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# REQUEST FOR QUALIFICATIONS

## Mound Road Industrial Corridor Technology and Innovation Project in Macomb County

*Construction Manager / General Contractor (CMGC)*

~~ISSUE DATE~~ Addendum 1: September 29~~6~~, 2022

STATEMENT OF QUALIFICATIONS  
DUE DATE: October 6, 2022 at 4:00PM



Addendum 1 ~~Original Issue~~ September 29~~6~~, 2022

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## **SECTION 1: INTRODUCTION**

Macomb County is accepting Statements of Qualifications (SOQ's) from entities (Submitters) interested in providing Construction Manager/General Contractor (CMGC) services for a landscaping replacement project (The Project) on the section of Mound Road between I-696 and M-59.

Macomb County staff, with the assistance of a landscape architecture consultant, is in the process of preparing design plans for the landscaping within the project segment. The design phase is currently 30% complete. Macomb County will also utilize a separate Independent Cost Estimator (ICE) throughout the design phase of the Project. The CMGC is expected to perform the pre-construction services outlined in Section 3.2 and be responsible for the final construction and maintenance of the project if an agreement on price is reached.

As the design nears completion, (approximately 60% to 90% final plans) the selected CMGC will prepare and submit a Construction Services Cost Proposal (CSCP) in accordance with Section 3.3 in order to begin final price negotiations. Subject to a successful price negotiation with Macomb County, the CMGC will be awarded the construction portion of the project and responsible to complete the construction while directly performing at least 40 percent of the work. The remaining portion of work may be completed by subcontractors. If an acceptable Construction Service Cost Proposal cannot be reached, the project will be advertised following Macomb County's design-bid-build process.

By submitting a Statement of Qualifications (SOQ), Submitters agree to be bound by the requirements outlined in this Request for Qualifications (RFQ), be held to any commitments made in a submitted SOQ and shall satisfy all requirements developed during the design phase of the Project. Failure of the Submitter to meet these requirements may result in rejection of the CMGC process, and the Project may be advertised following a design-bid-build process. The Project will be funded with local Macomb County, City of Warren, and City of Sterling Heights dollars.

The purpose of utilizing this innovative delivery method is to benefit the public and Project by engaging the CMGC contractor during the design to ensure the highest chance of landscaping success and cost-effective strategies for long term viability. Including the CMGC in the plant, tree and shrub species selection and planting location process with the desired long term plant retainage requirements will provide the best opportunity for a successful Project that meets the expectations of Macomb County and the stakeholders.

## **SECTION 2: PROJECT BACKGROUND**

### **2.1 PROJECT INFORMATION**

The CMGC shall complete the installation of median landscaping and aesthetic treatments within the limits of the Innovate Mound project corridor, followed by an establishment period for all plantings. Conceptual median treatments and acceptable plant types and landscaping materials are provided in the project reference information documents. Alternate plant types and landscaping materials can be reviewed as the design progresses.



Available project reference information documents can be viewed and/or downloaded at <https://innovatemound.org/Landscaping-Project/>. Available information is as follows:

1. Industry Forum Presentation
2. Industry Forum Meeting Notes Including Q&A
3. Landscaping Aesthetic Guidelines
4. Landscaping Conceptual Plans
5. Roadway Plans Including Detention Basin Detail and Berm Detail
6. Preliminary DTE Lighting Plans
7. 2022 to 2023 Roadway Construction Schedule

Macomb County has a contract with a Design-Builder for construction of the roadway; the Design-Builder’s work includes construction of the median berms, detention pond earthwork, decorative lighting columns, and decorative concrete at intersections shown in the Landscaping Plans. Median lighting along the corridor is being installed by DTE Energy. The CMGC will be responsible for coordinating with the Design-Builder and DTE Energy regarding as-built information for the corridor within the limits of the CMGC’s work.

Installation of the landscaping must be completed over two seasons, mirroring the sequence of the Design-Build roadway construction phases. Seasonal limits and interim completion dates are shown in **Table 1**. Regarding the establishment periods, the end of the establishment period for the Season 1 limits is extended an additional year to match the end of the establishment period of Season 2. The CMGC must also follow turf establishment seasonal limits of October 10<sup>th</sup>.

**Table 1. Landscaping Seasonal Construction Limits and Required Milestone Dates**

Season	POB STA.	POE STA.	Landscaping Construction Completion	End of Establishment Period
Season 1	402+00 (15 ½ Mile)	642+54 (Dobry Drive)	October 31, 2023	October 31, 2026
Season 2	166+50 (11 Mile Road)	402+00 (15 ½ Mile)	October 31, 2024	October 31, 2026

The milestone dates shown in Table 1 must be met; the CMGC shall identify and comply with any and all seasonal restrictions, planting windows, or other constraints that may affect the sequencing of the Work so that the interim completion milestones are met. Liquidated damages on the project will apply per standard specifications.

Performance (establishment) requirements for the landscaping will be developed with assistance from the CMGC. The performance requirements will include inspection and maintenance of the plantings installed as part of the contract, including watering, fertilizing, and/or other support for successful establishment of plantings. All plantings installed as part of the contract will be expected to be maintained at the levels developed in the contract documents and replaced as necessary during the life of the contract. The length of the period will be three years for Season 1, and two years for Season 2 so that the CMGC will maintain the full corridor through the end of the establishment period.

## REQUEST FOR QUALIFICATIONS

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Based on the scope of the Project and the preliminary estimate, the Contractor (CMGC) must meet the following prequalification categories:

- Michigan Department of Transportation 2500 H (Landscaping)

Anyone wishing to perform construction work on the Project must be prequalified.

Information and forms to become construction prequalified are located at:

<https://www.michigan.gov/mdot/Business/Contractors/prequalification>

A sample preconstruction contract is located in Exhibit C.

### 2.2 PROJECT MANAGER

Project Manager:  
John Crumm  
Macomb County Department of Roads  
117 South Groesbeck Highway  
Mount Clemens, MI 48043  
E-Mail: [JCrumm@RCMCWeb.org](mailto:JCrumm@RCMCWeb.org)

All questions must be e-mailed to the Project Manager.

### 2.3 PROJECT TEAM

The Project Team, as referenced herein, is composed of Macomb County Department of Roads staff, HNTB (Macomb County's PMT), MKSK (landscape architecture consultant), the CMGC, potentially key subcontractors to the CMGC, and any additional Project stakeholders.

### 2.4 PROJECT GOALS

The following project goals are expected to be incorporated into the construction phase of the project. Failure to address or determine the means to accomplish these goals during the pre-construction phase may lead to the Project being advertised by using the design-bid-build process instead of having the project constructed by the selected CMGC.

Project goals:

- Ensure total CMGC costs for pre-construction, construction, and establishment phase work are at or below the \$2.5 million budgeted for this CMGC contract.
- Adhere to the Aesthetic Design Guide.

### 2.5 ANTICIPATED PROJECT SCHEDULE (Subject to Change)

Post RFQ	9/06/2022
Due Date for RFQ Questions and Clarifications	10/01/2022



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SOQ Due	10/06/2022 4:00 PM EST
Anticipated Notification of Selection of CMGC*	10/ <del>17</del> 28/2022
Notice to Proceed/Award of Preconstruction Phase	12/9/2022
ICE and Preliminary GMP Review	1/24/2023
CMGC Construction Contract Award**	3/31/2023
Construction Letting (if no final price agreement)	April 2023
Complete Construction Season 1	October 2023
Complete Construction Season 2	October 2024
Establishment Period Ends	October 2026

\*Day after Macomb County October Board Meeting

\*\*Start date will be determined during the design phase of the project in order to meet the required completion dates.

### **SECTION 3: PROJECT SCOPE OF WORK**

#### **3.1 DESIGN RESPONSIBILITY**

The CMGC will not be expected to be the designer of record for the project but is expected to provide the Project Team with construction expertise and technical experience to assist in project decision-making, ensure the technical challenges are addressed, and provide input on items affecting construction costs, schedule, constructability, maintenance and market conditions. Macomb County has hired MKSK to perform the landscaping design work.

#### **3.2 PHASE 1 – PRE-CONSTRUCTION SERVICES**

The CMGC shall consult with the Project Team during the design phase in order to develop, implement, and maintain a spirit of cooperation and open communication among the parties so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and upon completion, the Project is deemed a success by all. The Pre-Construction Services Fee is described in Section 7.1. The CMGC shall deliver pre-construction services by performing the following:

- Review and analyze in-progress design, details, performance requirements, and specifications developed by Macomb County's design consultant and provide input. Macomb County is looking for the CMGC's input on selecting the appropriate design and developing performance measures for inspection and maintenance.
- Provide input on species, sizing, and location of proposed plantings to provide the highest potential for long term viability and meet the needs of Macomb County and the stakeholders.
- Identify potential construction and constructability issues and risks for each to assist the Project Team in selecting the appropriate design and performance measures for the Project.
- Provide recommendations and guidance on the proposed plant locations and maintenance considerations and offer suggestions with respect to the means and methods, materials, innovations, maintaining traffic concepts, and construction sequencing to improve efficiency, cost effectiveness, completeness or clarity, and sustainability of the landscaping.



- Review the project site with Macomb County design and construction staff.
- Coordinate with the Design-Builder as necessary, especially with regard to the accuracy, content, or reliability of construction as-built information within the limits of the CMGC's work.
- Provide input to the Project Team regarding current construction industry practices, labor market, and availability of tree stock.
- It is allowable for the CMGC to use subcontractors or design consultants to supplement pre-construction services in order to provide necessary expertise. Critical or key subcontractor involvement is desired during the preconstruction phase. The self-perform minimum requirement does not apply to preconstruction services, however, the CMGC shall remain fully responsible for any and all commitments made by its subcontractors during the pre-award phase.
- Notify the Macomb County Project Manager, in writing, of all problems, conflicts, and/or deficiencies identified during the review and evaluation of design drawings and/or Design-Builder as-built information.
- Assist the Macomb County Project Manager and design team in resolving problems, conflicts, and/or deficiencies identified during the review and evaluation of design drawings.
- Provide construction estimates, and supporting documentation if requested, when the plans are 60 percent complete and at the final cost negotiation stage. Unless otherwise approved by Macomb County, the estimates will provide a unit price on standard pay items when applicable. If items of work cannot be estimate at these stages, provide a report of what the items are, the reasons a price cannot be estimated, and factors which will impact the item's pricing.
- Provide a written report of items Macomb County should consider to improve any aspect of the project. At a minimum, the reports are to be submitted to the Project Manager after reviewing 60% plans and specifications.
- Develop a preliminary Schedule of Values. At a minimum, the Schedule of Values must incorporate the below items unless otherwise approved by Macomb County. If proposed, other payment mechanisms will be considered for approval.
  - Describe, in writing, with sufficient detail related to the specific work included in the Schedule of Value Item and the limits of the Schedule of Value items so it can be accurately performed, tracked, invoiced and paid
  - Identification of when payment can be requested and payment can be paid
  - Identify the estimated dollar value associated with the Schedule of Value Item
  - Be able to identify key Schedule of Value categories in a CPM Schedule
- Develop a baseline schedule during design which shall include a plan outlining:
  - Material procurement including allowing 7 days for nursery inspection by Macomb County representatives
  - Material delivery and handling



- Production schedule to meet planting dates and priorities

The schedule will be used to analyze the procurement of materials and the constructability of the project within the allotted project milestones. The software used for this will be discussed and approved by Macomb County.

- Provide a final review and evaluation of the final plans and construction documents. Provide a written final review of the plans to demonstrate that the final plans, specifications, items of work, and quantities have been reviewed and are reasonable and accurate to complete the project. The project superintendent must be involved in the review and evaluation of construction documents.
- Provide staff to assist in the preconstruction phase that will be active and have a lead role in the field during construction. The project superintendent should be involved throughout the CMGC process and included in the plan reviews, quantity reviews, etc.
- Work with Macomb County to develop a communication plan within 7 days after the authorization to proceed with pre-construction services. The communication plan should clearly demonstrate how the CMGC and Macomb County will work to convey information and establish a clear line of communication. The plan should also demonstrate how the CMGC and Macomb County plan to include all parties with interest in the project, including, but not limited to City of Warren, City of Sterling Heights, the public, private utilities, and businesses. The plan will serve as the baseline for communication and be followed for both the pre-construction services and services during construction.
- The CMGC should expect to attend all pre-construction coordination meetings with the Project Team. The expected meetings are as follows:
  - Project Kickoff meeting
  - Preliminary Plan Review Meeting
  - Preliminary Estimate Meeting
  - Final Plan Review Meeting
  - Approximately 3 design and estimate review meetings. The design review meetings will be in person.
  - Final Price Negotiation Meetings (minimum of two)

### 3.3 CONSTRUCTION SERVICES COST PROPOSAL

The CMGC shall submit a Construction Services Cost Proposal (CSCP) when the plans and construction documents are completed to a level sufficient to do so. All costs associated with developing and negotiating the CSCP is included in the Pre-Construction Service Fee. The CSCP should include the following three possible payment areas:

- A Lump-Sum Guaranteed Maximum Price (GMP) for the initial plantings and the maintenance period,
- Adjustable work, and
- Possible contingency items.

The GMP must contain all items that will be paid based on an agreed upon unit price. The quantity of the work items included in the GMP may increase or decrease as the project is built, however, there will not be an increase in price to the GMP unless there is a scope change that significantly changes the scope of work. The GMP will not be exceeded without approval from the Macomb County Project Manager, and only by a written work order. All costs or expenses in excess of the GMP shall be borne by the CMGC, unless adjusted by a previously approved written work order. Adjustable Work includes items of work that are paid based on an agreed upon unit price and actual quantities placed during construction. This work shall be used to mitigate risk for items that cannot be accurately quantified during the design. Potential shared risk items will also be identified in the development of the GMP.

Contingency items, if used, will be used to compensate the contractor for work items that cannot accurately be identified and quantified during the design phase. The CMGC should endeavor to include any and all reasonably anticipated items of work in the GMP and Adjustable Work price.

The CMGC should expect several rounds of negotiations to arrive at an agreed upon Construction Services Cost Proposal. Negotiation meetings will primarily occur with staff from the CMGC and Macomb County's Project Manager. Additional parties, including the PMT, may be brought into the negotiations if so directed by Macomb County.

The CSCP shall include:

- Guaranteed Maximum Price (GMP) proposal, including all overhead and profit considered within specified pay items; as well as any subcontracted work. Description of all other inclusions to, or exclusions from, the GMP, including all assumptions and clarifications
- Adjustable Work that may be paid based on an agreed upon unit price and actual quantities.
- Possible contingency items.
- Typical Lump Sum item costs (i.e.: mobilization, minor traffic devices, etc.) shall be detailed and include breakouts of what the costs include. These breakouts shall detail the costs for the prime and sub-contractors (i.e.: personnel established, expenses, bonding amounts, etc.)
- Construction schedule showing the proposed start and finished dates and any significant milestones.
- Clarification of understanding of the EPA/DEQ requirements including adherence to the soil erosion and sedimentation control plan requirements.

The CMGC shall make available all cost and budget estimates, including bid documents and bidding software files to Macomb County.

If the Macomb County Project Manager and the CMGC cannot agree on a Construction Services Cost Proposal, Macomb County reserves the right to terminate the CMGC services without penalty or payment, except payment for Pre-Construction Services, and to proceed with traditional design-bid-build or other non-traditional delivery methods. Any information provided by the CMGC during

the Pre-Construction phase will be used to develop the plans and specifications for the letting. Additional information such as meeting minutes, correspondence and other submittals provided during the development phase may be provided to bidders if a price cannot be reached.

### **3.4 PHASE 2 – CONSTRUCTION SERVICES**

The CMGC shall, once the Construction Service Cost Proposal is approved:

- Construct the work, bid any remaining sub-contractor work, and manage all construction related contracts while meeting all applicable requirements.
- Develop a Quality Control Plan for review and acceptance within 30 days of notice to proceed or prior to beginning work in the field, whichever comes first.
- Execute the Quality Control Plan.
- Bond and insure the construction.
- Address and adhere to federal, state, and local permitting and environmental requirements, if applicable. The CMGC is responsible for procuring any necessary permits to complete the work.
- Maintain a safe clean and well-organized work zone work site.
- Directly perform, with their own forces, the required percent of all construction work specified in Section 1, excluding any identified specialty items.
- Complete the construction no later than specified in Section 2.1 and meet interim completion milestones specified in Section 2.5.

In the event that the contract is terminated after the award of the construction phase to the CMGC, the termination procedures as defined in the contract shall be followed.

## **SECTION 4: TEAMING PARAMETERS**

### **4.1 ORGANIZATIONAL CONFLICTS OF INTEREST**

Organizational conflict of interest means that because of other activities or relationships with other persons or entities, an Organization:

Is unable, or potentially unable, to render impartial assistance or advice to Macomb County

Is, or might be otherwise be, impaired in its objectivity in performing the contract work

Has an unfair competitive advantage

Disclosure, evaluation, neutralization, and management of these conflicts, or the appearance of conflicts, is in the interest of the public, Macomb County, and the consultant and construction communities.

Submitters are required to disclose all relevant facts concerning any past, present, or currently planned interests, activities, or relationships which may present an organizational conflict of interest. Submitters shall state how their interest, activities, or relationships, or those of the chief executives, directors, key project personnel, or proposed Consultants may result, or could be viewed as, an

organizational conflict of interest. Submit Conflict of Interest Statement (See Exhibit A) with the SOQ. It is recommended to contact the Macomb County Project Manager immediately if a conflict of interest is found, or appears to be present, so a course of action can be determined with minimal impact to a Submitter.

If an Organizational Conflict of Interest is determined to exist, Macomb County may, at its sole discretion: offer the Submitter the opportunity to avoid or neutralize the Organizational Conflict of Interest; disqualify the Submitter from participation; or, if award has already occurred, declare the Submitter nonresponsive and award the contract to the next highest scoring Submitter, or cancel the contract. If the Submitter was aware of an Organizational Conflict of Interest prior to award of a contract and did not disclose the conflict, Macomb County may terminate the contract for default.

#### **4.2 TEAM CONTINUITY AND CHANGES TO ORGANIZATION STRUCTURE**

After submittal of a SOQ, Key Personnel may not be removed, replaced, or added without the written approval of the Macomb County Project Manager. It is expected that Key Personnel presented in the SOQ will be available for the duration of the project. Any changes to Key Personnel will require approval from the Macomb County Project Manager and may result in termination of the contract.

To qualify for approval, the written request shall document that the proposed removal and replacement, or addition will be equal to or better qualified than the Key Personnel provided in the SOQ.

#### **4.3 EQUAL EMPLOYMENT OPPORTUNITY**

The Submitter will be required to follow both the State of Michigan and Federal Equal Employment Opportunity (EEO) policies.

#### **4.4 DISADVANTAGED BUSINESS ENTERPRISES**

There will not be a minimum Disadvantaged Business Enterprises (DBE) requirement during the pre-construction phase or during the construction phase.

### **SECTION 5: STATEMENT OF QUALIFICATION REQUIREMENTS**

#### **5.1 ACCEPTANCE OF EVALUATION PROCESS**

A submission of a SOQ in response to this RFQ indicates the Submitter's acceptance of the evaluation process as detailed in Section 8 and the recognition that subjective judgments must be made by the Selection Committee during the evaluation process and in its final selection.

#### **5.2 CLARIFICATIONS AND INTERPRETATIONS**

##### **5.2.1 Answers To Questions**

Submitters are required to direct all contact and questions regarding this RFQ to the Project Manager listed in this RFQ. All requests must be submitted by e-mail only, no later than five (5) business days prior to the Statement of Qualification Due Date. Responses will be publicly posted on the Project Web Site located at:



<https://innovatemound.org/Landscaping-Project/>

**5.2.2 Clarifications Or Interpretations**

Any clarifications or interpretations of this RFQ that affect or change its requirements will be issued by Macomb County to the Project Web Site in the form of addenda, response to questions, or meeting notes. Interpretations or clarifications in any other form, including oral statements, will not be binding on Macomb County and should not be relied upon in preparing the SOQ.

**5.2.3 Addenda**

All addenda issued by Macomb County before the Statement of Qualification Due Date, are part of the RFQ, and all requirements shall be incorporating into the SOQ. The Submitter shall acknowledge receipt of each addendum by completing and submitting form CMGC-003.

**5.3 OBLIGATION OF PARTIES**

The Submitter is solely responsible for ensuring that its SOQ is clear, correct, and consistent. Macomb County reserves the right, at its sole discretion (but is not obligated), to:

- Investigate the qualifications of any Submitter.
- Seek or obtain data from any source related to the SOQ.
- Require confirmation of information furnished by a Submitter.
- Require additional information from a Submitter concerning its SOQ.
- Seek and receive clarifications to a SOQ.
- Require additional evidence of qualifications to perform the work.
- Modify the RFQ process.
- Waive minor deficiencies and irregularities in a SOQ.
- Reject any or all SOQ's.
- Cancel, modify, or withdraw the RFQ.
- Issue a new RFQ.

By submitting a SOQ, the Submitter understands and acknowledges the following:

**5.3.1 Assumed Requirements**

The SOQ presented is based on assumed requirements of the proposed Project; and, that Macomb County has made no written or oral representations that any such assumed requirements are accurate should a contract arise from the presented SOQ. Submitter is required to qualify all assumptions it makes.

**5.3.2 Cost Of Submission**

All costs incurred by the Submitter as a result of the Submitter's efforts to participate in this selection process shall be at the sole risk and obligation of the Submitter.



**5.3.3 Reimbursement**

Macomb County will not provide compensation to the Submitter for any expenses incurred for the SOQ preparation.

**5.3.4 Award Of Contract**

Macomb County makes no guarantee that an award will be made as a result of this RFQ and reserves the right to accept or reject any or all SOQ's, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFQ or resulting contract when deemed to be in the Project's best interest. Representations made within the SOQ will be binding on responding firms, unless otherwise agreed to by Macomb County in writing.

**5.4 COMPLETENESS OF SOQ**

**5.4.1 Completeness**

Each SOQ should be prepared simply and economically, providing a straightforward, concise description of the firm's ability to meet the requirements of the RFQ. Emphasis should be on completeness, clarity of content, responsiveness to requirements, and an understanding of the Project needs.

**5.4.2 Compliance**

Failure to comply with the requirements contained in the RFQ may be subject for rejection of the SOQ.

**5.4.3 Rejection**

Any SOQ that fails to meet the deadline or delivery requirements will be rejected and returned to the Submitter without having been considered or evaluated.

**5.5 WITHDRAWAL OR MODIFICATION**

A SOQ may be withdrawn and resubmitted any time prior to the deadline for submitting the SOQ. No SOQ may be changed, amended, or modified after the deadline for submitting the SOQ. No SOQ may be withdrawn after the deadline for submitting the SOQ without a written request by the Submitter stating the reasons for withdrawing the SOQ and acceptance of the request by Macomb County. All decisions are at the sole discretion of Macomb County.

**5.6 OWNERSHIP OF SOQ's**

SOQ's and any other information submitted by the Submitters shall become the property of Macomb County. All or any part of the proposed Submitter innovation or method may be used or disclosed on this or future projects without obligation or compensation to the Submitter. All information supplied in an SOQ is subject to disclosure per the Freedom of Information Act.

**5.7 VALIDITY PERIOD**

SOQ's are to be valid for Macomb County's acceptance for a minimum of 49 days after the Statement



of Qualification Due Date to allow time for evaluation and selection. A SOQ, if accepted, shall remain valid for the duration of the Contract.

## 5.8 SOQ SUBMITTAL INSTRUCTIONS AND FORMAT

This section describes requirements that all Submitters must satisfy in SOQ. Failure to comply with any of the following by a Submitter may result in the rejection of the SOQ.

### 5.8.1 Due Date, Time, And Location

SOQ's shall be delivered via email to the Project Manager listed in this RFQ. SOQ's are due by 4:00 P.M. EST, on the date identified as the Statement of Qualifications Due Date located on the Cover Sheet. Emails received late will not be accepted.

Macomb County will not accept SOQ's submitted in person, or by facsimile, traditional mail, or courier service.

### 5.8.2 SOQ Format

- **Language:** All information shall be in English.
- **Font:** All narrative text shall be a minimum of twelve (12) points in size and single spaced. The style and size of headings and figures are not prescribed.
- **Page Size:** With the exception of charts, exhibits, and other illustrative material, all information shall be 8.5-inch x 11-inch size. Charts, exhibits, and other illustrative material may be 11-inch x 17-inch size.
- **Page Margins:** Page margins shall be set at 0.75 inches minimum, not including headers or footers.
- **Table of Contents:** Include a Table of Contents that provides page number references.
- **Page Limit:** SOQ's shall not exceed 14 pages in length. Table of contents, staff resumes, and required forms are not included in page limits.
- **Dividers:** Section dividers or bookmarks are welcomed.
- **Graphics:** Graphics are allowed within established page limits. Text used on graphics must be legible and easily readable (minimum of 12-point font required). Graphics must not be used to convey information that could reasonably be presented in the body of the SOQ.

### 5.8.3 SOQ Submittal

Each Submitter must provide Macomb County with the following:

- **One (1) Electronic copy of SOQ in PDF format**

The subject line of the email must state "(Contractor Name) SOQ: LANDSCAPING CMGC". Emails received after the time and date specified above will not be accepted.

## **SECTION 6: STATEMENT OF QUALIFICATIONS CONTENT**

### **6.1 QUALITATIVE CRITERIA**

Section 8.3 contains the qualitative scoring criteria that will be used to score SOQ's. Submitters should clearly describe how they meet the criteria described in this section. Submitter shall provide with its submittal all forms included with this SOQ as follows:

### **6.2 FINANCIAL VIABILITY (Pass/Fail)**

The Submitter shall provide 1300 EZ with their SOQ for Macomb County to verify their financial viability. Form 1381, which is also indicated within form 1300 EZ, is not required.

### **6.3 REQUIRED FORMS**

Submitter shall provide all forms included with this SOQ as follows:

- Form CMGC-001 (Pass/Fail)
- Form CMGC-002 (Pass/Fail)
- Form CMGC-003 (Pass/Fail)
- Conflict of Interest Statement (Pass/Fail)

## **SECTION 7: PRE-CONSTRUCTION SERVICES FEE & TERMINATION**

### **7.1 PRE-CONSTRUCTION FEE**

The selected Submitter will be notified after the SOQ(s) have been reviewed and scored. The selected Submitter will be required to attend a scope verification meeting at a location determined by the Macomb County PM and then submit a Pre-Construction Services Fee. This fee should include all direct costs, overhead and profit required to complete the scope of work outlined in Section 3.2. The Submitter should include a work plan and a description of their intended level of effort to review and assist in the development of plans and specifications during the preconstruction phase. Pre-Construction costs must be supported by a derivation of cost and back-up documentation.

The Pre-Construction Services Fee will be Lump-Sum. In general, two methods of documentation for the derivation of cost and back-up information are acceptable:

- A. Hourly rates with an overhead rate, direct expenses, and fixed fee:
  - The rates for each individual employee or classification included in the priced proposal must be submitted separately in a letter, certified by the company's financial officer.
  - **Overhead rate option 1: Use an audited overhead rate.** Provide audit report for the company's Indirect Cost Rate Schedule for the most recent fiscal year to confirm the audited rate. If the audited overhead rate has been accepted by a state Department of Transportation other than Macomb County, include the acceptance letter and the corresponding audit report for the company's indirect cost rate schedule for the most recent fiscal year.



- **Overhead rate option 2: Request to use MDOT’s Safe Harbor Rate of 110%.**  
Eligibility and requirements are available on MDOT’s website by clicking “Doing Business/Vendor-Consultant Services”, under the heading “Service Prequalification” or the following link:  
[https://www.michigan.gov/documents/mdot/Guidelines\\_for\\_the\\_Safe\\_Harbor\\_Overhead\\_Cost\\_Rate\\_435878\\_7.pdf](https://www.michigan.gov/documents/mdot/Guidelines_for_the_Safe_Harbor_Overhead_Cost_Rate_435878_7.pdf)
- The fixed fee for profit allowed for this project is 11.0% or less of the cost of direct labor and overhead.

B. Loaded hourly rates and direct expenses:

- The loaded hourly rates will include costs for overhead and profit and must be supported by invoices to other clients.
- The invoices must be for similar Pre-Construction services that have been provided to other clients.
- The rates submitted to Macomb County for each employee or classification must be supported by a minimum of three invoices.
- The rates submitted to Macomb County for each employee or classification must not be higher than the corresponding rate on any of the three supporting invoices.
- The invoices must be stamped “approved” by the client, or other documentation must be provided to verify that the client paid the invoices.

Regardless of the cost derivation, no markups will be permitted on subconsultants, subcontractors, suppliers, or vendors.

Macomb County reserves the right to negotiate the cost of the Pre-Construction Services Fee. If Macomb County and the selected CMGC cannot agree on a price, hours of effort or number of employees providing these pre-construction services, Macomb County will begin negotiations with the next highest-ranking Submitter from the SOQ scoring process.

No federal funding is provided for this Project.

Compensation for pre-construction services shall be on a Lump-Sum basis with **milestone payments**. Compensation shall be divided into payments for the completion of a portion of the services (deliverables) as follows, contingent upon agreement by Macomb County that the milestone activity is complete:

Preliminary Plan Comments and Estimate	40%
Pre-Final Plan Comments and Estimate	40%
<u>Construction Services Cost Proposal</u>	<u>20%</u>
Total Service	100%



The Macomb County Project Manager may authorize payment if a milestone is delayed due to circumstances beyond the CMGC's control.

All billings for services must be directed to Macomb County and follow the current guidelines.

Payment to the CMGC for services rendered shall not exceed the maximum lump sum amount unless an increase is approved in accordance with the contract with the CMGC.

## **7.2 TERMINATION OF PRE-CONSTRUCTION SERVICES**

Macomb County may terminate the contract with the CMGC if pre-construction services and coordination are not provided as negotiated and/or expected, or for convenience. A written 15-day notice will be sent to the CMGC before the services are completed. If the contract is terminated for any reason during the pre-construction phase, Macomb County will determine if partial compensation for services rendered shall be paid to the CMGC.

Additional termination conditions may apply. See Exhibit C for additional contract provisions pertaining to termination.

## **SECTION 8: EVALUATION PROCESS**

### **8.1 EVALUATION PROCESS**

SOQ's will initially be evaluated to determine if the Submitter has met the minimum requirements ("Pass") on all Pass / Fail evaluation factors. Pass / Fail evaluation factors are outlined in Section 8.1. SOQ's will then be scored using the evaluation criteria. If a Submitter receives a "Fail" on any single Pass / Fail requirement, the SOQ will be rated as unacceptable and will not be scored on the evaluation criteria.

Once a SOQ has been determined to meet the minimum Pass / Fail criteria, Macomb County will evaluate the SOQ relative to the Macomb County Project Goals as described in Section 2.4 and scoring criteria as listed herein to determine the SOQ total score.

The qualitative evaluation score will be determined as follows:

- The Macomb County Selection Committee will review each SOQ identifying significant and minor strengths and weaknesses of the Submitter.
- Strengths and weaknesses are defined as follows:
  - Strengths – That part of the SOQ which ultimately represents a benefit to the Project and is expected to increase the Submitter's ability to meet or exceed the Project Goals. A minor strength has a slight positive influence on the Submitter's ability to meet or exceed the Project Goals, while a significant strength has a considerable positive influence on the Submitter's ability to meet or exceed the Project Goals.
  - Weaknesses – That part of the SOQ which detracts from the Submitter's ability to

meet the Project Goals or may result in an inefficient or ineffective performance. A minor weakness has a slight negative influence on the Submitter's ability to meet the Project Goals, while a significant weakness has a considerable negative influence on the Submitter's ability to meet the Project Goals.

Based on the identified strengths and weaknesses, the Selection Committee will select an objective rating and percent in the identified range.

The following rating system will be used in determining the value for each Scoring Element of the SOQ:

- **Excellent (81-100 % of points possible):** The SOQ is considered to significantly exceed the RFQ requirements / objectives in a beneficial way (providing advantages, benefits, or added value to the project) and provides a consistently outstanding level of competency. In order for the SOQ to meet the minimum criteria to be scored as Excellent, it must be determined to have more than one significant strength, additional minor strengths and no appreciable weaknesses. There is a high expectation that the team as proposed, would be successful in delivering the Project to the owner's satisfaction, and would most likely exceed all Project Goals.
- **Very Good (61-80 % of points possible):** The SOQ is considered to exceed the RFQ requirements / objectives in a beneficial way (providing advantages, benefits, or added value to the project) and offers a generally better than acceptable competency. In order for the SOQ to meet the minimum criteria for consideration to be scored as Very Good, it must be determined to have at least one significant strength, additional minor strengths and no significant weaknesses. The greater the significance of the strengths and/or the number of strengths, and the fewer the minor weakness will result in a higher score. It is expected that the team as proposed, would be successful in delivering the Project to the owner's satisfaction, and will most likely meet and/or exceed all Project Goals.
- **Good (41-60 % of points possible):** The SOQ is considered to meet the RFQ requirements / objectives and offers an acceptable level of competency. In order for the SOQ to meet the minimum criteria for consideration to be scored as Good, it must be determined to have several strength(s), even though minor and/or significant weaknesses exist. The greater the significance of the strengths and/or the number of strengths, and the fewer the minor or significant weakness will result in a higher score. It is expected that the team as proposed, will be able to deliver the Project and meet the Project Goals.
- **Fair (21-40 % of points possible):** The SOQ is considered to contain several minor and/or significant weaknesses, some minor strengths and no significant strengths. The greater the strengths and fewer the minor or significant weakness will result in a higher score. It is expected that the team as proposed, should be able to deliver the Project but may not be able to meet some of the Project Goals.
- **Poor (0-20 % of points possible):** The SOQ is considered to contain significant weaknesses and no appreciable strengths. The SOQ demonstrates a low probability of meeting the RFQ requirements and may be determined to be nonresponsive. The fewer the minor or significant weakness will result in a higher score. It is unlikely that the team as

proposed would be able to deliver the Project to the owner's satisfaction.

A score will be calculated for each Qualitative Evaluation Criteria by multiplying the percentage by the points possible.

Macomb County reserves the right to conduct an independent investigation of any information, including prior experience, identified in the SOQ by contacting project references, assessing public information, contacting independent parties or other means. Macomb County further reserves the right to request additional information from a Submitter during the evaluation of the SOQ.

The Submitter selected to be the CMGC will be the firm whose verified experience and qualifications, as presented in response to this RFQ and reference checks, in the opinion of Macomb County, as offering the most experience, expertise, and value to Macomb County and the Project. The Selection Committee will review and evaluate the SOQ's throughout the selection process on the following general criteria. It should be noted that this is not a complete list, and should not be considered a "checklist", but rather a reference.

### 8.1 PASS / FAIL EVALUATION CRITERIA

In addition to a complete, responsive SOQ, the following items will be part of the pass/fail evaluation of SOQ submittals:

- CMGC-001 Submitter Information
- CMGC-002 Statement of Qualifications Checklist
- CMGC-003 Addenda Acknowledgment
- Financial Viability (Form 1300EZ) (Note that form 1381 is not required)
- Conflict of Interest Form (See Exhibit A)

### 8.2 QUALITATIVE EVALUATION CRITERIA

#### 8.2.1 UNDERSTANDING OF SERVICE (20 POINTS)

The Submitter shall provide an Executive Summary that includes their understanding of the project and its goals, how those goals will be met through the CMGC process, and a brief narrative describing why they are the "best qualified" to perform the services outlined in this RFQ.

Submitters should describe their ability to provide pre-construction services and the advantages offered to Macomb County and the Project from these services. Submitter should describe their ability to coordinate with Macomb County to improve constructability and provide input on construction methods based on their team's expertise and experience. The Submitter should also detail their approach for this coordination.

Submitters should describe their ability to perform the anticipated construction services for the Project. Identify what are considered to be project risks, and how the Submitter can assist in mitigating these risks.

The Submitter should include sufficient information to familiarize reviewers with their project

approach and their ability to satisfy the technical and construction requirements, review of quantities, development of cost estimates including the GMP, and address the public's concerns related to schedule and access. As part of the Understanding of Service, the Submitter should provide a preliminary communications plan outlining their understanding of how communications between the CMGC and Macomb County will occur.

**8.2.2 EXPERIENCE / PAST PERFORMANCE (25 POINTS)**

The Submitter shall provide the firms past experience on projects with similar scope and complexity. The Submitter should demonstrate how they completed the projects with success in the areas of schedule, safety, quality, cost and maintenance of traffic, including their role in the success of the projects. The Submitter should describe what work is intended to be self-performed and what items will be bid to prequalified sub-contractors.

Submitters should identify projects (up to three) that were completed at more than 5% over bid price and/or more than 10% over the approved schedule and summarize key drivers for the overage. Submitters may also provide examples (up to three) of projects that were delivered significantly under budget or schedule, with quantitative description of cost or schedule savings and key innovations provided by the project team. Submitters may include a current reference letter from an owner/agency representative describing the successful performance and satisfactory completion on the subject project; pictures and/or figures relating to the project are welcomed.

If your organization has defaulted or failed to complete a project in the last five (5) years, please list each project this applies to and the reasons why for each.

The Submitter shall demonstrate sufficient bonding capacity for the Project as part of the firm's qualifications. Submitter shall also provide a disclosure statement identifying if the company is currently for sale or involved in any transaction to expand or to be acquired by another business entity. Macomb County reserves the right to require additional financial information to ensure that the Proposer's financial capacity is acceptable.

The SOQ must also include a disclosure statement identifying any liability claims, including performance or payment bond claims, against their company which are currently pending, or which have been asserted against their company within the last 5 years.

**8.2.3 WORK ZONE SAFETY (10 POINTS)**

The Submitter shall discuss and describe how work zone accidents can be minimized or mitigated. The Submitter should also provide information related to potential areas for contractor staging areas/yards and the access to and from the project.

**8.2.4 SCHEDULE MANAGEMENT (5 POINTS)**

The Submitter shall provide information that will demonstrate how they could reduce and/or improve the overall construction schedule. Macomb County's desire is to expedite the construction schedule while minimizing impacts to the traveling public while completing the work in an effective manner. Scoring will be greatest to those Submitters who provide a clear understanding and provide information on how they expect to meet these goals and demonstrate how their input during the

design will be beneficial to Macomb County's schedule goals.

**8.2.5 QUALIFICATIONS OF KEY STAFF (25 POINTS)**

The Submitter shall list the team's key staff members and their qualifications, roles and responsibilities with projects of similar scope, schedule and complexity. The Submitters should clearly identify the roles of key staff during all phases of the project. The Submitter should demonstrate how communication will occur with internal staff, subcontractors, Macomb County, Macomb County's consultants, as well as their anticipated communication and involvement with the public. It is expected that CMGC staff that will be active during construction are also active during the project's preconstruction phase.

Name the key personnel and describe their role in the Project, experience on similar projects, and experience on other projects that successfully integrated construction and design activities.

Provide an organizational chart for the Project with names of key individuals each for the following:

- Pre-Construction Services (Prime and Subcontractors, if any)
- Construction Services (Prime and any known subcontractors. If Subcontractors are not known or identified, please describe the approach used to select Subcontractors)

Provide resumes for key personnel of the prime and any subcontractors shown on the organization charts. Resumes will not count toward the page limit of a SOQ.

**8.2.6 INNOVATIONS (10 POINTS)**

The Submitter shall list any potential innovations and innovative approaches to completing the project. At a minimum, innovations should specifically address how the Submitter expects to provide input into the design to improve the project and what can be done to expedite the schedule, reduce costs, or both.

**8.2.7 LOCATION (5 POINTS)**

Submitter shall provide the locations of the Prime contractor and key subcontractors and/or vendors. Macomb County shall award up to the maximum points for Michigan-based Submitters.

**8.3 QUALITATIVE SCORE & SELECTION**

Selection will be based on the Submitter with the highest total combined score (100 possible points). Macomb County does not anticipate interviews will be required.

**FINAL SCORE AND SELECTION**

If an interview is conducted the selection will be based on the Submitter with the highest combined total score (100 possible points).

**DEBRIEFING**

Feedback may be provided via face to face meeting, phone or email at the discretion of the Project Manager, however, it will not be provided until after the award of the contract.



**Exhibit A: Conflict of Interest Statement.**

CONFLICT OF INTEREST STATEMENT

\_\_\_\_\_ (Prime Contractor Name) certifies that it has read and understands the following:

The PRIME CONTRACTOR, its team members, and its Affiliates agree not to have any public or private interest, and shall not acquire directly or indirectly any such interest in connection with the project, that would conflict or appear to conflict in any manner with the performance of the services under this Contract. "Affiliate" means a corporate entity connected to the PRIME CONTRACTOR through common ownership. "Team member" means any known entity the PRIME CONTRACTOR intends to be in a contractual relationship with to complete the work associated with the project. The PRIME CONTRACTOR, its team members, and its Affiliates agree not to provide any services to any entity that may have an adversarial interest in the project, for which it has provided services to the COUNTY. The PRIME CONTRACTOR, its team members, and its Affiliates agree to disclose to the COUNTY all other interests that the PRIME CONTRACTOR, its team members, or sub consultants have or contemplate having during each phase of the project. The phases of the project include, but are not limited to, planning, scoping, early preliminary engineering, design, and construction. In all situations, the COUNTY will decide if a conflict of interest exists. If the PRIME CONTRACTOR, its team members, and its Affiliates choose to retain the interest constituting the conflict, the COUNTY may terminate the Contract for cause in accordance with the provisions stated in the Contract.

- Certification for Subject Project: Based on the foregoing, the PRIME CONTRACTOR certifies that no conflict exists with the subject project for it, or any of its team members and/or Affiliates
  
- Disclose of Conflict with Subject Project: Based on the foregoing, the PRIME CONTRACTOR certifies that a potential conflict does or may exist with the subject project for it, and/or any of its team members and/or Affiliates. The attached sheets describe the potential conflict

This form, and any attachments, must be certified by a person from the PRIME CONTRACTOR who has contracting authority.

Certified by: Printed Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company Name: \_\_\_\_\_  
Date: \_\_\_\_\_



**Exhibit B: Forms: CMGC 001, CMGC 002, CMGC 003**





**CMGC-001 SUBMITTER INFORMATION**

**Project:** \_\_\_\_\_

**Name of Submitter:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Contract Person:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_ **E-Mail:** \_\_\_\_\_

**CMGC-002 STATEMENT OF QUALIFICATIONS CHECKLIST**

**Project:** \_\_\_\_\_

**Name of Submitter:** \_\_\_\_\_

- Qualitative Scoring Criteria
- CMGC-001 – Submitter Information\*\*
- CMGC-002– Statement of Qualifications Checklist\*\*
- CMGC-003 – Addenda Acknowledgment\*\*
- Financial Viability (Form 1300EZ)\*\*
- Conflict of Interest Statement (See Exhibit A)\*\*

**\*\*NOT INCLUDED IN SOQ MAXIMUM PAGE COUNT**

**CMGC-003      ACKNOWLEDGMENT OF RECEIPT OF ADDENDA**

**Project:** \_\_\_\_\_

**Name of Submitter:** \_\_\_\_\_

Receipt is hereby acknowledged of the following addenda by Macomb County to this RFQ by entering "YES" or "NO" below and indicating the date received:

<u>Addendum No.</u>	<u>Received</u>	<u>Date Received:</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Title)

\_\_\_\_\_

**Exhibit C: Sample Contract**



REQUEST FOR QUALIFICATIONS

**Exhibit C**

CONTRACT NO. «CONTRNO»  
CONTROL SECTION: «CONTSECTION»  
JOB NO. «JOB»  
FED. PROJ. NO. «FEDPNO»  
ITEM NO. «ITEM»  
AGENDA: «AGENDA»

**MACOMB COUNTY DEPARTMENT OF ROADS**

**«VENDOR»**

**CONTRACT**

This Contract is made and entered into this date of \_\_\_\_\_ by and between the Macomb County Department of Roads (MCDR) and «VENDOR» (CONTRACTOR), of «ADDRESS», for the purpose of MCDR engaging the CONTRACTOR to provide professional Construction Manager/General Contracting services for «PROJECTDESC».

Recitals:

The PROJECT TEAM, as referenced herein, is composed of MCDR, the Design Consultant, the Independent Cost Estimator, the CONTRACTOR, the CONTRACTOR's subcontractors, and any additional project stakeholders; and

After the Phase 1 design plans are sufficiently developed (approximately 70 percent to 90 percent complete), the CONTRACTOR will prepare and submit to MCDR a Construction Services Cost Proposal that includes a Guaranteed Maximum Price (GMP) to complete the construction phase of the project; and

Phase 2 (construction) of the project will commence only if the parties successfully negotiate an acceptable Construction Services Cost Proposal, including the GMP, and enter into a separate construction contract for such Phase 2 construction services; in the event that the parties cannot agree upon an acceptable Construction Services Cost Proposal, including the GMP, MCDR reserves the right to proceed with the project utilizing other delivery methods.

The parties agree that:

**THE CONTRACTOR WILL:**

1. Perform the preconstruction work (Phase 1) set forth in Exhibit A, dated «EXDATE», pages 1 through «EXPGS», attached hereto and made a part hereof (SERVICES).
2. The CONTRACTOR will prepare and submit to MCDR a Construction Services Cost Proposal that includes a GMP. The Phase 2 (construction) of the project will commence only if the parties successfully negotiate an acceptable Construction Services Cost

## REQUEST FOR QUALIFICATIONS

Proposal, including the GMP, and enter into a separate construction contract for such Phase 2 construction services. In the event the parties cannot agree upon a Construction Services Cost Proposal, including the GMP, MCDR reserves the right to terminate the Construction Manager/General Contractor services and proceed with the project utilizing other delivery methods.

3. Perform all SERVICES in conformity with applicable standards and guidelines, including those directly or indirectly incorporated by reference.
4. During the performance of the SERVICES herein defined, be responsible for any loss of or damage to original documents belonging to MCDR while they are in the CONTRACTOR's possession. Restoration of lost or damaged original documents will be at the CONTRACTOR's expense.
5. Make such trips to confer with representatives of MCDR as may be necessary in the carrying out of the SERVICES set forth in this Contract.
6. Submit written progress reports to MCDR that outline the work accomplished during the reporting period; identify any problems, real or anticipated, associated with the conduct of the SERVICES; and identify any deviations from the agreed upon work plan.
7. Prepare the graphics and text for all reports in a form suitable and acceptable to MCDR, such suitability and acceptability to be determined by MCDR. This section is limited to the format of the graphics and text. Nothing herein is to be construed as allowing MCDR to declare as unsuitable or unacceptable any of the graphics or text because of the conclusions arrived at by the CONTRACTOR through analysis of data collected for this project.
8. As used throughout this Contract, the words "satisfactory" and "acceptance" are defined to mean that the product is in the format required and is completely in accordance with the Contract requirements; however, it does not mean that the conclusions arrived at for this project must be approved or agreed to by MCDR.
9. Prepare and submit to MCDR a written preliminary copy of the Final Project Report in accordance with the work plan set forth in Exhibit A for its review and acceptance prior to submission of the Final Project Report. MCDR will notify the CONTRACTOR of its acceptance or rejection of the Final Project Report within sixty (60) days of receipt of same from the CONTRACTOR.
10. Submit any proposed publication by the CONTRACTOR or its subcontractors of the results of project work for prior review and acceptance by MCDR. Such review and acceptance is for MCDR's own purposes and does not relieve the CONTRACTOR of any of its obligations and responsibilities for any claims arising out of such publication. Any such publication will include proper credit for all parties to this Contract.
11. Permit representatives of MCDR, and other authorized public agencies interested in the SERVICES to have full access to the SERVICES during the CONTRACTOR's performance.

## REQUEST FOR QUALIFICATIONS

12. With regard to audits and record-keeping:
  - a. The CONTRACTOR will establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract (RECORDS). Separate accounts will be established and maintained by job number for all costs incurred under this Contract.
  - b. The CONTRACTOR will maintain the RECORDS for at least three (3) years from the date of final payment made by MCDR under this Contract. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the CONTRACTOR will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
  - c. MCDR or its representative may inspect, copy, scan, or audit the RECORDS at any reasonable time after giving reasonable notice.
  - d. If any part of the work is subcontracted, the CONTRACTOR will assure compliance with subsections (a), (b), and (c) above for all subcontracted work.
13. The CONTRACTOR will provide feedback regarding the design in accordance with the following:
  - a. The CONTRACTOR will not be expected to be the designer of record for the project, but is be expected to provide the PROJECT TEAM with construction expertise and technical experience to assist in project decision-making, ensure the technical challenges are addressed, and provide input on items affecting construction costs, schedule, constructability and market conditions.
  - b. The CONTRACTOR is not required to ascertain that the design plans and specifications reviewed during its performance of the SERVICES are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. The CONTRACTOR shall promptly report to MCDR any nonconformity discovered by or made known to the CONTRACTOR as a request for information in such form as MCDR may require. The CONTRACTOR is required to develop the GMP based on work that will be performed in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.
  - c. The recommendations and advice of the CONTRACTOR concerning the design alternatives shall be subject to the review and approval of MCDR.
  - d. The CONTRACTOR will exercise reasonable care in preparing schedules and estimates. The CONTRACTOR, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price.

REQUEST FOR QUALIFICATIONS

14. The CONTRACTOR will provide insurance in the amounts and types set forth below, at a minimum, for the life of the Contract. The CONTRACTOR will submit certificates of insurance to MCDR before the award of the Contract, as requested by MCDR. The insurer must provide at least thirty (30) days written notice of cancellation or change to MCDR. The CONTRACTOR is responsible for verifying that its subcontractors are in compliance with MCDR's insurance requirements.

Required Limits	Additional Requirements
<b>A. Commercial General Liability Insurance</b>	
Minimal Limits: \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations	Coverage for Contractual Liability Insurance, Completed Operations and/or Product Liability, X, C, and U.  Macomb County and its employees, elected and appointed officials, and all Cities, Townships in Macomb County. The MCDR coverage shall be primary.
<b>B. Automobile Liability Insurance</b>	
Minimal Limits: \$1,000,000 Combined Single Limit	Coverage for owned, hired and non-owned vehicles
<b>C. Owners &amp; Contractors Protective Public Liability &amp; Property Damage</b>	
Minimal Limits:  \$1,500,000 Each Occurrence Limit \$3,000,000 total in Aggregate	B.I. & P.D. Coverage  Macomb County and its employees, elected and appointed officials, and all Cities, Townships in Macomb County. The MCDR coverage shall be primary.
<b>D. Workers' Compensation Insurance</b>	
Minimal Limits: \$500,000 or minimum statutory limits & coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.  Macomb County and its employees, elected and appointed officials, and all Cities, Townships in Macomb County. The MCDR coverage shall be primary.
<b>D. Employers Liability Insurance</b>	
Minimal Limits: \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	
<b>E. Umbrella or Excess Liability</b>	
Minimal Limits: \$2,000,000 Each Occurrence Limit \$2,000,000 total in Aggregate	Macomb County and its employees, elected and appointed officials, and all Cities, Townships in Macomb County. The MCDR coverage shall be primary.

Named Insured for (A, C, E) shall include the following: Macomb County and its employees, elected and appointed officials, and all Cities, Townships in Macomb County. The MCDR coverage shall be primary.

The following insurance coverage shall be provided:



## REQUEST FOR QUALIFICATIONS

- Comprehensive General Liability – including coverage for Contractual Liability Insurance,
- Completed Operations and/or Product Liability, X, C, and U,
- Comprehensive Auto Liability Insurance including coverage for owned hired and non-owned vehicles,
- Owners & Contractors Protective Public Liability & Property Damage Insurance,
- Workmen’s Compensation,
- Umbrella or Excess Liability,

The insurance shall not be subject to the usual “X” – explosion, “C” – collapse, or “U” underground property damage exclusions.

The CONTRACTOR and SUBCONTRACTOR (Type A Insurance only) will be required to furnish 3 copies of the Certificate of Insurance on forms furnished by the MCDR, and 3 copies of the Owners & Contractors Protective Policy, Automobile Liability Policy, Workers Compensation said Umbrella or excess Liability Policy prior to execution of the contract. (SEE SAMPLE PROVIDED IN ATTACHMENT A)

Failure on the part of the CONTRACTOR to provide the proper Insurance Policy (Owners and Contractors Protective Policy) within the time limits provided in the insurance binder issued by the insurance carrier will be reason for MCDR to order all work to stop and the CONTRACTOR to remove all equipment from the COUNTY right-of way until such time that the proper insurance policy has been received. MCDR reserves the right to use any project retainage to pay insurance premiums that are unpaid by the COUNTY.

THE OWNERS & CONTRACTORS PROTECTIVE PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE POLICY MUST BE ISSUED BY A COMPANY LICENSED BY THE STATE OF MICHIGAN, AND HAVE A BEST RATING OF A OR BETTER.

In the event of cancellation or reduction in coverage by the Insurance Company, 30 days prior written notice shall be given to the MCDR.

The Subscribing Company and the insured CONTRACTOR agrees to give 30 day prior written notice to MCDR in the event the CONTRACTOR cancels or reduces the coverage of any insurance certified above.

15. If MCDR discloses its confidential information to the CONTRACTOR, the CONTRACTOR will maintain such information as confidential. Information provided by MCDR will be deemed confidential if it is marked confidential or stated in writing to be confidential. The above obligations of confidentiality will not apply to:
  - a. Information for which MCDR gives prior written permission for publication or use.
  - b. Information that is required to be disclosed based on court order.

## REQUEST FOR QUALIFICATIONS

A violation of this provision will be considered a breach of this Contract, and MCDR may terminate this Contract under the provisions of Section 24(b).

News releases pertaining to this Contract or the SERVICES to which it relates will not be made without prior written approval from MCDR, and then only in accordance with explicit instructions from MCDR. News releases made without MCDR's approval will be considered a breach of the Contract, and MCDR may terminate this Contract under the provisions of Section 26(b).

16. Submit billings to MCDR for the SERVICES performed in accordance with the following:
  - a. Billings for SERVICES will be on a milestone basis and will be made in accordance with the milestone schedule set forth in Exhibit A. Each billing for milestone payment will only occur upon acceptance of all work detailed in the milestone schedule for the specific milestone.
  - b. Notwithstanding any other provision in this Contract to the contrary, the CONTRACTOR's milestone payment applications will be supported solely by proof of acknowledgement by MCDR that a particular milestone was accepted. Proof of actual costs incurred will not be required of the CONTRACTOR in support of any pay application under Section 14 or notice of audit under Section 22 as the milestones in Exhibit A have been agreed upon as lump sum compensation milestones.
  - c. Upon request from the CONTRACTOR, partial payments may be made during Phase 2 on a monthly basis. CONTRACTOR shall bear all costs associated with additional invoice preparation and documentation for monthly payments in lieu of milestone payments.
  - d. The CONTRACTOR and MCDR, upon entering into a contract, mutually agree to abide by the rules as set forth in the State of Michigan Act No. 524, Public Acts of 1980.
  - e. The CONTRACTOR agrees that the costs reported to MCDR for this Contract will represent only those items that are properly chargeable in accordance with this Contract. The CONTRACTOR also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.
  - f. The final billing for the SERVICES must be received within sixty (60) days of completion of the SERVICES. MCDR may close the Contract after the sixty (60) days have passed. Costs provided to MCDR after this sixty (60) day period may be denied by MCDR.
  - g. All billings for SERVICES provided prior to September 30 of any year must be received by MCDR in accordance with MCDR's annual fiscal year end instructions or a significant delay in payment may occur.

## REQUEST FOR QUALIFICATIONS

### MCDR WILL:

17. Provide the CONTRACTOR with access to MCDR standards and information in its possession and related to the SERVICES that the CONTRACTOR specifically requests, except for such standards and information as the CONTRACTOR is specifically required to provide.
18. Pay the CONTRACTOR for the SERVICES after receipt of billings and in accordance with the provisions of Section 17 below, subject to verification of progress. Compensation for the SERVICES will be on a milestone basis, with lump sum payments to be made upon the accomplishment of defined milestones, as set forth in Exhibit A, and will not exceed «MAXAMT», as set forth in Exhibit A. The CONTRACTOR will be responsible for all costs in excess of MCDR funds shown above.

Local agency funds in this Contract made available through legislative appropriations are based on projected revenue estimates. MCDR may reduce the amount of this Contract if the revenue actually received is insufficient to support the appropriation under which this Contract is made.

19. Determine that payment for the costs of the SERVICES required and performed is in accordance with the following:
  - a. Milestone payments will be made upon acceptance of all work detailed in the milestone descriptions set forth in Exhibit A.
  - b. Reimbursement for costs incurred is subject to the cost criteria set forth in 48 CFR, Federal Acquisition Regulations, Part 31, incorporated herein by reference as if the same were repeated in full herein.
20. Make payment to the CONTRACTOR after receipt of a billing, in accordance with the following:
  - a. Within thirty (30) days of receipt of the billing from the CONTRACTOR, MCDR will either approve the billing for payment or, in lieu of such approval, will inform the CONTRACTOR that such approval has not been given. Additionally, MCDR will inform the CONTRACTOR why the billing has not been approved and the actions, if any, required of the CONTRACTOR to obtain such approval. Upon approval by the Project Manager, the billing will be submitted for payment. This subsequent payment process requires up to an additional thirty (30) days.

In the event MCDR determines that the CONTRACTOR is not currently eligible to receive any or all of the funds requested, it will promptly notify the CONTRACTOR, stating the reason for such determination.

- b. Upon receipt by MCDR of the required documents and any other accompanying information in a form satisfactory to MCDR, MCDR will process the payment request if the CONTRACTOR is complying with its obligations pursuant to the Contract. Reimbursement of any costs pursuant to this section will not constitute a

## REQUEST FOR QUALIFICATIONS

final determination by MCDR of the allowability of such costs and will not constitute a waiver by MCDR of any violation of the terms of this Contract committed by the CONTRACTOR.

- c. Regardless of its costs, the CONTRACTOR will not be entitled to compensation in excess of the maximum amount(s) set forth in Section 18 hereof.
- d. The CONTRACTOR will not be paid for costs arising from the correction of errors and omissions attributable to the CONTRACTOR.

### IT IS FURTHER AGREED THAT:

21. The parties will consider the SERVICES to be complete when accepted by MCDR. Such acceptance by MCDR is not intended to nor does it relieve the CONTRACTOR of any of its obligations and responsibilities herein.
22. Any change in the scope, character, or term of this Contract or in the maximum amount as shown in Section 18 of this Contract will only be by award of a prior written amendment to this Contract by the parties.
23. When delays are caused by circumstances or conditions beyond the control of the CONTRACTOR, as determined by MCDR, the CONTRACTOR may be granted an extension of time, as set forth in Section 49. Such extension will not operate as a waiver by MCDR of any of its rights herein set forth.
24. In the event that an audit performed by or on behalf of MCDR indicates an adjustment to the costs reported under this Contract or questions the allowability of an item of expense, MCDR will promptly submit to the CONTRACTOR a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to the CONTRACTOR at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the CONTRACTOR will (a) respond in writing to the responsible Bureau of MCDR indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to MCDR a written explanation as to any questioned or no opinion expressed item of expense (RESPONSE). The RESPONSE will be clearly stated and will provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the CONTRACTOR may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by MCDR. The RESPONSE will refer to and apply the language of the Contract. The CONTRACTOR agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes MCDR to finally disallow any items of questioned or no opinion expressed cost.

MCDR will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If

## REQUEST FOR QUALIFICATIONS

MCDR determines that an overpayment has been made to the CONTRACTOR, the CONTRACTOR will repay that amount to MCDR or reach agreement with MCDR on a repayment schedule within thirty (30) days after the date of an invoice from MCDR. If the CONTRACTOR fails to repay the overpayment or reach agreement with MCDR on a repayment schedule within the thirty (30) day period, the CONTRACTOR agrees that MCDR will deduct all or a portion of the overpayment from any funds then or thereafter payable by MCDR to the CONTRACTOR under this Contract or any other agreement or payable to the CONTRACTOR under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by MCDR and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The CONTRACTOR expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest MCDR's decision only as to any item of expense the disallowance of which was disputed by the CONTRACTOR in a timely filed RESPONSE.

25. MCDR and the CONTRACTOR will agree on the Key People to be assigned to the Project Team prior to any work being performed. The CONTRACTOR will not replace any Key People assigned to the Project Team without prior written approval from MCDR. MCDR has the right to disapprove proposed replacements, and the CONTRACTOR is required to find alternative replacements that are acceptable to MCDR. The replacement of Key People from the Project Team without MCDR's prior written approval will be considered a breach of the Contract, and MCDR may terminate this Contract under the termination provisions of Section 24(b). If a member of the Project Team who is one of the Key People leaves the Project Team, the CONTRACTOR will replace that person with a person who is acceptable to MCDR in accordance with the MCDR "Consultant Loss of Key Staff Notification Process," dated February 9, 2015. Failure by the CONTRACTOR to find an acceptable replacement to the Project Team will be considered a breach of this Contract, and MCDR may terminate this Contract under the termination provisions of Section 24(b). "Key People" are defined as those people whose qualifications and experience are essential to providing quality SERVICES. "Project Team" means the personnel assigned by the CONTRACTOR and the subcontractor(s) who are responsible for the completion of the SERVICES.
26. MCDR may terminate this Contract for convenience or cause, as set forth below, before the SERVICES are completed. Written notice of termination will be sent to the CONTRACTOR. The CONTRACTOR will be reimbursed in accordance with the following:
  - a. **Termination for Convenience:**

If MCDR terminates this Contract for convenience, the CONTRACTOR will be reimbursed for all milestones achieved for which MCDR receives the completed work product. MCDR will pay the CONTRACTOR a proportionate share for the

## REQUEST FOR QUALIFICATIONS

partially completed work product of a partially completed milestone. The value of such partially completed work product will be determined by MCDR based on the actual costs incurred. In no case will the compensation paid to the CONTRACTOR for partial completion of SERVICES exceed the amount the CONTRACTOR would have received had the SERVICES been completed.

### **b. Termination for Cause:**

In the event the CONTRACTOR fails to complete any of the SERVICES in a manner satisfactory to MCDR, and/or discloses MCDR's confidential information, in violation of the provisions of Section 13, and/or replaces any Key People without prior written approval from MCDR, as set forth in Section 23, and/or fails to find an acceptable replacement to the Project Team, as set forth in Section 23, and/or makes any public relations communications and/or products that are intended for an external audience without prior written approval from MCDR, as set forth in Section 45, MCDR may terminate this Contract for cause. Written notice of termination will be sent to the CONTRACTOR. The CONTRACTOR will be reimbursed as follows:

The CONTRACTOR will be reimbursed for all milestone achieved for which MCDR receives the completed work product. MCDR will not reimburse the CONTRACTOR for any partially completed milestone(s).

In the event that termination by MCDR is necessitated by any wrongful breach, failure, default, or omission by the CONTRACTOR, MCDR will be entitled to pursue whatever remedy is available to it, including, but not limited to, withholding funds or off-setting against funds owed to the CONTRACTOR under this Contract, as well as any other existing or future contracts between the CONTRACTOR and MCDR, for any and all damages and costs incurred or sustained by MCDR as a result of its termination of this Contract due to the wrongful breach, failure, default, or omission by the CONTRACTOR. In the event of termination of this Contract, MCDR may procure the professional SERVICES from other sources and hold the CONTRACTOR responsible for any damages or excess costs occasioned thereby.

27. All documents prepared by the CONTRACTOR under this Contract are the property of MCDR and cannot be furnished to any party without the permission of MCDR, except to the involved governmental agencies and commissions as part of the progress reporting process and except as provided in and limited in Section 36 herein.
28. This Contract is personal to the parties and cannot be assigned. The CONTRACTOR will not sublet any portion of the SERVICES without MCDR's approval of the CONTRACTOR's Intent to Subcontract form, and subcontractor work may not begin until the subcontract is signed or, in specific situations, a Limited Notice to Proceed form is signed. The CONTRACTOR will not sublet more than sixty percent (60%) of the SERVICES by dollar amount.

## REQUEST FOR QUALIFICATIONS

Such approval of any Intent to Subcontract form is given solely for the purposes of MCDR. Approval does not constitute an assumption of liability, a waiver, or an estoppel to enforce any of the requirements of this Contract, nor will any such approval by MCDR be construed as a warranty of the third party's qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity. The Intent to Subcontract form does not replace the traditional subcontract or subcontract amendment between the CONTRACTOR and its subcontractor. MCDR or its representative may inspect, copy, scan, or audit the traditional subcontract records at any reasonable time after giving reasonable notice.

Any subconsultant will not sublet more than fifty percent (50%) of its subcontracted SERVICES by dollar amount. This provision will be included in all subcontracts relating to this Contract.

The following named subcontractor(s), as set forth in Exhibit A, will perform portions of the SERVICES:

«SUBS»

29. The CONTRACTOR agrees to pay each subcontractor for the satisfactory completion of work associated with the subcontract no later than ten (10) calendar days from the receipt of each payment the CONTRACTOR receives from MCDR. This requirement is also applicable to all sub-tier subcontractors and will be made a part of all subcontract agreements.

This prompt payment provision is a requirement of 49 CFR Part 26, as amended, and does not confer third-party beneficiary right or other direct right to a subcontractor against MCDR. This provision applies to both Disadvantaged Business Enterprise (DBE) and non-DBE subcontractors.

The CONTRACTOR further agrees that it will comply with 49 CFR Part 26, as amended, and will report any and all DBE subcontractor payments to MCDR semi-annually in the format set forth in Appendix G, dated September 2015, attached hereto and made a part hereof, or any other format acceptable to MCDR.

30. All questions that may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, the interpretation of designs and specifications, and the satisfactory and acceptable fulfillment of the terms of this Contract will be decided by MCDR.
31. With regard to non-discrimination and DBE requirements:
  - a. In connection with the performance of SERVICES under this Contract, the CONTRACTOR (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.

## REQUEST FOR QUALIFICATIONS

- b. During the performance of this Contract, the CONTRACTOR, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 USC Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the Department of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.
32. Public Act 533 of 2004 requires that payments under this Contract be processed by electronic funds transfer (EFT). The CONTRACTOR is required to register to receive payments by EFT at SIGMA Vendor Self Service (VSS) website ([www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS)).
33. The CONTRACTOR specifically agrees that in the performance of the SERVICES herein enumerated, by itself, or by an approved subcontractor, or by anyone acting on its behalf, it will comply with any and all state, federal, and local statutes, ordinances, and regulations and will obtain all permits that are applicable to the entry into and the performance of this Contract.
34. The CONTRACTOR warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, MCDR will have the right to annul this Contract without liability or, at its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
35. If MCDR does not wish to subscribe to the findings or conclusions of the SERVICES, the following statement will be added to the credit line of all reports published by the CONTRACTOR or by MCDR:
- "The opinions, findings, and conclusions expressed in this publication are those of the authors and not necessarily those of the Michigan State Transportation Commission, or the Michigan Department of Transportation, or Macomb County, or the Federal Highway Administration."*
36. It is agreed that the CONTRACTOR will not copyright any papers, reports, forms, or other materials that are part of its work under this Contract without the prior written approval of MCDR.
37. In addition to the protection afforded by any policy of insurance, the CONTRACTOR agrees to indemnify, defend, and save harmless MCDR, the City of Warren, the City of Sterling Heights, and all officers, agents, and employees thereof:



## REQUEST FOR QUALIFICATIONS

- a. From any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to the CONTRACTOR in connection with the CONTRACTOR's performance of the SERVICES; and
- b. From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation, and response and cleanup costs, and for attorney fees and related costs arising out of, under, or by reason of the CONTRACTOR's performance of the SERVICES under this Contract, except claims resulting from the sole negligence or willful acts or omissions of said indemnitee, its agents, or its employees.

MCDR will not be subject to any obligations or liabilities by contractors of the CONTRACTOR or their subcontractors or any other person not a party to this Contract without its specific consent and notwithstanding its concurrence with or approval of the award of any contract or subcontract or the solicitation thereof.

It is expressly understood and agreed that the CONTRACTOR will take no action or conduct that arises either directly or indirectly out of its obligations, responsibilities, and duties under this Contract that results in claims being asserted against or judgments being imposed against the State of Michigan, the Michigan State Transportation Commission, MCDR, and/or the FHWA, as applicable.

In the event that the same occurs, it will be considered as a breach of this Contract, thereby giving the State of Michigan, the Michigan State Transportation Commission, MCDR, and/or the FHWA, as applicable, a right to seek and obtain any necessary relief or remedy, including, but not limited to, a judgment for money damages.

38. In accordance with 1980 PA 278, MCL 423.321 et seq., the CONTRACTOR, in the performance of this Contract, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the United States Department of Labor of employers who have been found in contempt of court by a federal court of appeals on not less than three (3) occasions involving different violations during the preceding seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. MCDR may void this Contract if the name of the CONTRACTOR or the name of a subcontractor, manufacturer, or supplier utilized by the CONTRACTOR in the performance of this Contract subsequently appears in the register during the performance of this Contract.
39. The CONTRACTOR's signature on this Contract constitutes the CONTRACTOR's certification that to the best of his or her knowledge and belief no federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

## REQUEST FOR QUALIFICATIONS

The CONTRACTOR will require that the language of this certification be included in the award documents for all third-party agreements (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00) for each such failure.

40. The CONTRACTOR's signature on this Contract constitutes the CONTRACTOR's certification of "status" under penalty of perjury under the laws of the United States with respect to 49 CFR Part 29, as amended and as relocated to 2 CFR Part 1200, pursuant to Executive Order 12549.

The certification that is included as a part of this Contract as Attachment B is Appendix A of 49 CFR Part 29 and applies to the CONTRACTOR (referred to in Appendix A as "the prospective primary participant").

The CONTRACTOR is responsible for obtaining the same certification from all subcontractors under this Contract by inserting the following paragraph in all subcontracts:

*"The subcontractor's signature on this Contract constitutes the subcontractor's certification of 'status' under penalty of perjury under the laws of the United States with respect to 49 CFR Part 29, as amended and as relocated to 2 CFR Part 1200, pursuant to Executive Order 12549. The certification included as a part of this Contract as Attachment B is Appendix B of 49 CFR Part 29."*

This certification is required of all subcontractors, testing laboratories, and other lower tier participants with which the CONTRACTOR enters into written arrangements for the procurement of goods and services provided for in this Contract.

41. For contracts in excess of One Hundred Thousand Dollars (\$100,000.00):
- a. The CONTRACTOR stipulates that any facility to be utilized in the performance of this Contract, unless such Contract is exempt under the Clean Air Act, as amended (42 USC 7401 et seq., as amended, including Pub. L. 101-549), and under the Clean Water Act, as amended (33 USC 1251 et seq., as amended, including Pub. L. 100-4), and/or under Executive Order 11738 and regulations in implementation thereof (40 CFR Part 15), is not listed on the date of Contract award on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
  - b. The CONTRACTOR agrees to comply with all the requirements of the Clean Air Act and the Clean Water Act and all regulations and guidelines listed thereunder related to the CONTRACTOR and the SERVICES under this Contract.

## REQUEST FOR QUALIFICATIONS

- c. The CONTRACTOR will promptly notify MCDR and the U.S. EPA, Assistant Administrator for Enforcement, of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for this Contract is under consideration to be listed on the EPA List of Violating Facilities.
  - d. The CONTRACTOR agrees to include or cause to be included the requirements of the preceding three (3) paragraphs, (a), (b), and (c), in every nonexempt subcontract.
42. The CONTRACTOR agrees that no otherwise qualified individuals with disabilities in the United States, as defined in the Americans with Disabilities Act, 42 USC 12101 et seq., as amended, and regulations in implementation thereof (29 CFR Part 1630), will, solely by reason of their disabilities, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving benefits under this Contract.
  43. The CONTRACTOR agrees that it will not volunteer, offer, or sell its services to any litigant against MCDR with respect to any SERVICES it has agreed to perform for MCDR under this Contract, provided that this provision will not apply either when the CONTRACTOR is issued a valid subpoena to testify in a judicial or administrative proceeding or when the enforcement of this provision would cause the CONTRACTOR to be in violation of any Michigan or federal law.
  44. Any approvals, acceptances, reviews, and inspections of any nature by MCDR will not be construed as a warranty or assumption of liability on the part of MCDR. It is expressly understood and agreed that any such approvals, acceptances, reviews, and inspections are for the sole and exclusive purposes of MCDR, which is acting in a governmental capacity under this Contract, and that such approvals, acceptances, reviews, and inspections are a governmental function incidental to the SERVICES under this Contract.  
  
Any such approvals, acceptances, reviews, and inspections by MCDR will not relieve the CONTRACTOR of its obligations hereunder, nor are such approvals, acceptances, reviews, and inspections by MCDR to be construed as a warranty as to the propriety of the CONTRACTOR's performance but are undertaken for the sole use and information of MCDR.
  45. With regard to claims based on goods or services that were used to meet the CONTRACTOR's obligation to MCDR under this Contract, the CONTRACTOR hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or MCDR due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - 445.788, excluding Section 4a, to the State of Michigan or MCDR.

The CONTRACTOR shall require any subcontractors to irrevocably assign their rights to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or MCDR with regard to claims based on goods or services that were used to

## REQUEST FOR QUALIFICATIONS

meet the CONTRACTOR's obligation to MCDR under this Contract due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - 445.788, excluding Section 4a, to the State of Michigan or MCDR as a third-party beneficiary.

The CONTRACTOR shall notify MCDR if it becomes aware that an antitrust violation with regard to claims based on goods or services that were used to meet the CONTRACTOR's obligation to MCDR under this Contract may have occurred or is threatened to occur. The CONTRACTOR shall also notify MCDR if it becomes aware of any person's intent to commence, or of commencement of, an antitrust action with regard to claims based on goods or services that were used to meet the CONTRACTOR's obligation to MCDR under this Contract.

46. The CONTRACTOR and its Affiliates agree not to have any public or private interest, and shall not acquire directly or indirectly any such interest in connection with the project, that would conflict or appear to conflict in any manner with the performance of the SERVICES under this Contract. "Affiliate" means a corporate entity linked to the CONTRACTOR through common ownership. The CONTRACTOR and its Affiliates agree not to provide any services to a construction contractor or any entity that may have an adversarial interest in a project for which it has provided services to MCDR. The CONTRACTOR and its Affiliates agree to disclose to MCDR all other interests that the prime or sub consultants have or contemplate having during each phase of the project. The phases of the project include, but are not limited to  planning, scoping, early preliminary engineering, design, and construction. In all situations, MCDR will decide if a conflict of interest exists. If MCDR concludes that a conflict of interest exists, it will inform the CONTRACTOR and its Affiliates. If the CONTRACTOR and its Affiliates choose to retain the interest constituting the conflict, MCDR may terminate the Contract for cause in accordance with the provisions stated in this Contract.
47. Any public relations communications and/or products pertaining to this Contract or the SERVICES hereunder that are intended for an external audience will not be made without prior written approval from MCDR, and then only in accordance with explicit instructions from MCDR. Examples of public relations communications and/or products may include the following:
- a. Use of the MCDR logo;
  - b. Brochures, flyers, invitations, programs, or any other printed materials intended for an external audience;
  - c. Postings on social media sites or Web sites;
  - d. New or updated video, digital versatile disk (DVD), or video sharing productions;
  - e. Exhibits or presentations.

A violation of this provision constitutes a breach of this Contract and the prequalification rules, and MCDR may terminate this Contract under the provisions of Section 24(b).

REQUEST FOR QUALIFICATIONS

- 48. This Contract will be in effect from the date of award through «ENDCON». Costs incurred outside of the term of this Contract will not be eligible for reimbursement.
- 49. Prior to expiration, the time for completion of performance under this Contract may be extended by MCDR upon written request and justification from the CONTRACTOR. Upon approval and authorization by MCDR, a written time extension amendment will be prepared and issued by MCDR. Any such extension will not operate as a waiver by MCDR of any of its rights herein set forth.
- 50. In case of any discrepancies between the body of this Contract and any exhibits hereto, the body of this Contract will govern.
- 51. This Contract will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the CONTRACTOR and of MCDR and upon adoption of a resolution approving said Contract and authorizing the signature(s) thereto of the respective representative(s) of the CONTRACTOR, a certified copy of which resolution will be sent to MCDR with this Contract, as applicable.

<<VENDOR>>

By: \_\_\_\_\_

Title:

MACOMB COUNTY DEPARTMENT OF ROADS

By: \_\_\_\_\_

Title:

REQUEST FOR QUALIFICATIONS

Attachment A: Certificate of Insurance Form

**CERTIFICATE OF INSURANCE FOR CONSTRUCTION AND RECONSTRUCTION PROJECTS**  
**NOTE: INSURANCE COMPANY MUST BE LICENSED IN THE STATE OF MICHIGAN**

The subscribing insurance company certifies to the Macomb County Department of Roads that insurance of the kinds and the types and for limits of liability covering the work herein designated, has been procured by and furnished on behalf of the insured contractor named in item one (1).

1. NAME OF INSURED: \_\_\_\_\_  
 ADDRESS OF INSURED: \_\_\_\_\_
  
2. LOCATION and DESCRIPTION OF WORK: Planting of a variety of trees and shrubs along the sides of the Macomb Orchard Trail from 24 Mile Road to West Road in Shelby and Washington Townships. Also included is stump removal and a one year service contract for the watering and maintain of all the trees and shrubs that are planted by the contractor.
  
3. Type of Insurance (indicate policy amount if other than Minimum Limits shown\*)
  - A. Comprehensive General Liability – including coverage for Contractual Liability Insurance, Completed Operations and/or Product Liability, X, C, and U.
  - B. Comprehensive Auto Liability Insurance including coverage for owned, hired and non-owned vehicles.
  - C. Owners & contractors Protective Public Liability & Property Damage Insurance.
  - D. Workmen’s Compensation.
  - E. Umbrella or Excess Liability.

TYPE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	COVERAGE	EACH OCCURRENCE	AGGREGATE
A.				B.I & P.D.	1,000,000	2,000,000*
B.				Combined Single Limit	\$1,000,000*	
C.				B.I. & P.D.	\$1,500,000*	\$3,000,000*
Named Insured for (c) shall include the following: <u>Macomb County Department of Roads</u> (Furnish three (3) copies of policy with this certificate)						
D.	Coverage A - Compensation			MI STATUTORY	\$500,000*	
	Coverage B – Employer’s Liability				\$500,000/\$500.00*/\$500.00*	
E.					\$2,000,000*	\$2,000,000*

Named Insured for (c) shall include the following: MACOMB COUNTY DEPARTMENT OF ROADS AND ITS EMPLOYEES ELECTED AND APPOINTED OFFICIALS, MACOMB ORCHARD TRAIL COMMISSION, SHELBY TOWNSHIP AND WASHINGTON TOWNSHIP AND HCMA SUCH COVERAGE SHALL BE PRIMARY.

Certificate holder is scheduled as additional insured with regards to GL coverages.

The coverage herein certified is written in accordance with the company’s regular policies and endorsement subject to the company’s applicable manual of rules and rates, except:

- (A) The insurance shall not be subject to the usual “X” – explosion, “C” – collapse, or “U” underground property damage exclusions.  
 In the event of cancellation or reduction in coverage by the Insurance Company, 30 days prior written notice shall be given the Macomb County Road Department.  
 The Subscribing Company and the insured contractor agrees to give 30 days written notice to the Macomb County Department of Roads in the event the contractor cancels or reduces the coverage of any insurance certified above.

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

Date: \_\_\_\_\_

BY: \_\_\_\_\_