failure to include all the information could result in disqualification)

- A. Interested and qualified vendors should refer to the project requirement detailing the equipment specifications, services, installation and training to be provided as part of this project. (Section III)
- B. References: List three (3) references for which bidder has provided similar services. Include company name, contact names and phone numbers. (Section IV)
- C. Review Standard Provisions for Contracts Section and concur that these provisions shall be met as well as any subcontractors.
(Addenda I)

III. PROJECT REQUIREMENTS

The project requirements are intended to provide the general description of the work to be performed, the equipment to be provided, the features of the new equipment and the expectations of the City for the selected vendor to meet.

The project requirements are not intended to specify each detail of each piece of equipment, rather, the general equipment needed that the City understands will be required to be supplied by the vendor. The selected vendor will be responsible for ensuring that his/her equipment works as intended and that all equipment, labor and set up time has been allowed for in the proposal to ensure the City is provided with a completely functional system in each courtroom even if the City has not specified each piece of equipment to be procured.

Courtroom Technology Overview

Vendors can assume that each courtroom (4) will be equipped with all the necessary Audio, Visual (A/V) cabling (CAT 5, HDMI, etc.) and PC connections, A/V systems touch panel controls, microphones, speech/sound reinforcement system and fixed cameras for the courtroom recording system to be functional.

Each vendor shall base their proposal on the premise that the City of Ann Arbor will be using all digital IP-based cameras for video capture that are accessible and controllable thru a wide-area-network (i.e., no analog cameras will be installed).

FTR Gold Software Capabilities Overview

Equipment and Software

The minimum requirements for the Courtroom and hearing room recording equipment shall meet or exceed the following features:

- 1) The recording software shall provide the (*Court Recorder*) the option to record in single (1), two (2) or four (4) channel mode. Recording software shall allow the user to turn on and off the ability to continuously “confidence monitor”.
- 2) The recorder must provide a display of audio levels and the activity from the supplying mixer. The recorder must allow the activity meter to be displayed in its own size configurable frame.
- 3) The recording software shall record all audio utilizing MPEG 2 AAC format or other open market standard. The recording software must be able to run on Windows XP. Audio must be created and named in such a way that the court or its applications can select specific recordings using location, date and time as the identifiers. Software must allow the user to define at least two different bit rates and resolutions for compression.
- 4) The recording software shall run on a PC or laptop and allow for other software applications to run on that PC or laptop at the same time as recording is taking place.
- 5) Software shall allow (*Court Recorder*) to access and play audio recorded earlier in the current recording day or from a prior day without affecting continued recording. Channel isolation shall be available during this playback of audio.

- 6) The recording software shall allow (*Court Recorder*) to access recorded files from another time, another courtroom, or earlier in the recording session and save all or portions of the audio to other locations on the network or removable media.
- 7) The playback software shall be available as a separate module that shall be provided at no cost to all potential listeners of the audio. This software must be available through a website on the Internet. Playback software must operate on Windows XP.
- 8) The playback software shall allow (*Clerk, Court Recorder, and Court Staff*) to access audio from a LAN or digital media such as, but not limited to, DVD, CD-R or flash memory. This software shall provide the ability to isolate channels during playback. The software shall provide the ability to change the volume of playback on individual channels. The Playback software must include configurable keyboard shortcuts to control channel isolation and volume.
- 9) The playback software shall allow the use of an optional foot pedal to control stop, start, rewind and fast-forward of audio.
- 10) The recording system must allow for reformatting the 4-channel digital audio to a standard 2-channel digital format such as wav, mp3 or wma. The recording system must support the conversion of recordings to an audio CD format that can be played in a boom box or CD player.
- 11) The recording software shall allow the court to choose its own method of creating log notes. Court options for creating log notes must include handwritten notes, handwritten time-linked notes, time-linked word processor notes or the use of open market applications to create usable log notes.
- 12) Logging software shall be available by the vendor, which will allow court and non-court personnel to create independent time-linked log notes. This log note application must be usable by judges, Court Recorders and lawyers who are not connected to the recording system or network. The log notes must be captured and stored in XML format. The logging software must include the ability to save to .htm format. The software must allow the user to create custom keyboard shortcuts to facilitate rapid text entry.
- 13) Log note application shall allow rapid search and retrieval of any log entry, case number, name of proceeding, location of proceeding, date of proceeding, or any combination thereof.
- 14) Logging software must include the ability to create links to the audio from within a third party word processor such as Microsoft Word 2007.
- 15) Recording system must support time-stamp linking through hand-written notes.

- 16) Vendor must provide published documentation that allows third party developers to automate various aspects of recording & note taking application, such as (but not necessarily limited to):

- Creating “links” to the audio files that can be stored in a third party data base, and that will launch the no-cost player application and load audio into the playback panel, setting the audio range, and starting playback
- Allow third party applications to capture recording or playback information.
- Vendor must provide sample code implementation and various forms of technical documentation available for download.

A) Optional Sealing Capabilities:

The recording solution must provide an optional module that provides the ability to separately capture, manage and organize sealed court recordings. The optional application must include the following capabilities:

- 1) The application must perform real-time sealing of courtroom recording, i.e. organize the recording so that sealed content is captured to a separate location from the unsealed recordings.
- 2) The application must be capable of performing post-sealing, i.e. redirect sealed recording to media and then automatically remove sealed recording from public access
- 3) The application must provide the ability to unseal sealed recordings, i.e. restore sealed recordings to general access
- 4) The application must provide the option to seal recordings to at a minimum optical media or to network storage
- 5) The sealing component shall not encrypt or place password requirements on sealed recordings.
- 6) The application’s sealing capability shall not utilize or be dependent on a database infrastructure or application.

B) Required Equipment and Software:

Please list the costs for all required equipment, optional equipment, installation and training in a table form with costs for each.

Required Equipment and Software	Quantity	Price per unit	Total
FTR Gold Software: FTR Reporter A/V Version 5.3 or Latest Version	4		
FTR DMX 8 USB Mixer (1- for each Courtroom)	4		
Cabling to connect mixer to PC	4		
Training (Provide details) Up to 12 trainees			
FTR Record Player (free download)	14		
USB Foot Control (office and courtroom)	4		
Installation and Setup			

Optional Equipment and Software	Quantity	Price per unit	Total
FTR Monitor Software: Allows Remote Control of Recording	2		

The equipment for each courtroom and hearing room shall further comply with the below described features and functions:

The digital recording equipment shall operate on a PC or laptop (City supplied) running Microsoft Windows XP. The application shall perform 4-channel digital audio recording directly to the hard drive of the PC and shall be able to simultaneously auto archive to a network drive.

All audio files created shall be capable of being named using naming convention of location, date and time which allows the system to create and name each file without user intervention and include relevant information for prompt retrieval of the audio files either by manual search or through an automated feature of the software. Audio files are to be saved automatically in a maximum of 5 minute blocks to ensure data is not lost.

Software must provide the ability to convert recorded audio to standard formats such as WAV, WMA, audio CD and cassette tape. Vendor must have documented knowledge of integration between FTR software and EMC Centerra storage area network for storage of archived audio files.

General:

The City of Ann Arbor's Purchasing Division is soliciting bids for the following: COURT RECORDING SYSTEM No. ITB-4078 - as outlined below.

Copies Of Bid: The vendor will be required to submit an original bid plus two (2) copies.

Contact Person: If there are any questions concerning this bid contact Russell Hanshew, Applications Delivery Manager, Information Technology Services at (734) 794-6550 extension 45520 between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.

The vendor will be subject to the terms and conditions of the City of Ann Arbor Purchase Order.

Invoice Terms: Discount of ____% or \$_____ will be allowed for payment of invoice thirty (30) days from day of delivery and acceptance.

City Approvals: Bids exceeding \$10,000 will require Human Rights Approval/Living Wage Compliance. Bids exceeding \$25,000 will require City Council Approval. Award will be made after the above approvals are received. The purchase order will be issued after the Contract has been signed and enacted, or as soon thereafter as possible.

Award: The City intends to award a purchase order to the lowest responsible bidder. The City reserves the right to reject any or all bids, and to waive irregularities and/or informalities in any bid and to make the award in any manner that is in the best interest of the City. Previous performance on City Contracts may be a factor in determining the award.

Assignments: The vendor shall not subcontract or assign any portion of the services without prior written consent to such action by the City. Any unauthorized assignment may subject the vendor to immediate termination.

Termination: Either party in the case of a breach of this agreement by the other party may terminate this agreement, if the breaching party has not corrected the breach within 15 days after notice of termination is given in conformance with the terms of this agreement. If contracting services are terminated for reasons other than the breach of the agreement by the Contractor, the Contractor shall be compensated for reasonable time spent and reasonable quantities of materials used prior to notification of termination.

Contract Compliance: The successful bidder must comply with the City of Ann Arbor Non-discrimination Practice, Chapter 112, Section 9:161 of the City Code (Exhibit A) before the award and at all times during the term of this proposed contract and/or agreement

Errors/Omissions/Discrepancies: Any errors, omissions, or discrepancies in the specifications discovered by a prospective vendor and/or service provider shall be brought to the attention of Russell Hanshue, Applications Delivery Manager, Information Technology, at (734) 794-6550 extension 45520 as soon after discovery as possible.

Further, the vendor and/or service provider shall not be allowed to take advantage of errors, omissions or discrepancies in the specifications.

Indemnification: To the fullest extent permitted by law, the vendor shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, in whole or in part, from any negligent, grossly negligent, reckless and/or intentional wrongful or tortuous acts or omissions by the vendor or its employees and agents occurring in the performance of this agreement.

Insurance: Documents showing that the vendor has the required insurance shall be filed with the Administering Unit before any services are performed. If the coverages expire by their terms during the term of service to the City under this agreement, the vendor shall deliver proof of renewal and/or policies to the Administering Unit at least ten days prior to the expiration date. The insurer must be satisfactory to the City Attorney. A certificate of insurance shall not, necessarily, be considered a sufficient showing. The successful vendor will provide proof of the following:

1. Workers compensation insurance in the amount required by Michigan Law.
2. Proof of automobile insurance coverage on owned/leased delivery vehicles.

Default: It is defined as the failure of the vendor to fulfill the obligations of the agreement, including but not limited to: failure to deliver on time or the unauthorized substitution of articles other than those quoted and specified on the agreement; or failure to deliver specified quantities (repetitive shortages).

If continued abuse of any or all of the above conditions persist, the City of Ann Arbor will notify the vendor in writing. The vendor will be given ten (10) days to correct this "Default" condition. Failure to do so within the specified period will result in the City's canceling the agreement and procuring the articles or services from other sources and hold the vendor responsible for any excess cost occasioned thereby.

The City shall have the privilege, with or without cause, to cancel and annul this agreement at any time on 10 days notice to the bidder. The City shall provide notice of termination by first-

class mail to the vendor at the address listed in the bid documents. If notice is provided by first-class mail it shall be considered delivered when placed, postage prepaid, in the U.S. Mail.

If the agreement is terminated for reasons other than breach of the agreement by the vendor, the vendor shall be compensated for services provided prior to the date of the notice of termination.

Please Check: We have read the specifications and associated conditions thoroughly.

()Yes ()No

Are all exceptions to the specifications properly outlined?

()Yes ()No

IV. References

Please list at least three (3) companies or public agencies for whom you have performed similar work.

<u>ORGANIZATION</u>	<u>ADDRESS</u>	<u>CONTACT PERSON</u>	<u>TELEPHONE</u>
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1.

2.

3.

Bids must be received on or before April 9, 2010, 2:00 p.m. at the address below. Bids are to be submitted in a SEALED envelopes and must be clearly marked "COURT RECORDING SYSTEM BID NO. ITB-4078 – 15th District Court" on the bottom left-hand corner of the envelope. We cannot be responsible for any bid not marked as stated above.

RETURN BID TO:

CITY OF ANN ARBOR, PROCUREMENT UNIT

Fifth Floor, 100 N. FIFTH AVENUE

P.O. BOX 8647

ANN ARBOR, MI 48107

The undersigned agrees that if the bid is accepted by the City of Ann Arbor, within sixty (60) days of the bid opening, a binding agreement will be in effect for delivery of goods in accordance with the bid.

Signatures:

COMPANY NAME

ADDRESS

CITY

STATE

ZIP

Company's Representatives:

Signature

Date

Printed

Title

Phone Number

Fax Number

City of Ann Arbor Procurement Office

INSTRUCTIONS FOR CONTRACTORS

For Completing CONTRACT COMPLIANCE FORM

City Policy

The “non discrimination in contracts” provision of the City Code, (Chapter 112, Section 9:161) requires contractors/vendors/grantees doing business with the City not to discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, condition of pregnancy, marital status, physical or mental limitations, source of income, family responsibilities, educational association, sexual orientation, gender identity or HIV status against any of their employees, any City employee working with them, or any applicant for employment. It also requires that the contractors/vendors/grantees include a similar provision in all subcontracts that they execute for City work or programs.

This Ordinance further requires that each prospective contractor/vendor submit employment data to the City showing current total employee breakdown by occupation, race and gender. This allows the Human Rights Office to determine whether or not the contractor/vendor has a workforce that is reflective of the availability of women and under-represented minorities within the contractor’s labor recruitment area (the area where they can reasonably be expected to recruit employees). ***This data is provided to the City on the Human Rights Office Contract Compliance Forms (attached).***

To complete the form:

1) If a company has more than one location, then that company must complete 2 versions of the form.

- **Form #1** should contain the employment data for the **entire corporation.**
- **Form #2** should contain the employment data for those employees:
 - who will be working on-site;
 - in the office responsible for completing the contract; or,
 - in the case of non-profit grantees, those employees working on the project funded by the City grant(s).

2) If the company has only one location, fill out Form #1 only.

3) Complete all data in the upper section of the form including the name of the person who completes the form and the name of the company/organization’s president.

4) Complete the Employment Data in the remainder of the form. Please be sure to complete all columns including the Total Columns on the far right side of the form, and the Total row and Previous Year Total row at the bottom of the form.

5) Return the completed form(s) to your contact in the City Department for whom you will be conducting the work.

For assistance in completing the form, contact:

Procurement Office of the City of Ann Arbor
734/794-6576

If a contractor is determined to be out of compliance, the Procurement Office will work with them to assist them in coming into compliance.

**CITY OF ANN ARBOR PROCUREMENT OFFICE
HUMAN RIGHTS CONTRACT COMPLIANCE FORM**

Form #1

Entire Organization (Totals for All Locations where applicable)

Name of Company/Organization _____ Date Form Completed _____

Name and Title of Person Completing this Form _____ Name of President _____

Address _____ County _____ Phone # _____
(Street address) (City) (State) (Zip) (Area Code)

Fax# _____ Email Address _____
(Area Code)

EMPLOYMENT DATA

Job Categories	Number of Employees (Report employees in only one category)												
	Male						Female						
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	TOTAL COLUMNS A-M
	A	B	C	D	F	G	H	I	J	K	L	M	
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
TOTAL													
PREVIOUS YEAR TOTAL													

CITY OF ANN ARBOR PROCUREMENT OFFICE HUMAN RIGHTS CONTRACT COMPLIANCE FORM

Form #2

Local Office - Only Those Employees that will do Local or On-Site Work, if Applicable

Name of Company/Organization _____ Date Form Completed _____

Name and Title of Person Completing this Form _____

Fax# _____ Email Address _____
(Area Code)

EMPLOYMENT DATA

Job Categories	Number of Employees (Report employees in only one category)												
	Male						Female						TOTAL COLUMNS A-M
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or LatinO	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	
	A	B	C	D	F	G	H	I	J	K	L	M	
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
TOTAL													
PREVIOUS YEAR TOTAL													

City of Ann Arbor

**LIVING WAGE ORDINANCE
DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that employers providing services to the City or recipients of grants for financial assistance (in amounts greater than \$10,000 in a twelve-month period of time) pay their employees who are working on the City project or grant, a minimum level of compensation known as the **Living Wage**. This wage must be paid to the employees for the length of the contract/project.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from the Ordinance. If this exemption applies to your firm, please check below:

- _____ This company is exempt due to the fact that we employ or contract with fewer than 5 individuals.
_____ This **non-profit agency** is exempt due to the fact that we employ or contract with fewer than 10 employees.

The Ordinance requires that all contractors/vendors and/or grantees agree to the following terms:

- a) To pay each of its employees performing work on any covered contract or grant with the City, no less than the living wage, which is defined as \$11.71/hour when health care is provided, or no less than \$13.06/hour for those employers that do *not* provide health care. It is understood that the Living Wage will be adjusted upward each year on April 30, and covered employers will be required to pay the adjusted amount thereafter. The rates stated above include the adjustment for 2009.
- b) Please check the boxes below which apply to your workforce:
- ☐ Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage without health benefits Yes_____ No_____
- OR**
- ☐ Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage with health benefits Yes_____ No_____
- c) To post a notice approved by the City regarding the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- d) To provide the City payroll records or other documentation as requested; and,
- e) To permit access to work sites to City representatives for the purposes of monitoring compliance, investigating complaints or non-compliance.

The undersigned authorized representative hereby obligates the contractor/vendor or grantee to the above stated conditions under penalty of perjury and violation of the Ordinance.

Company Name

Address City State Zip

Signature of Authorized Representative

Phone (area code)

Type or Print Name and Title

Email address

Date signed

Questions about this form? Please contact:

Procurement Office City of Ann Arbor
Phone: 734/794-6576 Fax: 734/994-1795

→ **NEW RATE EFFECTIVE APRIL 30, 2009** ←

LIVING WAGE ORDINANCE – CITY OF ANN ARBOR

\$11.71 per hour **\$13.06** per hour
if the employer provides health care benefits* if the employer does **NOT** provide health care benefits*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time ***must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.***

ENFORCEMENT

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

** Health Care benefits includes those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.*

The Law Requires Employers to Display This Poster Where Employees Can Readily See It.

For Additional Information or to File a Complaint Contact:

**Dee Lumpkin, Procurement Assistant
734/794-6576 or dlumpkin@a2gov.org LW-1**

→ **NEW RATE EFFECTIVE APRIL 30, 2009** ←

LIVING WAGE ORDINANCE – CITY OF ANN ARBOR

\$11.71 per hour **\$13.06** per hour
if the employer provides health care benefits* if the employer does **NOT** provide health care benefits*

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For Additional Information or to File a Complaint Contact:

**Dee Lumpkin, Procurement Assistant
734/794-6576 or dlumpkin@a2gov.org LW-1**

ADDENDA 1 - SAMPLE SERVICE AGREEMENT BETWEEN

AND CITY OF ANN ARBOR

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 100 North Fifth Avenue, Ann Arbor, Michigan 48104 ("CITY") and, _____, a _____, having its offices at _____ ("CONTRACTOR"),

Type of Business

Address

agree as follows:

The Contractor agrees to provide services to the City under the following terms and conditions:

I. DEFINITIONS

Administering Service Area/Unit means the _____.

Contract Administrator means the _____, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit

Project means _____.

II. DURATION

This agreement shall become effective on _____, and shall remain in effect until satisfactory performance of all services or _____, whichever occurs first, unless terminated for breach or as provided in this agreement.

III. SERVICES

A. General Scope: The Contractor agrees to furnish all of the materials, equipment and labor necessary; and to abide by all the duties and responsibilities applicable to it for the Project in accordance with the requirements and provisions of the following documents, including all written modifications incorporated into any of the documents, which are incorporated as part of this Contract:

Contract and Exhibits

Bid No. _____ and Addenda (if applicable)

Bid Proposal of Contractor, dated _____

The contract documents are complementary and what is called for by any one shall be binding. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper execution of the Project. Materials or work described in words that so applied have a well-known technical or trade meaning have the meaning of those recognized standards.

In case of a conflict among the contract documents listed above in any requirement(s), the requirement(s) of the document listed first shall prevail over any conflicting requirement(s) of a document listed later.

- B. Quality of Services: The Contractor's standard of service under this agreement shall be of the level of quality performed by businesses regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. Compliance with Applicable Law: The Contractor shall perform its services under this agreement in compliance with all applicable laws, ordinances and regulations.
- D. Location: The Contractor shall provide all of these services at _____.

IV. RELATIONSHIP OF PARTIES

- A. The parties to this agreement agree that it is not a contract of employment but is a contract to accomplish a specific result. Contractor is an independent contractor performing services for the City. Nothing contained in this agreement shall be deemed to constitute any other relationship between the City and the Contractor.
- B. The Contractor certifies that it has no personal or financial interest in the project other than the fee it is to receive under this agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of services under this agreement. Further Contractor agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this agreement.
- C. Contractor does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.
- D. Contractor certifies that it is not, and shall not become, overdue or in default to the City for any contract, debt, or any other obligation to the City including real or personal property taxes. City shall have the right to set off any such debt against compensation awarded for services under this agreement.

V. COMPENSATION OF CONTRACTOR

- A. The Contractor shall be paid on the basis of the bid price. The total fee to be paid the Contractor for the services shall not exceed _____ (\$ _____). Payment shall be made within 30 days of acceptance of the work by the Contract Administrator. It is understood and agreed between the parties that the compensation stated above is inclusive of any and all remuneration to which the Contractor may be entitled.

VI. INSURANCE; INDEMNIFICATION

A. The Contractor shall procure and maintain during the life of this Contract, including the guarantee period and during any warranty work, such insurance policies, including those set forth below, as will protect itself from all claims for bodily injuries, death or property damage which may arise under this Contract; whether the acts were made by the Contractor or by any subcontractor or anyone employed by them directly or indirectly. The following insurance policies are required:

1. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit

2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements including, but not limited to: Products and Completed Operations, Explosion, Collapse and Underground coverage or Pollution. Further, the following minimum limits of liability are required:

\$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined.

\$2,000,000 Per Job General Aggregate

\$1,000,000 Personal and Advertising Injury

\$2,000,000 Products and Completed Operations Aggregate

3. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
4. Umbrella/Excess Liability Insurance shall be provided to apply excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

B. Insurance required under VI.A.2 and A.3 of this Contract shall be considered primary

as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City.

- C. In the case of all Contracts involving on-site work, the Contractor shall provide to the City before the commencement of any work under this Contract documentation demonstrating it has obtained the above mentioned policies. Documentation must provide and demonstrate an unconditional 30 day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which shall be approved by the City, in its sole discretion; (c) that the policy conforms to the requirements specified. An original certificate of insurance may be provided as an initial indication of the required insurance, provided that no later than 21 calendar days after commencement of any work the Contractor supplies a copy of the endorsements required on the policies. Upon request, the Contractor shall provide within 30 days a copy of the policy(ies) to the City. If any of the above coverages expire by their terms during the term of this Contract, the Contractor shall deliver proof of renewal and/or new policies to the Administering Service Area/Unit at least ten days prior to the expiration date.
- D. Any insurance provider of Contractor shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.
- 5. To the fullest extent permitted by law, for any loss not covered by insurance under this contract, Contractor shall indemnify, defend and hold harmless the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, in whole or in part, from any act or omission, which is in any way connected or associated with this contract, by the Contractor or anyone acting on the Contractors behalf under this contract. Contractor shall not be responsible to indemnify the City for losses or damages caused by or resulting from the City's sole negligence.

7. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Consultant agrees to comply with the nondiscrimination provisions of Chapter 112 of the Ann Arbor City Code and to take affirmative action to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate any inequality based upon race, national origin or sex. The Consultant agrees to comply with the provisions of Section 9:161 of Chapter 112 of the Ann

Arbor City Code, Exhibit A

- B. Wages: Under this Contract, the Contractor shall conform to Chapter 14 of Title I of the Code of the City of Ann Arbor as amended; which in part states "...that all craftsmen, mechanics and laborers employed directly on the site in connection with said improvements, including said employees of subcontractors, shall receive the prevailing wage for the corresponding classes of craftsmen, mechanics and laborers, as determined by statistics for the Ann Arbor area compiled by the United States Department of Labor. At the request of the City, any contractor or subcontractor shall provide satisfactory proof of compliance with the contract provisions required by the Section." Where the Contract and the Ann Arbor City Ordinance are silent as to definitions of terms required in determining contract compliance with regard to prevailing wages, the definitions provided in the Davis-Bacon Act as amended (40 U.S.C. 278-a to 276-a-7) for the terms shall be used.

Further, to the extent that any employees of the Contractor providing services under this contract are not part of the class of craftsmen, mechanics and laborers who receive a prevailing wage in conformance with Section 1:319 of Chapter 14 of Title I of the Code of the City of Ann Arbor, the Contractor agrees to conform to Chapter 23, Living Wage, of Title I of the Code of the City of Ann Arbor, as amended. The Contractor agrees to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code; to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23. A copy of selected provisions of Chapter 23 of the Ann Arbor City Code is attached as Exhibit B. The current living wage rates under Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3) of the Ann Arbor City Code, is \$9.91 an hour for a covered employer that provides employee health care to its employees and \$11.48 an hour for a covered employer that does not provide health care to its employees.

VIII. WARRANTIES BY CONTRACTOR

- A. The Contractor warrants that the quality of its services under this agreement shall conform to the level of quality performed by professionals regularly rendering this type of service. The Contractor warrants that the repairs shall be free of defects for a period of one year.
- B. The Contractor warrants that it has all the skills and experience necessary to perform the services it is to provide pursuant to this agreement. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent contractor or when it has actual notice of any defects in the reports and surveys.

IX. TERMINATION OF AGREEMENT; RIGHTS ON TERMINATION

- A. This agreement may be terminated by either party in the case of a breach of this agreement by the other party, if the breaching party has not corrected the breach within 15 days after notice of termination is given in conformance with the terms of this agreement.
- B. If contracting services are terminated for reasons other than the breach of the agreement by the Contractor, the Contractor shall be compensated for reasonable time spent and reasonable quantities of materials used prior to notification of termination.

X. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor access to staff and City owned properties as required to perform the necessary services under the agreement.
- B. The City shall notify the Contractor of any defects in the services of which the City has actual notice.

XI. ASSIGNMENT

- A. The Contractor shall not subcontract or assign any portion of the services without prior written consent to such action by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under the agreement to third parties.

XII. NOTICE

All notices and submissions required under the agreement shall be by personal delivery or by first-class mail, postage prepaid, to the address stated in this agreement or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this agreement when personally delivered to the Contract Administrator or placed in the U.S. mail, postage prepaid to the Administering Service Area/Unit, care of the Contract Administrator.

XIII. EXTENT OF AGREEMENT

This agreement represents the entire understanding between the City and the Contractor and it supersedes all prior representations or agreements whether written or oral. Neither party has relied on any prior representations in entering into this agreement.

This agreement may be altered, amended or modified only by written amendment signed by

the Contractor and the City.

XIV. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this agreement or the application of the provision to other parties or other circumstances.

XV. CHOICE OF LAW

This agreement shall be construed, governed, and enforced in accordance with the laws of the State of Michigan. By executing this agreement, the Contractor and the City agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this agreement.

FOR CONTRACTOR

By _____

Its

THE CITY OF ANN ARBOR

By _____
Roger W. Fraser, City Administrator

Approved as to substance:

By _____

Service Area Administrator

Approved as to form

By _____
Stephen K. Postema, City Attorney

EXHIBIT A
FAIR EMPLOYMENT PRACTICE

The contractor, its agents or sub-contractors, shall comply with all requirements of Chapter 112 of Title IX of the Code of the City of Ann Arbor and in particular the following excerpts therefrom:

9:161 NONDISCRIMINATION BY CITY CONTRACTORS

- (1) All contractors proposing to do business with the City of Ann Arbor shall satisfy the nondiscrimination administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All contractors shall receive approval from the Director prior to entering into a contract with the City, unless specifically exempted by administrative policy. All City contractors shall take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon race, national origin or sex.
- (2) Each prospective contractor shall submit to the City data showing current total employment by occupational category, sex and minority group. If, after verifying this data, the Director concludes that it indicates total minority and female employment commensurate with their availability within the contractor's labor recruitment area, i.e., the area from which the contractor can reasonably be expected to recruit, said contractor shall be accepted by the Director as having fulfilled affirmative action requirements for a period of one year at which time the Director shall conduct another review. Other contractors shall develop an affirmative action program in conjunction with the Director. Said program shall include specific goals and timetables for the hiring and promotion of minorities and females. Said goals shall reflect the availability of minorities and females within the contractor's labor recruitment area. In the case of construction contractors, the Director shall use for employment verification the labor recruitment area of the Ann Arbor-Ypsilanti standard metropolitan statistical area. Construction contractors determined to be in compliance shall be accepted by the Director as having fulfilled affirmative action requirements for a period of six (6) months at which time the Director shall conduct another review.
- (3) In hiring for construction projects, contractors shall make good faith efforts to employ local persons, so as to enhance the local economy.
- (4) All contracts shall include provisions through which the contractor agrees, in addition to any other applicable Federal or State labor laws:
 - (a) To set goals, in conference with the Human Resources Director, for each job category or division of the work force used in the completion of the City work;
 - (b) To provide periodic reports concerning the progress the contractor has made in meeting the affirmative action goals it has agreed to;

- (c) To permit the Director access to all books, records and accounts pertaining to its employment practices for the purpose of determining compliance with the affirmative action requirements.
- (5) The Director shall monitor the compliance of each contractor with the nondiscrimination provisions of each contract. The Director shall develop procedures and regulations consistent with the administrative policy adopted by the City Administrator for notice and enforcement of non-compliance. Such procedures and regulations shall include a provision for the posting of contractors not in compliance.
- (6) All City contracts shall provide further that breach of the obligation not to discriminate shall be a material breach of the contract for which the City shall be entitled, at its option, to do any or all of the following:
 - (a) To cancel, terminate, or suspend the contract in whole or part and/or refuse to make any required periodic payments under the contract;
 - (b) Declare the contractor ineligible for the award of any future contracts with the City for a specified length of time;
 - (c) To recover liquidated damages of a specified sum, said sum to be that percentage of the labor expenditure for the time period involved which would have accrued to minority group members had the affirmative action not been breached;
 - (d) Impose for each day of non-compliance, liquidated damages of a specified sum, based upon the following schedule:

<u>Contract Amount</u>	<u>Assessed Damages Per Day of Non-Compliance</u>
\$ 10,000 - 24,999	\$ 25.00
25,000 - 99,999	50.00
100,000 - 199,999	100.00
200,000 - 499,999	150.00
500,000 - 1,499,999	200.00
1,500,000 - 2,999,999	250.00
3,000,000 - 4,999,999	300.00
5,000,000 - and above	500.00

- (e) In addition the contractor shall be liable for any costs or expenses incurred by the City of Ann Arbor in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under this contract.

EXHIBIT B
LIVING WAGE ORDINANCE EXCERPTS

The Consultant, its agents or sub-contractors, shall comply with all requirements of Chapter 23 of Title I of the Code of the City of Ann Arbor and in particular the following excerpts therefrom:

1:813. Definitions.

For purposes of this Chapter, the following definitions shall apply:

- (1) ☐ "Contractor/vendor" is a person or entity that has a contract with the City primarily for the furnishing of services where the total amount of the contract or contracts with the City exceeds \$10,000 for any 12-month period. "Contractor/vendor" does not include a person or entity that has a contract with the City primarily for the purchase of goods or property, or for the lease of goods or property to or from the City.
- (2) "Covered Employee" means a person employed by a covered employer to perform services which are covered or funded by the contract with or grant from the City; provided, however, that persons who are employed pursuant to federal, state or local laws relating to prevailing wages shall be exempt from this Chapter.
- (3) "Covered Employer" means a contractor/vendor or grantee that has not been granted an exemption from this Chapter pursuant to Section 1:817.
- (4) "Employee" means an individual who provides personal services performed for wages under any contract calling for the performance of personal services, whether written or oral, express or implied. The term "employee" does not include any individual who volunteers to perform services for an employer if
 - (a) The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
 - (b) Such services are not the same type of services which the individual is employed to perform for such employer.
- (5) "Employee Health Benefits" or "Health Benefits" means providing health care benefits for employees (or employees and their dependents) at employer cost or making an employer contribution toward the purchase of such health care benefits for employees (or employees and their dependents), provided that the employer cost or contribution equals no less than \$1 an hour for the average work week of such employee, and provided further that any employee payment or contribution toward health care shall not exceed 50 cents an hour for the average work week for such employee.
- (6) "Grant" means any form of financial assistance to a "Grantee" as set forth and defined in Section 1:813(7). "Grant" does not include financial assistance used for the purchase or lease of property or other non-personnel costs.

- (7) "Grantee" is a person or entity that is a recipient of any financial assistance from the City in the form of any federal, state or local grant program administered by the City, revenue bond financing, tax increment financing, tax abatement, tax credit, direct grant, or any other form of financial assistance that exceeds \$10,000 for any 12-month period, including any contractors, subcontractors, or leaseholders of the grantee whose contract, subcontract or lease with the grantee exceeds \$10,000 for any 12-month period.
- (8) "Living Wage" means a wage equal to the levels established in Section 1:815.
- (9) "Person" means any individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (10) "\$10,000 for any 12 month period" is computed by taking the total amount of the contract, grant or loan and dividing it by the number of months the contract, grant or loan covers.

1:814. Applicability.

- (1) This Chapter shall apply to any person that is a contractor/vendor or grantee as defined in Section 1:813 that employs or contracts with five (5) or more individuals; provided, however, that this Chapter shall not apply to a non-profit contractor/vendor or non-profit grantee unless it employs or contracts with ten (10) or more individuals.
- (2) This Chapter shall apply to any grant, contract, or subcontract or other form of financial assistance awarded to or entered into with a contractor/vendor or grantee after the effective date of this Chapter and to the extension or renewal after the effective date of this Chapter of any grant, contract, or subcontract or other form of financial assistance with a contractor/vendor or grantee.

1:815. Living Wages Required.

- (1) Every contractor/vendor or grantee, as defined in Section 1:813, shall pay its covered employees a living wage as established in this Section.
 - (a) For a covered employer that provides employee health care to its employees, the living wage shall be \$8.70 an hour, or the adjusted amount hereafter established under Section 1:815(3).
 - (b) For a covered employer that does not provide health care to its employees, the living wage shall be \$10.20 a hour, or the adjusted amount hereafter established under Section 1:815(3).
- (2) In order to qualify to pay the living wage rate for covered employers providing employee health care under subsection 1:815(1)(a), a covered employer shall furnish proof of said health care coverage and payment therefor to the City Administrator or his/her designee.

- (3) The amount of the living wage established in this Section shall be adjusted upward no later than April 30, 2002, and every year thereafter by a percentage equal to the percentage increase, if any, in the federal poverty guidelines as published by the United States Department of Health and Human Services for the years 2001 and 2002. Subsequent annual adjustments shall be based upon the percentage increase, if any, in the United States Department of Health and Human Services poverty guidelines when comparing the prior calendar year's poverty guidelines to the present calendar year's guidelines. The applicable percentage amount will be converted to an amount in cents by multiplying the existing wage under Section 1.815(1)(b) by said percentage, rounding upward to the next cent, and adding this amount of cents to the existing living wage levels established under Sections 1:815(1)(a) and 1:815(1)(b). Prior to April 1 of each calendar year, the City will notify any covered employer of this adjustment by posting a written notice in a prominent place in City Hall, and, in the case of a covered employer that has provided an address of record to the City, by a written letter to each such covered employer.