Material Testing, Quality Control
and Geotechnical Engineering
R 07/09/15

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET

This contract authorizes the professional service contractor to provide professional services. (Authority: 1984 PA 431)

CONTRACT FOR PROFESSIONAL SERVICE: Indefinite-Scope/Indefinite-Delivery (ISID) Billing Rate – Not To Exceed

THIS CONTRACT, authorized this 18th of September in the year two-thousand and fifteen (2015), by the Director, Department of Technology, Management and Budget, BETWEEN the STATE OF MICHIGAN acting through the FACILITIES AND BUSINESS SERVICES ADMINISTRATION, DESIGN AND CONSTRUCTION DIVISION of the DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET, First Floor, Stevens T. Mason Building, Lansing, Michigan, hereinafter called the Department, and

The Mannik and Smith Group, Inc.
2365 Haggerty Road South, Suite 100
Canton, MI 48188

the Testing Professional Services Contractor, hereinafter called the Professional,

WHEREAS, the Department proposes securing professional services FOR THE FOLLOWING PROJECT:

Indefinite-Scope, Indefinite-Delivery Contract No. 00579
Department of Technology, Management and Budget
Facilities and Business Services Administration, Design and Construction Division
Professional Materials Testing, Quality Control, and Geotechnical Engineering Indefinite-Scope, Indefinite Delivery Contract (ISID) for Minor Projects - Various State Departments and Facilities
Various Site Locations, Michigan

Provide Services, technical staff, and support personnel for ISID minor projects on an as-needed basis at various State/Client Agencies within various locations as defined by the State of Michigan. These various ISID minor projects may include projects where the construction costs are between fifteen-thousand dollars ($15,000) and five-hundred-thousand dollars ($500,000) for this Contract.

This Contract is for professional material testing, quality control and geotechnical services (Services) for an unspecified number of ISID projects. The scope of work for each assigned project will be defined at the time the project is awarded by the State to the Professional. The Professional's services shall be performed in strict accordance with this Contract and be in compliance with the Department's approved and attached Appendix 1 – Project/Program Statement.

The total compensation to be paid to the Professional by the Department for all assigned ISID minor Projects under this Contract will not exceed two-hundred and fifty-thousand dollars ($250,000) unless otherwise approved in writing by the Department.

This Contract does not warrant or imply to the Professional entitlement to perform any specific percentage (%) amount of compensation, work or projects during the life of this Contract.

This Contract will remain in effect for three (3) years from the date of this Contract award, but may be unilaterally terminated by the State of Michigan at any time, for cause or its convenience, by written notification of the State, to the Professional. Furthermore, this Contract may be extended for one (1) additional year, at the sole option and discretion of the State upon the Department providing written notice to the Professional prior to the expiration of the original three (3) year Contract time period. Any such time extension shall be subject to the terms and conditions of this Contract, including, but not limited to, the existing hourly billing rates included in this Contract for the Professional, their Consultant, and their employees or agents.

The Professional is not to provide any services or incur expenses until individual ISID Projects are assigned to this Contract. (See Article 2 – Compensation and the Project/Program Statement text of this Contract.)

NOW THEREFORE, the State and the Professional, in consideration of the covenants of this Contract, agree as follows:

I. The Professional shall provide services for the assigned Project during the construction Phase/Task sequence as provided in this Professional Services Contract (Contract) and to the extent authorized by the Department of Technology, Management and Budget (DTMB), Facilities and Business Services Administration (FBSA), Design and Construction Division (DCD) [Department] and be solely responsible for such service. The services shall be performed in strict accordance with this Contract and be in compliance with the attached Appendix 1 - Project/Program.

II. The State of Michigan shall compensate the Professional for providing their professional services for the Project in accordance with the conditions of this Contract.

IN WITNESS, WHEREOF, each of the parties has caused this Contract to be executed by its duly authorized representatives on the dates shown beside their respective signatures, with the Contract to be effective upon the date on which the Professional received a copy executed by the authorized State of Michigan representative(s) by regular, registered, or certified mail or by delivery in person.

FOR THE PROFESSIONAL:

THE MANNIK & SMITH GROUP, Inc. [redacted]

Firm Name — Federal Identification (I.D.) Number

Signature,

9/22/05

Date

SR. VICE PRESIDENT

Title

FOR THE STATE OF MICHIGAN:

Director, Department of Technology, Management and Budget — Date

ARTICLE 1: PROFESSIONAL SERVICE

The Professional shall provide all required professional services, technical staff and support personnel necessary to achieve the Project scope of work as described in the attached Appendix – Project/Program Statement in the best interest of the State within the Professional's not-to-exceed fee herein authorized by the State. Project services shall comprise, without exception, every construction quality control and material testing service discipline and expertise necessary to meet all the requirements as described in the attached Appendix - Project/Program Statement and be in accordance with the industries accepted standards of professional practice.

Construction quality control and material testing services shall be provided in the sequence required by the project and shall be rendered in accordance with the Project schedule and direction as provided by the Prime Professional Services Contractor, the Project Construction Contractor, Project Director, the Field Representative, and/or the State/Client Agency. The services of each Phase shall be conducted in accordance with the descriptions in this article except as may be otherwise prescribed by any appended specifications and/or the testing specifications of the Construction Contract for this Project, which are adopted as a separately bound part of this Contract. Written reports on construction Phase quality control and material testing services shall be provided to the Project Director, the Field Representative, the State/Client Agency, the Project Construction Contractor, and the Prime Professional Services Contractor on a daily basis or as directed by the Project Director. The Professional acknowledges that the Department is the first interpreter of the Professional's performance under this Contract.

The Professional acknowledges by signing this Contract, having a clear understanding of the requested Project scope of work and of the Services required by the Department, and further agrees the terms and conditions of this Contract provide adequate professional compensation for the Professional to provide the requested services. No increase in fee to the Professional will be allowed unless there is a material change made to the Project scope of work as described in the attached Appendix - Project/Program Statement and the change in scope is accepted and approved in writing, by the Project Director and the Professional. Services shall not be performed and no Project expenses shall be incurred by the Professional prior to the issuance of a written and signed Contract and a DMB Form 402 - Contract Order, authorizing the Professional to begin services. Compensation for Department directed changes to the Project or modifications to the Project scope of work will be provided to the Professional by a Contract Modification and/or Contract Change Order. The preparation of Bulletins and Contract Change Orders resulting from increases in the Project scope of work or previously unknown on-site field conditions will be compensated to the Professional, as approved by the Project Director, on an hourly direct payroll/billing rate basis in accordance with this article.

The Professional shall immediately inform the Department whenever it is indicated that the Professional's authorized Project not-to-exceed Budget cost may be exceeded. The Professional shall make recommendations to the Department for revisions to the Project to bring the Project cost back to the Professional's original authorized Budget amount. Any revision to the Project scope of work must be accepted and approved by the Department in writing.

No substitution of any "Key Principal Personnel/Employee" who is essential for the successful completion of the Project and identified in the Professional's attached Appendix – Project Organizational Chart will be allowed by the Professional for this Contract without the prior written consent from the Project Director. Before any "Key Principal Personnel/Employee" substitution takes place, the Professional shall submit a written request to the Project Director for personnel substitution and this substitution request shall include the following information: (1) A request in writing for a No Cost Contract Modification for this "Key Principal Personnel/Employee" substitution; (2) Detailed written justification for this "Key Principal Personnel/Employee" substitution; (3) The Professional's qualifications of any proposed "Key Principal Personnel/Employee" replacement; and (4) A written statement from the Professional firm assuring the Department that the Project scope of work will not be adversely affected by this "Key Principal Personnel/Employee" substitution change. This request by the Professional to modify their Contract must be accepted and approved in writing by the Project Director and the Department's, Professional Services Contract Modification form (DMB-410).

The Department will designate an individual to serve as the Project Director for the Project who shall be fully acquainted with the attached Appendix 1 – Project/Program Statement and have the authority to render Project decisions and furnish information promptly. Except in connection with issues under the Article 12 - Contract Claims and Disputes text, the Project Director will exercise general management and administration for the Professional's Services in so far as they affect the interest of the State. The Professional shall indemnify, defend, and hold harmless the State against exposure to claims arising from delays, negligence or delinquencies by the Professional for the services of this Contract.

During the construction phase of this Project, the Professional shall be required to obtain from the Project Director, the on-site Inspection record standard document form titled "DMB-452, The Professional's Inspection Record" for all on-site Inspection visits to the Project site. This standard document form is part of the "DMB-460, Project Procedures" documents package. The Professional's Inspection Record standard document form shall be completed and signed by the Professional and compiled monthly with the original document sent to the Project Director and a copy sent to the Prime Professional Services Contractor, and the involved Project Construction Contractor. The on-site Inspection record standard document form shall be completed and accompany the Professional's monthly submitted payment request.

The "DMB-460, Project Procedures" documents package shall be used by the Professional in the administration of this Contract and contains the following Department standard document forms: (1) DMB-413, General Release – Visitors; (2) DMB-426, Builder's Risk Claim; (3) DMB-434, Certification of Off-Site Material Storage; (4) DMB-437, Guarantee and Indebtedness Statement; (5) DMB-440, Payment Request; (6) DMB-441, Meeting Attendance Record; (7) DMB-445, Certificate of Substantial Completion; (8) DMB-452, Professional's Inspection Record; (9) DMB-485, Bulletin Authorization No.; (10) Instructions for Schedule of Value; (11) DMB-487, Material Stored on Project/Job Site; and (12) DMB-489, Instructions to Construction Contractors for Preparation of Bulletin Cost Quotations for Contract Change Orders.

The services required for each Phase of this Contract shall be performed by the Professional and their Consultants in accordance with Task service descriptions in this article. The following construction Phase/Task descriptions intend to outline the Department's standard of care describing the Professional's responsibilities for providing the Services for this Contract, but do not limit or exclude any regular or normal services necessary to accomplish the Project scope of work and be in accordance with the best industries accepted standards of professional practice for: (1) Construction quality control and material testing services/office/laboratory requisites and (2) The American Society for Testing and Materials, ASTM E329 testing procedures, inspection and testing standards.

PRELIMINARY PLANNING - FOUNDATION ANALYSIS

PHASE 600 - CONSTRUCTION ADMINISTRATION - OFFICE/LABORATORY SERVICES

Task 600 ADMINISTRATIVE OFFICE/LABORATORY SERVICES: Determine whether or not the construction materials being used for the Phase 600, Construction Phase are in compliance with the Prime Professional Services Contractor's Contract Documents. Provide all administrative office, laboratory, and engineering services to analyze, evaluate, and report the results of all field operations, sampling, and testing. Conduct, prepare, and submit all tests and test result reports, and any associated correspondence. Provide copies to the Project Director, the Field Representative, the State/Client Agency, the Project Construction Contractor, and the Prime Professional Services Contractor. Distribute as the Department may direct. Transmittals of any test result data shall specifically point out any test results not meeting applicable construction quality control and material testing standards or the Prime Professional Services Contractor's Contract Documents.

Task 601 SOIL CONSOLIDATION/COMPACTION: Provide laboratory testing and engineering analysis for bearing capacity and consolidation of natural soils, densification of proposed soils to be used for controlled fill and backfill areas, as well as control of site drainage. Indicate whether the material being tested meets the Prime Professional Services Contractor's Contract Documents requirements.

a. Affirm bearing capacity and calculations.
b. Determine the standard and modified field moisture-density relationships (ASTM 698, ASTM Dl557, ASTM D4253 and ASTM D4254) and on soils to be used for fill or backfill on the Project.
c. Determine Atterberg Limits (ASTM D4318) of cohesive soils and Grain Size Analysis of (ASTM D422) granular soils as required by ASTM D423 (liquid limit), ASTM D434 (plastic limit), and ASTM Dll40 (wash loss).

Task 602 CONCRETE: Provide laboratory testing and analysis of concrete.

a. Review ASTM C94 and ACI 2ll concrete mix designs.
b. Conduct compression tests on cylinders (ASTM C39) as per the Prime Professional Services Contractor's Contract Documents specifications.
c. Perform sieve analysis (ASTM Cl36), organic colormetric (AASHTO T2l), and soft particle determination on aggregates as required by ASTM C33 (aggregate evaluation) and ASTM D422 (aggregate gradation).

Task 603 STRUCTURAL STEEL: Provide shop testing of structural steel.

a. Verify welder certification (AWS D1.1).
b. Test high strength tension bolts (AISC).
c. Perform metallurgical analysis of questionable materials.
d. Verify weld procedures (AWS D1.1).

Task 604 BITUMINOUS PAVING: Provide laboratory testing, and analysis of bituminous paving.

a. Review Marshall Mix design (if prepared by others).
b. Test aggregate base course for compliance with the Prime Professional Services Contractor's Contract Documents (ASTM Cl36, ASTM Dl557 (Modified Proctor), ASTM D692 (course aggregate), ASTM Dl073 (fine aggregate), and AASHTO T88 (gradation).

c. Conduct extraction of bituminous paving mixtures as required by ASTM D2172 and ASTM C136, ASTM D692 (coarse aggregate), ASTM D1073 (fine aggregate), AASHTO T88 (gradation), and AASHTO T164 (extraction).
d. Determine penetration of liquid asphalt as required by ASTM D5) (original penetration) and ASTM (recovered penetration).
e. Record and report test results and observations.

Task 605 MASONRY: Provide laboratory testing and analysis of masonry.

a. Review material requirements for compliance with the Prime Professional Services Contractor's Contract Documents specifications for:

1. Reinforcing Materials - size and type.
2. Units - size and type.
3. Masonry Sand - type and storage.
4. Mortar, Cement, and Lime - types and storage.

b. Review the compressive strength mix designs for compliance with the Prime Professional Services Contractor's Contract Documents for:

1. Mortar and Grout.
2. Masonry Units.
3. Prisms.

c. Review material certifications for compliance with the Prime Professional Services Contractor's Contract Documents for:

1. Block/Concrete Masonry Units.
2. Brick.
3. Pavers.
4. Sound Barriers.

d. Test each different clay masonry unit per ASTM C67.

e. Test each different concrete masonry unit for strength, absorption, and moisture content per ASTM C140.

f. Perform prism tests per ASTM E447, Method B, Mortar (ASTM 270), and Grout (ASTM C1019).

g. Record and report test results and observations.

Task 606 ROOFING: Provide laboratory testing and analysis of roofing system.

a. Attend preliminary roofing conference.
b. Collect roofing material certifications and compare to the Prime Professional Services Contractor's Contract Documents.
c. Review roofing installer's certification.
d. Attend pre-application roofing conference.
e. Record and report test results and observations.

PHASE 700 -CONSTRUCTION ADMINISTRATION - FIELD INSPECTION/TESTING

Task 700 FIELD INSPECTION/TESTING: Determine whether or not the construction materials being used for the Phase 700, Construction Phase are in compliance with the Prime Professional Services Contractor's Contract Documents. Provide all on-site field Inspections, sampling, testing and Inspections as required by the Project construction testing program/requirements to the Project Director, the Field Representative, the State/Client Agency, the Project Construction Contractor, the Prime Professional Services Contractor, and the Department on a daily basis or as directed by the Project Director. Monitor and coordinate on-site field time to efficiently coordinate with the Construction Contractor's operations. On-site field time to provide testing for operations whose planned duration will require overtime shall be reviewed with, and approved by the Department. Notice shall be given immediately to the Construction Contractor and to the Project Director and the Field Representative, of any on-site field Inspection or test which fails to meet applicable construction quality control and material testing standards or the Prime Professional Services Contractor's Contract Documents.

Task 701 SOIL CONSOLIDATION COMPACTION: Provide on-site field testing and engineering analysis for bearing capacity and consolidation of natural soils, densification of proposed soils to be used for controlled fill and backfill areas, as well as control of site drainage.

a. Verify the Prime Professional Services Contractor's Contract Documents design allowable soil bearing capacity at foundation/footing locations.
b. Perform field density testing as required by ASTM D1556 (sand cone), ASTM D2167 (balloon), and ASTM D292 (nuclear density meter).
c. Record and report test results and on-site field Inspections.

Task 702 CONCRETE: Provide on-site field quality control and sampling of concrete as required by ASTM C172 (sampling fresh concrete), ASTM C143 (volumetric air content), ASTM C231 (pressure air content), ASTM C31 (making test cylinders), and ASTM C138 (unit weight and yield).

a. Test plastic concrete for unit weight/yield, slump, air content, and temperature.
b. Collect and verify delivery ticket data from each redi-mix concrete truck. Document the batch time, placement time, and the age of the concrete. Determine the concrete mix design used, and the actual batch weights used for each day of concrete placement, this will include the actual aggregate moisture contents and batch water used.
c. Fabricate three (3) cylinders for compressive strength (ASTM C31) for each one-hundred (100) cubic yards or fraction of placement. Indicate the number of cylinders frequency of sampling, and curing times to compressive strength testing.
d. Record and report test results and on-site field Inspections.

Task 703 STRUCTURAL STEEL: Provide shop and on-site field testing of structural steel as required by AWS D1.1, AISC, ASTM A6 (fabrication shop), AISC for bolted connections for ASTM A325/A490, ASTM F959 (bolted connections), AWS D1.1 (field welding/subsection 7.8.1: stud welding), ASTM E605, E736L (fireproofing), SSPC (paint), and ASNT (nondestructive testing (NDT) requirements).

a. Inspect structural steel fabricator's facility and equipment.
b. Check structural steel mill certificates to verify that materials are in accordance with the Prime Professional Services Contractor's Contract Documents.
c. Verify welder certifications.
d. Inspect completed structural steel fabrications for conformity to the Prime Professional Services Contractor's Contract Documents.
e. Examine critical welds by appropriate nondestructive testing (NDT) methods such as Ultrasonic or Magnetic Particle.
f. Test bolted connections for proper bolt tension.
g. Test shear studs (AWS D1.1).
h. Inspect metal deck for fastening and welding.
i. Record and report test results and on-site field Inspections.

Task 704 BITUMINOUS PAVING: Provide on-site field Inspection and testing of bituminous paving.

a. Inspect proof-rolling of subgrade.
b. Perform density tests (ASTM D2922 or ASTM D2167) on subgrade and aggregate base course.
c. Verify thickness of aggregate base.
d. Inspect bituminous concrete paving placement as required by ASTM D2950 (nuclear density), and MDOT - Michigan Modified Marshall Test.
e. Sample bituminous mixture for laboratory tests (ASTM D979).
f. Determine density (ASTM D2950), asphalt content (ASTM 4125), and degree of compaction of pavement as required by ASTM D2950 (nuclear density), and MDOT - Michigan Modified Marshal Test.
g. Determine thickness of bituminous paving (ASTM D3549).
h. Record and report test results and on-site field Inspections.

Task 705 MASONRY: Provide on-site field Inspection, testing, and engineering analysis of masonry work.

a. Inspect masonry materials as delivered to the Project site.
b. Review mixing and proportioning techniques of mortar and grout.
c. Collect sand, mortar, and grout samples for property requirements test of ASTM C144.
d. Collect mortar samples for property requirements of ASTM C270.

e. Inspect and evaluate masonry walls for masonry quality assurance labor procedures and for placement of:
   1. Head and bedding joints.
   2. Vertical and horizontal reinforcing.
   3. Wall tie spacing.
   4. Headers, lintels and other trade embeds, including bearing areas.
   5. Flashing, weeps, and vents at all areas detailed in the Prime Professional Services Contractor's Contract Documents drawings.
   6. Grout placement including clean-outs and consolidation of lifts.

f. Evaluate quality assurance labor procedures and details that are specific to the Project scope of work.

g. Evaluate and report on overall housekeeping of the Project site.

h. Record and report test results and on-site field Inspections.

Task 706 ROOFING: Provide on-site field Inspection and material review of building elements to be used for the Project roofing system.

a. Visually Inspect roof areas for complete removal of unsatisfactory roofing materials.

b. Verify the roofing materials are in compliance with the Prime Professional Services Contractor's Contract Documents.

c. Inspect roofing system installation and applications.

d. Record and report results of on-site field Inspections.

ARTICLE 2: COMPENSATION

In consideration of the performance of this Contract, the Department agrees to pay the Professional, as compensation for services, a fixed unit price per the attached Fee Schedule and/or an hourly billing rate for each employee providing a direct service to this Project, on a not-to-exceed basis as specified herein, subject to subsequent modification mutually agreeable to the parties hereto; provided, however, the Professional may not incur costs, or bill the Department, for professional services in excess of the estimates established for this Project without the prior written agreement of the Department. The attached proposal prepared by the Professional in response to the Request for Proposal, by the Owner, may describe methodology, services, schedule, and other aspects of the work to be performed under the Contract but does not supersede the Contract.

Compensation to the Professional shall be on a fixed unit price, per the attached Fee Schedule, and/or an hourly billing rate basis for services rendered by salaried and non-salaried professional, technical and non-technical support employees, except for any authorized reimbursable expenses provided for in this Contract. Total compensation for any Phase shall not exceed the amount authorized for that Phase, unless authorized in writing by the Department's approved Contract Change Order. Professional services shall not be performed and no Project expense shall be incurred by the Professional prior to the issuance of a written and signed Professional Services Contract and a DMB Form 402 - Contract Order by the Department to the Professional, authorizing the Professional to start the Project work.

The preparation of Bulletins and Contract Change Orders resulting from increases in the Project scope of work or previously unknown on-site field conditions will be compensated to the Professional, as approved by the Project Director, on an hourly billing rate basis in accordance with this article. This compensation shall not exceed seven and half percent (7.5%) of the Construction Contractor's quotation for the Bulletin or Contract Change Order or an amount mutually agreed upon by the Professional and the Project Director.

The Professional shall provide, at no additional compensation, professional services necessary to respond to and resolve all Construction Contractor design related claims arising wholly or in part from the Professional's errors or omissions or other aspects of the Project's design or the Professional's performance which are inconsistent with the Professional or Construction Contract.

Reproduction costs for the Professional's interpretations, study/design clarifications, and Bulletins necessary to achieve the Contract scope of work final design requirements is not allowable for reimbursement and shall be accounted as part of the Professional's lump sum fee of this Contract.

2.1 PREMIUM TIME/OVERTIME: This Contract anticipates that no premium or overtime is required to achieve this Project's scope of work. No compensation will be allowed to the Professional for any premium or overtime cost incurred to achieve the Project schedule of this Contract, unless directed in writing by the Project Director.

2.2 EMPLOYEE HOURLY BILLING RATES: Hourly billing rates will include all direct and indirect costs to the State for the Professional's services under this Contract other than the authorized and approved reimbursements. Hourly billing rates shall be based on the Professional's documented historical operating expenses and adjusted for Project specific costs.

In no case shall this documentation period include more than eighteen (18) months prior to the date of award of this Contract. The Professional may not provide different hourly billing rates for the same individual for different Phases.

No lump-sum subcontracts for the professional services of any employee may be billed against this Contract. Any employee associated with this Project who performs the professional services of a subordinate or of a position classification having a lower classification/pay range shall be accounted and paid for at the lower hourly billing pay rate. The hourly billing rate charge of any employee may be changed by the Professional with a written and Department approved Contract Modification during the life of this Contract to account for normal personnel pay increases.

Hourly billing rates include, but are not limited to: Overhead items such as employee fringe benefits, vacations, sick leave, insurance, taxes, pension funds, retirement plans, meals, lodging, computer costs/operating costs and time, telephone, telephone-related services, and all reproduction services (except Contract Bidding Documents).

The hourly billing rate also includes all reproduction costs for design interpretations, study/design clarifications and Bulletins related to design errors or omissions, construction code compliance (precipitating either from design code compliance and plan review, design interpretations, or construction on-site/field Inspections), and all similar, or avoidable costs shall be accounted as part of the Professional's calculated hourly billing rate. All incidental postage, mail, or other shipping or delivery services, acquisition, bad debts, previous business losses, employment fees, depreciation, and operating costs for equipment, including computer design and/or computer drafting systems, and any specialized testing equipment are to be included. The hourly billing rate shall include, without exception, secretarial, computer/typing/word processing, editing, and clerical services utilized in any way for the Project as well as other non-technical and/or overhead employees. The hourly billing rate also includes all profit without regard to its form or distribution.

Items not allowable as part of the Professional's calculated hourly billing rate include, but are not limited to: Any costs associated with litigation and settlements for the Professional, or other liability suits, out-of-state offices, and associated travel, bonuses, profit sharing, premium/overtime costs, public relations, entertainment, business promotion, contributions, and various speculative allowances.

The hourly billing rate for the Professional may not be applied to the work of the Professional's Consultant's staff. Each Consultant firm must submit a separate hourly billing rate with proper documentation for the Consultant services they will provide as part of the Proposal. The hourly billing rate of the respective Consultant firm shall be used for that Consultant firm's personnel only. The Professional may propose a moderate mark-up to their Consultant firm's charges. The Professional's Consultant services shall be billed as an authorized reimbursable expense item at a direct cost times the Firm's mark-up percentage accepted by the Department.

2.3 RANGE OF EMPLOYEE HOURLY BILLING RATES: The Professional shall identify the service being provided and include the Professional's or Consultant's employee(s) full names and position classifications for the Project and their current hourly billing rates at the beginning and at the anticipated end of the Project. This hourly billing rate range shall reflect any anticipated pay increases over the life of the Contract. The range of hourly billing rates for any employee position or classification may not be changed without an approved Contract Modification.

2.4 DIRECT COST REIMBURSEMENT ITEMS: The Professional's Consultant services and authorized reimbursable expenses shall be treated as an authorized reimbursable expense item at a direct cost times the firm's mark-up percentage amount approved by the Department. Reimbursement of authorized expense items at direct cost times the firm's mark-up percentage amount is intended only as a means to compensate the Professional for their direct costs. The Professional shall be responsible for the selection of the supplier of their professional services or materials, the coordination, adequacy and application of their professional services, whether provided by the Professional's staff or provided by their Consultant, and therefore responsible for any Project costs that exceed the Contract per Phase reimbursement Budget.

2.5 UNIT PRICE ITEMS: Unit price items shall be based on the attached Fee Schedule. No mark-up of unit pricing shall be allowed. Compensation for unit prices shall not exceed the amounts per Project Phase shown in the attached Contract Order unless authorized by a Department approved Contract Modification.

Project related mileage shall be treated as an authorized reimbursable expense at the State of Michigan's current travel rates.

Unless authorized elsewhere in this Contract, direct cost reimbursement items shall be limited to the actual cost of printing and reproduction of project deliverables such as Final Study Reports, Surveys, Bidding Documents, and U.S. Mail regular shipping postage of the project deliverables listed above. In addition, direct cost reimbursement items may include soil borings, site surveys and any required laboratory testing, Design Code Compliance and Plan Review Approval Fees by the licensing agency; reproduction of documents for legislative presentation, artistic productions, mobilization of testing equipment, laboratory costs for testing samples,

per-linear-foot cost of soil borings and specialized inspections of the structural, mechanical, electrical, chemical or other essential components of the Project.

Compensation for this Contract shall not exceed the amounts per Project Phase shown in the attached Contract Order unless authorized by a Department approved Contract Modification. It shall be the Professional's responsibility to carefully monitor their and their Consultant firms Project costs, activities, and progress and to give the Project Director timely notification of any justifiable need to increase the authorized fee. The Professional may not proceed with professional services that have not been authorized by the Project Director and shall immediately notify the Project Director if such services have been requested or have become necessary.

Identification of Professional and Consultant staff, hourly billable rates, and an itemized list per Project Phase of authorized direct cost reimbursement items are identified in the attached Professional's proposal.

ARTICLE 3: PAYMENTS

Payment of the professional services fee shall be based on the Professional's performance of authorized professional service(s) performed prior to the date of each submitted payment request. Payment requests shall be submitted monthly to the Project Director on a payment request form (DTMB-0440). Payment for each monthly payment request shall be made within thirty (30) consecutive calendar days following the Department's approval of the payment request. Payment requests shall include signed certification by the Professional of the actual percentage of work completed as of the date of invoicing for each Phase and summarize the amounts authorized, earned, previously paid, and currently due for each Project Phase. Payment requests shall be supported by itemized records or documentation in such form and detail as the Department may require. Each of the Professional's Consultant's payment request applications shall include similar information. This includes, but is not limited to:

a) Phase Numbers for the professional services provided.
b) Professional's personnel and position/classification providing service and hours worked
d) Current hourly billing rate charges for each individual position/classification.
e) Copy of certified on-site visitation log or site visit report showing time on-site.
f) Itemized invoices from each of the Professional's Consultant's documenting that firm's professional services charge and the Project work related services provided.
g) Authorized reimbursable expense items provided with receipts and invoices.

ARTICLE 4: ACCOUNTING

The Professional shall keep current and accurate records of Project costs and expenses, of hourly billing rates, authorized reimbursable expense items, and all other Project related accounting document to support the Professional's monthly application for payment. Project records shall be kept on a generally recognized accounting basis. Such records shall be available to the Department for a period of three (3) years after the Department's final payment to the Professional. The State of Michigan reserves the right to conduct, or have conducted, an audit and inspection of these Project records at any time during the Project or following its completion.

ARTICLE 5: INSURANCE

The Professional shall purchase, maintain and require such insurance that will provide protection from claims set forth below which may arise out of or result from the Professional's services under this Contract, whether such service is performed by the Professional or performed by any of the Professional's Consultant's or by anyone directly or indirectly employed by them, or by anyone for whose acts they may be liable. The following insurance policy limits described below are intended to be the minimum coverage acceptable by the State:

For the purpose of this Section, "State" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

(a) The Contractor must provide proof that it has obtained the minimum levels of insurance coverage indicated or required by law, whichever is greater. The insurance must protect the State from claims that may arise out of or result from or are alleged to arise out of or result from the Contractor's or a Subcontractor's performance, including any person directly or indirectly employed by the Contractor or a Subcontractor, or any person for whose acts the Contractor or a Subcontractor may be liable.
(b) The Contractor waives all rights against the State for the recovery of damages that are covered by the insurance policies the Contractor is required to maintain under this Section. The Contractor's failure to obtain and maintain the required insurance will not limit this waiver.
(c) All insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State.

(d) The State, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.

(e) Unless the State approves, any insurer must have an A.M. Best rating of "A-" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from an insurance rating agency approved by the State. All policies of insurance must be issued by companies that have been approved to do business in the State. To view the latest A.M. Best's Key Ratings Guide and the A.M. Best's Company Reports (which include the A.M. Best's Ratings) visit the A.M. Best Company internet web site at http://www.ambest.com.

(f) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, the State is entitled to coverage to the extent of the higher limits.

(g) The Contractor must maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three (3) years following the termination of this Contract.

(h) The minimum limits of coverage specified are not intended, and may not be construed, to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

(i) The Contractor is responsible for the payment of all deductibles.

(j) If the Contractor fails to pay any premium for a required insurance policy, or if any insurer cancels or significantly reduces any required insurance without the State's approval, the State may, after giving the Contractor at least 30 day notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or require the Contractor to pay that cost upon demand.

(k) In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Michigan Attorney General.

(l) If single policy limits are used to fill more than one of these requirements evidence of separate aggregate limits must be noted on the certificate.

5.1 Workers' Compensation Insurance

The Contractor must provide Workers' Compensation coverage according to applicable laws governing work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, the Contractor must provide proof of an approved self-insured authority by the jurisdiction of domicile.

For employees working outside of the state of the Contractor's domicile, the Contractor must provide certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

5.2 Employers Liability Insurance

Minimal Limits:

$100,000 Each Accident;
$100,000 Each Employee by Disease
$500,000 Aggregate Disease

5.3 Motor Vehicle Insurance

If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.

5.4 Commercial General Liability Insurance

For claims for damages because of bodily injury or death of any person, other than the Professional's employees, or damage to tangible property of others, including loss of use resulting therefrom, to the extent that such kinds of liability are not insured by other specific liability insurance and are ordinarily insurable under general liability insurance. The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

Minimal Limits:

$1,000,000 Personal & Advertising Injury Limit;
$1,000,000 Each Occurrence Limit;
$2,000,000 General Aggregate Limit.

5.5 Professional Liability Insurance (Errors and Omissions)

For claims for damages arising out of an error, omission or negligent act in the performance of professional services.

Minimal Limits:

$1,000,000 Each Occurrence
$2,000,000 Annual Aggregate

The Professional's Errors and Omissions coverage shall include coverage for claims resulting from acts of forbearance that cause or exacerbate pollution and claims of bodily injury and property damage in the amount of $1,000,000 minimum coverage per occurrence, $2,000,000 annual aggregate. This insurance is required of all Professional firms who conduct professional environmental services including, but not limited to, any of the following services:

(i) Remedial System Design.
(ii) Remediation Management.
(iii) Feasibility Development and Implementation.
(iv) Hydrogeological Evaluation.
(v) Media Testing and Analysis.
(vi) Subsurface and Geophysical Investigation.
(vii) Other related activities as determined by the Department.

Contractual Liability Insurance for claims for damages that may arise from the Professional's assumption of liability on behalf of the State under Article 6 concerning indemnification for errors, omissions, or negligent acts in the course of the professional service or other provision within this Contract to the extent that such kinds of contractual liability are insurable in connection with and subject to limits of liability not less than for the general liability insurance and the professional liability insurance and set forth in subsections (c) and (d) above.

Except where the State has approved a subcontract with other insurance provisions, the Professional must require any Consultant/Subcontractor to purchase and maintain the insurance coverage required in this Article. Alternatively, the Contractor may include a Consultant/Subcontractor under the Professional's insurance on the coverage required in that Section. The failure of a Consultant/Subcontractor to comply with insurance requirements does not limit the Professional's liability or responsibility.

Certificate of Insurance documents, acceptable to the State, shall be provided and filed with the Department prior to commencement of the Professional's Project services, unless otherwise approved in writing, and not less than 20 days before the insurance expiration date every year thereafter. Facsimile copies of the Certificate of Insurance will not be accepted. Certificate of Insurance documents must be either submitted hard copy or portable document file (.pdf). The Certificate of Insurance documents must specify on the certificate in the oblong rectangle space labeled "Description of Operations/Locations/Vehicles/Exclusions Added By Endorsement/Special Provisions/Special Items" the following items: **(1) The Project File No.; (2) The Project Title; (3) Description of the Project; and (4) The State of Michigan must be named as an "Additional Insured on the General Liability Insurance Policy."** The Certificate of Insurance documents shall contain a provision that the Project insurance coverage afforded under the insurance policies for this Contract will not be modified or canceled without at least thirty (30) consecutive calendar days prior written notice, except for 10 days for non-payment of premium, to the State of Michigan, Department.

The attached, Certificates of Insurance documents required for this Project shall be in force for this Project until the final payment by the State to the Professional is made and shall be written for not less than any limits of liability specified above. The Professional has the responsibility for having their Consultant firm's comply with these insurance requirements.

ARTICLE 6: INDEMNIFICATION

(a) To the extent permitted by law, the Professional shall indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Professional in the performance of this Contract and that are attributable to the negligence or tortious acts of the Professional or any of its Subcontractors/Consultants, or by anyone else for whose acts any of them may be liable.

(b) Employee Indemnification: In any and all claims against the State of Michigan, its departments, divisions, agencies, boards, sections, commissions, officers, employees and agents, by any employee of the Professional or any of its Subcontractors/Consultants, the indemnification obligation under this Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Professional or any of its Subcontractors/Consultants under

worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

(c) Patent/Copyright Infringement Indemnification: To the extent permitted by law, the Professional shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Professional or its Subcontractors/Consultants, or the operation of such equipment, software, commodity or service, or the use of reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or services, or its operation, become or in the State's or Professional's opinion be likely to become the subject of a claim of infringement, the Professional shall at the Professional's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Professional, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Professional, (iii) accept its return by the State with appropriate credits to the State against the Professional's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Professional shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Professional, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Professional under this Contract.

ARTICLE 7: OWNERSHIP OF DOCUMENTS

All Project deliverables, including but not limited to: reports, Bidding Documents, Contract Documents, electronic documents and data, and other Project related documents, including the copyrights, prepared and furnished by the Professional shall become the property of the State of Michigan upon completion of the Project, completion and acceptance of the professional's work, or upon termination of the Contract. Project deliverables shall be delivered to the Department upon their request. The Professional shall have no claim for further employment or additional compensation as a result of this Contract requirement. The Professional may retain a copy of all Project documents for their files.

If the Professional is in default or breach of its obligations under this Contract, the State shall have full ownership rights of the Project deliverables, including, but not limited to, Bidding Documents and Contract Documents, test/laboratory data, including all electronic data. If the Professional is in default or this Contract Agreement is terminated, the State shall not use the Documents and deliverables of this Contract for completion of the Project by others without the involvement of other qualified Professionals who shall assume the professional obligations and liability for the Project work not completed by the Professional. To the fullest extent allowed by law, the State releases the Professional, the Professionals Consultant(s) and the agents and employees of any of them from and against legal claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of the State's use of the Documents other than in accordance with this Contract Agreement.

All Contract deliverables listed may be published or issued for informational purposes without additional compensation to the Professional. The Professional may not use any of the Contract Documents and Contract deliverables for any purpose that may misrepresent the professional services they provided.

The Professional shall retain full rights to the documents and deliverables and the right to reuse component information contained in them in the normal course of the Professional's activities.

The Contract deliverables, Contract Documents, or other documents produced under this Contract may be used by the Department, or others employed by the Department or State of Michigan, for reference in any completion, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Professional.

The State of Michigan will not construct additional Projects or buildings based on the work of this Contract without notice to the Professional.

Whenever renderings, photographs of renderings, photographs or models, or photographs of the Project are released by the State of Michigan for publicity, proper credit for design shall be given to the Professional, provided the giving of such credit is without cost to the State of Michigan.

ARTICLE 8: TERMINATION

The State may, by written notice to the Professional, terminate this Contract in whole or in part at any time, either for the State's convenience or because of the failure of the Professional to fulfill their Contract obligations. Upon receipt of such notice, the Professional shall:

a) Immediately discontinue all professional services affected (unless the notice directs otherwise), and

b) Deliver to the State all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Professional in performing this Contract, whether completed or in process.

8.1 If the termination is for the convenience of the State, an equitable adjustment in the Contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed professional services.

8.2 If the termination is due to the failure of the Professional to fulfill their Contract obligations, the State may take over the work and prosecute the same to completion by Contract or otherwise. In such case, the Professional shall be liable to the State for any additional cost occasioned to the State thereby.

8.3 If, after notice of termination for failure to fulfill Contract obligations, it is determined that the Professional had not so failed, the termination shall be deemed to have been effected for the convenience of the State. In such event, adjustment in the Contract price shall be made as provided in Section 8.1 of this article.

8.4 The rights and remedies of the State provided in this article are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE 9: SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that neither of the parties hereto shall assign this Contract without the prior written consent of the other.

ARTICLE: 10 GOVERNING LAW

This Contract shall be construed in accordance with the laws of the State of Michigan.

ARTICLE 11: NONDISCRIMINATION

In connection with the performance of the Project under this, the Professional agrees as follows:

a) The Professional will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, age, sex, height, weight, marital status, or a physical or mental disability that is unrelated to the individual's ability to perform the duties of the particular job or position. The Professional will provide equal employment opportunities to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or a physical or mental disability that is unrelated to the individual's ability to perform the duties of the particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b) The Professional will, in all solicitations or advertisements for employees placed by or on behalf of the Professional, state that all qualified applicants will receive equal employment opportunity consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or a physical or mental disability that is unrelated to the individual's ability to perform the duties of the particular job or position.

c) The Professional or their collective bargaining representative will send to each labor union or representative of workers with which is held a collective bargaining agreement or other Contract or understanding, a notice advising the said labor union or workers' representative of the Professional's nondiscrimination commitments under this article.

d) The Professional will comply with the Elliot-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2201 et seq; the Michigan Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq; and all published rules, regulations, directives and orders of the Michigan Civil Rights Commission which may be in effect on or before the date of award of this Contract.

e) The Professional will furnish and file nondiscrimination compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of the Professional and of each of their Consultant firms. The Professional will permit access to all books, records, and accounts by the Michigan Civil Rights Commission, and/or its agent, for purposes of investigation to ascertain nondiscrimination compliance with this Contract and with rules, regulations, and orders of the Michigan Civil Rights Commission relevant to Article 6, 1976 PA 453, as amended.

f) In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that the Professional has not complied with the contractual nondiscrimination obligations under this Contract, the Michigan Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which the State Administrative Board may order the cancellation of the Contract found to have been violated, and/or declare the Professional ineligible for future Contracts with the State and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the Professional complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the Professional is declared ineligible to Contract as a contracting party in future Contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing Contract is a possibility, the State shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.

g) The Professional shall also comply with the nondiscrimination provisions of 1976 PA 220, as amended, concerning the civil rights of persons with physical or mental disabilities.

h) The Professional will include, or incorporate by reference, the nondiscrimination provisions of the foregoing paragraphs a) through g) in every subcontract or Contract Order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or Contract Order that said nondiscrimination provisions will be binding upon each of the Professional's Consultant's or seller.

ARTICLE 12: CONTRACT CLAIMS AND DISPUTES

In any claim or dispute by the Professional which cannot be resolved by negotiation, the Professional shall submit the claim or dispute for an administrative decision by the Director within thirty (30) consecutive calendar days of the end of the disputed negotiations, and any decision of the Director may be appealed to the Michigan Court of Claims within one (1) year of the issuance of the Director's decision. The Professional agrees that the Department's appeal procedure to the Director is a prerequisite to filing a suit in the Michigan Court of Claims.

ARTICLE 13: DEFINITION OF TERMS:

The definition of terms and conditions of this Contract are described and outlined in Articles 1 through 14 and attached appendices. The capitalized defined terms used in this Contract shall have the following definitions:

ADDENDA: Written or graphic numbered documents issued by the Department and/or the Professional prior to the execution of the Construction Contract which modifies or interprets the Project final design Contract Bidding Documents, including drawings, and specifications, by additions, deletions, clarifications or corrections. The Addenda shall: (1) Be identified specifically with a standardized format; (2) Be sequentially numbered; (3) Include the name of the Project; (4) Specify the Project Index No., Project File No., the Contract Order No. Y, and a description of the proposed Addenda scope of work; and (5) Specify the date of Addenda issuance.
As such, the Addenda are intended to become part of the Project final design Contract Bidding Documents when the Construction Contract is executed by the Prime Professional Services Contractor's recommended lowest responsive, responsible qualified Construction Contractor. An Addendum issued after the competitive construction Bid opening to those construction Bidders who actually submitted a Bid, for the purpose of rebidding the Project work without re-advertising, is referred to as a post-Bid Addendum.

BID: A written offer by a competitive construction Bidder for the Department's Project construction work, as specified, which designates the competitive construction Bidder's base bid and Bid price for all alternates.

BIDDER: The person acting directly, or through an authorized representative, who submits a competitive construction Bid directly to the Department.

BIDDING DOCUMENTS: The Prime Professional Services Contractor's Project Contract Documents, drawings, and specifications as advertised, including but not limited to, special, general, and supplemental conditions, Departmental form modifications, and all Addenda issued before the competitive construction Bid opening, and after the competitive construction Bid opening, if the Project construction work is rebid without re-advertising.

BUDGET: The maximum legislatively authorized Budget amount to be provided by the State of Michigan and available for a specific purpose or combination of purposes to accomplish the Project scope of work for this Contract.

BULLETIN: A standard document form (DMB-485, Bulletin Authorization No. and the DMB-489, Instructions to Construction Contractors for Preparation of Bulletin Cost Quotations for Contract Change Orders) used by the Department to describe a sequence numbered change in the Project scope of work under consideration by the Department and the Professional and to request the Construction Contractor to submit a proposal for the corresponding adjustment in the Contract price and/or Contract time, if any. These standard document forms are a part of the "DMB-460, Project Procedures" documents package.

CONSTRUCTION CONTRACT: A separate written Contract agreement between the Construction Contractor and the Department for the construction, alteration, demolition, repair, or rebuilding of a State/Client Agency building or other State property.

CONSTRUCTION CONTRACTOR: Any construction firm under a separate Contract to the Department for construction services.

CONSULTANT: Any individual, firm, or employee thereof, not a part of the Professional's staff, but employed by the Professional and whose professional service cost is ultimately paid by the State of Michigan, either as a direct cost or reimbursement. This includes the recipient(s) of Contract Orders for material, support, and/or technical services. Also, included are persons and firms whose management and/or direction of services are assigned to the Professional as may be provided elsewhere in this Contract.

CONTRACT CHANGE ORDER: A written order standard document form (DMB-403) issued and signed by the State of Michigan and signed by the Professional which amends the attached Appendix 1 – Project/Program Statement scope of work or an adjustment in Contract price and/or Contract time, or both.

CONTRACT DOCUMENTS: The Prime Professional Services Contractor plans/drawings, specifications, proposal, agreement, all Addendums and attachments as may be necessary to comprise a Construction Contract for the Project scope of work for providing professional construction quality control and material testing/engineering services during the Project construction work.

CONTRACT MODIFICATION: A written amendment, standard document form (DMB-410), to the Contract scope of work signed by the Department and the Professional. The preparation of Bulletins and Contract Change Orders resulting from changes in the attached Appendix 1 – Project/Program Statement or previously unknown on-site field conditions as approved by the Department will be compensated to the Professional by way of the Contract Modification in accordance with the Article 2, Compensation text of this Contract. Any Contract Modification of this Contract must be in writing, signed by duly authorized representatives of the parties, and shall be in such format and detail as the Department may require. No Contract Modification will be approved to compensate the Professional for correcting, or for responding to claims or litigation for the Professional's construction quality control and material testing/engineering design errors, omissions, or neglect on the part of the Professional.

CONTRACT ORDER: A written order standard document form (DMB-402) issued and signed by the State of Michigan authorizing a professional firm to: (1) Begin to incur Project expenses and proceed with the Project; and (2) Provide the services stipulated in the fully executed Contract for the not-to-exceed dollar fee amount designated in the Phases of the Contract Order. Issuance of this standard document form by the State of Michigan to the Professional certifies that: (1) The State will enter into a Contract for the services described in the Phases of this Contract; and that (2) The proper two (2) sets of Certificate of Insurance documents have been received and accepted by the State along with the approval and signing of the Professional's Contract by the Director.

DEPARTMENT: The Department of Technology, Management and Budget. The Department will represent the State of Michigan in all matters pertaining to this Project. This Contract will be administered through the Department of Technology, Management and Budget, Facilities and Business Services Administration, Design and Construction Division on behalf of the Department.

DIRECTOR: The Director of the Department of Technology, Management and Budget or their authorized State of Michigan representative.

DIRECTOR-FA: The Department of Technology, Management and Budget, Director of Facilities and Business Services Administration or their authorized State of Michigan representative.

FIELD REPRESENTATIVE: An employee of the State under the direction of the Project Director who provides the Inspection of construction Projects for compliance with the design intent of the Prime Professional Services Contractor's Contract Documents, drawings, and specification and the building construction codes. The Field Representative is the liaison between the Construction Contractor, the Prime Professional Services Contractor, the Professional, and the Project Director. The Project Director, or their Field Representative, has the authority to require the Prime Professional Services Contractor and the Professional to respond to and resolve design related problems, construction field problems, and to attend Project meetings. Unless delegated by specific written notice from the Department, the Field Representative has no authority to order any changes in the Project scope of work or authorize any adjustments in Contract price or Contract time.

INSPECTION: The Professional and their Consultants on-site and/or off-site examination of the Project construction work completed or in progress by the involved Project Construction Contractor to determine and verify to the Department's Project Director that the quantity and quality of all Project work is in accordance with the design intent of the Prime Professional Services Contractor's Contract Documents, drawings, and specifications.

KEY PRINCIPAL PERSONNEL/EMPLOYEE: A Chief Executive Officer of a professional firm who is essential for the successful completion of the Project.

PHASE: A discretely distinguishable construction Phase step necessary to provide the Project scope of work in the course of the Professional's providing services.

PRIME PROFESSIONAL SERVICES CONTRACTOR: An individual, firm, partnership, corporation, association, or other legal entity who is legally permitted by law to sign and seal final design construction Contract Documents and licensed under the State of Michigan's professional licensing and regulation provisions of the Occupational Code (State Licensing Law), Act 299 of the Public Acts of 1980, Article 20, as amended, to practice architecture, engineering, environmental engineering, geology, land surveying, or landscape architecture services in the State of Michigan. The Prime Professional Services Contractor, under separate contract with the Department, is responsible for the Project Design, Contract Documents, development of the Project construction phase, and required to define and specify the types of on-site tests required and approximate quantities to be tested during the Project and the projected costs thereof.

The Prime Professional Services Contractor/Professional firm is also legally permitted by the State of Michigan's regulation provisions of the State Construction Code, Act 230 of the Public Acts of 1972, as amended, and designated in a Construction Contract by the Department to recommend construction progress payments to the Construction Contractor.

PROJECT: Any new construction, existing site, new utilities, existing building renovation, roof repairs and/or removal and replacement, additions, alteration, repair, installation, construction quality control and material testing services, painting, decorating, demolition, conditioning, reconditioning or improvement of public buildings, works, bridges, highways or roads authorized by the Department that requires professional services as part of this Contract.

PROJECT COST: The total Project cost including, but not limited to, site purchase, site survey and investigation, hazardous material abatement, construction, site development, new utilities, telecommunications (voice and data), professional fees, construction quality control and material testing services, testing and balancing services, furnishings, equipment, architectural and/or engineering plan(s)/drawing(s) design code compliance and plan review approval fees and all other costs associated with the scope of work.

PROJECT TESTING PROFESSIONAL/PROFESSIONAL: The Professional firm who is under a separate Contract with the Department and is responsible for the Project construction Phase quality control and material testing services program. The construction Phase quality control and material testing services shall include, but not be limited to, office/laboratory and field testing services, determine and verify whether or not the construction materials being used for the Project construction Phase is in accordance with the design intent of the Prime Professional Services Contractor's Contract Documents, drawings, and specifications, and be in compliance with the requirements of this Contract and the attached Appendix 1 – Project/Program Statement. The Professional is required by the Department to define and specify the types of on-site tests required and approximate quantities to be tested during the Project construction Phase and the projected costs thereof. Notice shall be given immediately by the Professional, to the following Project personnel: (1) the Prime Professional Services Contractor; (2) the involved Construction Contractor; (3) the Project Director; and (4) the Field Representative of any on-site field Inspection or test which fails to meet the applicable Project construction quality control and material testing standards or the Prime Professional Services Contractor's Contract Documents, drawings, and specifications.

PROJECT DIRECTOR: The professionally licensed Architect/Engineer, State of Michigan employee, who is responsible for directing and supervising the Services during the life of this Contract. The Project Director is responsible for monitoring and coordinating the performance of the construction Phase services and also responsible for the overall administration and Inspection of Capital Outlay and miscellaneous operating projects (MOP's) construction activities to ensure quality control, final design Contract Documents compliance, and timely Project completion within the established Project construction Budget.

The Project Director, or their Field Representative, has the authority to require the Professional and the Consultant firm to respond to and resolve design related problems, construction field problems, and to attend Project related meetings.

PROJECT/PROGRAM STATEMENT: The attached Appendix 1 – Project/Program Statement prepared by the State/Client Agency that defines the scope of the problem and describes why this Project is desirable, and provides a preferred resolution of the problem. The Project/Program Statement also requires the Professional to coordinate their services with the involved Project Construction Contractor's construction schedule identifying critical milestone services that shall be required and achieved for the Project.

PROJECT TEAM: Consisting of the Professional, Project Director, Field Representative, Prime Professional Services Contractor, Construction Contractor, representative of the State/Client Agency, and others as considered appropriate by the Department.

STATE: The State of Michigan in its governmental capacity, including its departments, agencies, boards, commissions, officers, employees and agents. Non-capitalized references to a state refer to a state other than the State of Michigan.

STATE/CLIENT AGENCY: A Department of the State of Michigan, for whose use the Project will ultimately serve, which requires professional services. The term State/Client Agency does not include an institution of higher education or a community college.

TASK: Shall mean the following: (1) A quantifiable component of construction related professional construction quality control and material testing engineering Task services required to achieve a construction Phase of the Project; (2) The most manageable sub-element within a construction Phase; (3) A unique item of work within a construction Phase for which primary responsibility can be assigned; and (4) Has a time related duration and a cost that can be estimated within a construction Phase.

DEFINITION OF CONSTRUCTION TESTING REFERENCES: Will be made in capitalized abbreviated alpha numeric form to specific construction Inspection and testing agencies and/or associations for soil consolidation compaction, concrete, structural steel, bituminous paving, masonry, and roofing materials as used in construction (specifications, testing methods, practices, classifications, and definitions). Such construction testing references will be identified by the capitalized alphabetic abbreviation which identifies the specific State agency or national association followed by the numeric construction Inspection and/or testing method and shall be the latest issued date construction Inspection and/or testing method standard(s) in effect at the award of this Contract. The Construction Inspection and/or testing abbreviations used for this Construction Contract are as follows:

Abbreviation	State Agency or National Association
AASHTO	American Association of State Highways and Transportation Officials
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ASNT	American Society for Nondestructive Testing, Inc.
ASTM	American Society for Testing and Materials
AWS	American Welding Society
MDOT	Michigan Department of Transportation
SSPC	Steel Structures Painting Council

SOIL EROSION AND SEDIMENTATION CONTROL: The planning, design, and installation of appropriate Best Management Practices (as defined by the most current version of the Department's Soil Erosion and Sedimentation Control Guidebook) designed and engineered specifically to reduce or eliminate the off-site migration of soils via water runoff, wind, vehicle tracking, etc. and comply with the Soil Erosion and Sedimentation Control in the State of Michigan as regulated under the 1994 Public Act 451, as amended – The Natural Resources Environmental Protection Act, Part 91 – Soil Erosion and Sedimentation Control. Soil Erosion and Sedimentation Control associated with this Contract will be monitored and enforced by the Department of Technology, Management and Budget, Facilities and Business Services Administration, Soil Erosion and Sedimentation Control Program.

ARTICLE 14 COMPLETE AGREEMENT: MODIFICATION

This Contract constitutes the entire agreement, as to the Project, between the parties. Any Contract Modification of this Contract and the Project/Program Statement must be in writing, signed by duly authorized representatives of the parties, and shall be in such format and detail as the State may require. No Contract Modification may be entered into to compensate the Professional for correcting, or for responding to claims or litigation for the Professional's errors, omissions or neglect on the part of the Professional.

APPENDIX 1

PROJECT/PROGRAM STATEMENT

DTMB-427 (R 11/13)

PROJECT STATEMENT

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
Facilities and Business Services Administration
Third Floor, General Office Building
P.O. Box 30026
Lansing, Michigan 48909

FILE NUMBER	INDEX NUMBER(S)	PROPOSAL DUE DATE
Various	Various	Thursday, August 6, 2015, 2:00 pm EST

CLIENT AGENCY
Department of Technology, Management and Budget

PROJECT NAME AND LOCATION
TBD

PROJECT ADDRESS (if applicable)
Various

CLIENT AGENCY CONTACT	TELEPHONE NUMBER

DTMB - DCD PROJECT DIRECTOR	TELEPHONE NUMBER
Irene Henry	517-284-7907

WALK-THROUGH INSPECTION DATE, TIME, AND LOCATION:
None

PROJECT DESCRIPTION/SERVICES REQUESTED
Provide professional materials testing/quality control Indefinite-Scope Indefinite Delivery (ISID) services for a variety of state funded construction projects. The professional is required to submit four (4) hard and two (2) electronic copies of the technical and cost proposal. The Professional must use the attached appropriate forms to indicate the billing rates.

The State of Michigan reserves the right not to award the contract(s) or award the contract(s) to one or more firms.

NIGP CODES
90783; 91216; 91275

DESIRED SCHEDULE OF WORK
Dependent on the assigned project

ACCEPTING RFP QUESTIONS UNTIL: Thursday, July 30, 2015 at 12:00 p.m., local time

REFERENCE STANDARDS: This project will comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (EPA, OSHA, and DOT), state agencies (DCH, DEQ, DNR, and MIOSHA), and any other local regulations and standards that may apply.

CERTIFICATE OF AWARDABILITY:
All Professional Service Contractors submitting proposals over $250,000.00 must be certified by the Department of Civil Rights for compliance with State of Michigan Equal Employment Opportunity requirements. The Professional must not discriminate on the basis of religion, race, color, national origin, age, sex, marital status, height, weight, arrest record or disability. Prior to the award of any Contract of $250,000.00 or more, the DTMB Contract Compliance Representative will notify the Michigan Department of Civil Rights (DCR) Contract Compliance Representative, providing a bid tabulation and providing a description of the recommended awardee(s) including business(es)' name, business(es)' designated contact person, last four digits of company(ies)' tax identification number, business(es)' address, and business(es)' contact person telephone number. In the event a Professional does not possess a valid Certificate of Awardability and is the selected proposer, the Professional must immediately submit, upon notification by DTMB, their application to DCR. **DO NOT SUBMIT APPLICATION TO DCR UNLESS YOU ARE NOTIFIED BY DTMB.**

The time required by DCR to process and render a decision on such application is nine (9) calendar days from the date of transmission of selection information by DTMB to DCR. Communications concerning Certificates of Awardability should be directed to:

Michigan Department of Civil Rights
Business and Community Affairs
Cadillac Place
3054 West Grand Boulevard, Suite 3-600
Detroit, Michigan 48202
Telephone: (313) 456-3822
Fax: (313) 456-3826

This form is required to be a part of the professional service contract. (Authority: 1984 PA 431)

Attachment(s)

APPENDIX 2

PROFESSIONAL'S PROPOSAL
(See Back Cover)

APPENDIX 3

PROFESSIONAL CERTIFICATION FORMS

R 12/16/13

DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
Facilities and Business Services Administration
Design & Construction Division

Certification of a Michigan Based Business

(Information Required Prior to Contract Award for Application of State Preference/Reciprocity Provisions)

To qualify as a Michigan business:

Vendor must have, during the 12 months immediately preceding this bid deadline:
or
If the business is newly established, for the period the business has been in existence, it has:

(check all that apply):

- ☐ Filed a Michigan single business tax return showing a portion or all of the income tax base allocated or apportioned to the State of Michigan pursuant to the Michigan Single Business Tax Act, 1975 PA 228, MCL ~208.1 – 208.145; or
- ☐ Filed a Michigan income tax return showing income generated in or attributed to the State of Michigan; or
- ☒ Withheld Michigan income tax from compensation paid to the bidder's owners and remitted the tax to the Department of Treasury; or

I certify that **I have personal knowledge** of such filing or withholding, that it was more than a nominal filing for the purpose of gaining the status of a Michigan business, and that it indicates a significant business presence in the state, considering the size of the business and the nature of its activities.

I authorize the Michigan Department of Treasury to verify that the business has or has not met the criteria for a Michigan business indicated above and to disclose the verifying information to the procuring agency.

Bidder shall also indicate one of the following:

- ☒ Bidder qualifies as a Michigan business (provide zip code: 48188)
- ☐ Bidder does not qualify as a Michigan business (provide name of State: _____).
- ☐ Principal place of business is outside the State of Michigan, however service/commodity provided by a location within the State of Michigan (provide zip code: _____)

Bidder: THE MANNIK & SMITH GROUP, INC.

WALTER J. BOLT
Authorized Agent Name (print or type)

Authorized Agent Signature & Date

Fraudulent Certification as a Michigan business is prohibited by MCL 18.1268 § 268. A BUSINESS THAT PURPOSELY OR WILLFULLY SUBMITS A FALSE CERTIFICATION THAT IT IS A MICHIGAN BUSINESS OR FALSELY INDICATES THE STATE IN WHICH IT HAS ITS PRINCIPAL PLACE OF BUSINESS IS GUILTY OF A FELONY, PUNISHABLE BY A FINE OF NOT LESS THAN $25,000 and subject to debarment under MCL 18.264.

R 12/16/13

DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
Facilities and Business Services Administration
Design & Construction Division

Responsibility Certification

The bidder certifies to the best of its knowledge and belief that, within the past three (3) years, the bidder, an officer of the bidder, or an owner of a 25% or greater interest in the bidder:

(a) Has not been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with the State of Michigan or any of its agencies, authorities, boards, commissions, or departments.

(b) Has not had a felony conviction in any state (including the State of Michigan).

(c) Has not been convicted of a criminal offense which negatively reflects on the bidder's business integrity, including but not limited to, embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, negligent misrepresentation, price-fixing, bid-rigging, or a violation of state or federal anti-trust statutes.

(d) Has not had a loss or suspension of a license or the right to do business or practice a profession, the loss or suspension of which indicates dishonesty, a lack of integrity, or a failure or refusal to perform in accordance with the ethical standards of the business or profession in question.

(e) Has not been terminated for cause by the Owner.

(f) Has not failed to pay any federal, state, or local taxes.

(g) Has not failed to comply with all requirements for foreign corporations.

(h) Has not been debarred from participation in the bid process pursuant to Section 264 of 1984 PA 431, as amended, MCL 18.1264, or debarred or suspended from consideration for award of contracts by any other State or any federal Agency.

(i) Has not been convicted of a criminal offense or other violation of other state or federal law, as determined by a court of competent jurisdiction or an administrative proceeding, which in the opinion of DTMB indicates that the bidder is unable to perform responsibly or which reflects a lack of integrity that could negatively impact or reflect upon the State of Michigan, including but not limited to, any of the following offenses under or violations of:

  i. The Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101 to 324.90106.
  ii. A persistent and knowing violation of the Michigan Consumer Protection Act, 1976 PA 331, MCL 445.901 to 445.922.
  iii. 1965 PA 166, MCL 408.551 to 408.558 (law relating to prevailing wages on state projects) and a finding that the bidder failed to pay the wages and/or fringe benefits due within the time period required.
  iv. Repeated or flagrant violations of 1978 PA 390 MCL 408.471 to 408.490 (law relating to payment of wages and fringe benefits).
  v. A willful or persistent violation of the Michigan Occupational Health and Safety Act, 1974, PA 154, MCL 408.10001 to 408.1094, including: a criminal conviction, repeated willful violations that are final orders, repeated violations that are final orders, and failure to abate notices that are final orders.
  vi. A violation of federal or state civil rights, equal rights, or non-discrimination laws, rules, or regulations.
  vii. Been found in contempt of court by a Federal Court of Appeals for failure to correct an unfair labor practice as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 U. s. C. 158 (1980 PA 278, as amended, MCL 423.321 et seq).

(j) Is NOT an Iran linked business as defined in MCL 129.312.

I understand that a false statement, misrepresentation, or concealment of material facts on this certification may be grounds for rejection of this proposal or termination of the award and may be grounds for debarment.

Bidder:

WALTER J. BOLT
Authorized Agent Name (print or type)

Walter J. Bolt
Authorized Agent Signature & Date

☐ I am unable to certify to the above statements. My explanation is attached.

APPENDIX 4

OVERHEAD ITEMS ALLOWED FOR THE PROFESSIONAL SERVICES CONTRACTORS HOURLY BILLING RATE CALCULATION

The following instructions are to be used by the Professional Services Contractor firm's to determine the hourly billing rate to use on State of Michigan Projects.

The Professional's Consultant must submit a separate hourly billing rate for the professional Consultant services they will provide for State of Michigan Projects. A moderate mark-up of the Professional's Consultant services hourly billing rates will be allowed.

The Department will reimburse the Professional for the actual cost of printing and reproduction of the Contract Bidding Documents, soil borings, surveys and any required laboratory testing services and use of field equipment. No mark-up of these Project costs will be allowed.

CURRENT YEAR HOURLY BILLING RATE

Based on Prior Year Expenses

OVERHEAD ITEMS ALLOWED FOR THE PROFESSIONAL SERVICES CONTRACTOR FIRM'S HOURLY BILLING RATE CALCULATION

SALARIES:
Principals (Not Project Related)
Clerical/Secretarial
Technical (Not Project Related)
Temporary Help
Technical Training
Recruiting Expenses

OFFICE FACILITIES:
Rents and Related Expenses
Utilities
Cleaning and Repair

SUPPLIES:
Postage
Drafting Room Supplies
General Office Supplies
Library
Maps and Charts
Magazine Subscriptions

SERVICES (PROFESSIONAL):
Accounting
Legal
Employment Fees
Computer Services
Research

FINANCIAL:
Depreciation

EQUIPMENT RENTALS:
Computers
Typewriter
Bookkeeping
Dictating
Printing
Furniture and Fixtures
Instruments

TRAVEL:
All Project-Related Travel*

MISCELLANEOUS:
Professional Organization Dues
for Principals and Employees
Licensing Fees

SERVICES (NONPROFESSIONAL):
Telephone and Telegram
Messenger Services

TAXES:
Franchise Taxes
Occupancy Tax
Unincorporated Business Tax
Property Tax
Single Business Tax
Income Tax

INSURANCE:
Professional Liability Insurance
Flight and Commercial Vehicle
Valuable Papers
Office Liability
Office Theft
Premises Insurance
Key-Personnel Insurance

EMPLOYEE BENEFITS:
Hospitalization
Employer's F.I.C.A. Tax
Unemployment Insurance
Federal Unemployment Tax
Disability
Worker's Compensation
Vacation
Holidays
Sick Pay
Medical Payments
Pension Funds
Insurance - Life
Retirement Plans

PRINTING AND DUPLICATION:
Specifications (other than Contract Bidding Documents)
Drawings (other than Contract Bidding Documents)
Xerox/Reproduction
Photographs

LOSSES:
Bad Debts (net)
Uncollectible Fee
Thefts (not covered by Project/Contract bond)
Forgeries (not covered by Project/Contract bond)

APPENDIX 5

CERTIFICATE OF INSURANCE