NOTICE

Thank you for your inquiry regarding the City of Portage project listed below:

EAST OSTERHOUT AVENUE RECONSTRUCTION
South Westnedge Avenue to Portage Road

PROFESSIONAL ENGINEERING

If your firm plans to bid on this project, please send an
e-mail response to purchasing@portagemi.gov with the following information:

Firm Name:_____
Project Name:_____
Firm's Contact Person:_____
Telephone Number:_____
Fax Number:_____
E-Mail Address:_____
Postal Address:_____

The City of Portage Finance and Purchasing Division will use this information to communicate with you in the event an addendum or change to this project is issued. If you do not send this information to the City of Portage, you will not receive any follow-up notification of any changes to the project.

Date of Issue: July 2, 2015

REQUEST FOR PROPOSALS
PROFESSIONAL SERVICES

The City of Portage invites interested Firms to submit information regarding their experience, qualifications, and fees for providing professional engineering services for performing engineering services for East Osterhout Avenue Reconstruction - South Westnedge Avenue to Portage Road. The information submitted, including experience, qualifications, fee schedule, and information requested, as a part of this Request for Proposal will be reviewed for the purpose of evaluating the firm for further consideration. The City is desirous of receiving proposals for an amount not to exceed a specified dollar figure for the duration of the project, as described in the following pages. In the event the firm is unable to submit such a proposal, the firm is invited to submit a proposal based on the fee/compensation structure that you deem most appropriate. In any case, the proposal submitted should cover any and all expenses related to the project. PRIMARY CONSIDERATION WILL BE GIVEN TO PROPOSALS SUBMITTED IN THE FIRM SPECIFIC DOLLAR FORMAT REQUESTED.

Favorable pricing will be one element of the selection process, but the experience of the firm, qualifications, experience and ability of assigned staff, resources, ingenuity, creativity, completeness of the level of service proposed and timeliness of service proposed by the Firm will be significant factors in award of this professional service contract. Final decision on selection of the Firm for this project will be determined by the Portage City Council. The City of Portage reserves the right to reject any proposals or parts of proposals. The City also reserves the right to waive any irregularities, inconsistencies, or take what other action is appropriate as determined by the City to be in the best interest of the City.

Questions regarding the scope of work to be accomplished may be directed to Jamie Harmon, Assistant City Engineer at (269) 329-4428. Questions pertaining to the selection process, insurance requirements, or other procedural requirements should be directed to Purchasing Department at (269) 329-4534. Proposals may be mailed or delivered to the City of Portage Purchasing Department, 7900 South Westnedge Avenue, Portage, Michigan 49002. Sealed envelopes should be plainly marked:

A complete Request for Proposal may be viewed or downloaded at http://www.portagemi.gov,
or mailed by contacting the Purchasing and Finance Department.

A Non-Mandatory Pre-Proposal Meeting will be held Portage City Hall, Conference Room #1, 7900 South Westnedge Avenue, on Tuesday, July 28, 2015 at 10:00 a.m.

REQUEST FOR PROPOSAL: PROFESSIONAL ENGINEERING SERVICES
East Osterhout Avenue Reconstruction

CLOSING DATE AND TIME: 3:00 p.m. Tuesday, August 11, 2015

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PROFESSIONAL ENGINEERING SERVICES

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1 CITY OF PORTAGE INSTRUCTIONS FOR PROPOSAL SUBMISSION

1.1 Examination of Request for Proposal Documents

Before submitting a proposal, the Firm shall carefully examine the specifications and shall fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal the sum to cover the cost of all items included on the proposal form.

1.2 City of Portage Contract Conditions and Specifications

Any Firm that submits a proposal should be prepared to provide professional services being provided and for City of Portage/third party contracts that involve professional and/or administrative assistance of the Firm. The Contract Conditions and Specifications can be obtained from the Purchasing Department. The first set will be provided to the Firm at no cost and subsequent sets or copies must be purchased for $25.00.

1.3 Withdrawal of Proposals

Any Firm may withdraw its proposal, either personally, by facsimile or by letter, at any time prior to the scheduled closing time for receipt of proposals.

Each proposal shall be considered binding and in effect for a period of one hundred and twenty (120) days after the closing date.

1.4 Opening of Proposals

Proposals will be opened and evaluated as soon as practical after the closing date and time set forth in cover page.

1.5 Evaluation of Proposals

It is the intent of the City of Portage to evaluate all proposals quickly and be prepared to recommend an award at the August 25, 2015 City Council meeting.

1.6 Proposal Form

1.6.1 Whenever forms are provided, each proposal shall be made on the form provided and, except for proposals submitted via facsimile equipment, shall be submitted in a sealed envelope bearing the title of work and the name of the Firm, and shall be signed by an individual authorized to execute the proposal on behalf of the Firm. The requested extra copies must be submitted with the original proposal.

1.6.2 Modifications: Alternate written proposals submitted may be considered; however, final determination as to suitability and compliance with specifications of the City will lie with the City. It is recommended that if an alternate proposal is to be suggested that the firm provide both a proposal that meets all specifications and any alternate proposals. In this way the Firm can have its alternate considered, but if the alternate is not acceptable the proposal meeting specifications can still be considered.

1.6.3 Delivery of Proposals: Proposals shall be delivered by the time and to the place stipulated in the Request for Proposals. It is the sole responsibility of the Firm to see that

its proposal is received in the proper time. Any proposals received after the closing date and time will be returned unopened.

1.7 **Proposals Submitted Via Facsimile Equipment**

Proposals may be submitted via facsimile equipment to (269) 329-4535 in the following manner.

1.7.1 Transmittal page must be plainly marked:

"Proposal Bid_____for opening_____."
Proposal Name Date

1.7.2 When bids are submitted via facsimile equipment, both the original document and the facsimile printout are considered counterpart originals.

1.7.3 Proposals submitted via facsimile equipment must meet all requirements of Section 1.12 to be considered responsive.

1.7.4 The Firm assumes all responsibility for errors due to illegibility, omission, or any other action(s) or inaction(s) whatsoever, pertaining to the receipt of the City by a proposal submitted via facsimile equipment.

1.7.5 In electing to use the facsimile option, the Firm assumes full responsibility for any and all errors, omissions, or mistakes that result in a proposal not being submitted in a timely manner, whether or not the mistake was the fault of the Firm.

1.8 Non-Discrimination

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-Larsen Civil Rights Act, Article 2, Act no. 453, Public Act of 1976 as amended; the Michigan Handicapper's Civil Rights Act, Article 2, Act. No. 220; Public Act of 1976, as amended and all other applicable Federal, State and Local laws and regulations. Specifically, contractors and subcontractors are required not to discriminate against any employee or applicant for employment with respect to such person's hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of such person's height, weight, race, color, religion, national origin, ancestry, age, marital status, sex or disability, as defined by law. Breach of this covenant may be regarded as a material breach of the contract.

The City of Portage in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color or national origin in consideration for an award.

1.9 Indemnity and Insurance

1.9.1 Indemnity:

To the fullest extent permitted by Laws and Regulations, the Firm shall indemnify and hold harmless the City and its officers, directors, employees, agents and consultants from and against all claims, costs, losses and damages (including but not limited to all fees and

charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the performance of the Work or from the failure to comply with any covenant or term of the contract, provided that any such claim, cost, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom or (ii) is caused in whole or in part by any act or omission of the Firm, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any act or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such person or entity.

In any and all claims against the City or any consultants, agents, officers, directors or employees of the City by any employee (or the survivor or personal representative of such employee) of the Firm, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation above shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any such Subcontractor, Supplier or other person or organization under workers' compensation Acts, disability benefit Acts or other employee benefit Acts.

Insurance coverage required by the firm constitutes the minimum requirements and those requirements shall in no way lessen or limit the liability of the firm under the terms of the contract. The contractor shall procure and maintain at firm's own cost and expense any additional claims or amounts of insurance that, in the judgment of the City, may be necessary for contractor's proper protection in the prosecution of the work.

1.9.2 Insurance:

The successful Firm agrees to provide insurance as outlined below. The firm, or any of its subcontractors, shall not commence work under this contract until it has obtained the insurance required under this section, 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 Portage. The requirements below should not be interpreted to limit the liability of the Firm. All deductibles and SIR's are the responsibility of the Firm.

The Firm shall provide the City of Portage, at the time that contracts are return by the firm for execution, 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 should be acceptable. Copies or certified copies of all policies mentioned shall be furnished, if so requested.

If any of the coverages expire during the term of the contract, the Firm shall deliver renewal certificates and endorsements to the City of Portage at least ten days prior to the expiration date.

Worker's Compensation Insurance - Covering all persons engaged in work under this contract to the full statutory limits stipulated in the Michigan Worker's Compensation Act.

Comprehensive General Liability Insurance:

Bodily Injury - at least $1,000,000/occurrence
Property Damage - at least $1,000,000/occurrence
Personal Injury - at least $1,000,000/occurrence

Professional Liability Coverage (errors and omissions) covering an actual or alleged error, statement, act, omission, neglect or breach of official duty, including misfeasance, malfeasance, and non-feasance - at least $1,000,000/occurrence.

If an "occurrence" policy is unavailable for the professional liability coverage, please include a statement from your insurance agent or broker indicating non-availability of the occurrence form. Under these circumstances, a "claims made" form will be considered if written in the requested amount.

Motor Vehicle Liability Insurance:

Bodily Injury - at least $1,000,000/occurrence
Property Damage - at least $1,000,000/occurrence
Personal Injury - at least $1,000,000/occurrence

Additional Insured: Comprehensive General Liability and Motor Vehicle Liability Insurance shall include an endorsement stating the following shall be additional insured: The City of Portage, 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 by naming the City of Portage as additional insured, coverage afforded is considered to be primary and any other insurance the City of Portage may have in effect shall be considered secondary and/or excess.

Cancellation Notice: All policies, as described above, shall include an endorsement stating it is understood and agreed that thirty (30) days Advanced Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change of the policy, and Ten (10) days written notice for non-payment of premium, shall be sent to the City of Portage Purchasing Manager, 7900 S. Westnedge Avenue, Portage, MI 49002.

Sub-Contractor It shall be the responsibility of the Firm to ensure that each subcontractor utilized by the Firm (if any) provides evidence that each subcontractor carries insurance in like amounts, prior to the time such subcontractor proceeds to perform under the contract.
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1.10 Representations

If any questions or responses require revision to the Request for Proposal as originally published, such revisions will be by formal amendment only. If the Request for Proposal includes a contact person for technical information, firms are cautioned that any oral or written representations made by this or any person that appear to change materially any portion of the Request for Proposal shall not be relied upon unless subsequently ratified by a written addendum to the Request for Proposal issued by the purchasing Department. For determination as to whether any representation made requires that an amendment be issued, contact the Purchasing Department.

1.11 Project Information Sheet

Responsive proposals must include a fully executed interested party information sheet located in the document proposal, Section 4.0. This document is self-explanatory.

1.12 Concept Statement

After fully evaluating proposal requirements and the project description, each Firm shall develop a concept statement that will describe the proposed method for project implementation. The City will use the concept statement to determine the degree of understanding of the project, evaluate methodology proposed and compare feasibility of the methods proposed in evaluating proposals received. The concept statement should be limited to five 8-1/2 " x 11" page(s) to be double-spaced. The estimated number of man hours reflected in the lump sum proposal shall be indicated in the Project Information Sheet Item Number 4.6.

1.13 Responsive Proposals

At a minimum, responsive proposals shall include the following:

1.13.1 A project information sheet in format provided in the Request for Proposal package (2 copies)

1.13.2 A project concept statement (2 copies)

1.13.3 A proposal cost summary page in format provided in the Request for Proposal package (2 copies). Maximum consideration will be given to projects quoted in the single not-to-exceed project cost format.

Interested Firms may also provide any additional information not otherwise requested that may aid the responsible parties in award of this professional service contract. Unnecessarily elaborate responses beyond that sufficient to present a complete and effective response to the solicitation are not desired and may be construed as an indication of the offerer's lack of cost consciousness. Unless specifically requested in the solicitation, elaborate art work, corporate brochures, lengthy narratives, expensive paper, specialized binding, and other extraneous presentation materials are neither necessary nor desired

1.14 Award Criteria

Favorable pricing will be one element of the selection process, but all of the following factors will be used in evaluating proposals received:

1.14.1 Responsiveness to Request for Proposal specifications.

1.14.2 Project Cost.

1.14.3 Qualifications of Firm

1.14.4 Qualifications and experience of the staff to be assigned to the project.

1.14.5 References.

1.14.6 Demonstrated capability to perform the type of work requested.

1.14.7 Understanding of project requirement including the estimated number of hours of work.

1.14.8 Professional creativity including proposal preparation and presentation.

1.14.9 Scope of services to be provided.

1.14.10 Timeliness of services to be provided.

1.15 Evaluation of the above criteria shall be the responsibility of City Administration and the Portage City Council. Regretfully, the number and quality of proposals received may logistically prohibit the possibility of providing every Firm with the opportunity to make a formal presentation. Therefore, Firms are encouraged to take maximum advantage of representing the qualities of the Firm through its proposal presentation.

2 PROFESSIONAL ENGINEERING SERVICE REQUIREMENTS

2.1 Professional Services Minimum Requirements

The scope of professional services to be provided shall be in compliance with the following provisions. Interested firms are expected to comply with all conditions outlined in the request for proposals, but if exception is taken to any provision, the exception taken shall be annotated and explained on a plain bond sheet that must be attached to the proposal page.

2.2 Scope of Services

2.2.1 Background

East Osterhout Avenue is a major arterial running east-west, the project segment runs approximately 5,300 feet in length. Current traffic volume on East Osterhout Avenue is approximately 4,400 VPD. The existing East Osterhout Avenue is a 2-lane roadway with the speed limit posted at 40 mph. Portage Road at this location has approximately 12,000 VPD and a speed limit of 45 mph.

The consultant shall develop plans suitable for approval and bidding, showing all required work details and specifications.

2.2.2 Proposed Project

The City Administration has authorized the design and construction of improvements to East Osterhout Avenue from South Westnedge Avenue to Portage Road.

The East Osterhout Avenue project shall consist of pulverizing, grading and resurfacing of the existing roadway, storm drainage improvements and widening the roadway to 32' to allow for bike lanes. The existing roadway drainage system consists of HMA valley gutters in some locations and a series of individual leaching basin structures. The consultant will be expected to analyze the existing drainage and recommend necessary improvements to ensure proper roadway drainage. It is anticipated the reconstructed roadway shall remain a two-lane section with a four foot bike lane on the south side and a widened six foot bike lane on the north side. The centerline of the roadway may need to be shifted to accommodate this.

As part of this project, the consultant shall prepare an analysis of the feasibility of a roundabout at the East Osterhout Avenue and Portage Road intersection. This portion of the project will include a complete topographical survey of the areas that would be affected, and an analysis of feasible roundabout layouts, approximate right of way limits with cost estimates. Submittals will include the complete topographical survey files on CD or flash drive, preliminary planning drawings of different alternatives, colored final presentation drawings and a summary report and recommendation.

2.2.3 Level of Effort Required

The level of effort required by the consultant for the project includes, but is not limited to:

A. Verify accuracy of existing data and drawings.

B. Establish right-of-way limits. No easements are anticipated.

C. Assist the City in conducting any public hearings and/or informational meetings to explain the project to the affected property owners. One meeting is anticipated to be held.

D. Prepare construction plans and specifications and cost estimates in accordance with City of Portage specifications and regulations (including all necessary soil testing) for:

(i) Roadway plans. Cross-sections and details required to show the work. Plans shall be drawn to a 1”=40’ scale.

(ii) Maintenance of traffic and traffic control plans.

(iii) Modification of traffic control devices (signage and pavement markings).

(iv) ADA sidewalk ramp construction, including replacement of existing sidewalk and retaining walls, as necessary.

(v) Submit all plans, specifications and cost estimate for review and approval by the City of Portage.

2.2.4 Information Furnished by the City

The City of Portage has limited information including preliminary drawings, quarter section drawings identifying individual parcels, full section drawings showing existing sanitary sewers, water mains, and storm sewers, and full section aerial drawings flown in April 2013.

2.2.5 Design Scope

The design effort has been divided into three different phases as follows:

A. Conceptual Design Phase

During this phase, the Consultant shall be responsible for the following (where applicable) as a minimum:

(i) Meet with City of Portage staff to review scope and work plans, establish schedule and define specific design features.

(ii) Confirm the necessary design standards and Federal, State, and City regulations.

(iii) Identify a recommended geometric alignment for street reconstruction to meet the needs of the project and submit to the City for approval.

(iv) Prepare plan and topography survey.

(iv) Obtain soils information, including a minimum of ten soil borings and 8 pavement cores staggered across all lanes.

(v) Confirm or revise the project's preliminary cost estimate as provided.

B. Preliminary Design Phase

During this phase, the Consultant shall develop preliminary design documents in accordance with the approved Conceptual Design phase. The purpose of this phase of the design is to prepare drawings and calculations and to outline specifications and cost estimates as necessary to permit review by the City. The information developed during the Preliminary Design Phase shall be assembled in a Preliminary Design Package which shall contain the following information (where applicable) as a minimum:

(i) Preliminary roadway plan drawings developed in accordance with the drawing requirements stated herein.

(ii) Preliminary design including roadway reconstruction cross sections.

(iii) Preliminary cost estimates with suitable backup quantity takeoff and cost information. Cost estimates shall be prepared on the basis of available current pricing.

(iv) Roundabout feasibility and preliminary alignment.

(v) Obtain soils information (pavement cores at 400' intervals).

C. Final Design Phase

During this phase, the Consultant shall develop the final design documents in accordance with the approved Preliminary Design. This phase is comprised of two stages of completion. The first stage of completion shall result in project progress completion of approximately 75% to 90% as necessary to permit review by the City.

The information developed during the first stage of the Final Design Phase shall be assembled in a Final Design Package (six bound copies) which contains the following information (where applicable) as a minimum:

(i) Reproducible construction drawings.

(ii) Edited versions of master specifications (as furnished by the City), additional technical specifications and special provisions for specialty items.

(iii) Final cost estimate by specification section as previously described.

(iv) Final Design (revised from Preliminary Design Phase where necessary) in accordance with the City of Portage Standard Contract Conditions.

D. The second stage of the Final Design Phase shall include the necessary effort to complete the project as previously described (including all final review items

requested by the City).

2.2.6 Design Criteria

The Consultant shall prepare plans and specifications which are consistent with standard design practice, meet the overall design requirements of the City of Portage, and preserve the integrity of the environment. The consultant shall provide the City with two (2) bound copies of plans, specifications, and design notes indexed by appropriate discipline designation. The following design criteria are described by technical discipline and shall be followed unless deviation is approved by the City.

A. All design work shall consist of showing all new or modified roadways, drives, curbs, sidewalks, structures, fences, and removal of existing features where required. All grades shall be designed so as to blend in with existing conditions to the extent possible. Utilities shall be relocated or extended as required for the proposed work.

B. The Consultant shall be fully responsible for obtaining sufficient soil borings and interpretation necessary to adequately design the proposed work.

C. City standards shall be followed for roadway and utility design where applicable as determined by the Director of Transportation and Utilities.

D. All design shall be compatible with current City and MDOT Standard Specifications.

2.2.7 Drawing Requirements

All drawings shall be prepared in a professional manner in accordance with the following criteria:

A. The Engineer's Drafting Standards shall be used as the basis for drawing requirements unless otherwise directed by the City. The plans shall be designed in English units.

B. Preliminary plans may be prepared utilizing reproducible or Mylar. Drawing revisions, which are normally anticipated following review of preliminary plans shall be performed by the Consultant without additional compensation except for changes in scope.

C. Final design drawings shall be done in erasable ink and include Mylar cover sheet prepared by the Consultant listing all drawings included.

2.2.8 Right of Way Services

It is not anticipated that any additional right-of-way will be required.

2.2.9 Specifications

All specifications shall be prepared in a professional manner in accordance with the following criteria:

A. The City shall provide some standard guide technical specifications for editing by the Consultant. The 2012 MDOT Standard Specifications shall be followed insofar as practical.

B. All retyping of the specifications shall be accomplished by the Consultant.

C. Plans and Specifications - Prepare all plans and specifications to solicit for bidding.

2.2.10 Bidding Administration

Provide staff and support necessary to accomplish bidding of the project under the City of Portage Administrative Code.

2.2.11 Contract Award

Recommend to the Portage Administration award of the contract to the lowest and best bidder.

2.2.12 Length of Service

The consultant's services shall be required up to and including the final inspection by the City of Portage.

2.2.13 Responsibilities of the City

The City's representative through the Department of Transportation and Utilities will closely follow progress of the work and will provide the following:

A. Execute overall project management functions.

B. Ensure compliance of all financial obligations.

C. Transmit instructions, receive information, interpret and define the City policies and provide decisions in a timely manner.

D. Furnish pertinent City records and/or information for use by the Consultant.

E. Provide access to public lands as required by the Consultant.

F. Promptly notify the Consultant when the Department observes or becomes aware of any deviation in the project.

G. Review progress drawings and specifications and offer in writing decisions pertaining thereto in a timely fashion.

2.2.13 Construction Scope – Administration of Construction Contract
Duties, responsibilities and limitations of authority of the Firm shall not be restricted, modified or extended without written agreement of the City.

A. Project Administration Coordinate and accomplish all tasks required to administer this project. The consultant staff shall be available for periodic meetings throughout the construction period for review of the contractor's construction schedule, as required.

B. Inspection Provide all as-built information, necessary field staking, testing, full time daily inspection on all underground work and daily full time inspection as needed on surface work, and appropriate paper work regarding the above activities.

C. Material Testing The Firm shall perform all required material testing and inspection pursuant to City and MDOT procedures. Testing shall include, but not be limited to: soil, backfill, aggregate, compaction, concrete and bituminous materials.

D. Citizen Complaints Address citizen complaints and concerns in a timely and satisfactory manner.

E. Contractor Payment Based on the observations of the Firm and evaluations of the Applications for Payment of the Contractor, the Firm shall review and certify the amounts due the Contractor.

F. "As-Built" Plans The Firm shall prepare plans and documents showing the actual "as-built" conditions upon completion of the construction. These plans will be delivered to the City two weeks following the request for acceptance of the facility. As-bults shall be one set of Mylar plans and one set of electronic documents.

G. Change Orders The Firm shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Firm as provided in Subparagraphs 3.3 and 3.4 for the approval of the City and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or and extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

H. The Firm certification for payment shall constitute a representation to the City based on the observations of the Firm at the site and on the data comprising the application for payment of the contractor, that the work has progressed to the point indicated and that, to the best of the knowledge of the Firm, information and belief, the quality of work is in accordance with the contract documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents correctable prior to completion and to specific qualifications expressed by the Firm. However, the issuance of a certificate for payment shall not be a representation that the Firm has (1) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the City to substantiate that right to payment by the contractor, or (2) ascertained how or for what purpose the contractor has used money previously paid on account of his contract sum.

I. The Firm shall have the authority to reject Work which does not conform to the Contract Documents. Whenever the Firm considers it necessary or advisable for implementation of the intent of the Contract Documents, the Firm will have authority to require additional inspection or testing of the Work in accordance with provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Firm nor a decision made in good faith either or exercise or not to exercise such authority shall give rise to a duty or responsibility of the Firm to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

J. The Firm shall review and approve or take other appropriate action upon submittals of the Contractor such as Drawings, Product data and Samples, but only for the limited purpose of checking for conformance with information expressed in the Contract Documents. The action of the Firm shall be taken with such reasonable promptness as to cause no delay in the Work while allowing sufficient time in its

professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The review of the Firm shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Firm, of construction means, methods, techniques, sequences or procedures. The approval of the Firm of a specific item shall not indicate approval of a system of which the item is a component. When professional certification of performance characteristics of materials or systems are required by the Contract Documents, the Firm shall be entitled to rely upon such certification to establish that the materials or systems will meet the performance criteria required by the Contract Documents.

3 PROFESSIONAL SERVICE REQUIREMENTS

3.1 Available Information

The City of Portage has limited information, including parcel maps, topographic maps and construction drawings of previous projects.

3.2 Funding

Project funding has been approved in the City of Portage Capital Improvement Program (CIP) in the amount of $726,000.

3.3 Coordination of Work Required

Unless specifically identified as work to be provided by the City staff, the Firm shall furnish supervision and all labor, equipment, supplies, materials (except as otherwise noted herein), and perform satisfactorily the professional services at the frequencies and during the times as specified herein. The professional service shall include all functions normally considered a part of completing this work in a satisfactory manner. Compensation to cover any and all expenses shall be included in the proposed project cost.

3.4 Default

The City may, by written notice to the Firm, terminate the right to proceed as to the whole or any part of the contract (1) if the Firm fails to perform the services within the time specified or any extension thereof, (2) so fails to make progress as to endanger performance of the contract in accordance with its terms, or (3) the Firm fails to perform any other provisions of the contract. The Firm shall not be subject to this provision if failure to perform the contract arises out of any cause beyond its control and without any fault or negligence by the Firm or subcontractors.

3.5 Extra Work

During the period of this contract there may be occasions when extra services are required which are not a part of this contract. The Firm shall indicate the hourly rate to be paid for extra work on Section 4.8 of the Project Information Sheet. Rates for any expense items related to extra work shall also be indicated on the Project Information Sheet (i.e., copy/duplication, telephone calls, lodging, mileage, etc.). The hourly rates provided shall be inclusive of all labor, overhead, and profit. Costs for services provided in these situations will be negotiated at the time of each occurrence and will be based on the rates quoted. Any such work must have pre-approval of the City contract administrator. The City will not be responsible for additional invoices for work or materials that did not have written pre-approval.

3.6 Status of Firm

The Firm and its employees at all times shall be considered as independent contractors and not as City employees. In delivering services, the Firm shall exercise all supervisory control and general control over all day-to-day operations, including control over all workers' duties, payment of all wages to its employees, and the right to hire, fire, and discipline all employees. As an independent contractor, payment to the Firm under this contract shall not be subject to any withholding for tax, social security, or other purposes, nor shall the Firm or employees of the Firm be entitled to any City of Portage fringe benefit programs.

3.7 Time and Progress

It is understood and agreed that TIME IS OF THE ESSENCE in respect to the work contemplated hereunder, and the Firm agrees to do the work covered by the contract in conformity with the provisions set forth herein and to prosecute all work with all due diligence, so as to complete any work required under the contract within the shortest reasonable period of time. The Firm shall identify on the Cost Summary Proposal Page the estimated time necessary to complete each phase of the project in as short a period of time as possible that will allow for an overall high quality project.

It is of utmost importance that the following timetable be adhered to:

Phase	Completion Date
Consultant Proposals Due	August 11, 2015
Award Contract to Consultant	August 25, 2015
Begin Plan Preparation	September 8, 2015
Preliminary Plans Complete for Review	November 17, 2016
Complete Final Plan	January 12, 2016
Advertise Project	February 16, 2016
Contract Award	March 15, 2016
Begin Construction	June 1, 2016
Substantial Construction Completion	August 1, 2016
Final Construction Completion	August 30, 2016

Please note this timeline is not meant to hold the Firm responsible for conditions over which it has no control, but is intended to provide the Consultant with direction on how the project must progress using high quality standards necessary to implement a first class and workmanlike project.

3.8 Employees of the Firm

The Firm shall at all times be responsible for the conduct and discipline of its employees and/or any subcontractor or persons employed by the Firm. All workers must have sufficient knowledge, skill, and experience to properly perform the work assigned to them. Any worker employed by the Firm, who in the opinion of the City Contract Administrator, does not perform work in a skilled manner, or acts in a disorderly or intemperate manner, or engages in sexual harassment or other forms of inappropriate behavior as defined by the City Contract Administrator, shall, at the written request of the City Contract Administrator, be removed immediately from the project and shall not be utilized again in any portion of the work without approval of the City Contract Administrator.

3.9 Laws and Municipal Ordinances

The Firm shall keep fully informed of all laws and municipal ordinances and regulations in any manner affecting those engaged or employed in the work, or the equipment and materials used in the work, and all orders and decrees of bodies or tribunals having any jurisdiction or authority over

the same. The Firm shall at all times observe and comply with all such existing laws, codes, ordinances, regulations, orders, and decrees.

3.10 City Contract Administrator

The Director of Transportation and Utilities, or his designated representative, shall be the City Contract Administrator. The City Contract Administrator will approve payments, oversee schedules, and generally be responsible for overseeing the execution of the contract.

3.11 Supervision by Firm

The Firm will supervise and direct the work of its employees. The Firm will be solely responsible for the means, methods, techniques, sequences, and procedures of the professional services performed. The Firm will appoint a Project Supervisor who shall have been designated in writing by the Firm at the time the Request for Proposal is submitted. The Project Supervisor shall have fully authority to act on behalf of the Firm and all communications given to the Project Supervisor shall be as binding as if given to the Firm. The Project Supervisor shall be present to the extent necessary so as to perform adequate supervision and coordination of the work.

3.12 Billing and Payment

The Firm shall present an invoice in duplicate at the appropriate identified times, billing for services rendered. The billing shall be at the contracted price. The billing shall reference the appropriate purchase order number. The billing shall contain, if applicable, adjustments for additions, deletions, or changes in service. The City will strive to pay the billed amount within thirty (30) days after receipt of invoice, but the City will not pay any interest penalties for late payments.

3.13 Assignability

The Firm agrees that the work proposed shall be accomplished by the Firm identified under Section 4.2 and any subcontractors identified under Section 4.9. The Firm agrees that any work under the contract to be assigned to another firm, and/or subcontractor shall be done only with the prior approval of the City Contract Administrator.

3.14 Copyright

The Firm shall irrevocably transfer, assign, set over, and convey to the City of Portage all rights, title, and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to the Contract. The Firm further agrees to execute such documents as the City of Portage may request to effect such transfer or assignment. Further, the Firm agrees that the rights granted to the City of Portage by this paragraph are irrevocable. The Firm's remedy in the event of termination of or dispute over any agreement entered into as a result of this solicitation shall not include any right to rescind, terminate, or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of any agreement entered into as a result of this solicitation shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this paragraph.

4 CITY OF PORTAGE PROJECT INFORMATION SHEET

If adequate space is not provided for complete response, please attach additional pages as necessary and identify by number. Proposals will not be considered responsive unless all requests for information are provided. Please use such terms as none, not applicable, unknown, etc., if requested information does not pertain or cannot be provided.

4.1 Please indicate the response that best describes your business:

_____Sole Proprietor _____Partnership _____Corporation

_____Other (please explain)_____

4.2 Firm Name:_____

Address:_____

Telephone Number:_____ Fax:_____

First Date in Business:_____

4.3 Is your Firm involved in any proceedings that may affect the ability of the Firm to continue under the current Firm name for the duration of the project?

_____Yes _____No

If yes, please explain (use additional Page)

4.4 Is you Firm up for sale? _____Yes _____No

If yes, please explain (use additional page).

4.5 Primary staff to be assigned to the project:

Owner/Partner:_____

Project Supervisor:_____

Principal Professional(s):_____

_____

_____

Other Significant Technicians and Employees to be Assigned:

_____

_____

_____

Please provide resume for Project Supervisor and principal professionals to be assigned at time of proposal submission for personnel listed above.

4.6 Estimated project hours of work reflected in the lump sum proposal are as follows: (Design phase includes all work up to and including pre-construction conference. For construction purposes, daily construction inspection shall be based upon 320 hours full time (8 weeks), and 80 hours part time.)

		Design Phase	Construction Phase
4.6.1	Owner/Partner:	_____ hours	_____ hours
4.6.2	Professionals:	_____ hours	_____ hours
4.6.3	Technicians:	_____ hours	_____ hours
4.6.4	Clericals:	_____ hours	_____ hours
4.6.5	Others (Please Identify)		
	_____	_____ hours	_____ hours
	_____	_____ hours	_____ hours

4.7 Experience: Please indicate below the experience of the individuals listed in Item 4.5 from your Firm pertaining to the specific type of work listed. Please restrict projects listed to those projects performed by the individuals identified for the Portage project. Under the Self-Evaluation Section, please rate how you believe the contact person in charge of the project would rate services if they were contacted by the City of Portage and asked to rate overall satisfaction with the services provided by your Firm. Please restrict your Self-Evaluation responses to the terms Excellent, Good, Satisfactory, and Unsatisfactory.

4.7.1 Please list professional service projects similar to work requested for this project where staff identified in Section 4.5 have provided professional services.

Name of Unit/ Company	Project Contact Person	Phone	Construction Cost	Self Evaluation
A.				
B.				
C.				

(If more than three projects have been performed, please list the top three that you feel are most comparable to the scope of work being requested. Do not list projects over 10 years old.)

4.7.2 Please list other related projects that staff identified in Section 4.5 have provided professional services for.

Name of Unit/ Company	Project Contact Person	Phone	Construction Cost	Self Evaluation
A.				
B.				
C.				

(If more than three projects have been performed, please list the top three that you feel are most comparable to the scope of work being requested. Do not list projects over 10 years old.)

4.7.3 List any other professional service projects that you feel may indicate the ability of your firm to perform the work requested {use additional page(s) if necessary}.

4.8 If it becomes necessary to perform extra work as defined in Section 3.5, the following hourly rates will apply:

4.8.1 Owner/Partner: $_____ /hour

4.8.2 Professionals: $_____ /hour

4.8.3 Technicians: $_____ /hour

4.8.4 Clericals: $_____ /hour

4.8.5 Others (Please Identify)

_____ $_____ /hour

_____ $_____ /hour

Rates quoted should be inclusive of all expenses including, but not limited to personnel services, fringe benefits, overhead, and profit required by the Firm.

4.8.6 Please list any expense rates that may apply to extra work. If no expense rates are indicated, no expenses will be allowed. Expenses and Charge Back Rates:

_____

_____

_____

4.9 Subcontractors

4.9.1 Do you propose to use any subcontractors to perform work in accordance with this proposal? _____Yes _____No. (If yes, please identify subcontractor and work to be performed.

_____

_____

_____

4.10 A project Information Sheet (2 copies), and Project Concept Statement (2 copies), and a Request for Proposal Cost Page (2 copies) are required for submission as a part of these specifications. Have all items been included with your proposal?

_____Yes _____No If answer is no, please explain.

_____

_____

_____

4.11 Section 1.2 requires that proposals be submitted in compliance with the City of Portage Contract Conditions and Specifications. Do you agree to comply with the Contract Conditions and Specifications?

_____Yes _____No. If answer is no, please explain

_____

_____

4.12 The award of the contract for professional services is based upon the draft contract form attached. Is this document, as proposed, acceptable to you if you were to be awarded the bid? _____Yes _____No.

If no, please explain in detail any provisions that would need to be changed, added, or deleted. (Use additional page(s) if necessary.)

4.13 Section 3.7 establishes a firm timeline for this project. Can your Firm implement the project fully and professional within the timeline outlined? _____Yes _____No.

If no, please explain why the timeline cannot be met and provide a timeline below that addresses the major landmarks addressed in Section 3.7 {use additional Page(s) if necessary}.

I certify that all information provided above is complete, accurate, and to the best of my knowledge, true. I further certify that I am fully authorized by the Firm identified in Question 4.2 above to execute this information sheet on behalf of that Firm.

I hereby state that I have read, understand, and agree to be bound by all terms of this Request for Proposal Document.

FIRM:_____

BY:_____
(Signature)

NAME:_____
(Please Print)

POSITION:_____

TELEPHONE:_____

5 CITY OF PORTAGE REQUEST FOR PROPOSALS -- COST PROPOSAL

I the undersigned, certify that I have read and fully understand all of the specifications supplied by the City of Portage in this Request for Proposals.

ALL EXCEPTIONS TAKEN TO SPECIFICATIONS SUPPLIED BY THE CITY OF PORTAGE ARE ATTACHED AND IDENTIFIED BY NUMERICAL REFERENCE TO THE REQUEST FOR PROPOSAL SECTION ON A PLAIN SHEET IMMEDIATELY FOLLOWING THE PROPOSAL PAGE.

I propose to provide professional services as specified in the Request for Proposals, except as outlined on the attached sheet entitled "Exception to Specification", for the total sum of:

EAST OSTERHOUT AVENUE RECONSTRUCTION $_____

I commit to meet the timetable for project completion as detailed in Proposal Section 3.7.

If you cannot submit a proposal in the format requested, please attach a schedule of total compensation that will cover any and all expenses and services related to the project.

I hereby state that I have the authority to submit this proposal which will become a binding contract if accepted by the City of Portage. I further state that I have not communicated with nor otherwise colluded with any other person or Firm, nor have I made any agreement with nor offered or accepted anything of value from an Official or employee of the City of Portage that would tend to destroy or hinder free competition.

I hereby state that I have read, understand, and agree to be bound by all terms of this Request for Proposal Document.

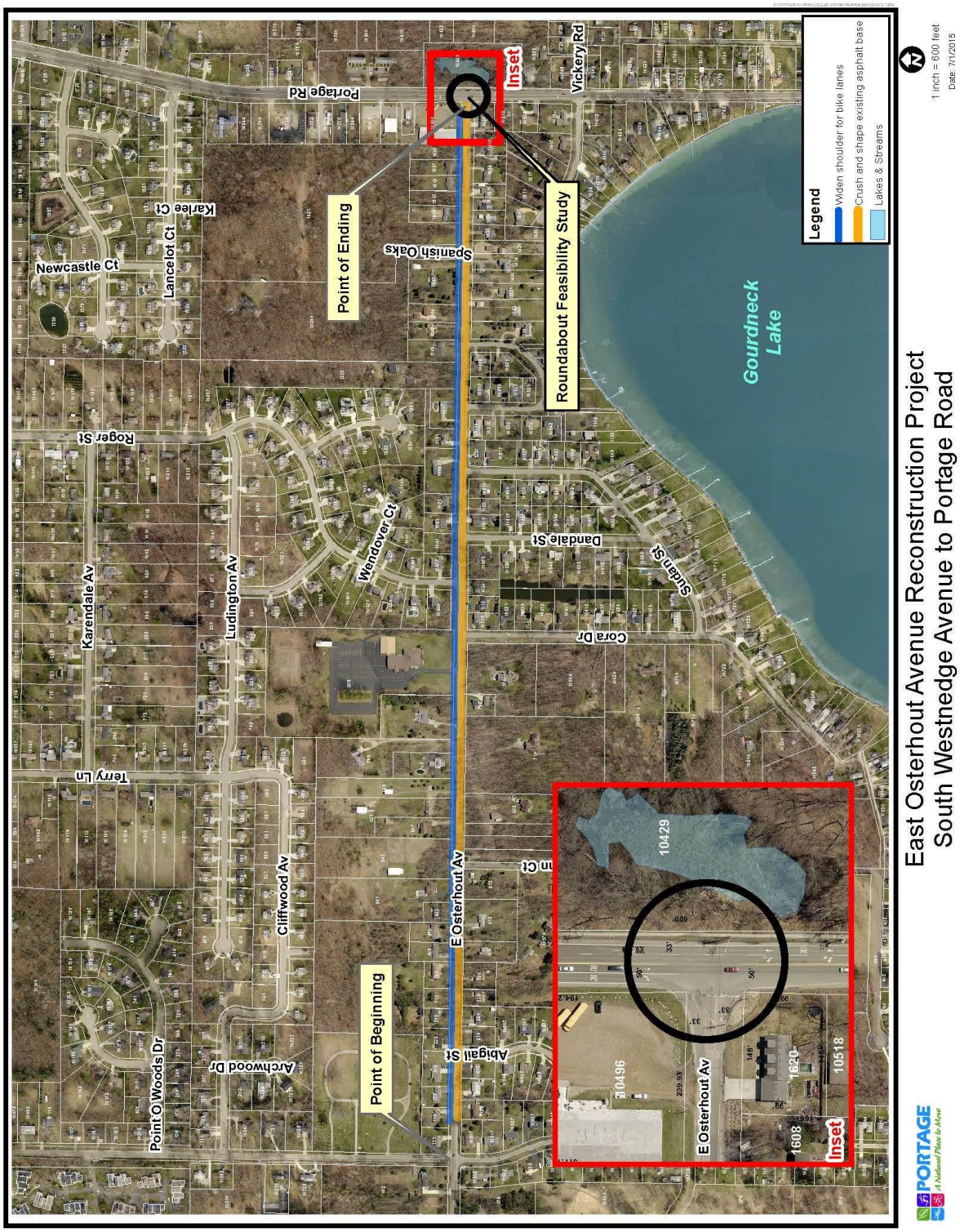
Signed:_____ Name:_____

Title:_____ Date:_____

Firm Name:_____

Address:_____

Telephone:_____


East Osterhout Avenue Reconstruction Project
South Westnedge Avenue to Portage Road
1 inch = 600 feet
Date: 7/1/2015
Legend
Widen shoulder for bike lanes
Crush and shape existing asphalt base
Lakes & Streams
Gourdneck Lake
Roundabout Feasibility Study
Point of Ending
Point of Beginning
Inset
Portage Rd
Vickery Rd
Spanish Oaks
Newcastle Ct
Karlee Ct
Lancelot Ct
Roger St
Karendale Av
Ludington Av
Wendover Ct
Dandale St
Sudan St
Cora Dr
Terry Ln
Cliffwood Av
Archwood Dr
Point O Woods Dr
E Osterhout Av
Abigail St
10429
10496
1608
1620
10518
PORTAGE
A National Place to Move

DRAFT CONTRACT AGREEMENT

Following is a "*draft copy"* of the contract that will be executed by the City and the Firm for the completion of this project.

DRAFT AGREEMENT BETWEEN CITY OF PORTAGE AND THE FIRM

AGREEMENT

made as of the _____ day of _____ in the year of Two Thousand Fifteen

BETWEEN the City of Portage, 7900 South Westnedge Avenue, Portage, Michigan, hereinafter referred to as the "City" and _____ _____hereinafter referred to as the "firm":

For the City of Portage project in accordance with the Request for Proposal and the proposal submitted by the Firm dated , which by reference are incorporated into this contract as part of this binding Agreement.

ARTICLE 1 -- RESPONSIBILITIES OF THE FIRM

1 SERVICES OF THE FIRM

1.1 The services of the Firm consist of those services performed by the Firm, its employees and subcontractors as enumerated in Articles 2 and 3 of this agreement and any other services included in Article 13.

1.2 The services of the Firm shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the City, the Firm shall submit for the approval by the City, a schedule for the performance of the services of the Firm which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the review and approval of the City of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the City shall not, except for reasonable cause, be exceeded by the Firm or the City. It is understood and agreed that TIME IS OF THE ESSENCE in respect to the work contemplated hereunder, and the Firm agrees to do the work covered by the contract in conformity with the provisions set forth herein and to prosecute all work with all due diligence so as to complete any work required under the contract within the shortest reasonable period of time.

1.3 The Firm agrees to a preliminary timetable for the East Osterhout Avenue Reconstruction project as follows:

Phase	Completion Date
Consultant Proposals Due	August 11, 2015
Award Contract to Consultant	August 25, 2015
Begin Plan Preparation	September 8, 2015
Preliminary Plans Complete for Review	November 17, 2016
Complete Final Plan	January 12, 2016
Advertise Project	February 16, 2016
Contract Award	March 15, 2016
Begin Construction	June 1, 2016
Substantial Construction Completion	August 1, 2016
Final Construction Completion	August 30, 2016

Please note this timeline is not meant to hold the Firm responsible for conditions over which it has no control, but is intended to provide the Consultant with direction on how the project must progress using high quality standards necessary to implement a first class and workmanlike project.

1.4 The services covered by this Agreement are subject to other conditions and other services described in Article 13.

ARTICLE 2 -- BASIC SERVICES OF THE FIRM

2 **BASIC SERVICES**

2.1 **Definitions**

2.1.1 The Basic Services of the Firm consist of those described in Paragraphs 2.2.1 through 2.2.9.10 and any other services identified in Article 13 as part of Basic Services.

2.1.2 The Firm shall submit a progress report biweekly in the form as may be required by the City showing status of all work. If progress is delayed, the report shall state the reasons for that delay. Further, if the Firm believes a deadline established by this contract will not be met, the Firm shall inform the City contract administrator as soon as the Firm becomes aware of such delay.

2.1.3 During all phases required under this contract, the Firm shall attend conferences as scheduled by the City. The Firm shall attend scheduled job meetings at the site and other meetings as reasonably required by the City to ensure a timely project completion. The Firm shall at reasonable times be available for all required interpretations of the plans and specifications and shall promptly advise the City of inadequacies of, or conflicts between drawings, specifications, or both.

2.2 **PROFESSIONAL ENGINEERING SERVICE REQUIREMENT**

2.2.1 Professional Services Minimum Requirements

The scope of professional services to be provided shall be in compliance with the following provisions. Interested firms are expected to comply with all conditions outlined in the request for proposals, but if exception is taken to any provision, the exception taken shall be annotated and explained on a plain bond sheet that must be attached to the proposal page.

2.3 Scope of Services

2.3.1 Background

East Osterhout Avenue is a major arterial running east-west, the project segment runs approximately 5,300 feet in length. Current traffic volume on East Osterhout Avenue is approximately 4,400 VPD. The existing East Osterhout Avenue is a 2-lane roadway with the speed limit posted at 40 mph. Portage Road at this location has approximately 15,000VPD and a speed limit of 45 mph.

The consultant shall develop plans suitable for approval and bidding, showing all required work details and specifications.

2.3.2 Proposed Project

The City Administration has authorized the design and construction of improvements to East Osterhout Avenue from South Westnedge Avenue to Portage Road.

The East Osterhout Avenue project shall consist of pulverizing and resurfacing of the existing roadway, grading, widening the roadway to 32' to allow bike lanes and storm drainage improvements. The existing roadway drainage system consists of HMA valley gutters in some locations and a series of individual leaching basin structures. The consultant will be expected to analyze the existing drainage and recommend necessary improvements to ensure proper roadway drainage. It is anticipated the reconstructed roadway shall remain a two-lane section with a four foot bike lane on the south side and a widened six foot bike lane on the north side.

As part of this project, the consultant shall prepare an analysis of the feasibility of a roundabout at the East Osterhout Avenue and Portage Road intersection. This portion of the project will include a complete topographical survey of the areas that would be affected, and an analysis of feasible roundabout layouts, approximate right of way limits, with cost estimates. Submittals will include the complete topographical survey files on CD or flash drive, preliminary planning drawings of different alternatives, colored final presentation drawings and a summary report and recommendation.

2.3.3 Level of Effort Required

The level of effort required by the consultant for the project includes, but is not limited to:

A. Verify accuracy of existing data and drawings.

B. Establish right-of-way limits. No easements are anticipated.

C. Assist the City in conducting any public hearings and/or informational meetings to explain the project to the affected property owners. One meeting is anticipated to be held.

D. Prepare construction plans and specifications and cost estimates in accordance with City of Portage specifications and regulations (including all necessary soil testing) for:

(vi) Roadway plans. Cross-sections and details required to show the work. Plans shall be drawn to a 1"=40' scale.

(vii) Maintenance of traffic and traffic control plans.

(viii) Modification of traffic control devices (signage and pavement markings).

(ix) ADA sidewalk ramp construction, including replacement of existing sidewalk and retaining walls, as necessary.

(x) Submit all plans, specifications and cost estimate for review and approval by the City of Portage.

2.3.4 Information Furnished by the City

The City of Portage has limited information including preliminary drawings, quarter section

drawings identifying individual parcels, full section drawings showing existing sanitary sewers, water mains, and storm sewers, and full section aerial drawings flown in April 2013.

2.3.5 Design Scope

The design effort has been divided into three different phases as follows:

A. Conceptual Design Phase

During this phase, the Consultant shall be responsible for the following (where applicable) as a minimum:

(i) Meet with City of Portage staff to review scope and work plans, establish schedule and define specific design features.

(ii) Confirm the necessary design standards and Federal, State, and City regulations.

(v) Identify a recommended geometric alignment for street reconstruction to meet the needs of the project and submit to the City for approval.

(vi) Prepare plan and topography survey.

(iv) Obtain soils information, including a minimum of eight soil borings and 5 pavement cores staggered across all lanes.

(v) Confirm or revise the project's preliminary cost estimate as provided.

B. Preliminary Design Phase

During this phase, the Consultant shall develop preliminary design documents in accordance with the approved Conceptual Design phase. The purpose of this phase of the design is to prepare drawings and calculations and to outline specifications and cost estimates as necessary to permit review by the City. The information developed during the Preliminary Design Phase shall be assembled in a Preliminary Design Package which shall contain the following information (where applicable) as a minimum:

(i) Preliminary roadway plan drawings developed in accordance with the drawing requirements stated herein.

(ii) Preliminary design including roadway reconstruction cross sections.

(iii) Preliminary cost estimates with suitable backup quantity takeoff and cost information. Cost estimates shall be prepared on the basis of available current pricing.

(iv) Roundabout feasibility and preliminary alignment.

(v) Obtain soils information (pavement cores at 400' intervals).

C. Final Design Phase

During this phase, the Consultant shall develop the final design documents in accordance with the approved Preliminary Design. This phase is comprised of two stages of completion. The first stage of completion shall result in project progress completion of approximately 75% to 90% as necessary to permit review by the City.

The information developed during the first stage of the Final Design Phase shall be assembled in a Final Design Package (six bound copies) which contains the following information (where applicable) as a minimum:

(i) Reproducible construction drawings.

(ii) Edited versions of master specifications (as furnished by the City), additional technical specifications and special provisions for specialty items.

(iii) Final cost estimate by specification section as previously described.

(iv) Final Design (revised from Preliminary Design Phase where necessary) in accordance with the City of Portage Standard Contract Conditions.

D. The second stage of the Final Design Phase shall include the necessary effort to complete the project as previously described (including all final review items requested by the City).

2.3.6 Design Criteria

The Consultant shall prepare plans and specifications which are consistent with standard design practice, meet the overall design requirements of the City of Portage, and preserve the integrity of the environment. The consultant shall provide the City with two (2) bound copies of plans, specifications, and design notes indexed by appropriate discipline designation. The following design criteria are described by technical discipline and shall be followed unless deviation is approved by the City.

A. All design work shall consist of showing all new or modified roadways, drives, curbs, sidewalks, structures, fences, and removal of existing features where required. All grades shall be designed so as to blend in with existing conditions to the extent possible. Utilities shall be relocated or extended as required for the proposed work.

B. The Consultant shall be fully responsible for obtaining sufficient soil borings and interpretation necessary to adequately design the proposed work.

C. City standards shall be followed for roadway and utility design where applicable as determined by the Director of Transportation and Utilities.

D. All design shall be compatible with current City and MDOT Standard Specifications.

2.3.7 Drawing Requirements

All drawings shall be prepared in a professional manner in accordance with the following criteria:

A. The Engineer's Drafting Standards shall be used as the basis for drawing requirements unless otherwise directed by the City. The plans shall be designed in English units.

B. Preliminary plans may be prepared utilizing reproducible or Mylar. Drawing revisions, which are normally anticipated following review of preliminary plans shall be performed by the Consultant without additional compensation except for changes in scope.

C. Final design drawings shall be done in erasable ink and include Mylar cover sheet prepared by the Consultant listing all drawings included.

2.3.8 Right of Way Services

It is not anticipated that any additional right-of-way will be required.

2.3.9 Specifications

All specifications shall be prepared in a professional manner in accordance with the following criteria:

A. The City shall provide some standard guide technical specifications for editing by the Consultant. The 2012 MDOT Standard Specifications shall be followed insofar as practical.

B. All retyping of the specifications shall be accomplished by the Consultant.

C. Plans and Specifications - Prepare all plans and specifications to solicit for bidding.

2.3.10 Bidding Administration

Provide staff and support necessary to accomplish bidding of the project under the City of Portage Administrative Code.

2.3.11 Contract Award

Recommend to the Portage Administration award of the contract to the lowest and best bidder.

2.3.12 Length of Service

The consultant's services shall be required up to and including the final inspection by the City of Portage.

2.3.13 Responsibilities of the City

The City's representative through the Department of Transportation and Utilities will closely follow progress of the work and will provide the following:

A. Execute overall project management functions.

B. Ensure compliance of all financial obligations.

C. Transmit instructions, receive information, interpret and define the City policies and provide decisions in a timely manner.

D. Furnish pertinent City records and/or information for use by the Consultant.

E. Provide access to public lands as required by the Consultant.

F. Promptly notify the Consultant when the Department observes or becomes aware of any deviation in the project.

G. Review progress drawings and specifications and offer in writing decisions pertaining thereto in a timely fashion.

2.2.13 Construction Scope – Administration of Construction Contract
Duties, responsibilities and limitations of authority of the Firm shall not be restricted, modified or extended without written agreement of the City.

A. Project Administration Coordinate and accomplish all tasks required to administer this project. The consultant staff shall be available for periodic meetings throughout the construction period for review of the contractor's construction schedule, as required.

B. Inspection Provide all as-built information, necessary field staking, testing, full time daily inspection on all underground work and daily full time inspection as needed on surface work, and appropriate paper work regarding the above activities.

C. Material Testing The Firm shall perform all required material testing and inspection pursuant to City and MDOT procedures. Testing shall include, but not be limited to: soil, backfill, aggregate, compaction, concrete and bituminous materials.

D. Citizen Complaints Address citizen complaints and concerns in a timely and satisfactory manner.

E. Contractor Payment Based on the observations of the Firm and evaluations of the Applications for Payment of the Contractor, the Firm shall review and certify the amounts due the Contractor.

F. "As-Built" Plans The Firm shall prepare plans and documents showing the actual "as-built" conditions upon completion of the construction. These plans will be delivered to the City two weeks following the request for acceptance of the facility. As-bults shall be one set of Mylar plans and one set of electronic documents.

G. Change Orders The Firm shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Firm as provided in Subparagraphs 3.3 and 3.4 for the approval of the City and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or and extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

H. The Firm certification for payment shall constitute a representation to the City based on the observations of the Firm at the site and on the data comprising the application for payment of the contractor, that the work has progressed to the point indicated and that, to the best of the knowledge of the Firm, information and belief, the quality of

work is in accordance with the contract documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents correctable prior to completion and to specific qualifications expressed by the Firm. However, the issuance of a certificate for payment shall not be a representation that the Firm has (1) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the City to substantiate that right to payment by the contractor, or (2) ascertained how or for what purpose the contractor has used money previously paid on account of his contract sum.

I. The Firm shall have the authority to reject Work which does not conform to the Contract Documents. Whenever the Firm considers it necessary or advisable for implementation of the intent of the Contract Documents, the Firm will have authority to require additional inspection or testing of the Work in accordance with provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Firm nor a decision made in good faith either or exercise or not to exercise such authority shall give rise to a duty or responsibility of the Firm to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

J. The Firm shall review and approve or take other appropriate action upon submittals of the Contractor such as Drawings, Product data and Samples, but only for the limited purpose of checking for conformance with information expressed in the Contract Documents. The action of the Firm shall be taken with such reasonable promptness as to cause no delay in the Work while allowing sufficient time in its professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The review of the Firm shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Firm, of construction means, methods, techniques, sequences or procedures. The approval of the Firm of a specific item shall not indicate approval of a system of which the item is a component. When professional certification of performance characteristics of materials or systems are required by the Contract Documents, the Firm shall be entitled to rely upon such certification to establish that the materials or systems will meet the performance criteria required by the Contract Documents.

ARTICLE 3 -- PROJECT REQUIREMENT

3 PROJECT REQUIREMENT

3.1 **Available Information** The City of Portage has limited information, including parcel maps, topographic maps and construction drawings of previous projects. No computer drawing files are available from previous projects.

Project funding has been approved in the City of Portage Capital Improvement Program (CIP) in the amount of $726,000.

3.2 **Coordination of Work Required** Unless specifically identified as work to be provided by the City staff, the Firm shall furnish supervision and all labor, equipment, supplies, materials (except as otherwise noted herein), and perform satisfactorily the services at the frequencies and during the times as specified herein. The services shall include all functions normally considered a part of completing this work in a satisfactory manner as determined by the City of Portage. Compensation to cover all expenses shall be included in the proposed project cost.

3.3 **Default** The City may, by written notice to the Firm, terminate the right to proceed as to the whole or any part of the contract (1) if the Firm fails to perform the services within the time specified or any extension thereof, (2) so fails to make progress as to endanger performance of the contract in accordance with its terms, or (3) the Firm fails to perform any other provisions of the contract. The Firm shall not be subject to this provision if failure to perform the contract arises out of any cause beyond its control and without any fault or negligence by the Firm or subcontractors.

3.4 **Extra Work** During the period of this contract there may be occasions when extra services are required which are not a part of this contract. Costs for services provided in these situations will be negotiated at the time of each occurrence. Any such work must have pre-approval of the City of Portage. The City will not be responsible for additional invoices for work or materials that did not have pre-approval.

3.5 **Engineering Firm Status** The Firm employees at all times shall be considered as independent contractors and not as City employees. The Firm shall exercise all supervisory control and general control over all day-to-day operations, including control over all workers' duties, payment of all wages to employees, and the right to hire, fire, and discipline all employees. As an independent contractor, payment under this contract shall not be subject to any withholding for tax, social security, or other purposes, nor shall employees be entitled to any of the City's fringe benefit programs.

3.6 **Engineering Firm Employees** The Firm shall at all times be responsible for the conduct and discipline of employees and/or any subcontractor or persons employed by the firm. All workers must have sufficient knowledge, skill and experience to properly perform the work assigned to them. Any workers employed by the Firm, who in the opinion of the Contract Administrator, does not perform his work in a skilled manner, or acts in a disorderly or intemperate manner, or engages in sexual harassment or other forms of inappropriate behavior at the written request of the Contract Administrator, shall be removed immediately from the project and shall not be utilized again in any portion of the work without approval of the Contract Administrator.

3.7 **Laws and Municipal Ordinances** The Firm shall be fully informed of all laws and municipal ordinances and regulations in any manner affecting those engaged or employed in the work, or the equipment and materials used in the work, and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. The Firm shall at all times observe and comply with all such existing laws, codes, ordinances, regulations, orders, and decrees.

3.8 **Contract Administrator** The Director of Transportation/Utilities or his designated representative, shall be the Contract Administrator. The Administrator will approve payments, oversee schedules, and generally be responsible for overseeing the execution of the contract.

3.9 **Time and Progress** It is understood and agreed that TIME IS OF THE ESSENCE in respect to the work contemplated hereunder, and the Firm agrees to do the work covered by the contract in conformity with the provisions set forth herein and to prosecute all work with all due diligence, so as to complete any work required under the contract within the shortest reasonable period of time. The Firm shall identify on the Cost Summary Proposal Page the estimated time necessary to complete each phase of the project in as short a period of time as possible that will allow for an overall high quality project.

It is of utmost importance that the following timetable be adhered to:

Phase	Completion Date
Consultant Proposals Due	August 11, 2015
Award Contract to Consultant	August 25, 2015
Begin Plan Preparation	September 8, 2015
Preliminary Plans Complete for Review	November 17, 2016
Complete Final Plan	January 12, 2016
Advertise Project	February 16, 2016
Contract Award	March 15, 2016
Begin Construction	June 1, 2016
Substantial Construction Completion	August 1, 2016
Final Construction Completion	August 30, 2016

Please note this timeline is not meant to hold the Firm responsible for conditions over which it has no control, but is intended to provide the Consultant direction on how the project must progress using high quality standards necessary to implement a first class and workmanlike project.

3.10 In the event that any changes required in the plans, drawings, specifications, or other documents because of defect of design or unworkability of details, or because of any other fault or errors of the Firm, no additional compensation shall be paid to the Firm for making those changes.

3.11 **Supervision by the Firm** The Firm will supervise and direct the work of its employees. The Firm will be solely responsible for the means, methods, techniques, sequences, and procedures of the professional services performed. The Firm will appoint a Project Supervisor who shall have been designated in writing by the Firm at the time the Request for Proposal is submitted. The Project Supervisor shall have fully authority to act on behalf of the Firm and all communications given to the Project Supervisor shall be as binding as if given to the Firm. The Project Supervisor shall be present to the extent necessary so as to perform adequate supervision and coordination of the work.

3.12 **Billing and Payment** The Firm shall present an invoice in duplicate at the appropriate identified times, billing for services rendered. The billing shall be at the contracted price. The billing shall reference the appropriate purchase order number. The billing shall contain, if applicable, adjustments for additions, deletions, or changes in service. The City will strive to pay the billed amount within thirty (30) days after receipt of invoice, but the City will not pay any interest penalties for late payments.

3.13 **Assignability** The Firm agrees that the work proposed shall be accomplished by the Firm identified under Section 4.2 and any subcontractors identified under Section 4.9 of the Proposal. The Firm agrees that nay work under the contract to be assigned to another firm, and/or subcontractor shall be done only with the prior approval of the City Contract Administrator.

3.14 **Copyright** The Firm shall irrevocably transfer, assign, set over, and convey to the City of Portage all rights, title, and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to the Contract. The Firm further agrees to execute such documents as the City of Portage may request to effect such transfer or assignment. Further, the Firm agrees that the rights granted to the City of Portage by this paragraph are irrevocable. The Firm's remedy in the event of termination of or dispute over any agreement entered into as a result of this solicitation shall not include any right to rescind, terminate, or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of any agreement entered into as a result of this solicitation shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this paragraph.

ARTICLE 4 -- RESPONSIBILITIES OF THE CITY

4 RESPONSIBILITIES OF THE CITY

4.1 The City shall provide all available information regarding requirements for the Project, including the objectives of the City, schedule, constraints and criteria.

4.2 The City shall establish and update an overall budget for the Project, including the Construction Cost.

4.3 If requested by the Firm, the City shall furnish evidence that financial arrangements have been made to fulfill the obligations of the City under this Agreement.

4.4 The City shall designate a Project Manager authorized to act on behalf of the City with respect to the Project. The City or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Firm in order to avoid unreasonable delay in the orderly and sequential progress of services of the Firm.

4.5 The City may furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the City shall require to verify Applications for Payment of the Contractor or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the City.

4.6 Prompt written notice shall be given by the City to the Firm if the City becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

ARTICLE 5 -- CONSTRUCTION COST

5 **Construction Cost**

5.1 **Definition**

5.1.1 The Construction Cost shall be the total cost or estimated cost to the City of all elements of the project designed or specified by the Firm.

5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials and equipment designed, specified, selected or specially provided for by the Firm, plus a reasonable allowance for overhead and profit of the Contractor. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction.

5.1.3 Construction Cost does not include the compensation of consultants of the Firm, the costs of the land, rights-of way, financing or other costs which are the responsibility of the City.

5.2 **Responsibility for Construction Cost**

5.2.1 Evaluations of the project budget of the City, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Firm, represent the best judgment of the Firm as a professional familiar with the construction industry. It is recognized, however, that neither the Firm nor the City has control over the cost of labor, materials or equipment, over the methods of determining bid prices of the Contractor, or over competitive bidding, market or negotiating conditions. Accordingly, the Firm cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget of

the City or from any estimate of Construction Cost or evaluation prepared or agreed to by the Firm

5.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties hereto.

ARTICLE 6 -- USE OF DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS OF THE FIRM

6 USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS OF THE FIRM

6.1 The Drawings, Specifications, and other documents prepared by the Firm for this Project are instruments of the Service of the Firm for use solely with respect to this Project and, unless otherwise provided, the Firm shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The City shall be permitted to retain copies, including reproducible copies, of the Drawings, Specifications and other documents of the Firm for information and reference in connection with the Project. The Drawings, Specifications or other documents of the Firm may be used by the City or others on other projects, for additions to this Project or for completion of this Project by others provided that such use is for improvement of the City of Portage infrastructure.

6.2 Submission or distribution of documents to meet official, regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Firm.

ARTICLE 7 -- ARBITRATION

7 ARBITRATION

7.1 Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.

7.2 Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations. A demand for arbitration shall not limit or affect the rights of the City to withhold payment pursuant to Section 10.1.2.

7.3 No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner any additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the City, Firm, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described herein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly

consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

7.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 8 -- TERMINATION, SUSPENSION OR ABANDONMENT

8 TERMINATION, SUSPENSION OR ABANDONMENT

8.1 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

8.2 If the project is suspended by the City for more than 30 consecutive days, the Firm shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the compensation of the Firm shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the services of the Firm. Suspension of the project under this section shall not give rise to any claim against the City.

8.3 This Agreement may be terminated by the City upon not less than seven day's written notice to the Firm in the event that the Project is permanently abandoned. If the Project is abandoned by the City for more than 90 consecutive days, the Firm may terminate this Agreement by given written notice.

8.4 In the event of termination not the fault of the Firm, the Firm shall be compensated for services performed prior to termination.

8.5 Termination not the fault of the Firm shall not give rise to any claim against City for damages or for compensation in addition to that provided under this section. Such payment so made to Firm shall be in full settlement for services rendered under and pursuant to this agreement. In the event of termination by either party, all finished or unfinished documents, data studies and reports prepared by Firm under and pursuant to this agreement for which the Firm has been compensated shall, at the option of the City, be available to be used by the City.

8.6 In the event of termination by the City for the default of the Firm, the City may take over the work and services and prosecute them to completion by contract or otherwise, and the Firm shall be liable to the City for any excess cost caused the City by reason of such completion of work.

ARTICLE 9 -- MISCELLANEOUS PROVISIONS

9 MISCELLANEOUS PROVISIONS

9.1 This agreement shall be governed by the law of the State of Michigan.

9.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statues of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion.

9.3 The City and the Firm, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the City nor the Firm shall assign this Agreement without the written consent of the other.

9.4 This Agreement represents the entire and integrated agreement between the City and the Firm and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Firm.

9.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Firm.

9.6 The Firm shall have the right to include representations of the design of the Project, including photographs, among the promotional and professional materials of the Firm. The materials of the Firm shall not include the confidential or proprietary information of the City if the City has previously advised the Firm in writing of the specific information considered by the City to be confidential or proprietary. The City shall provide professional credit for the Firm on the construction sign and in the promotional materials for the Project.

ARTICLE 10 -- PAYMENTS TO THE FIRM

10 PAYMENTS WITHHELD

10.1 Except as provided in 10.2, no deductions shall be made from the compensation of the Firm on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Firm has been found to be liable. Reimbursable expenses shall include preparation and duplication of plans and specifications required by a contractor to bid on this project. Reimbursable expenses may also include any other expenses agreed to by the Firm and the City, provided the expenses were identified and agreed to prior to the expense being incurred.

10.2 When the City has reasonable grounds for believing that a claim exists or will exist against the Firm, arising out of the negligence of the Firm or breach of any provisions of this agreement, then the City may withhold payment of any amount otherwise due and payable to the Firm under this agreement. The amount withheld may be retained by the City for that period as it may deem advisable to protect the City against any loss and may, after written notice to the Firm, be applied in satisfaction of any claim described. No interest shall be payable by the City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of the City.

ARTICLE 11 -- BASIS OF COMPENSATION

11 THE CITY SHALL COMPENSATE THE FIRM AS FOLLOWS

11.1 FOR BASIC SERVICES, as described in Article 2 and Article 3, the City of Portage Request for proposal Document, and any other services, terms, and conditions included in Article 13 as part of Basic Services, Total Compensation shall be:

_____ $_____

(in words)

11.2 **Compensation for Additional Services**

11.2.1 **Reimbursable Expenses**. The Firm is to be reimbursed for the direct costs associated with

printing expenses of the final bid set of documents, including plans, specifications, final computer plotting of the documents, distribution, and the like for the purposes of bidding the project to General Contractors. Any printing, plotting, or distribution costs as a result of changes made by the Owner or Contractor shall be reimbursed at direct cost to the Firm.

11.2.2 Additional services shall be provided at the rates agreed to by the City and Firm in accordance with the proposal submitted.

If it becomes necessary to perform extra work as defined in Section 3.7, the following hourly rates will apply:

11.2.2.1 Owner/Partner: $_____/hour

11.2.2.2 Professionals: $_____/hour

11.2.2.3 Technicians: $_____/hour

11.2.2.4 Clericals: $_____/hour

Rates quoted above are inclusive of all expenses, including but not limited to personnel services, fringe benefits, overhead, and profit required by the Firm.

List any expense rates that may apply to extra work. If no expense rates are indicated, no expenses will be allowed.

ARTICLE 12 – INDEMNITY AND INSURANCE

12 INDEMNITY AND INSURANCE

12.1 Insurance

The successful Firm agrees to provide insurance as outlined below. The firm, or any of its subcontractors, shall not commence work under this contract until it has obtained the insurance required under this section, 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 Portage. The requirements below should not be interpreted to limit the liability of the Firm. All deductibles and SIR's are the responsibility of the Firm.

The Firm shall provide the City of Portage, at the time that contracts are return by the firm for execution, 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 should be acceptable. Copies or certified copies of all policies mentioned shall be furnished, if so requested.

If any of the coverages expire during the term of the contract, the Firm shall deliver renewal certificates and endorsements to the City of Portage at least ten days prior to the expiration date.

Worker's Compensation Insurance - Covering all persons engaged in work under this contract to the full statutory limits stipulated in the Michigan Worker's Compensation Act.

Comprehensive General Liability Insurance:

Bodily Injury - at least $1,000,000/occurrence
Property Damage - at least $1,000,000/occurrence
Personal Injury - at least $1,000,000/occurrence

Professional Liability Coverage (errors and omissions) covering an actual or alleged error, statement, act, omission, neglect or breach of official duty, including misfeasance, malfeasance, and non-feasance - at least $1,000,000/occurrence.

If an "occurrence" policy is unavailable for the professional liability coverage, please include a statement from your insurance agent or broker indicating non-availability of the occurrence form. Under these circumstances, a "claims made" form will be considered if written in the requested amount.

Motor Vehicle Liability Insurance:

Bodily Injury - at least $1,000,000/occurrence
Property Damage - at least $1,000,000/occurrence
Personal Injury - at least $1,000,000/occurrence

Additional Insured: Comprehensive General Liability and Motor Vehicle Liability Insurance shall include an endorsement stating the following shall be additional insured: The City of Portage, 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 by naming the City of Portage as additional insured, coverage afforded is considered to be primary and any other insurance the City of Portage may have in effect shall be considered secondary and/or excess.

Cancellation Notice: All policies, as described above, shall include an endorsement stating it is understood and agreed that thirty (30) days Advanced Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change of the policy, and Ten (10) days written notice for non-payment of premium, shall be sent to the City of Portage Purchasing Manager, 7900 S. Westnedge Avenue, Portage, MI 49002.

It shall be the responsibility of the Firm to ensure that each subcontractor utilized by the Firm (if any) provides evidence that each subcontractor carries insurance in like amounts, prior to the time such subcontractor proceeds to perform under the contract.

12.2 Indemnification

To the fullest extent permitted by Laws and Regulations, the Firm, at its sole cost and expense, shall indemnify and hold harmless the City and its officers, directors, employees, agents and consultants (hereinafter referred to as "Indemnified Parties") from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the performance of the Work or from the failure to comply with any covenant or term of the contract, provided that any such claim, cost, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom or (ii) is caused in whole or in part by any act or omission of the Firm, its agents, officers, contractors, subcontractors, employees, invitees, suppliers or any other person or entity, directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable. Provided, however, that the Firm shall not be required to indemnify the Indemnified Party for injury, death, loss or damage caused by the sole

negligence of the Indemnified Party. If such injury or damage is caused in whole or in part by the acts or omissions of the Indemnified Parties, then the indemnification obligation shall be reduced in proportion to the Indemnified Party's percentage of responsibility for such injury or damage.

In any and all claims against the City or any consultants, agents, officers, directors or employees of the City by any employee (or the survivor or personal representative of such employee) of the Firm, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation above shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Firm or any such Subcontractor, Supplier or other person or organization under workers' compensation Acts, disability benefit Acts or other employee benefit Acts.

Insurance coverage required by the Firm constitutes the minimum requirements and those requirements shall in no way lessen or limit the liability of the Firm under the terms of the contract. The Firm shall procure and maintain at contractor's own cost and expense any additional claims or amounts of insurance that, in the judgment of the City, may be necessary for Firm's proper protection in the prosecution of the work.

ARTICLE 13 -- OTHER CONDITIONS OR SERVICES

13 **OTHER CONDITIONS OR SERVICES**

13.1 **SUPERVISION BY THE FIRM** The Firm will supervise and direct the work covered under this contract. It will be solely responsible for the means, methods, techniques, sequences, and procedures of the work performed. The Firm will appoint a Project Supervisor who shall have full authority to act on behalf of the Firm and all communications given to the Project Supervisor shall be as binding as if given to the Firm.

13.2 **LAWS AND MUNICIPAL ORDINANCES** The Firm shall keep fully informed of all laws and municipal ordinances and regulations in any manner affecting those engaged or employed in the work, or the equipment and materials used in the work, and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. It shall at all times observe and comply with all such existing laws, codes, ordinances, regulations, orders, and decrees.

13.3 **WARRANTY AND GOOD FAITH** The Firm shall remain available and on-call to address any potential warranty claims that may result from any phase of the project. The Firm shall also be available to evaluate any possible system failure that may be allegedly attributable to evaluate any possible system failure that may be allegedly attributable to a design criteria provided by the Firm. This provision shall be defined as a basic service for which compensation is represented in Section 12.1.

13.4 **ATTORNEY FEES** In the event that any actions filed in any court as a result of the breach of this agreement by the Firm, in addition to all the sums that the Firm may be called upon to pay for said breach, it is also responsible for all the actual attorney fees and costs of the City in pursuing the litigation.

13.5 **NON-DISCRIMINATION** The Firm 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-Larsen Civil Rights Act, Article 2, Act No. 453, Public Act of 1976 as amended; the Michigan Handicapper's Civil Rights Act, Article 2, Act No. 220; Public Act of 1976, as amended and all other applicable Federal, State and Local laws and regulations. Specifically, the Firm is required not to discriminate against any employee or applicant for employment with respect to such

person's hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of such person's race, color, religion, national origin, ancestry, age, sex or disability, as defined by law.

13.6 **AGREEMENT VALIDITY** The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provision shall be deemed to be in full force and effect as if it had been executed by both parties subsequent to the expungement of the invalid provision.

This Agreement entered into as of the day and year first written above.

CITY OF PORTAGE	FIRM
_____	_____
(signature)	(signature)
Laurence R. Shaffer, Acting City Manager	_____
Name and Title	Name and Title

Approved as to form:

_____
Randall Brown
Portage City Attorney

INSTRUCTIONS FOR EXECUTING CONTRACT WITH CITY OF PORTAGE

A. **If the contractor is a corporation, the following certificate must be executed:**

I,_____, certify that I am the Secretary of
print or type name
the corporate entity named as Contractor in the contract and that such corporate entity is a corporation in good standing in the State of _____ and has authority
print or type name of state
to transact business in the State of Michigan. [If the corporation is not a Michigan corporation, then a "Certificate of Authority to Transact Business in the State of Michigan" must be attached.] I certify that the contract between the City of Portage and _____, Inc.
print or type name of corporation
was validly executed on behalf of the corporation by _____
print or type name
who was then the _____ of said corporation and has the
print or type name of title
authority to bind the corporation to the contractual agreements pursuant to the authority of its governing body and by-laws and is within the scope of its corporate powers.

_____
Print or type name of corporation

Dated:_____, 20_____ By:_____
Its:_____

B. **If contractor is an LLC, the following certificate must be executed:**

I, _____, certify that I am a member of the
print or type name
limited liability company named as Contractor in the contract and that such LLC is in good standing in the State of _____ and that the LLC has the
print or type name of state
authority to transact business in the State of Michigan. [If the LLC is not a Michigan LLC, then a "Certificate of Authority to Transact Business in the State of Michigan" must be attached.} I certify that the contract between the City of Portage and _____ LLC
print or type name of LLC
was validly executed on behalf of the LLC by _____
print or type name
who was then a member of said LLC and has the authority to bind the LLC to contractual agreements and that such contract is within the scope of its powers.

_____
Print or type name of LLC

Dated:_____, 20_____ By:_____
Its:_____

C. **If the contractor is a sole proprietorship/partnership, the following certificate must be executed:**

I, _____, certify that I am the
print or type name

owner/partner of the company named as Contractor in the contract and that I have the authority to bind _____, to contractual
print or type name of business (insert d/b/a if one exists)

agreements.

_____
Print or type name of company/DBA

Dated:_____, 20_____ By:_____
Its:_____

Notes to Certificate:

1. The full name and business address of the Contractor must be inserted in the contract and the contract must be signed with his/her official signature. The name of the signing party or parties are to be typewritten or printed under all signatures of the contract.

2. If the contract is signed by the secretary of the corporation, the above certificate must be executed by some other officer of the corporation, under the corporate seal. In lieu of the foregoing certificate, there may be attached to the contract copies of so much of the records of the corporation and will show the official character and authority of the officers signing, duly certified by the secretary or assistant secretary under the corporate seal to be true copies.

3. If the Contractor is operating as a partnership, each partner must sign the contract, or if not signed by each partner, there must be attached to the contract a duly authenticated power of attorney evidencing the signer's (signers') authority to sign such contract and on behalf of the partnership.

4. If the Contractor is an individual, the trade name (if the Contractor is operating under a trade name) must be indicated in the contract and the contract must be signed by such individual. If signed by someone other than the Contractor, there must be attached to the contract a duly authenticated power of attorney evidencing the signer's authority to execute such contract for and in behalf of the Contractor.

5. If an LLC, the contract must be signed by a member of the LLC. If signed by someone other than the member, there must be attached to the contract the duly authenticated power of attorney evidencing the signer's authority to execute such contract for and on behalf of the contractor.