ENVIRONMENTAL ENGINEERING/

REMEDIAL DESIGN SERVICES

(BILLABLE RATE)

R 04/25

**STATE OF MICHIGAN**

**DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET**

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

**CONTRACT FOR PROFESSIONAL SERVICES: Billing Rate – Not to Exceed**

THIS CONTRACT, authorized this **DATE** Day of **MONTH** in the year two-thousand and twenty - three (2023), by the Director, Department of Technology, Management and Budget, BETWEEN the STATE OF MICHIGAN acting through the STATE FACILITIES ADMINISTRATION , DESIGN AND CONSTRUCTION DIVISION of the DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET, 3111 W. St. Joseph Street, Lansing, Michigan, 48917, hereinafter called the Department, and

PSC NAME

ADDRESS

CITY, STATE ZIP

the Prime Professional Services Contractor, hereinafter called the Professional,

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

Project Name and Description

File No. xxx/xxxxx.ABC Contract Order No. Y NO

 ContractOrder $000,000.00

 (Phases )

 Contract End Date:

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

I. The Professional shall provide the professional services for the Project in the study, design and construction administration, Phase and Task sequence provided in this Professional Services Contract and to the extent authorized by the Department of Technology, Management and Budget State Facilities Administration (SFA), Design and Construction Division (DCD) [The Department] and be solely responsible for such professional services.

 **\*SPECIALIST TO CONSULT PROJECT DIRECTOR: REVIEW THE PROVISION BELOW AND DELETE IF CONSTRUCTION MECHANICS WILL BE UTILIZED UNDER THE PROFESSIONAL’S CONTRACT AND ATTACH THE APPLICABLE PREVAILING WAGE SCHEDULES TO APPENDIX 9.**

 This contract does not intend to require the Professional firm as part of its services to utilize construction mechanics as defined in MCL 408.1101, which are subject to prevailing wages for State project work pursuant to 2023 PA 10, as amended, MCL 408.1101 et seq. If during the term of this contract, the Professional firm determines that any work needs to be performed by a construction mechanic on a State project, the Professional firm must request a current prevailing wage determination from the Project Director which will then be issued as a no cost contract modification and such services will be invoiced or subcontracted as specified in the prevailing wage determination.

 Any State project work performed by a construction mechanic subject to prevailing wages pursuant to 2023 PA 10, as amended, MCL 408.1101 et seq., must be invoiced or subcontracted as specified in Appendix 9 – Prevailing Wages.

 The Professional’s services shall be performed in strict accordance with this Contract and be following the Project / Program Statement.

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

IN WITNESS, WHEREOF, each of the parties has caused this Professional Services Contract to be executed in blue pen and ink 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 electronic mail.

**FOR THE PROFESSIONAL**:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Firm Name SIGMA Vendor Number

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

**FOR THE STATE OF MICHIGAN**:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Director, DTMB, SFA, Design & Construction Date

WHEREAS this Professional Services Contract constitutes the entire agreement as to the Project between the parties, any Contract Modification of this Contract and the Department’s approved and attached Project / Program Statement scope of work requirements 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 firm’s final design Contract Documents / architectural and engineering design errors, omissions, or neglect on the part of the Professional.

**ARTICLE I**

**PROFESSIONAL SERVICES SCOPE OF WORK**

The Professional shall provide, without exception, every professional, scientific, technical, and environmental discipline, staff, and support personnel, along with all supplies, equipment and testing apparatus, and all other specialized personnel, services necessary to achieve the Project scope of work as described in the attached Appendix 1 - Project / Program Statement, in the best interest of the State, and be within the Professional’s fee(s) herein authorized by the State.

Project services shall comprise, without exception, every professional discipline and expertise necessary to meet all the requirements as described in the Project / Program Statement and be in accordance with the industry-accepted standard requisites for professional practice and services. The Professional’s services include attendance at all Project related meetings and conferences. Professional services for this Project shall be provided in the Phase / Task sequence shown below and shall be rendered in accordance with the Professional’s attached Project Study, Design, and Proposed Construction Schedule. The Professional’s study, design, and proposed construction schedule shall be detailed, undated, and time sequence related for all Phase / Task services appropriate for the Project. The Professional shall field-check and verify the accuracy of all drawings and any data furnished by the Department, the State / Client Agency or any other Project related source. The Professional is ineligible to bid on the construction work of any Bidding Documents produced under this Contract. The Professional shall not employ or consult with any firms in completing the Professional’s obligations herein who it anticipates will be a construction Bidder or supplier for the Project or any part thereof, unless specifically authorized, in writing, by the Department. The Professional acknowledges that the Department is the first interpreter of the Professional firm’s performance under this Contract.

The Professional acknowledges by signing this Professional Services Contract, having a clear understanding of the requested Project and of the professional study, design, and construction administration services required by the Department to provide it, and further agrees that the terms and conditions of this Professional Services Contract provide adequate professional fee(s) for the Professional to provide the requested Project.

No increase in fee to the Professional will be allowed unless there is a material change made to the Project as described in the attached Project / Program Statement and the change in scope to the Project / Program Statement is accepted and approved in writing, by the Department, Project Director, and the Professional. Professional services shall not be performed, and no Project expenses shall be incurred prior to the issuance of a written and signed Professional Services Contract and a Contract Order authorizing the Professional firm to start the Project work on-site. Compensation for Department directed changes to the Project or modifications to the Project work will be provided to the Professional by a Contract Modification and / or Contract Change Order signed by the Department and the Professional.

The Professional shall reference current State of Michigan, federal statutes, and current administrative rules when implementing response activities or corrective actions at the sites with environmental contamination to comply with the current requirements of the Department of Natural Resources Environmental Protection Act (NREPA), 1994 PA 451, as amended.

Soil Erosion and Sedimentation Control in the State of Michigan is 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.

The Professional shall reference current operational memoranda including the Tier 1 Risk-Based Screening Levels (RBLSs) look-up tables, the current edition of the American Society for Testing and Materials (ASTM), Standard Guide for Risk-Based Corrective Action (RBCA), E1739-95 including the policy decisions made to customize the standard Guide for Risk-Based Corrective Action process into a State of Michigan specific process and the General Guidance for Evaluating and Characterizing Petroleum Releases documents issued by the Department of Environmental Quality as needed to assist in implementing the corrective action activities undertaken under Part 213 of the 1994 PA 451, as amended.

For sites with activities undertaken under Part 201 of the 1994 PA 451, as amended, the Professional is required to refer to the operational memoranda including Part 201 Generic Clean-up and Screening Levels and the Training Material issued by the Department of Environment Quality, as needed to determine whether a remedial plan/response activity complies with the requirements of Part 201 of the 1994 PA 451, as amended.

The Professional shall immediately inform the Department whenever it is indicated that the Professional firm’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 firm’s original authorized Budget amount. Any revision to the Project must be accepted and approved by the Department in writing.

The professional services may also include participation in legislative presentations as described in the “Major Project Design Manual for Professional Services Contractors and State/Client Agencies” and as the legislature or the Department may prescribe.

No substitution of any “Key Principal Personnel / Employee” essential for the successful completion of the Project and identified in the Professional’s attached 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, and this substitution request shall include the following information: (1) A request in writing for a No Cost Contract Modification; (2) Detailed written justification for this substitution; (3) The Professional’s qualifications of any proposed “Key Principal Personnel / Employee” replacement; and (4) A written statement from the Professional assuring the Department that the Project scope of work will not be adversely affected by this substitution. This request to modify their Professional Services Contract must be accepted and approved in writing by the Project Director and the Director of the Department.

The Department will designate an individual to serve as the Project Director for the Project scope of work who shall be fully acquainted with the Project / Program Statement and have the authority to render Project decisions and furnish information promptly.

Except in connection with issues under the Article XII -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 professional services of this Contract.

During the study, design and construction Phase administration of this Project, the Professional shall be required to complete and submit the on-site inspection record form document titled “DTMB-0452, The Professional Firm’s Inspection Record” for all on-site Inspection visits to the Project site. The Professional Firm’s Inspection Record document shall be completed and signed by the Professional and compiled monthly with the original form document sent to the Project Director and copies sent to the State / Client Agency and Construction Contractor. The Professional’s Inspection Record shall be completed and accompany the Professional firm’s monthly submitted payment request.

The “DTMB-0460, Project Procedures” documents package containing Department forms for use during construction administration shall be used by the Professional in the administration of this Contract.

All Project professional services will be consistent with the Department’s current "Major Project Design Manual for Professional Services Contractors and State/Client Agencies" unless otherwise approved in writing by the Department.

The professional services required for each Phase of this Contract shall be performed by the Prime Professional and their Consultants in accordance with service descriptions in this article. The following service descriptions outlined in this Contract represents the Department’s standard of care method for describing the Professional’s responsibilities for providing the professional services of this Contract, but by inclusion, or omission, do not limit or exclude any regular or normal professional services necessary to accomplish the Project, in full compliance with all applicable safety and health regulations and be in accordance with the approved Project Budget and the best industries accepted requisites for professional practice, occupational safety, and health standards.

However, all the services outlined in this Contract may or may not be applicable to the Project / Program Statement and will require the Professional to identify only the services that are applicable for the Project at hand. The Professional shall determine and coordinate the interface of the services required for the Project and be responsible for identifying any additional services necessary to successfully complete the Project.

Should litigation occur because of this Project, only if through no fault of the Professional, the Professional firm shall be compensated by the Department on an actual hourly billing rate basis at the rate set forth in this Contract by a Contract Modification and / or Contract Change Order, if required to assist the Department of Attorney General, State Affairs Division in providing the professional services necessary during litigation.

The following professional services, if they become necessary and essential for completing the Project, will be individually rendered by the Professional, only upon specific written authorization by the Department and the Project Director to the Professional and for the purpose, and to the extent so authorized.

LITIGATION: The Professional shall provide all information, presentations, depositions, testimony as “expert witness”, and similar or related services, on behalf of the Department, as may be required in relation to the professional services of the study, design, and construction of this Project.

ACCOUNTING: The Professional shall provide all specialized categorizations and distributions of the costs of study, design and construction services, construction costs, and operational costs, as may be required according to specified parameters.

PUBLIC AWARENESS: The Professional shall provide all design and construction related services to assist in and make presentations of the professional services of the study, design, construction, and operational aspects of the Projects as may be required for public meetings, hearings, and similar informational activities.

The professional shall execute the following PHASES upon written authorization from the Project Director.

PHASE 100 ‑ ENVIRONMENTAL INVESTIGATION/STUDY SERVICES

Provide complete and comprehensive Environmental Investigation / Study Deliverables to meet the requirements of the Project / Program Statement. Upon completion of all field investigation, assessment, research, review and / or oversight, prepare a complete report with an executive summary, and in such detail, as the Project Director may prescribe.

The services under this phase may include but not be limited to coordination, environmental assessments, drilling, field sampling/oversight, data/document review/management, feasibility study, and reporting as described in the Project/Program Statement. Project reports must be in accordance with Department / Client / Agency requirements and as outlined in the Project/Program Statement but shall include, as a minimum and as appropriate, the following items: (1) Problem; (2) Conclusion; (3) Recommendations; and (4) Discussion, details, and documentation.

PHASE 300 - SCHEMATIC DESIGN

Prepare Schematic Design Deliverables consistent with the Project/Program Statement.  The deliverables shall consist of conceptual remediation system, drawings, outline specifications, a Schematic Construction Cost Estimate, other related documentation, and shall diagrammatically depict the areas, scales, and relationships of the functions.  The services under this phase may include but not be limited to coordination, construction codes and design reviews, civil/site staging investigation, schematic design, and utilities review, drafting, and project cost / proposed construction schedule, as required by the Department / Client / Agency and as outlined in the Project/Program Statement. Acceptance of the Schematic Design by the Department / Client / Agency does not limit subsequent inclusion of minor, but essential, schematic or design details whose necessity and arrangement may best become apparent during subsequent Phases of the Project design. Revise design as necessary and obtain approval from the Department/Client / Agency.

PHASE 400 - DESIGN DEVELOPMENT

Prepare Design Development Deliverables based on the Owner-accepted Schematic Design to depict the intent of the designed remediation system(s).  The deliverables shall consist of draft drawings and specifications, Construction Cost Estimates, and other related documentation to clearly establish the complete basis for further detail into final design drawings / specifications. The deliverables shall further define the Project by fixing and describing the Project size, character, site relationships, and other appropriate elements including the environmental, civil, structural, architectural, mechanical, electrical, and safety systems.

The services under this phase may include but not be limited to coordination, draft drawings/specifications, site specific staging investigation, structural calculations, and preliminary environmental/architectural/engineering design development / reviews of drawings / specifications, as required by the Department / Client / Agency and as outlined in the Project / Program Statement.

PHASE 500 - CONSTRUCTION DOCUMENTS AND BIDDING DOCUMENTS

Prepare construction documents that revise, refine, amplify, and depict, in detail, the project. The documents shall set forth, in detail, quality levels of and requirements for the construction, and shall consist of final drawings / specifications that comply with applicable regulatory and construction code requirements, enacted at the time of completion of the one hundred percent (100%) construction documents. Prepare bidding documents in Phases / Bid Packages appropriate to the project requirements and funding.  Incorporate the current edition of the DTMB “MICHSPEC”, “DCSPEC” or “50KSPEC”, as adopted and modified by the State of Michigan. The construction documents shall contain all information necessary to bid and construct the project.

The services under this phase may include but not be limited to coordination, final drawings / specifications and bidding documents, civil / site staging design, final structural calculations, final environmental / architectural / engineering design development / reviews of drawings / specifications, construction testing program, hazardous materials, health and safety risks, final design correction procedures, design and construction budget, construction codes / permits and construction schedule, as required by the Department / Client / Agency and as outlined in the Project / Program Statement.

PHASE 600 - CONSTRUCTION ADMINISTRATION - OFFICE SERVICES

Provide all required construction oversight administration and timely professional review and administrative services, as the circumstances of the construction may require, allowing the successful review / implementation of the construction documents into a completed remedial actions / abatement measures and / or for the use intended by the Department / Client / Agency. The services under this phase may include but not be limited to coordination, review and approval of shop drawings and submittals, reporting of construction progress, construction quality testing, construction contractor performance review, punch list procedures, claims, establishing close-out procedures and developing / review of as-built documents, as required by the Department / Client / Agency requirements, and as outlined in the Project / Program Statement.

PHASE 700 - CONSTRUCTION ADMINISTRATION - FIELD SERVICES

Provide all required Construction Oversight and Field Services, including timely inspection and professional services, as the circumstances of the construction may require, allowing the successful review / implementation of the construction documents into a completed remedial action / abatement measure and / or for the use intended by the Department / Client / Agency.  The services under this phase may include but not be limited to coordination, field inspections, progress meetings and final project inspection, as required by the Department / Client / Agency requirements and as outlined in the Project / Program Statement.

PHASE 900 – OPERATION AND MAINTENANCE SERVICES – REMEDIATION FACILITY

Provide all required Operation and Maintenance (O & M) Services and perform, in a safe and secure environment, all functions, including timely inspection, sampling and professional services, necessary to maintain uninterrupted, effective, and efficient facility / system components for the use intended by the Department / Client / Agency.  The services under this phase may include but not be limited to coordination, general system operation / inspections, routine system / building / ground maintenance, sampling, spare replacement parts, consumable supplies, utilities, waste materials removal / treatment / disposal, non-routine emergency services, progress meetings and reporting, as required by the Department / Client / Agency requirements and as outlined in the Project / Program Statement.

**ARTICLE II**

**COMPENSATION**

In consideration of the performance of this Contract, the Department agrees to pay the Professional, as compensation for professional services, 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 an hourly billing rate basis for professional services rendered by salaried and non-salaried professional, technical, and 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 firm prior to the issuance of a written and signed Professional Services Contract and a DTMB Form 0402 - Contract Order by the Department to the Professional, authorizing the Professional to start the Project.

Compensation to the Professional for services and authorized technical and technical support employees performing a direct service for this Project shall be determined using the Professional firm’s billing rates. The Professional firm’s hourly billing rate cost shall be the direct payroll amount for the employee services on the Project including, but not limited to, any fringe benefits, vacations, sick leave, other indirect costs, and profit. Such costs and the Professional firm’s hourly billing rates shall not change during the life of this Contract without written approval by the Department.

The Professional firm’s hourly billing rates may also include: (1) All consumables used by the Professional or the Professional firm’s Consultants for collection of samples to be tested and analyzed by others; and (2) The costs of owning, operating, maintaining, insuring, and replacing all direct reading/measuring and testing instruments designed for on-site field Inspection and testing work, along with their computer or data recorders, as the Professional may use for on-site field Inspections, investigations, measuring, sampling, or testing services See attached Appendix for the guide to overhead items allowed for the professional services contractor firm’s hourly billing rate calculation. Reimbursement for the Project / Program Statement scope of work requirements will be provided only for Department approved items authorized for reimbursement compensation in this Contract.

Compensation is approved and authorized by the Department on a per test basis for laboratory services by Professional firm(s) identified and listed in this Contract to: (1) Test and analyze samples collected by their technical employees; and (2) The Professional firm’s per test costs shall be recognized by the Department to include all consumables necessary to prepare and secure the respective sample(s) and to conduct the required analytical testing procedures thereon.

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 firm, as approved by the Department on an hourly billing rate basis in accordance with this article. This compensation shall not exceed seven and one-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 Contract Documents 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 firm’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 firm’s lump sum fee of this Contract.

2.1 PREMIUM TIME/OVERTIME: This Contract anticipates that no premium or overtime is required to achieve the 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 directing in writing by the Project Director.

2.2 EMPLOYEE HOURLY BILLING RATES: Hourly billing rates will include all direct and indirect monetary 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. No mark-up to consultant firm’s charges will be allowed.

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. 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, any Project costs that exceed the Contract per Phase reimbursement Budget.

Project related travel expenses (mileage, meals, lodging) for Projects **more than** one hundred (100) miles one-way from the Professional’s nearest Michigan office 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.

**Prevailing Wages and Access to Payroll Records:** To the extent applicable, the Professional will comply with federal and state prevailing wage requirements. The wage and classification schedules applicable for this project/location are included in Appendix 9.

Federal Prevailing Wages - If a project is funded in whole or in part by federal dollars, the Professional and all subcontractors must comply with the most recent version of Federal Provisions Addendum and all Laws pertaining to occupational classifications and wage requirements as follows:

1. FEDERAL PROVISIONS ADDENDUM

a. The most current version of Federal Provisions Addendum shall apply to this contract and is included in Appendix 9.

2. DAVIS BACON ACT WAGE AND CLASSIFICATIONS

a. If applicable, the Professional (and its Subcontractors) for prime construction contracts in excess of $2,000 must comply with the Davis-Bacon Act (40 USC 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

b. The Professional (and its Subcontractors) shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the Professional or subcontractor and the laborers and mechanics.

c. The Professional will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work.

d. There may be withheld from the Professional so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the Professional or any Subcontractor on the work the difference between the rates of wages required by the Contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the Professional or Subcontractors or their agents.

e. The Professional shall maintain payrolls and basic records relating thereto for a period of three (3) years after the project; Professional shall submit Certified Payroll Reports using US Department of Labor Wage and Hour Division Form WH-347 for each weekly payroll to support and document compliance with the Davis Bacon Wage rates.

f. Davis Bacon wage and classification schedules applicable for this project/location are included at the end of this section and/or Appendix 9.

\*\*\* Note to the Specialist: The Specialist is to consult with the Project Director to request if Federal Provisions are required and if so, obtain Wage Determinations applicable for the counties in which the Project is located from https://sam.gov/content/wage-determinations. If Federal Provision are not required, request State of Michigan Prevailing Wage Determinations from the Project Director.

State Prevailing Wages - The following provisions apply when 2023 PA 10, as amended, MCL 408.1101 et seq. applies.

Prevailing Wage and Fringe Benefits--The rates of wages and fringe benefits to be paid to each class of Construction Mechanic by Professional and Subcontractors must not be less than the wage and fringe benefit rates prevailing in the locality in which the work is performed.

If it is expected that construction mechanic services will be needed as part of the Contract, the wage and classification schedules applicable for this project/location will be included in Appendix 9 and the Professional will be required to include a copy of its state project registration with the proposal response. During the term of the Contract, the Professional must immediately notify the Owner if its state project registration or a Subcontractor’s State project registration is no longer valid (i.e. suspended, revoked or not renewed).

Nondiscrimination, Nonretaliation- The Professional or a Subcontractor shall not discharge, discipline, retaliate against, or otherwise discriminate against a Construction Mechanic, or threaten to do any of these things, because the Construction Mechanic reported or was about to report a violation or suspected violation of the act.

Construction Mechanics under this Contract are intended beneficiaries of the contractual prevailing wage, fringe benefit, and nondiscrimination nonretaliation requirements of the Contract. Any such Construction Mechanic aggrieved by failure of a contractor or subcontractor to pay prevailing wages or benefits as specified in the Contract, or by violation of section 7 of 2023 PA 10, in addition to any other remedies provided by law, may bring an action in a court of competent jurisdiction against such contractor or subcontractor for damages or injunctive relief and may be awarded reinstatement or other appropriate relief, and all damages sustained, together with actual costs and attorney fees at trial and on appeal.

The Professional and Subcontractors shall keep posted on the construction site, in a conspicuous place, a copy of all prevailing wage and fringe benefit rates prescribed in this Contract and shall keep an accurate record showing the name and occupation of and the actual wages and benefits paid to each Construction Mechanic employed by it in connection with the Contract. This record shall be available for reasonable inspection by the State.

The Professional must immediately notify the Owner if its state project registration or a Subcontractor’s state project registration is no longer valid (i.e. suspended, revoked or not renewed) at any time during the term of the Contract.

The Professional and its Subcontractors shall maintain and keep, in accordance with generally accepted accounting principles, records pertaining to the bidding, award and performance of the Work, including, but not limited to certified payroll, employment records and all data used in estimating the Professional’s prices for the Bid, Change Order, proposal or claim. The Owner or its representative shall have access to those records, shall have the right to interview the Professional’s employees and shall be provided with appropriate facilities for the purpose of inspection, audit/review and copying for five years after final payment, termination, or date of final resolution of any dispute, litigation, audit exception or appeal. The payroll and other employment records of workers assigned to the site shall contain the name and address of each worker, correct wage classification, rate of pay, daily and weekly number of hours worked, deduction made, and actual wages paid. The Professional shall maintain records that show:

* + 1. the anticipated costs or actual costs incurred in providing such benefits.
		2. that commitment to provide such benefits is enforceable, and
		3. that commitment to provide such benefits is enforceable, and that the plan or program is financially responsible and has been communicated in writing to the workers affected.

**ARTICLE III**

**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 submitted 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 submitted 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

c) Current hourly billing rate charges for each individual position/classification.

d) Copy of certified on-site visitation log or site visit report showing time on‑site.

e) Itemized invoices from each of the Professional’s Consultant's documenting that firm’s professional services charge and the Project work related services provided.

f) Authorized reimbursable expense items provided with receipts and invoices.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify the Professional of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to the Professional’s continuing obligations, including claims for deficiencies or substandard Contract Activities. The Professional’s acceptance of final payment by the State constitutes a waiver of all claims by the Professional against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under the Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at [http://www.michigan.gov/SIGMAVSS](https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.michigan.gov%2FSIGMAVSS&data=02%7C01%7CWatrosA%40michigan.gov%7C0faf6bd59255482da6a208d7c9d3fabc%7Cd5fb7087377742ad966a892ef47225d1%7C0%7C0%7C637199784583969183&sdata=%2FlLzLbwiSz20m8HNhvhy%2FDkx4HQEPAUNp1PANv33Rp8%3D&reserved=0) to receive electronic funds transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy if may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

# ARTICLE IV

# 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 V**

**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 firm’s services under this Contract, whether such service is performed by the Professional or performed by any of the Professional Firm’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 this Section, "State" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

1. The Professional 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 Professional’s or a consultant's performance, including any person directly or indirectly employed by the Professional or a Consultant, or any person for whose acts the Professional or a consultant may be liable.
2. The Professional waives all rights against the State for the recovery of damages that are covered by the insurance policies the Professional is required to maintain under this Section. The Professional’s failure to obtain and maintain the required insurance will not limit this waiver.
3. 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.
4. 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.
5. 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.](http://www.ambest.com/)
6. The Professional is responsible for the payment of all deductibles.
7. 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.
8. Workers’ Compensation Insurance: The Professional must provide Workers' Compensation coverage according to applicable laws governing work activities in the state of the Professional's domicile. If the applicable coverage is provided by a self-insurer, the Professional must provide proof of an approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of the Professional's domicile, the Professional must provide certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.
9. Except where the State has approved a subcontract with other insurance provisions, the Professional must require any Consultant to purchase and maintain the insurance coverage required in this Article. Alternatively, the Professional may include a Consultant/Subconsultant under the Professional’s insurance on the coverage required in that Section. The failure of a Consultant/Subconsultant to comply with insurance requirements does not limit the Professional’s liability or responsibility.
10. If any of the required policies provide **claims-made** coverage, the Professional must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Professional must purchase extended reporting coverage for a minimum of three (3) years after completion of work.
11. Professional must: (a) provide insurance certificates to the Contract Administrator, containing the **(1) project file number; (2) the project title; and (3) description of the program**, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that consultants maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

|  |  |
| --- | --- |
| **Required Limits** | **Additional Requirements** |
| **Commercial General Liability Insurance** |
| Minimum 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 | **Professional must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.** |
| **Umbrella or Excess Liability Insurance** |
| Minimum Limits:$2,000,000 General Aggregate | Professional must have their policy follow form. |
| **Automobile Liability Insurance** |
| Minimum Limits:$1,000,000 Per Accident | Professional must have their policy: **(1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.** |
| **Workers' Compensation Insurance** |
| Minimum Limits:Coverage according to applicable laws governing work activities. | Waiver of subrogation, except where waiver is prohibited by law. |
| **Employers Liability Insurance** |
| Minimum Limits:$500,000 Each Accident$500,000 Each Employee by Disease$500,000 Aggregate Disease. |  |
| **Professional Liability (Errors and Omissions) Insurance** |
| Minimum Limits:$1,000,000 Each Occurrence$2,000,000 Annual Aggregate |  |

|  |
| --- |
| **Environmental and Pollution Liability (Errors and Omissions) \*\*\*** |
| Minimum Limits:$1,000,000 Each Occurrence$2,000,000 Annual Aggregate | Professional must have their policy: (1) be applicable to the work being performed, including completed operations equal to or exceeding statute of repose; (2) not have exclusions or limitations related to Transportation (upset overturn, spills during loading or unloading, Hazardous Materials Handling, and Non-Owned disposal site liability; and **(3) endorsed to add “the State of Michigan, its departments, division, agencies, offices, commissions, officers, employees, and agents” as additional insured.** |

(\*\*\* Professional to include Pollution Liability Insurance if needed \*\*\*)

The Professional Firm’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:

1. Remedial System Design.
2. Remediation Management.
3. Feasibility Development and Implementation.
4. Hydrogeological Evaluation.
5. Media Testing and Analysis.
6. Subsurface and Geophysical Investigation.
7. Other related activities as determined by the Department.

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.

This Section is not intended to and is not to be construed in any manner as waiving, restricting, or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Professional to indemnify, defend and hold harmless the State).

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 firms comply with these insurance requirements.

**ARTICLE VI**

**INDEMNIFICATION**

1. 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.
2. 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.
3. 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 VII**

**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 because 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 Bidding Documents and Contract Documents, including all electronic data. If the Professional is in default or this Contract Agreement is terminated, the State shall not use the Contract 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 Contract 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 Contract Documents and deliverables and the right to reuse component information contained in them in the normal course of the Professional’s professional 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 monetary 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 VIII**

**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 affected 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 IX**

**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 X**

**GOVERNING LAW**

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

**ARTICLE XI**

**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 *(as defined in Executive Directive 2019-09)*, 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; *Executive Directive 2019-09*; 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 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 XII**

**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 Department of Technology, Management and Budget, Director of State Facilities Administration within thirty (30) consecutive calendar days of the end of the disputed negotiations, and any decision of the Director of State Facilities Administration 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 of State Facilities Administration as a prerequisite to filing a suit in the Michigan Court of Claims.

**ARTICLE XIII**

**DEFINITION OF TERMS**

The definition of terms and conditions of this Contract are described and outlined in the following Articles 1 through 14 and attached appendices. The capitalized defined terms used in this Professional Services 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 modify or interpret the Project 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; and (5) Specify the date of Addenda issuance. As such, the Addenda are intended to become part of the Project Contract Documents when the Construction Contract is executed by the Professional’s recommended lowest responsive, responsible qualified Construction Contractor. An Addendum issued after the competitive construction Bid opening to those construction Bidders who 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 construction Bidder for the Department. Project construction work, as specified, which designates the construction Bidder’s base Bid and Bid prices 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 Professional’s Project Contract Documents as advertised, and all Addenda issued before the construction Bid opening, and after the construction Bid opening, if the Project construction work is rebid without re-advertising. Bidding Documents shall consist of: The Phase 500 - Final Design drawings and specifications, any Addenda issued, special, general, and supplemental conditions of the Construction Contract, and modifications, if any, to standard forms provided by the Department. Such forms consist of: The Project advertisement, the instructions to Bidders, the proposal forms, general, supplemental, and any special conditions of the Construction Contract, and the form of agreement between the Department and the Construction Contractor for the Project work requirements.

BID SECURITY: The monetary security serving as guarantee that the Bidder will execute the offered Construction Contract or as liquidated damages in the event of failure or refusal to execute the Construction Contract.

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 for this Contract.

BULLETIN: A standard document form (DTMB-0485, Bulletin Authorization No. and the DTMB-0489, Instructions to Construction Contractors for Preparation of Bulletin Cost Quotations for Contract Change Orders) used by the Department to describe a sequentially numbered change in the Project 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 “DTMB-0460, 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.

CONSTRUCTION INSPECTION SERVICES: The Professional’s field Inspections of the Project during the construction Phase of this Contract which includes but is not limited to: (1) Documenting the quantity and quality of all Project construction work and verifying that the Project construction work is properly completed; (2) Resolve Project problems that are affecting the Project construction work, certify payment requests, process Bulletins, Contract Change Order recommendations, and requests for information (RFI’s) in a timely manner as prescribed in the Department’s, current version of MICHSPEC or DC Spec as adopted and modified by the State of Michigan and incorporated into the Construction Contract; and the (3) Inspection of Project construction work completed or in progress by the Construction Contractor to determine and verify to the Department’s Project Director and the Department Field Representative that the Project construction work is in compliance with the Professional’s design intent and that the Project has been completed by the Construction Contractor in accordance with the Professional’s Phase 500 - Contract Documents/architectural and/or engineering drawings and specifications requirements. The Professional shall provide sufficient Inspections of the Project during the construction Phase to administer the construction Phase field and office services as directly related to the degree of Project complexity, up to and including full-time field Inspections.

Construction field Inspections shall occur as the construction field conditions and the Project may require and during the regularly scheduled progress (twice monthly) meetings. The Professional shall use for their construction field Inspection services, only personnel having professional expertise, experience, authority, and compatibility with departmental procedures as the Department may approve.

The Professional agrees that such characteristics are essential for the successful completion of the Project. Such individuals shall be replaced for cause where the Department determines and notifies the Professional, in writing, of their unacceptable performance.

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 authorized 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 Prime Professional as may be provided elsewhere in this Contract.

CONTRACT CHANGE ORDER: A standard document form (DTMB-0403) issued and signed by the State of Michigan and signed by the Professional which amends the Project Design Professional’s Contract Documents for changes in the Project / Program Statement or an adjustment in Contract price and / or Contract time, or both.

CONTRACT DOCUMENTS: The Professional’s Phase 100 – Study, Final Report and Phase 500 - Final Design plans/drawings, specifications, Construction Contract, instructions to construction Bidders, proposal, Bidding Documents, agreement, conditions of the Contract, payment bond, performance/labor and material bond, prevailing wages, all Addenda, and attachments as may be necessary to comprise a Construction Contract for the Project. Specifications for this Contract will be prepared for Division 00 through 49, in the current version of the MasterFormat Outline by the Construction Specifications Institute (C.S.I.), as appropriate for the Project.

CONTRACT MODIFICATION: A form (DTMB-0410) amending the Contract signed by the Department and the Professional. The preparation of Bulletins and Contract Change Orders resulting from changes in the 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 Professional Services 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 Phase 100 – Study, Final Report and Phase 500 - Contract Documents study/design errors, omissions, or neglect on the part of the Professional.

CONTRACT ORDER: A form (DTMB-0402) issued and signed by the State of Michigan authorizing a Professional to: (1) Begin to incur Project expenses and proceed with the Project on-site; and (2) Provide professional services for the fee amount designated in the Phases of the Contract Order. Issuance of the DTMB-0402 certifies that: (1) The State will enter a Professional Services Contract for the professional services described in the various Phases of this Contract; and that (2) The proper three (3) sets of Certificate of Insurance documents have been received and accepted by the State along with the approval and signing of the Professional’s Professional Services Contract by the SFA, DCD Director.

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

DESIGN MANUAL: Provides the Professional with information regarding the Department’s current “Major Project Design Manual for Professional Services Contractors and State/Client Agencies” review process requirements regarding the uniformity in Contract materials presented to it by the Professional and the State / Client Agency(ies). This manual contains the following noted standards, instructions, and procedures information for: (1) General instructions for planning documents from Phase 100-Study through Phase 500-Final Design; (2) Net and gross area/volume; (3) Project cost format; (4) Outline architectural and engineering specifications; (5) Specifications in documentation Phase; (6) Instructions for proposal; (7) Bidders questionnaire; and the (8) Project job sign.

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

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

DEPARTMENT FIELD REPRESENTATIVE: An employee of the State under the direction of the Department who provides the Inspection of construction Projects for compliance with the design intent of the Professional’s Phase 500 - Contract Documents/architectural and/or engineering drawings and specification requirements and the building construction codes. The Department Field Representative is the liaison between the Construction Contractor, the Professional, and the Project Director. The Project Director, or the Department Field Representative, has the authority to require the Professional to respond to and resolve study/design related problems, construction field problems and to attend Project meetings. Unless delegated by specific written notice from the Department, the Department 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. The Department Field Representative is be included throughout all other phases (100 – 400) to provide additional knowledge and input throughout the development of the project

INSPECTION: The Professional and their Consultant firm’s on-site and / or off-site examination of the Project construction work completed or in progress by the Construction Contractor to determine and verify to the Department’s, Project Director, and their Department Field Representative that the quantity and quality of all Project construction work is in accordance with the design intent of the Professional’s Phase 500 - Contract Documents/ drawings and specifications requirements.

KEY PRINCIPAL PERSONNEL / EMPLOYEE: An individual employee of a Professional who is essential for the successful completion of the Project.

NOTICE OF INTENT TO AWARD: A written notice to the Construction Contractor, by the Department accepting the Professional’s written recommendation to award the construction Bid to the lowest responsive, responsible qualified construction Bidder. The Notice of Intent to Award letter will also designate the Contract price and itemize the alternates that the Department, at its sole discretion has accepted.

PHASE: A discretely distinguishable step necessary to produce the Project during the Professional providing study, design, and construction administration services.

PRIME PROFESSIONAL SERVICES CONTRACTOR/PROFESSIONAL: 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, civil, land surveying, or landscape architecture services in the State of Michigan.

The Prime Professional Services Contractor/Professional 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 study/design 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, plan(s)/drawing(s) design code compliance and plan review approval fees and all other costs associated with the Project.

PROJECT DIRECTOR: The professional licensed employee of the Department who is responsible for directing and supervising the Professional’s services during the life of this Contract. The Project Director, or their Department Field Representative, has the authority to require the Professional to respond to and resolve study/design related problems, construction field problems and to attend Project related meetings.

PROJECT / PROGRAM STATEMENT: The Project / Program Statement is provided by the Department and defines the scope of the problem, describes why this Project is desirable, and provides a preferred resolution of the problem.

PROJECT TEAM: The Professional, the Project Director, Department Field Representative, a representative of the State / Client Agency, and others as considered appropriate by the Department.

PUNCH LIST: A list of minor construction Project items to be completed or corrected by the Construction Contractor, any one of which do not materially impair the use of the Project work, or the portion of the Project work inspected, for its intended purpose.

A Punch List shall be prepared by the Professional upon having made a determination that the Project work, or a portion of the Project construction work inspected, in concert with the Professional, the Construction Contractor, the Department, the Project Director and their Department Field Representative, the State / Client Agency and any construction manager, is substantially complete and shall be attached to the respective DTMB-0455, Certificate of Substantial Completion form. This standard document form is a part of the “DTMB-0460, Project Procedures” documents package.

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, State Facilities Administration , Soil Erosion and Sedimentation Control Program.

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 design services.

STATE FIELD INSPECTOR: An employee of the State of Michigan under the direction of the State / Client Agency who provides the on-site, Inspection of construction Projects for compliance with the study/design intent of the Professional Firm’s Contract Documents/drawings and specification requirements and the building construction codes. The State Field Inspector is the liaison between the Construction Contractor, the Professional, and the State Project Manager. The State Project Manager, or their State Field Inspector, has the authority to require the Professional to respond to and resolve study/design related problems, construction on-site field problems and to attend Project related meetings.

STATE PROJECT MANAGER: The assigned staff of the Department or the State / Client Agency authorized by the State to represent and act on behalf of the Project Director on a given Project and to thereby provide direction and assistance to the Construction Contractor. The State Project Manager may designate in writing a person to act on behalf of the State Project Manager when they are unable to perform their required duties or is away from the office. In such cases, the State Project Manager must notify the Construction Contractor and the Project Director.

SUBSTANTIAL COMPLETION: The form (DTMB-0445) stating that the Project work, or a portion of the Project work eligible for separate Substantial Completion, has been completed in accordance with the design intent of the Professional’s Contract Documents to the extent that the Department and the State / Client Agency can use or occupy the entire Project work, or the designated portion of the Project work, for the use intended without any outstanding, concurrent work at the Project work site, except as may be required to complete or correct the Project work Punch List items.

SUSTAINABLE DESIGN: The Professional’s use of a balance of appropriate materials, products and design methods that reduce the impact to the natural ecosystems and be within the Budget constraints of the Project. Sustainable Design shall be used wherever possible by the Professional in their Project design and an itemized list shall be provided with the Professional’s Contract Documents that identifies the processes and products.

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

**ARTICLE XIV**

**COMPLETE AGREEMENT/MODIFICATION**

This Professional Services Contract constitutes the entire agreement as to the Project between the parties. Any Contract Modification of this Contract and the Project / Program Statement scope of work requirements 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 firm’s final design Contract Documents/study/design errors, omissions, or neglect on the part of the Professional.

## APPENDIX 1

**PROJECT / PROGRAM STATEMENT**

## APPENDIX 2

## PROFESSIONAL’S PROPOSAL

## APPENDIX 3

## GUIDELINES FOR QUALITY CONTROL/QUALITY ASSURANCE (QC/QA) PLAN

 INDEX

1. Guidelines for Project Quality

Control/Quality Assurance (QC/QA) Plan. Appendix 3A

2. Guidelines for Preparation of the Project

Quality Control/Quality Assurance (QC/QA) Plan Appendix 3B

3. Base Project Plan for Quality

Control/Quality Assurance (QC/QA) Appendix 3C

4. Amendments to Project Quality

Control/Quality Assurance (QC/QA) Plan. Appendix 3D

## APPENDIX 3A

## GUIDELINES FOR

## QUALITY CONTROL/QUALITY ASSURANCE (QC/QA) PLAN

The Guidelines for Quality Control/Quality Assurance (QC/QA) Plan is prepared to prescribe criteria and procedures for efficient, cost effective, and reliable, acquisition, and accurate analysis, of data from a specific contaminated site, and to govern the implementation of that process. The Quality Control/Quality Assurance (QC/QA) Plan describes, in specific detail the following items:

1. Policy

2. Organization

3. Functional Activities (sample collection, chemical analysis, description of the laboratory, field methodologies, etc.)

4. Quality Control and Quality Assurance (QC/QA) Procedures necessary to achieve intended Project data quality goals.

This Quality Control/Quality Assurance ( QC/QA) Plan must be prepared by the Professional and accepted by the governing enforcing agency before any sampling, data analysis, or monitoring may begin at any site, or combination of sites which comprise a Project.

## APPENDIX 3B

## GUIDELINES FOR PREPARATION OF THE PROJECT

## QUALITY CONTROL/QUALITY ASSURANCE (QC/QA) PLAN

This guideline specifies sixteen (16) elements that must be addressed in a Quality Control/Quality Assurance (QC/QA) Plan. The Project description, Project organization and responsibility and the Quality Control/Quality Assurance (QC/QA) Plan objective should be written first. Other elements are self-explanatory and must be consistent with the Project description and especially the intended use of the data.

1. Title Page

At the bottom of the title page, provisions must be made for the approval signatures. As a minimum, the Quality Control/Quality Assurance (QC/QA) Plan must be approved by the Department and in the case of a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site also, by the federal governing enforcing agency having governing jurisdiction at the Project site.

A. Department and the State / Client Agency

B. Department of Environmental Quality’s Quality Control/Quality Assurance Officer

C. Construction Contractor's Project Officer

D. Construction Contractor's Quality Control/Quality Assurance Officer

2. Table of Contents

The Table of Contents will address each of the following items:

A. Introduction

B. A serial listing of each of the sixteen (16) quality assurance Project plan components.

C. A listing of any appendices included to augment the Quality Control/Quality Assurance (QC/QA) Plan as presented (i.e., standard operating procedures, etc.).

3. Project Description

Provide a general description of the Project. This description may be brief but must have sufficient detail to allow those individuals responsible for review and approval of the Quality Control/Quality Assurance Plan (QC/QA) to perform their Task. Where appropriate, include the following:

A. A summary of background information from previous studies.

B. Dates anticipated for start and completion.

C. Intended end use of acquired data, such as future enforcement actions, remedial action alternatives, determination of hazardous waste characteristics, protection of public health, definition of the extent of environmental contamination or future regulatory action.

D. A description of the monitoring network design and rationale.

E. A discussion of the sample matrices and parameters to be measured and their frequency of collection, if appropriate. Parameters should include field measurements, hydrogeological measurements, and laboratory parameters. Sample parameters and matrices are best listed in two (2) groups which may require different sampling, analytical and quality control procedures.

F. Wastes including on‑site sludges, barrels, liquids, and contaminated soils, which are often analyzed to determine waste disposal alternatives.

G. Ambient monitoring of air, ground water, soils, surface water, river sediments, fish, etc. These types of determinations usually are intended to measure the extent of environmental contamination and to assess public health risks. Specifications for filtered or unfiltered sample aliquots of ground water should be included.

Selection of analytical methods requires familiarity with any regulatory requirements of intended data usage(s). For example, disposal of wastes during remedial removals will require testing of materials pursuant to the Resource Construction and Recovery Act (RCRA). In this case, the Resource Construction and Recovery Act (RCRA) codified regulations may dictate choices of analytical methods. Discharge of treated ground water to surface waters may require a National Pollutant Discharge Elimination System (NPDES) permit, monitoring requirements and use of Clean Water Act Methods. Similarly, operation of an air stripper may require use of Clean Water Act Methods.

4. Project Organization and Responsibility

Include a table or chart showing the Project organization and line authority. List the key individuals, including the Quality Assurance Officer, who are responsible for ensuring the collection of valid measurement data and the routine assessment of measurement systems for precision and accuracy.

All laboratories including the State's contracted laboratory, the Professional firm’s own, and all subcontracted laboratories must be identified. If a subcontractor laboratory has an existing Contract Laboratory Program (CLP) Contract and these same Contract Laboratory Program (CLP) protocols will be used, this arrangement should be described. If the Contract Laboratory Program (CLP) procedures are to be used, then this element should identify final data review of routine Contract Laboratory Program (CLP) services.

5. Quality Control/Quality Assurance (QC/QA) Plan Objectives for Measurement Date in Terms of Provision, Accuracy, Detection Limits

For each martrix (or martrix groups) and parameter, objectives should be established for:

A. Accuracy (sample spikes, surrogate spikes, reference sampled, etc.).

B. Precision (replicate sample analyses, etc.).

C. Sensitivity or Method Detection Limits.

These should be established on Project needs, if possible, but must be discussed with support laboratories so they are realistic. Quantitative limits should be established for these objectives.

For example, mean spike recoveries for volatile halogenated organic compounds in water using purge and trap gas chromatography techniques, should be 90‑100 percent (%), and range between 80 and 120 percent (%) recovery. Reference sample results should be accurate within 20 percent (%) of true values. Precision objectives should be that duplicate sample aliquot values do not differ more than 10 percent (%) at the 95 percent (%) confidence level when concentrations are measured significantly larger than the method detection limit. Except for methylene chloride, method detection limits objectives can realistically be established at 0.2 ug/1 for this gas chromatography technique.

Screening of hazardous waste site liquids may well only require 50 to 150 percent (%) recoveries of spike surrogate compounds during the Gas Chromatograph/Mass Spectroscopy (GC/MS) determinations and method detection limits of 0 ug/1 for volatile halogenated organic compounds.

Quality Assurance objectives must be consistent with the capabilities of the analytical methods identified in element number 9 below. Sound objectives require careful thought and the talents of analysts and the people who are going to use the resulting data. These need to be established in advance of monitoring.

6. Sampling Procedures

For each major parameter(s), provide a description of the sampling procedures to be used. Where applicable, include the following:

A. Description of techniques used to select sampling sites.

B. Inclusion of specific sampling procedures to be used.

C. A description of containers, procedures, reagents, etc., used for sample collection, preservation, transport, and storage.

D. Special procedures for the preparation of sampling equipment and containers to avoid or measure sample contamination.

E. Sample preservation methods and holding times.

F. Time considerations for shipping samples promptly to the laboratory.

G. Forms, notebooks, and procedures to be used to record sample history, sampling and conditions and analyses to be performed.

7. Sample Custody

Sample custody is a part of any good laboratory or field operation. Where samples may be needed for legal purposes, "chain‑of‑custody" control procedures must be used. However, as a minimum, the following sample custody procedures will be addressed in the Quality Control/Quality Assurance (QC/QA) Plan:

A. Procedures and forms for recording the exact location associated with sample acquisition.

B. Standardized field tracking reporting system to establish sample custody in the field prior to shipment.

C. Identification of responsible party to act as sample custodian at the laboratory facility authorized to sign for incoming, field samples, and verify the data entered onto the sample custody records.

D. Provision for a laboratory sample custody log consisting of serially numbered standard laboratory tracking report sheets.

E. Specifications of laboratory sample custody procedures for sample handling, storage, and disbursement for analysis.

F. Custody procedures for final evidence files. Final evidence files include all originals of laboratory reports and are maintained in a secure area.

This element should provide examples of chain‑of‑custody control records or forms used to record chain‑of‑custody control for samplers, laboratories, and evidence files.

8. Calibration Procedures and Frequency

Calibration procedures are usually a part of specific analytical methodology. This element can be combined with element number 9, analytical procedures.

9. Analytical Procedures

For each measurement parameter, reference the applicable standard analytical procedure(s) or provide a written description of the analytical procedure(s) to be used. Provide performance information for each analytical procedure in terms of accuracy, precision, and detection limits. Method performance information should meet or exceed the Quality Assurance objectives identified in element number 5. For the sake of convenience, all, or part of elements number 8, 9, 10, 11, and 13 may be incorporated into this element.

The choice of when to reference a manual's test procedure and when to document a complete Standard Operating Procedure (SOP) can only be made on a case‑by‑case basis. It has been observed that few laboratories, external to the Contract Laboratory Program (CLP), follow exactly, all important details of a standard reference method. Other times standard reference methods provide or allow options (example ‑ the use of different gas chromatography columns for polychlorinated biphenyl (PCB) determinations).

Reference to analytical methods in the United States Environmental Protection Agency (EPA) Publications, the American Society for Testing and Materials (ASTM) or "Standard Methods" can be appropriate; however, required sample preparation procedures (filtration, digestion, etc.) also need to be referenced. For example, the United States Environmental Protection Agency’s “Methods for Chemical Analysis of Water and Wastes" provides three (3) different test procedures for most metal determinations and at least four (4) sample preparation protocols for each metal. Each combination of metal determination and sample preparation exhibits different degrees of accuracy, precision, and sensitivity of measurement. Different quality control audits are used for each combination of metal determination and sample preparation. The exact combination used for each metal must be specified.

10. Data Reduction, Validation and Reporting

For each major parameter, briefly describe:

A. The data reduction scheme planned on collected data, including all equations used to calculate the concentration or value of the measured parameter and reporting units.

B. The principal criteria that will be used to validate data integrity during collection and reporting of data.

C. The methods used to identify and treat outliers.

11. Internal Quality Control Checks

The specific quality control procedures being followed for each test or determination should be specified i.e., sample spikes, surrogate spikes, independently prepared reference samples or controls, blanks, etc. The frequency of these audits should be specified. The compounds used for surrogate and sample spikes should be specified where appropriate ‑ arsenic, mercury, priority pollutant organic compounds, etc. The acceptance limits or control chart limits for these audits should be in place so that analyses can be validated prior to reporting of data.

12. Performance and System Audits

This Quality Control/Quality Assurance (QC/QA) Plan must describe the performance audits which will be required to monitor the capability and performance of the total measurement system(s). The Quality Control/Quality Assurance (QC/QA) Plan should include a schedule for conducting performance audits for each parameter, including a performance audit for all measurement systems. Project plans should also indicate, where applicable, scheduled participation in inter‑laboratory performance evaluation studies.

The Environmental Protection Agency performance evaluation samples, National Bureau of Standards reference samples or samples from inter laboratory studies may be used for this purpose.

13. Preventive Maintenance

The following preventive maintenance items should be considered and addressed in the Quality Control/Quality Assurance (QC/QA) Plan:

A. A schedule of important preventive maintenance tasks that must be carried out to minimize downtime of the measurement systems.

B. A list of any critical spare parts that should be on hand to minimize downtime.

14. Specific Routine Procedures Used to Assess Data Precision and Accuracy

For each major parameter, the Quality Control/Quality Assurance (QC/QA) Plan must describe the routine procedures used to assess the precision, and accuracy. These procedures should include the equations to calculate precision and accuracy, and the methods used to gather data for the precision and accuracy calculations.

15. Corrective Action

Corrective action procedures must include the following elements:

A. The predetermined limits for data acceptability beyond which corrective action is required.

B. Procedures for corrective action.

16. Quality Assurance Reports to Management

The Quality Control/Quality Assurance (QC/QA) Plan should provide a mechanism for periodic reporting to the Department and the State / Client Agency on the performance of measurement systems and data quality. These reports should include:

A. Periodic assessment of measurements data accuracy and precision.

B. Results of performance audits.

C. Results of system audits.

D. Significant Quality Assurance problems and recommended solutions.

## APPENDIX 3C

## BASE PROJECT PLAN

## FOR QUALITY CONTROL/QUALITY ASSURANCE

## APPENDIX 3D

## AMENDMENTS TO QUALITY CONTROL/QUALITY ASSURANCE PLAN

## APPENDIX 4

## PROJECT SITE HEALTH AND SAFETY PLAN

 INDEX

1. Base Project Health and Safety Plan . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . Appendix 4A

2. Amendments to Project Health and Safety Plan. . . . . . . . . . . . . . . . . . . . . . . . . .Appendix 4B

## APPENDIX 4A

## BASE PROJECT HEALTH AND SAFETY PLAN

## APPENDIX 4B

## AMENDMENTS TO PROJECT HEALTH AND SAFETY PLAN

## APPENDIX 5

## STANDARD REFERENCE OF ACRONYMS

**Acronyms**

|  |  |
| --- | --- |
| AE | Authorized Expeditor |
| AHERA | Asbestos Hazard Emergency Response Act |
| AIA | American Institute of Architects |
| AOC | Administrative Order of Consent |
| ARA | Acute Risk Abatement |
| ARAR | Applicable or Appropriate, Relevant and to be Considered Requirement |
| AST | Aboveground Storage Tank |
| ASTM | American Society for Testing and Materials |
| BOA | Basic Ordering Agreement |
| BTEX | Benzene, Toluene, Ethylbenzene, Xylene |
| CA | Corrective Action |
| CAD | Computer-Aided Design |
| CAP | Corrective Action Plan |
| CD | Compact Disc |
| CERCLA | Comprehensive Environmental Response Compensation, and Liability Act of 1980 |
| CM | Construction Management |
| CMS | Corrective Measures Study |
| CPA | Certified Public Accountant |
| CPFF | Cost Plus Fixed Fee |
| CPG | Certified Professional Geologist |
| CPM | Critical Path Method |
| CS | Contract Specialist |
| CSI | Construction Specifications Institute |
| CWA | Clean Water Act |
| DTMB | Department of Technology, Management & Budget |
| DCD | Design and Construction Division |
| DNAPL | Dense Non-Aqueous Phase Liquid |
| EE/CA | Engineering Evaluation/Cost Analysis |
| ESA | Environmental Site Assessment |
| EVA | Earned Value Analysis |
| FAR | Final Assessment Report |
| FM | Financial Manager |
| FP | Fixed Price |
| FS | Feasibility Study |
| FFS | Focused Feasibility Study |
| GDRRA | Greater Detroit Resource Recovery Authority |
| GSI | Groundwater-Surface Water Interface |
| H&S | Health and Safety |
| HASP | Health and Safety Plan |
| HAZWOPER | Hazardous Waste Operations and Emergency Response |
| HSM | Health and Safety Manager |
| LOE | Level-of-Effort |
| LS | Legal Specialist |
| LUST | Leaking Underground Storage Tank |

|  |  |
| --- | --- |
| MCL | Michigan Compiled Law |
| MDEGLE | Michigan Dept. of Environment, Great Lakes, and Energy |
| MDTMB | Michigan Dept. of Technology, Management & Budget |
| MDNR | Michigan Department of Natural Resources |
| MIOSHA | Michigan Occupational Safety and Health Act |
| MOP | Miscellaneous Operating Project |
| NEPA | National Environmental Policy Act |
| NIOSH | National Institute for Occupational Safety and Health |
| NREPA | National Resources Environmental Protection Act (Act 451 PA 1994 as amended) |
| O&M | Operation and Maintenance / Manual |
| OSHA | Occupational Safety and Health Administration |
| PA | Public Act |
| PAHS | Polynuclear Aromatic Hydrocarbons |
| PCB | Polychlorinated Biphenyls |
| PE | Licensed Professional Engineer |
| PPE | Personal Protective Equipment |
| PM | Project Management |
| PRP | Potentially Responsible Parties |
| PSC | Professional Services Contractor |
| QAPP | Quality Assurance Project Plan |
| QA/TC | Quality Assurance/Technical Consultant |
| QC | Qualified Consultant |
| QC/QA | Quality Control/Quality Assurance  |
| RA | Remedial Actions |
| RAP | Remedial Action Plan |
| RBCA | Risk-Based Corrective Action |
| RBSLs | Risk Based Screening Levels |
| RC | Remedial Construction |
| RCRA | Resource Conservation and Recovery Act |
| RD | Remedial Design |
| RFI | RCRA Facility Investigation |
| RFP | Request for Proposal |
| RI | Remedial Investigation |
| RI/FS | Remedial Investigation / Feasibility Study |
| RP | Responsible Party |
| RRD | Remediation and Redevelopment Division |
| SA | Site Assessment |
| SARA | Superfund Amendments and Reauthorization Act |
| SDWA | Safe Drinking Water Act |
| SFA | State Facilities Administration  |
| SHSC | Site Health and Safety Coordinator  |
| SI | Site Investigation |
| SM | Site Manager |
| SOW | Scope of Work |

|  |  |
| --- | --- |
| SPCC | Spill Prevention Control and Countermeasures |
| SSTLs | Site Specific Target Levels |
| SVE | Soil Vapor Extraction |
| TAT | Technical Assistance Team |
| TCE | Trichloroethylene |
| TM | Time and Materials |
| TS | Technical Specialist |
| TSCA | Toxic Substances Control Act |
| UP | Unit Price |
| U.S. ATHAMA | U.S. Army Toxic and Hazardous Material Agency |
| U.S. EPA | United States Environmental Protection Agency |
| UST | Underground Storage Tank |
| USPS | United States Postal Service |
| VOC | Volatile Organic Compounds |
| VSR | Verification of Soil Remediation |
| WPO | Work Plan Outline |
| yd2 | Square Yards |
| yd3 | Cubic Yards |

## APPENDIX 6

## ORIGINAL CERTIFICATES OF INSURANCE

**APPENDIX 7**

### PROFESSIONAL CERTIFICATION FORMS

**APPENDIX 8**

**OVERHEAD ITEMS ALLOWED FOR THE**

**PROFESSIONAL SERVICES CONTRACTOR FIRM’S**

**HOURLY BILLING RATE CALCULATION**

The following instructions are to be used by the Professional Services Professional firms 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, not to exceed 5%, will be allowed.

The Department will reimburse the Professional for 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 IF such items are provided in house by the Professional.**

**2024 HOURLY BILLING RATE**

Based on 2023 Expenses

**OVERHEAD ITEMS ALLOWED FOR THE PROFESSIONAL SERVICES CONTRACTOR**

**FIRM’S HOURLY BILLING RATE CALCULATION**

|  |  |  |
| --- | --- | --- |
|  |  |  |
| **SALARIES:** | **EMPLOYEE BENEFITS:** | **INSURANCE:** |
|  |  |  |
| Principals ( Not Project Related) | Hospitalization | Professional Liability Insurance |
| Clerical / Secretarial | Employer’s Federal Insurance Contributions Act (FICA)Tax | Flight and Commercial Vehicle |
| Technical (Not Project Related) | Unemployment Insurance | Valuable Papers |
| Temporary Help Tax | Federal Unemployment | Office Liability |
| Technical Training  | Disability | Office Theft |
| Recruiting Expenses | Worker’s Compensation | Premises Insurance |
|  | Vacation | Key – Personnel Insurance |
|  | Holidays | Professional Liability Insurance |
|  | Sick Pay |  |
|  | Medical Payments |  |
|  | Pension Funds |  |
|  | Insurance - Life |  |
|  | Retirement Plans |  |
|  |  |  |
| **TAXES:** | **SERVICES (PROFESSIONAL):** | **EQUIPMENT RENTALS:** |
|  |  |  |
| Franchise Taxes | Accounting | Computers |
| Occupancy Tax | Legal | Typewriter |
| Unincorporated Business Tax | Employment Fees | Bookkeeping |
| Single Business Tax | Computer Services Bond) | Dictating |
| Property Tax | Research | Printing |
| Income Tax | Project / Contract Bond | Furniture and Fixtures |
|  |  | Instruments |
|  |  |  |
|  |  |  |
| **OFFICE FACILITIES:** | **LOSSES:**  | **FINANCIAL:** |
|  |  |  |
| Rents and Related Expenses | Bad Debts (net) | Depreciation |
| Utilities | Uncollectible Fee |  |
| Cleaning and Repair | Thefts (not covered by Project / Contract) |  |
|  | Forgeries (not covered by Project / Contract) |  |
|  |  |  |
|  |  |  |
| **SUPPLIES:** | **PRINTING AND DUPLICATION:** | **SERVICES (NONPROFESSIONAL):** |
|  |  |  |
| Postage | Specifications (other than Contract Bidding documents) | Telephone and Telegram |
| Drafting Room Supplies | Drawings (other than Contract Bidding documents) | Messenger Services |
| General Office Supplies | Xerox / Reproduction |  |
| Library | Photographs |  |
| Maps and Charts |  |  |
| Magazine Subscriptions |  |  |
|  |  |  |
| **TRAVEL:** | **MISCELLANEOUS:** |  |
|  |  |  |
| All Project – Related Travel\* | Professional Organization Dues for Principals and Employees |  |
|  | Licensing Fees |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**APPENDIX 9**

**PREVAILING WAGE SCHEDULES**

**AND FEDERAL PROVISIONS ADDENDUM**

**(DELETE ‘AND FEDERAL PROVISIONS ADDENDUM’ LANGUAGE (ABOVE)**

**UNLESS FEDERAL FUNDING AND/OR DAVIS-BACON APPLIES)**

**If federal funds are being used, completion of the**

**Federal Provisions Addendum is required.**

**If you are unsure if the project has federal funds or not,**

**please reach out to the Project Director.**

**To complete, please read the document and complete Page 10
of the Addendum and the last page of the Appendix.**