



PROPOSAL INSTRUCTIONS

Michigan Independent Citizens Redistricting Commission

Litigation Counsel

Request for Proposal No. 920, 210000002217

Solicitation Manager Name: Chad Bassett
c/o Michigan Independent Citizen Redistricting Commission

Direct Phone: 517.241.2646

Email: bassettc@michigan.gov

This is a Request for Proposal (RFP) for:

Litigation Counsel

RFP Timeline

Event	Time	Date
RFP issue date	N/A	Tuesday, July 6, 2021
Deadline for bidders to submit questions about this RFP	3:00 p.m. EDT	Tuesday, July 13, 2021
Anticipated date the Commission will post answers to bidder questions on www.michigan.gov/SIGMAVSS and Michigan Independent Citizens Redistricting Commission website.	N/A	Friday, July 16, 2021
Proposal deadline*	3:00 p.m. EDT	Thursday, July 29, 2021
Anticipated contract begin date	N/A	Friday, September 10, 2021

*A bidder's proposal received at 3:00:01 p.m. Eastern Daylight Time is late and subject to disqualification.

This RFP is subject to change. Check www.michigan.gov/SIGMAVSS and [Michigan Independent Citizens Redistricting Commission](http://MichiganIndependentCitizensRedistrictingCommission.com) website for current information.



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**Michigan Independent Citizens Redistricting Commission
Litigation Counsel
Request for Proposal No. 920, 21000002217
Summary Sheet – Key Deliverables**

In 2018, Michigan voters amended the state constitution to put the power to draw state and congressional district lines in the hands of citizens, not legislators or special interests. The inaugural and historic Michigan Independent Citizens Redistricting Commission is seeking experienced litigation counsel to provide legal and advisory services (i.e., legal advice and representation) in this new area of law in Michigan. The Commission is re-posting this RFP to engage in the competitive bidding process for this unique and groundbreaking opportunity. In addition to its General Counsel, the Commission has engaged a consultant to provide legal analysis regarding Voting Rights Act compliance and is seeking to expand its current legal team to include an attorney, firm or other entity to serve as litigation counsel.

1.1 Key Deliverable One:

Key expertise or desirable expertise to fulfill the Statement of Work located within Section A of this RFP:

(a) **Litigation Expertise.** The attorney, firm or other entity must demonstrate litigation experience and expertise to represent the Commission.

1. Briefly describe a maximum of 5 cases argued before the Michigan Supreme Court or the highest court of a State, including, in particular, cases involving constitutional or public policy issues. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.
2. Likewise, briefly describe, a maximum of 5 cases where a judgment was reached in a federal court, including, in particular, cases involving constitutional or public policy issues. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.



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3. Please describe experience, if any, before the U.S. Supreme Court. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case.
4. Describe representative legal work performed on behalf of public agencies and state boards or commissions in the past 5 years, providing dates and references as appropriate.
5. Describe the attorney or firm's experience with complex and/or electronic discovery.

(b) **Redistricting Experience.** It is desirable that the attorney, firm or other entity demonstrate experience and expertise in legal and advisory services specific to redistricting. However, extensive expertise is not required, as federal and state litigation experience are of paramount importance.

1. Briefly describe a maximum of 5 redistricting representations. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.
2. Briefly describe any legal and advisory services provided specific to redistricting providing dates and references as appropriate.

(c) **Election Law Expertise.** It is desirable that the attorney, firm or other entity demonstrate experience in election law.

1. Briefly describe a maximum of 5 election law representations. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.



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2. Briefly describe any legal and advisory services provided specific to election law providing dates and references as appropriate.

(d) **Cumulative Experience.** Provide a summary of why, based on the aforementioned previous experience listed in (a) through (c), the Contractor is uniquely qualified to perform the services sought by this RFP and assume the role of Litigation Counsel for the Commission.

1.2 Key Deliverable Two

Key operational requirements and inquiries to fulfill the Statement of Work located within Section A of this RFP:

(a) **Motivations.** Provide a summary of why the attorney, firm or other entity seeks to serve the Commission.

(b) **Key Personnel.** In the case of a law firm or other entity, identify the lead attorney or other attorneys, if any, who will be assigned to the work and the anticipated percentage of time for each.

(c) **Firm/Entity General Description.** If the RFP is submitted by a law firm or other entity, provide a general description of the firm or entity.

1.3 Key Deliverable Three

Key operational requirements and inquiries to fulfill the Statement of Work located within Section A of this RFP:

(a) **Conflicts.** The attorney or law firm must comply with the rules as set forth in the Michigan Rules of Professional Conduct or professional rules in the state of licensure as well as any applicable law, regulation or policy at all times. Please identify the following:

1. Any matter in which the attorney or firm is presently adverse or was adverse in the previous 5 years to the Commission or the State of Michigan.
2. Any work previously provided by the attorney or law firm in the previous 5 years on behalf of any potential adverse party or witness, to the extent known.
3. Whether any lawyer(s) identified as Key Personnel has ever been subject to any disciplinary proceeding or been sanctioned by a court

(b) **Disclosures.** Disclose the following:

1. Previous legal services (paid or unpaid) by the attorney, firm, or other entity as it relates to redistricting, reapportionment, districting and elections activities provided from January 2010 to present day to:



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- i. Persons holding elective office.
- ii. Partisan or non-partisan entities or organizations.

Please describe the implications of the current or prior representations listed on this RFP. In particular, address whether it could present the appearance of a conflict in connection with the representation of the Commission in connection with the defense of its maps.

2. Any lobbying work the firm, other entity or attorneys listed as Key Personnel has performed in Michigan as it relates to redistricting, reapportionment, districting and elections activities from January 2010 to present day.
3. Any monetary political contributions or donations made on behalf of the firm, other entity or attorneys listed as Key Personnel, including contributions made by a firm political action committee, from January 2010 to present day.
4. Any monetary political contributions personally made by the attorneys listed as Key Personnel from January 2010 to present day.
5. With respect to Key Personnel who are expected to work in connection with this representation, please disclose any financial, business, professional, lobbying or other relationship not previously identified that presents a potential conflict with the services to be performed under this Contract.

(c) **Approach.** In keeping with the Commission's constitutional obligation to perform its duties in an impartial manner that reinforces public confidence in the integrity of the redistricting process, it is desired that Litigation Counsel operate in the same manner. Provide a description of the approach and methodology that will be used by the attorney, firm or other entity to performing the responsibilities of Litigation Counsel while remaining impartial, unbiased and non-partisan as set forth in Article IV, Section 6, Subsections 4 and 5 of the Michigan Constitution.

If retained by the Commission, Contractor and all Key Personnel will be expected, for the duration of the representation, to update their disclosures as necessary through the contract term.

The fact that a conflict is identified pursuant to this section is not an automatic disqualification but is information the Commission will consider in the selection process.



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- 1. PROPOSAL PREPARATION.** The Commission recommends reading **all** RFP materials prior to preparing a proposal, particularly these Proposal Instructions and the Vendor Questions Worksheet. Bidders must follow these Proposal Instructions and provide a complete response to the items indicated in the table below. References and links to websites or external sources may not be used in lieu of providing the information requested in the RFP within the proposal. Include the bidder’s company name in the header of all documents submitted with your proposal.

RFP Structure and Documentation

Document	Description	Bidder Response Instructions
Cover Page	Provides RFP title and number, important dates, and contact information for Solicitation Manager	Informational
Summary Sheet	Provides a summary of the Key Deliverables	Informational
Proposal Instructions	Provides RFP instructions to bidders	Informational
Confidential Treatment Form	Required verification on whether bidder’s proposal contains confidential information	Bidder to complete and submit by proposal deadline
Vendor Questions Worksheet	Questions to bidders on background and experience	Bidder to complete and submit by proposal deadline
Schedule A – Statement of Work	Statement of work	Bidder to complete and submit by proposal deadline
Schedule B – Pricing	Pricing for goods and services sought by the Commission through this RFP	Bidder to complete and submit by proposal deadline
Contract Terms	Provides legal terms for a contract awarded through this RFP	Deemed accepted by bidder unless information required in the Evaluation Process section of this document is submitted by proposal deadline



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2. **CONTACT INFORMATION FOR THE COMMISSION.** The sole point of contact for the Commission concerning this RFP is listed on the Cover Page. Contacting any other Commission personnel, agent, consultant, or representative about this RFP may result in bidder disqualification.
3. **MODIFICATIONS.** The Commission may modify this RFP at any time. Modifications will be posted on www.michigan.gov/SIGMAVSS and on the [Independent Citizens Redistricting Commission](http://www.michigan.gov/IndependentCitizensRedistrictingCommission) website. This is the only method by which the RFP may be modified.
4. **QUESTIONS.** Bidder questions about this RFP must be emailed to the Solicitation Manager no later than the time and date specified on the Cover Page. In the interest of transparency, only written questions are accepted. Answers to questions will be posted on www.michigan.gov/SIGMAVSS and on the [Michigan Independent Citizens Redistricting Commission](http://www.michigan.gov/IndependentCitizensRedistrictingCommission) website. Submit questions using the format below; a Microsoft Excel format or similar is suggested.

Q #	Document and Section	Page #	Bidder Question

5. DELIVERY OF PROPOSAL.

Electronic – The bidder must submit its proposal, all attachments, and any modifications or withdrawals via email to the Solicitation Manager. The price proposal should be saved separately from all other proposal documents. The bidder should submit all documents in a modifiable (native) format (examples include but are not limited to Microsoft Word or Excel and Google Docs or Sheets). In addition to submitting documents in a modifiable format, the bidder may also submit copies of documents in PDF. Bidder’s failure to submit a proposal as required may result in disqualification. The proposal and attachments must be received by the Solicitation Manager via email by the proposal deadline.

6. MANDATORY MINIMUM REQUIREMENTS. To avoid disqualification, the bidder must provide documentation to support the following:

The primary contractor, subcontractors or key personnel must have experience providing legal and advisory services (i.e., legal advice and representation) directly related to the work described in this RFP. This experience must include litigation, analysis of applicable federal and state law, and ensuring compliance with such laws during a redistricting process.

Only proposals meeting the mandatory minimum requirements will be considered for evaluation. Bidder must be specially trained, experienced and competent to perform the services required by this Contract.



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7. **EVALUATION PROCESS.** If all mandatory minimum requirements are met then the Commission will evaluate each proposal based on the following factors:

	Technical Evaluation Criteria	Weight
1.	Key Deliverable One Schedule A: Sec. 1.1	40
2.	Key Deliverable Two Schedule A: Sec. 1.2	20
3.	Key Deliverable Three Schedule A: Sec. 1.3	10
4.	Key Personnel Schedule, Organizational Chart and Disclosure of Subcontractors, Schedule A: Sec 4.12, 4.13, 4.14 and 5.0	10
5.	Vendor Questions Worksheet	20
	Total	100

Proposals receiving 80 or more technical evaluation points will have pricing evaluated and considered for award.

The Commission may utilize all bidder information, without regard to a proposal’s technical score, to determine fair market value for goods or services sought. The Commission is not obligated to accept the lowest price proposal.

The Commission strongly encourages strict adherence to the Contract Terms. The Commission reserves the right to deem a bid non-responsive for failure to accept the Contract Terms. Nevertheless, the bidder may submit proposed changes to the Contract Terms in track changes (i.e., visible edits) with an explanation of the bidder’s need for each proposed change. Failure to include track changes with an explanation of the bidder’s need for the proposed change constitutes the bidder’s acceptance of the Contract Terms. General statements, such as that the bidder reserves the right to negotiate the terms and conditions, may be considered non-responsive.

The Commission may but is not required to conduct an on-site visit to tour and inspect the bidder’s facilities; require an oral presentation of the bidder's proposal; conduct interviews, research, reference checks, and background checks; and request additional price concessions at any point during the evaluation process.

8. **NOTICE OF DEFICIENCY.** The Commission reserves the right to issue a **Notice of Deficiency** to bidders if the Commission determines after the proposal deadline that a portion of the RFP was deficient, unclear, or ambiguous. Failure to respond to a **Notice of Deficiency** timely may be cause for disqualification.
9. **CLARIFICATION REQUEST.** The Commission reserves the right to issue a **Clarification Request** to a bidder to clarify its proposal if the Commission determines the proposal is not clear. Failure to respond to a **Clarification Request** timely may be cause for disqualification.



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10. RESERVATIONS. The Commission reserves the right to:

- a. Disqualify a bidder for failure to follow these instructions.
- b. Discontinue the RFP process at any time for any or no reason. The issuance of an RFP, your preparation and submission of a proposal, and the Commission's subsequent receipt and evaluation of your proposal does not commit the Commission to award a contract to you or anyone, even if all the requirements in the RFP are met.
- c. Consider late proposals if: (i) no other proposals are received; (ii) no complete proposals are received; (iii) the Commission received complete proposals, but the proposals did not meet mandatory minimum requirements or technical criteria; or (iv) the award process fails to result in an award.
- d. Consider an otherwise disqualified proposal if no other proposals are received.
- e. Disqualify a proposal based on: (i) information provided by the bidder in response to this RFP; (ii) the bidder's refusal to complete registration on www.michigan.gov/SIGMAVSS upon award or (iii) if it is determined that a bidder purposely or willfully submitted false or misleading information in response to the RFP.
- f. Consider prior performance with the State of Michigan in making its award decision.
- g. Consider overall impact to the economy of Michigan when evaluating proposal pricing and in the final award recommendation. This includes but is not limited to: considering principal place of performance, number of Michigan citizens employed or potentially employed, dollars paid to Michigan residents, Michigan capital investments, job creation, tax revenue implications, and economically disadvantaged businesses.
- h. Consider total-cost-of-ownership factors (e.g., transition and training costs) when evaluating proposal pricing and in the final award recommendation.
- i. Refuse to award a contract to any bidder that has failed to pay the State of Michigan taxes or has outstanding debt with the State of Michigan.
- j. Enter into negotiations with one or more bidders on price, terms, technical requirements, or other deliverables.
- k. Award multiple, optional-use contracts, or award by Contract Activity.
- l. Evaluate the proposal outside the scope identified in the **Evaluation Process** section of this document if the Commission receives only one proposal.

11. AWARD RECOMMENDATION. The contract will be awarded to the responsive and responsible bidder who offers the best value to the Commission, as determined by the Commission. Best value will be determined by the bidder meeting the minimum point threshold and offering the best combination of the factors stated in the **Evaluation Process** section of this document, and price, as demonstrated by the proposal. The Commission will post an **Award Recommendation and Evaluation Synopsis** on www.michigan.gov/SIGMAVSS and on the [Michigan Independent Citizens Redistricting Commission](http://www.michigan.gov/SIGMAVSS) website.



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DEBRIEF MEETING AND BID PROTEST. The Commission will post an *Award Recommendation and Evaluation Synopsis* which will provide instructions on how to request a debrief meeting.

If you wish to initiate a protest of the award, you must submit your written protest to bassettc@michigan.gov no later than 3:00pm, five calendar days after posting the *Award Recommendation and Evaluation Synopsis* or by 3:00pm the next business day if that date falls on a State of Michigan holiday or weekend. The Commission reserves the right to adjust this timing and will publish any change on the SIGMA VSS system and on the [Michigan Independent Citizens Redistricting Commission](http://MichiganIndependentCitizensRedistrictingCommission.com) website.

- 12. GENERAL CONDITIONS.** The Commission will not be liable for any costs, expenses, or damages incurred by a bidder participating in this solicitation. The bidder agrees that its proposal will be considered an offer to do business with the Commission in accordance with its proposal, including the Contract Terms, and that its proposal will be irrevocable and binding for a period of **90** calendar days from date of submission. If a contract is awarded to the bidder, the Commission may, at its option, incorporate any part of the bidder's proposal into a contract. This RFP is not an offer to enter into a contract. This RFP may not provide a complete statement of the Commission's environment or contain all matters upon which agreement must be reached. Other than verified trade secrets, proposals submitted to the Solicitation Manager are the Commission's property.
- 13. CONFIDENTIAL TREATMENT FORM AND THE FREEDOM OF INFORMATION ACT.** All portions of the bidder's proposal and resulting contract are subject to disclosure as required under Michigan's Freedom of Information Act (FOIA), MCL 15.231, et seq. However, some information may be exempt from disclosure. Under MCL 18.1261(13)(b), records containing "a trade secret as defined under section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902," are exempt from disclosure under FOIA. In addition, "financial or proprietary information" submitted with a bidder's proposal is exempt from disclosure under FOIA. A bidder's failure to comply with this Section is grounds for rejecting a bidder's proposal as non-responsive. As a part of its proposal, each bidder must follow the procedure below.
- a. SUBMIT A COMPLETED "CONFIDENTIAL TREATMENT FORM" (CT FORM) WITH YOUR BID.** Completion and submission of the CT Form is required regardless of whether the bidder seeks confidential treatment of information. Failure to submit a completed CT Form may be cause for disqualification from the solicitation process.
- i. Complete and sign Section 1 of the CT Form if the bidder does NOT request confidential treatment of information contained in its proposal; or
 - ii. Complete and sign Section 2 of the CT Form if the bidder requests confidential treatment of certain information. Bidder must also submit a "Public Copy" of the proposal with the trade secret, financial, and proprietary information redacted and clearly labeled as the "Public Copy."
- b. FOIA REQUESTS.** If a FOIA request is made for a bidder's proposal, the Public Copy may be distributed to the public along with the bidder's CT Form. The CT Form is a public document and serves as an explanation for the redactions to the Public Copy. Do not put any trade secret, financial, or proprietary information in the CT Form. Do not redact the CT Form itself.



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- c. **NO ADVICE.** The Commission will not advise a bidder as to the nature or content of documents entitled to protection from disclosure under FOIA or other laws, as to the interpretation of such laws, or as to the definition of trade secret or financial or proprietary information. Nothing contained in this provision will modify or amend requirements and obligations imposed on the Commission by FOIA or other applicable law.
- d. **FAILURE TO REQUEST CONFIDENTIAL TREATMENT.** Failure to request material be treated as confidential as specified herein relieves the Commission, its agencies, and personnel from any responsibility for maintaining material in confidence.
- e. Bids containing a request to maintain an entire proposal as confidential may be rejected as non-responsive. Bidders may not request confidential treatment with respect to resumes, pricing, and marketing materials. The Commission reserves the right to determine whether material designated as exempt by a bidder falls under MCL 18.1261 or other applicable FOIA exemptions. If a FOIA request is made for materials that the bidder has identified as trade secret, financial, or proprietary information, the Commission has the final authority to determine whether the materials are exempt from disclosure under FOIA.
- f. Bidder forever releases the Commission, its officers, employees, and agents from all claims, rights, actions, demands, damages, liabilities, expenses and fees, which arise out of or relate to the disclosure of all or a portion of bidder's proposal submitted under this RFP. Bidder must defend, indemnify and hold the Commission, its officers, and employees harmless, without limitation, from and against all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to any FOIA request, including potential litigation and appeals, related to the portion of bidder's proposal submitted under this RFP that bidder has identified as a trade secret, or financial or proprietary information. The Commission will notify bidder in writing if indemnification is sought. The Commission is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, or any portion thereof, if the Commission deems necessary. Bidder will not, without the Commission's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. If a Commission employee, official, or law is involved or challenged, the Commission may control the defense of that portion of the claim. Any litigation activity on behalf of the Commission, or any of its subdivisions under this Section, must be coordinated with the General Counsel of the Commission. An attorney designated to represent the Commission may not do so until approved by the Commission.



STATE OF MICHIGAN

MICHIGAN INDEPENDENT CITIZEN REDISTRICTING COMMISSION

CONFIDENTIAL TREATMENT FORM

INSTRUCTIONS. Complete either *Section 1* or *Section 2* of this CT Form and sign where indicated. This CT Form must be signed by the individual who signed the bidder's proposal. A completed CT Form must be submitted with your proposal, regardless of whether your proposal contains confidential information.

Failure to submit a completed CT Form with your bid is grounds for rejecting the proposal as non-responsive. See the **Confidential Treatment Form** and **The Freedom of Information Act (FOIA)** sections of the *Proposal Instructions* for additional information.

Section 1. CONFIDENTIAL TREATMENT IS NOT REQUESTED

This section must be completed, signed, and submitted with the proposal if the bidder does **not** request confidential treatment of any material contained in the proposal.

By signing below, the bidder affirms that confidential treatment of material contained in their proposal is not requested.

RFP Number

RFP Title

Signature

Date

Printed Name, Title, Company



CONFIDENTIAL TREATMENT FORM

Section 2. CONFIDENTIAL TREATMENT IS REQUESTED

This section must be completed, signed, and submitted with the proposal if bidder requests confidential treatment of any material contained in the proposal. Submission of a completed CT Form is required to request confidential treatment.

Provide the information in the table below. Bidder may add rows or additional pages using the same format shown in the table. Bidder must specifically identify the information to be protected as confidential and Commission the reasons why protection is necessary.

The CT Form will not be considered fully complete unless, for each confidentiality request, the bidder: (1) Identifies the Proposal Page #, Section #, and Paragraph #, (2) Identifies whether the material is a Trade Secret (TS), Proprietary Financial Information (FI), or Proprietary Information (PI), (3) Explains the specific legal grounds that support treatment of the material as TS, FI, or PI. Bidders must provide a complete justification as to how the material falls within the scope of an applicable FOIA Exemption or relevant case law. Bidders must not simply cite to an applicable exemption or case name, and (4) Provides the contact information for the person at Bidder’s organization authorized to respond to inquiries by the Commission concerning the material.

(1) Proposal Page #, Section #, Paragraph #	(2) Material is Trade Secret (TS), Proprietary Financial Information (FI), Proprietary Information (PI)	(3) Applicable FOIA Exemption with Written Justification	(4) Bidder Contact Information

By signing below, the bidder affirms that confidential treatment of material contained in their proposal is requested and has attached to this form a redacted “Public Copy” of the bidder’s proposal.

RFP Number

RFP Title

Signature

Date

Printed Name, Title, Company



VENDOR QUESTION WORKSHEET

Provide a detailed response to each question. “You” and “company” refers to the bidder.

Information Sought	Bidder Response
1. Contact Information	
Bidder’s sole contact person during the RFP process. Include name, title, address, email, and phone number.	
Person authorized to receive and sign a resulting contract. Include name, title, address, email, phone number. The awarded vendor will be required to establish an account in SIGMA Vendor Self-Service	
2. Company Background Information	
Legal business name and address. Include business entity designation, e.g., sole proprietor, Inc., LLC, or LLP.	
What State was the company formed in?	
Phone number.	
Website address.	
Number of years in business and number of employees.	
Legal business name and address of parent company, if any.	
Has there been a recent change in organizational structure (e.g., management team) or control (e.g., merger or acquisition) of your company? If the answer is yes: (a) explain why the change occurred and (b) how this change has affected your company.	
Discuss your company’s history. Has growth been organic, through mergers and acquisitions, or both?	
Has bidder ever been debarred, suspended, or disqualified from bidding or contracting with any entity, including the State of Michigan? If yes, provide the date, the entity, and details about the situation.	
Has your company been a party to litigation against the State of Michigan? If the answer is yes, then state the date of initial filing, case name and court number, and jurisdiction.	
Within the last 5 years, has your company or any of its related business entities defaulted on a contract or had a	



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<p>contract terminated for cause? If yes, provide the date, contracting entity, type of contract, and details about the termination or default.</p>	
<p>State your gross annual sales for each of the last 5 years. If receiving a contract under this RFP will increase your gross revenue by more than 25% from last year’s sales, explain how the company will scale-up to manage this increase.</p>	
<p>Describe partnerships and strategic relationships you think will bring significant value to the Commission.</p>	
<p>State the physical address of the place of business that would have primary responsibility for this account if bidder is awarded a contract under this RFP.</p>	
<p>3. Participation in RFP Development or Evaluation</p>	
<p>Did your company, an employee, agent, or representative of your company, or any affiliated entity participate in developing any component of this solicitation? For purposes of this question, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (1) either one controls or has power to control the other or (2) a third-party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities or equipment, and common use of employees.</p>	<p>Enter YES or NO. If you enter “YES”, you are not eligible for contract award or to work as a subcontractor for the awarded vendor.</p>
<p>If you are awarded a contract under this solicitation, in order to provide the goods or services required under a resulting contract, do you intend to partner or subcontract with a person or entity that assisted in the development of this solicitation?</p>	<p>Enter YES or NO. If you enter “YES,” you are not eligible for contract award. An awarded vendor may not partner or subcontract with anyone to provide goods and services required under a resulting contract if that subcontractor or partner assisted in the development of this solicitation.</p>
<p>Will your company, or an employee, agent, or representative of your company, participate in the evaluation of the proposals received in response to this RFP?</p>	<p>Enter YES or NO. If you enter “YES”, you are not eligible for contract award or to work as a subcontractor for the awarded vendor.</p>



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4. State of Michigan Experience	
Does your company have experience working with the State of Michigan? If so, please provide a list (including the contract number) of the contracts you hold or have held with the State for the last 10 years.	
5. Standard Contract Terms	
Bidder must affirm agreement with the attached Contract Terms. If not in agreement, written exceptions in accordance with the Evaluation Process section of the Proposal Instructions must be provided with Bidder's proposal.	
6. Michigan Economic Impact	
Number of employees currently employed at locations within the State of Michigan.	
Number of additional employees to be employed at locations within the State of Michigan if awarded this Contract (if any)	
Minimum wage paid to employees employed at locations within the State of Michigan.	
Average wage paid to employees employed at locations within the State of Michigan.	
Percentage of employees employed at locations within the State of Michigan that are covered by employer-provided health insurance.	
8. Other	
Abusive Labor Practices. The Contractor certifies that it will not furnish any Deliverable that was produced fully or partially by forced labor, forced or indentured child labor, or indentured servitude.	Enter YES or NO.
Certification of Michigan Business- Public Act 431 of 1984, Sec. 268. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a Michigan Business Tax Corporate Income Tax Return. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a Michigan Income Tax return showing income generated in, or attributed to the State of Michigan. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, withheld Michigan Income Tax	Enter YES or NO.



VENDOR QUESTIONS WORKSHEET

<p>from compensation paid to the company's owners and remitted the tax to the Michigan Department of Treasury.</p>	
<p>Iran Linked Business- Public Act 517 of 2012. I certify that the Company is not an Iran-Linked business as defined by Public Act 517 of 2012.</p>	<p>Enter YES or NO.</p>
<p>Clean Corporate Citizen. I certify that the Company is a Clean Corporate Citizen as defined by the Environmental Protection Act, 1994 PA 451.</p>	<p>Enter YES or NO.</p>
<p>Convict Labor. The Contractor certifies that if using convict labor, it is complying with all applicable state and federal laws and policies.</p>	<p>Enter YES or NO.</p>
<p>SOM Debt/Tax Payment. I certify that all applicable State of Michigan taxes are paid, and that no outstanding debt is owed to the State of Michigan.</p>	<p>Enter YES or NO.</p>
<p>Authorization to Verify Information Provided by Vendor. I authorize the Commission to verify that all information provided in this registration, in bidding and contracting documents, and any attachments or supplement documents and processes are accurate.</p>	<p>Enter YES or NO.</p>



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

Contractor must enter company name here.

Request for Proposal (RFP) No. 920, 210000001965

Litigation Counsel

This schedule identifies the anticipated requirements of any Contract resulting from this RFP. The term “Contractor” in this document refers to a bidder responding to this RFP, as well as the Contractor who is awarded the contract. The term “bidder” is used to identify where specific responses to the RFP are required.

The Contractor must respond to each requirement or question and explain how it will fulfill each requirement. Attach any supplemental information and appropriately reference within your response.

IMPORTANT NOTE TO CONTRACTORS/BIDDERS: There are specific requirements for which acceptance must be simply acknowledged through a checkbox(es), and others that require further explanation. Click one checkbox and complete the entries as identified.

BACKGROUND

In accordance with the Michigan Constitution of 1963, Article IV, Section 6, an Independent Citizens Redistricting Commission (the “Commission”) shall adopt a redistricting plan in Michigan, not later than November 1 in the year immediately following the federal decennial census, for each of the following types of Michigan districts: state senate districts, state house of representative districts, and congressional districts. This proposal and adoption of district lines (called “redistricting”) shall comply with the Voting Rights Act and other federal laws as well as conform with all criteria set forth in Article IV, Section 6 of the Michigan Constitution, and in particular Article IV, Section 6, Subsection 13 of the Michigan Constitution. The Commission is currently involved in a legal action to extend the November 1 deadline to adopt final maps.

The Commission is seeking Requests for Proposals (“RFP”) from attorneys, including law firms or other entities, to serve as litigation counsel and provide legal and advisory services (i.e., legal advice and representation), including but not limited to the defense its three final adopted voting district maps (Congressional, and State Senate, and State House) if challenged. The Michigan Supreme Court has original jurisdiction over any claims that are brought in state court; however, cases may also be brought in federal court.

The selected bidder will be expected to work and coordinate with other legal experts, attorneys, law firms and other entities as needed. At the Commission’s discretion, throughout the duration of its work the Commission may decide to hire more than one attorney or law firm based on the Commission’s perceived needs. If the Commission chooses representation from more than one attorney or law firm, the order of subordination with regards to any coordinated effort shall be made solely by General Counsel to the Commission.

All materials submitted in response to this RFP will become the property of the Commission and will not be returned. The materials submitted in response to this RFP are not confidential, will be made available



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

to members of the public attending the meetings referenced above, and will be placed on the Commission's website. The response must be whole and complete in the submitted document and not depend on hyperlinks for required content.

Unless otherwise authorized herein, proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are prohibited from communicating with the Commission, its staff or State of Michigan staff about this RFP from the date this RFP is issued until a contract is awarded. The point of contact for all communication is the Solicitation Manager.

STATEMENT OF WORK

The required legal and advisory services (i.e., legal advice and representation) will include, but may not be limited to, litigation and legal support to the Commission regarding the redistricting process and compliance with Article IV, Section 6 of the Michigan Constitution of 1963.

Any Contractor selected by the Commission will be required to enter into a Legal Services Agreement for the work described in this RFP. It is anticipated that work will begin as soon as practicable following the selection process and continue through approximately March 31, 2022 (though possibly as late as July 31, 2022, pending current developments); however, the contract may be amended to extend time and add funds as necessary in order to continue the contract through the completion of litigation. The Commission may also choose to select more than one lawyer or law firm to perform the legal services described herein. Services provided, including the defense of the redistricting plans approved by the Commission, shall be provided at the direction of the Commission and in consultation with its General Counsel pursuant to the terms and conditions of this contract.

Qualifications for the attorney, law firm or other entity are as follows:

1. Have demonstrated expertise and experience in litigation pertaining to constitutional or federal statutory issues, including multi-party and document-intensive cases;
2. Have knowledge of law applicable to federal and state legislative redistricting in particular Article IV, Section 6 of the Michigan Constitution;
3. Have knowledge of the federal law applicable to the redistricting process, including the Voting Rights Act of 1965 as amended, the 14th Amendment of the U.S. Constitution, and associated regulations and case law;
4. Have knowledge and experience in working with election laws, including statutory deadlines, and the relationship between district boundaries and the conduct of elections;
5. Have knowledge with regard to Michigan law governing open meetings, public records, conflicts-of-interest, and other laws generally applicable to the conduct of state agencies, boards and commissions;
6. Have knowledge and experience in the application of relevant federal and state case law in the above areas.

Responsibilities for the attorney, law firm or other entity are as follows:



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

1. Perform all normal and customary duties required of Litigation Counsel in connection with legal issues related to the full range of Commission activities which may include some or all of the following:
 - a. Providing review, analysis and application of relevant law;
 - b. Representing the Commission as a plaintiff or defendant in litigation, administrative claims, or other legal claims;
 - c. Compiling evidence and drafting demand letters, claim notices, and/or complaints;
 - d. Drafting and arguing responsive pleadings, pretrial motions and writ proceedings;
 - e. Responding to subpoenas, court orders, and requests for information from third parties;
 - f. Conducting discovery, both offensive and defensive;
 - g. Interviewing and deposing witnesses;
 - h. Engaging in trial preparation, including the retention of trial consultants and experts;
 - i. Conducting trial as well as post-trial motions;
 - j. Handling appeals, interlocutory and post-trial;
 - k. Representing the Commission in litigation, negotiation and settlement proceedings; and
 - l. Other legal services as needed.
2. Work with and advise the Commission, its staff, attorneys and consultants with respect to legal issues in connection with its activities and advise the Commission, its staff, attorneys and consultants as to the procedures, legality of documents, policy concerns and legal implications concerning those activities.
3. Advise the Commission, its staff, attorneys and consultants of litigation risks associated with its activities and approaches to limit such risks.
4. Attend and participate in various meetings, conferences and other proceedings, including but not limited to Commission public meetings and hearings when requested by the Commission or the Program Manager.
5. Perform services under this contract as efficiently and expeditiously as possible.

Contractors, subcontractors and employees must be in compliance with any applicable law or policy at all times, and if an attorney be in good standing with the State Bar of Michigan or their state licensing entity through the full contract term and any extensions. If the primary contractor is not licensed to practice in the State of Michigan, please provide information on local counsel that would be engaged or the process that would be used to select local counsel, and whether their role is anticipated to be advisory or more substantive in nature. Contractor must possess the skill, experience, ability, background, certification, and knowledge to provide the services described in this Contract on the terms and conditions describes herein.

1 Requirements

1.1 Key Deliverable One



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

1.1 Key Deliverable One:

Key expertise or desirable expertise to fulfill the Statement of Work located within Section A of this RFP:

(a) **Litigation Expertise.** The attorney, firm or other entity must demonstrate litigation experience and expertise to represent the Commission.

1. Briefly describe a maximum of 5 cases argued before the Michigan Supreme Court or the highest court of a State, including, in particular, cases involving constitutional or public policy issues. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.
2. Likewise, briefly describe, a maximum of 5 cases where a judgment was reached in a federal court, including, in particular, cases involving constitutional or public policy issues. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.
3. Please describe experience, if any, before the U.S. Supreme Court. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case.
4. Describe representative legal work performed on behalf of public agencies and state boards or commissions in the past 5 years, providing dates and references as appropriate.
5. Describe the attorney or firm's experience with complex and/or electronic discovery.

Bidder must provide a detailed response for requirement(s):



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

(b) **Redistricting Experience.** It is desirable that the attorney, firm or other entity demonstrate experience and expertise in legal and advisory services specific to redistricting. However, extensive expertise is not required, as federal and state litigation experience are of paramount importance.

1. Briefly describe a maximum of 5 redistricting representations. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.
2. Briefly describe any legal and advisory services provided specific to redistricting providing dates and references as appropriate.

Bidder must provide a detailed response for requirement(s):

(c) **Election Law Expertise.** It is desirable that the attorney, firm or other entity demonstrate experience in election law.

1. Briefly describe a maximum of 5 election law representations. For each case, please include:
 - i. The case caption.
 - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
 - iii. The outcome of the case and whether an appeal was pursued.
2. Briefly describe any legal and advisory services provided specific to election law providing dates and references as appropriate.

Bidder must provide a detailed response for requirement(s):

(d) **Cumulative Experience.** Provide a summary of why, based on the aforementioned previous experience listed in (a) through (c), the Contractor is uniquely qualified to perform the services sought by this RFP and assume the role of Litigation Counsel for the Commission.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

Bidder must provide a detailed response for requirement(s):

1.2 Key Deliverable Two

Key operational requirements and inquiries to fulfill the Statement of Work located within Section A of this RFP:

(a) **Motivations.** Provide a summary of why the attorney, firm or other entity seeks to serve the Commission.

Bidder must provide a detailed response for requirement(s):

(b) **Key Personnel.** In the case of a law firm or other entity, identify the lead attorney or other attorneys, if any, who will be assigned to the work and the anticipated percentage of time for each. Contractors, subcontractors and employees must be in compliance with any applicable law or policy at all times, and if an attorney be in good standing with the State Bar of Michigan or their state licensing entity through the full contract term and any extensions. If the primary contractor is not licensed to practice in the State of Michigan, please provide information on local counsel that would be engaged or the process that would be used to select local counsel, and whether their role is anticipated to be advisory or more substantive in nature. Contractor must possess the skill, experience, ability, background, certification and knowledge to provide the services described in this Contract on the terms and conditions describes herein.

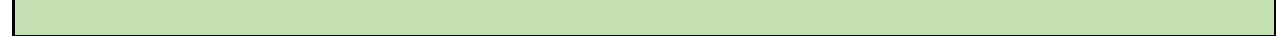
Bidder must provide a detailed response for requirement(s):

(c) **Firm/Entity General Description.** If the RFP is submitted by a law firm or other entity, provide a general description of the firm or entity.

Bidder must provide a detailed response for requirement(s):



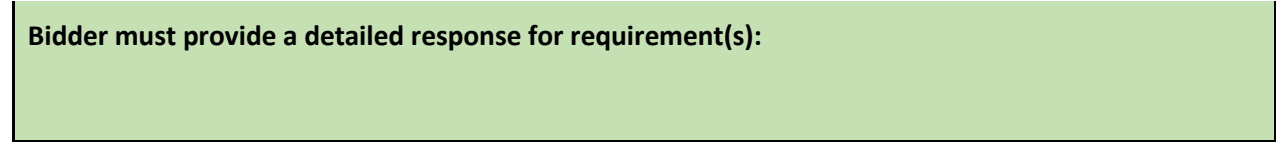
SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES



1.3 Key Deliverable Three

Key operational requirements and inquiries to fulfill the Statement of Work located within Section A of this RFP:

- (a) **Conflicts.** The attorney or law firm must comply with the rules as set forth in the Michigan Rules of Professional Conduct or professional rules in the state of licensure as well as any applicable law, regulation or policy at all times. Please identify the following:
1. Any matter in which the attorney or firm is presently adverse or was adverse in the previous 5 years to the Commission or the State of Michigan.
 2. Any work previously provided by the attorney or law firm in the previous 5 years on behalf of any potential adverse party or witness, to the extent known.
 3. Whether any lawyer(s) identified as Key Personnel has ever been subject to any disciplinary proceeding or been sanctioned by a court



- (b) **Disclosures.** Disclose the following;
1. Previous legal services (paid or unpaid) by the attorney, firm, or other entity as it relates to redistricting, reapportionment, districting and elections activities provided from January 2010 to present day to:
 - i. Persons holding elective office.
 - ii. Partisan or non-partisan entities or organizations.

Please describe the implications of the current or prior representations listed on this RFP. In particular, address whether it could present the appearance of a conflict in connection with the representation of the Commission in connection with the defense of its maps.

2. Any lobbying work the firm, other entity or attorneys listed as Key Personnel has performed in Michigan as it relates to redistricting, reapportionment, districting and elections activities from January 2010 to present day.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

3. Any monetary political contributions or donations made on behalf of the firm, other entity or attorneys listed as Key Personnel, including contributions made by a firm political action committee, from January 2010 to present day.
4. Any monetary political contributions personally made by the attorneys listed as Key Personnel from January 2010 to present day.
5. With respect to Key Personnel who are expected to work in connection with this representation, please disclose any financial, business, professional, lobbying or other relationship not previously identified that presents a potential conflict with the services to be performed under this Contract.

Bidder must provide a detailed response for requirement(s):

(c) **Approach.** In keeping with the Commission's constitutional obligation to perform its duties in an impartial manner that reinforces public confidence in the integrity of the redistricting process, it is desired that Litigation Counsel operate in the same manner. Provide a description of the approach and methodology that will be used by the attorney, firm or other entity to performing the responsibilities of Litigation Counsel while remaining impartial, unbiased and non-partisan as set forth in Article IV, Section 6, Subsections 4 and 5 of the Michigan Constitution.

Bidder must provide a detailed response for requirement(s):

If retained by the Commission, Contractor and all Key Personnel will be expected, for the duration of the representation, to update their disclosures as necessary through the contract term.

The fact that a conflict is identified pursuant to this section is not an automatic disqualification but is information the Commission will consider in the selection process.

2 Service Requirements

2.1 Timeframes

All Contract Activities must be delivered pursuant to deadlines imposed by a court or work plans and internal deadlines set by the Commission. The receipt of order date is pursuant to the **Notices** section of the *Standard Contract Terms*.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	
Bidder must describe how they comply with the above requirement(s):	

3 Diversity

The Commission seeks to enhance diversity in its contracts. This is an opportunity to describe any efforts in this area and is not a contract requirement. Describe your firm’s commitment to diversity and your efforts to promote diversity. This may include your firm’s policies and procedures; initiatives and strategies to recruit, hire, train, and promote a diverse workforce; awards; in-house diversity programs; training.

Bidder may provide a detailed response:

4 Staffing

4.10 Contractor Representative

The Contractor must appoint one (1) contract administrator specifically assigned to the Commission account(s), who will respond to Commission inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the “Contractor Representative”).

The Contractor must notify the Contract Administrator at least 14 calendar days before removing or assigning a new Contractor Representative.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	
Bidder must identify its Contract Administrator:	

4.11 Work Hours

The Contractor must provide Contract Activities. This may be accomplished during the Commission’s normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST as well as possible night and weekend hours depending on the requirements of the project.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

4.12 Key Personnel

The Contractor must identify all Key Personnel who will be directly responsible for the day-to-day operations of carrying out the key deliverables of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the Commission account, be knowledgeable on the contractual requirements, and respond to Commission inquiries within 24 hours.

Contractor's Key Personnel may be requested to be available to participate in MICRC meetings virtually or in person.

The Commission has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the Commission of the proposed assignment, introduce the individual to the Commission's Program Manager, and provide the Commission with a resume and any other information about the individual reasonably requested by the Commission. The Commission reserves the right to interview the individual before granting written approval. In the event the Commission finds a proposed individual unacceptable, the Commission will provide a written explanation including reasonable detail outlining the reasons for the rejection. The Commission may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the Commission. The Contractor's removal of Key Personnel without the prior written consent of the Commission is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the Commission to be a material breach of this Contract, in respect of which the Commission may elect to terminate this Contract for cause under the **Termination for Cause** section of the Standard Contract Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the Commission, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the Commission as a result of any Unauthorized Removal. Therefore, Contractor and the Commission agree that in the case of any Unauthorized Removal in respect of which the Commission does not elect to exercise its rights under Termination for Cause, Contractor will issue to the Commission the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

- i. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the Commission and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel's removal.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

- ii. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the Commission \$833.33 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed \$50,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the Commission that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the Commission’s option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

1. The Contractor must identify all Key Personnel that will be assigned to this contract in the table below which includes the following: Name and title of staff that will be designated as Key Personnel.
2. Key Personnel years of experience in the current classification.
3. Identify which of the required key personnel positions they are fulfilling.
4. Key Personnel’s roles and responsibilities, as they relate to this RFP, if the Contractor is successful in being awarded the Contract. Descriptions of roles should be functional and not just by title.
5. Identify if each Key Personnel is a direct, subcontract, or contract employee.
6. Identify if each Key Personnel staff member is employed full-time (FT), part-time (PT) or temporary (T), including consultants used for the purpose of providing information for the proposal.
7. List each Key Personnel staff member’s length of employment or affiliation with the Contractor’s organization.
8. Identify each Key Personnel’s percentage of work time devoted to this Contract.
9. Identify where each Key Personnel staff member will be physically located (city and state) during the Contract performance.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

<Add more rows below as needed>

1. Name	2. Years of Experience in Current Classification	3. Role(s) / Responsibilities	4. Direct / Subcontract/ Contract	5. % of Work Time	6. Physical Location

A. The Contractor must provide **detailed, chronological resumes** of all proposed Key Personnel, including a description of their work experience relevant to their purposed role as it relates to the RFP utilizing the required resume template labeled as Appendix A

Qualifications will be measured by education and experience with particular reference to experience on projects similar to that described in the RFP.

Bidder must provide the resumes and information as required above –as an attachment to this RFP labelled as Contractor-Resume.

4.13 Organizational Chart

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.

Bidder must provide detailed information as required above – as an attachment to this RFP labelled as Contractor- Org. chart

4.14 Disclosure of Subcontractors

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

- The legal business name; address; telephone number; a description of subcontractor’s organization and the services it will provide; and information concerning subcontractor’s ability to provide the Contract Activities.
- The relationship of the subcontractor to the Contractor.
- Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
- A complete description of the Contract Activities that will be performed or provided by the subcontractor.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

Bidder must provide detailed information as requested in the above requirement(s).	
The legal business name, address, telephone number of the subcontractor(s).	
A description of subcontractor’s organization and the services it will provide and information concerning subcontractor’s ability to provide the Contract Activities.	
The relationship of the subcontractor to the Bidder.	
Whether the Bidder has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.	
A complete description of the Contract Activities that will be performed or provided by the subcontractor.	
Of the total bid, the price of the subcontractor’s work.	
The subcontractor must provide detailed, chronological resumes of all proposed Key Personnel, including a description of their work experience relevant to their purposed role as it relates to the RFP utilizing the provided template labeled as Appendix A. Qualifications will be measured by education and experience with particular reference to experience on projects similar to that described in the RFP.	Subcontractor must provide the resumes and information as required above –as an attachment to this RFP labelled as: Subcontractor Resume.

4.15 Security

The Contractor may be subject to the following security procedures:

- Background Checks

The Commission may require the Contractor’s personnel to wear Commission issued identification badges for in person meetings.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

5 Project Management

5.10 Meetings

The Contractor may be requested to attend Commission meetings through the contract term either virtually or in person. The Commission will give the vendor as much notice as practical however, in no circumstances less than 18 hours of when they will be required to participate.

The Commission may require attendance at other meetings or events, as it deems appropriate.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

5.11 Reporting

In addition to submitting weekly status reports to the General Counsel of the Commission the Contractor should also identify other reports that would be helpful in accomplishing the Key Deliverables.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	
Bidder must explain its reporting capabilities and any reporting that is included in its proposal:	
Bidder must provide samples of required reports as attachments to this RFP. List file names here.	

6 Pricing

6.10 Price Term

Pricing is firm for the entire length of the Contract.



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

6.11 Price Changes

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The Commission may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the Commission deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

7 Ordering

7.10 Authorizing Document

The appropriate authorizing document for the Contract will be a Delivery Order.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

8 Invoice and Payment



SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES

8.10 Invoice Requirements

All invoices submitted to the Commission must include: (a) date; (b) delivery order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

8.11 Payment Methods

The Commission will make payment for Contract Activities via EFT to the banking information established in your vendor account within SIGMA-Vendor Self-Service.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

8.12 Procedure

Invoices must be submitted to: Julianne Pastula, the General Counsel of the MICRC for review, approval and forwarding for payment to Suann Hammersmith, the Executive Director of the MICRC.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	

9 Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the Commission and it would be impracticable and extremely difficult to fix the actual damage sustained by the Commission. Therefore, if there is late or improper completion of the Contract Activities the Commission is entitled to collect liquidated damages in the amount of \$50,000 and an additional \$1,000 per day for each day Contractor fails to remedy the late or improper completion of the Work.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	



STATE OF MICHIGAN

MICHIGAN INDEPENDENT CITIZEN REDISTRICTING COMMISSION

SCHEDULE A- STATEMENT OF WORK CONTRACT ACTIVITIES



CONTRACT STANDARD TERMS

Enter company name here

Request For Proposal No. 920, 210000001965

1. The Contractor must provide a pricing schedule for the proposed Contract Activities using the table below. Failure to complete the pricing schedule as requested may result in disqualification of your proposal.
2. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the Commission.
3. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: [redacted] % discount off invoice if paid within [redacted] days after receipt of invoice.

4. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

Deliverables	Cost
Key Deliverable 1:	
Key Deliverable 2:	
Key Deliverable 3:	
Option A) fixed fee for work described in RFP, assuming the assignment will continue through March 31, 2022	
Option B) Hourly rate fee schedule for attorneys and staff	
Total:	



CONTRACT STANDARD TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the Michigan Independent Redistricting Commission (the “**Commission**”) and [Insert Company Name] (“**Contractor**”), a [Insert State & Entity Status, e.g., a Michigan corporation or a Texas limited liability company]. This Contract is effective on [Month, Day, Year] (“**Effective Date**”), and unless terminated, expires on March 31, 2022.

This Contract may be renewed for up to two (2) additional (1) year period(s). Renewal is at the sole discretion of the Commission and will automatically extend the Term of this Contract. The Commission will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Schedule A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the Commission’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the Commission, including the Commission’s staff, attorneys, and consultants, and any third party to achieve the objectives of the Contract; (g) return to the Commission any Commission-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the Commission; (i) assign to the Commission any claims resulting from Commission or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all Commission physical and IT security policies and standards which will be made available upon request; (k) all records created by the Contractor in the performance of the Contract shall be the property of the Commission and subject to applicable records retention laws and protocols; and (l) provide the Commission priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State of Michigan property by wearing identification issued by the State of Michigan, and clearly identify themselves whenever making contact with the State of Michigan or the Commission.

- 2. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of



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receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to Commission:	If to Contractor:
MICRC	[Name]
c/o Julianne Pastula, General Counsel	[Street Address]
P.O. Box 30318	[City, State, Zip]
Lansing, MI 48909	[Email]
PastulaJ1@Michigan.gov	[Phone]
517.331.6318	

Contract Administrator. The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “Contract Administrator”):

Commission:	Contractor:
MICRC	[Name]
c/o Julianne Pastula, General Counsel	[Street Address]
P.O. Box 30318	[City, State, Zip]
Lansing, MI 48909	[Email]
PastulaJ1@Michigan.gov	[Phone]
517.331.6318	

3. Program Manager. The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “Program Manager”):

Commission:	Contractor:
MICRC	[Name]
c/o Julianne Pastula, General Counsel	[Street Address]



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P.O. Box 30318	[City, State, Zip]
Lansing, MI 48909	[Email]
PastulaJ1@Michigan.gov	[Phone]
517.331.6318	

4. Performance Guarantee. Contractor must at all times have financial resources sufficient, in the opinion of the Commission, to ensure performance of the Contract and must provide proof upon request. The Commission may require a performance bond (as specified in Schedule A – Statement of Work) if, in the opinion of the Commission, it will ensure performance of the Contract.

5. Insurance Requirements. Contractor, at its sole expense, must maintain the insurance coverage identified below. All required insurance must: (a) protect the Commission from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the Commission; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate Deductible Maximum: \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the Michigan Independent Citizens Redistricting Commission, its officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
Automobile Liability Insurance	
Minimum Limits: \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the Michigan Independent Citizens Redistricting Commission, its officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	



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<p>Minimum Limits: Coverage according to applicable laws governing work activities.</p>	<p>Waiver of subrogation, except where waiver is prohibited by law.</p>
<p>Employers Liability Insurance</p>	
<p>Minimum Limits: \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease</p>	

If any of the required policies provide **claims-made** coverage, the Contractor 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 cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract Effective Date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or delivery order number, at Contract formation and within twenty (20) calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within five (5) business days if any insurance is cancelled; and (d) waive all rights against the Commission for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

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 Contractor to indemnify, defend and hold harmless the Commission, its officers, staff, attorneys and agents).

6. **Extra Work.** At any time during the term of this Contract, the Commission may request that contractor perform extra work. As used herein, "Extra Work" means any work which is determined by the Commission to be necessary for litigation, legal or advisory services or the proper completion of its redistricting activities but which the parties did not reasonably anticipate would be necessary at the execution of this Contract. Contractor shall not perform, nor be compensated for extra work without written authorization from the Commission's General Counsel that has been formally approved by the Commission.
7. **Reserved**
8. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered



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employees of the Commission. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the Commission, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.

Contractor hereby acknowledges that the Commission is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the Commission, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

9. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the Commission. Contractor must notify the Commission at least 90 calendar days before the proposed delegation and provide the Commission any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The Commission, in its sole discretion, may require the replacement of any subcontractor.
10. **Staffing.** The Commission's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
11. **Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in Schedule A, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the Commission and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The Commission, in its sole discretion, may also perform background checks.
12. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the Commission. Upon notice to Contractor, the Commission, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the Commission determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.



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- 13. Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the Commission of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

- 14. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
- 15. Acceptance.** Contract Activities are subject to inspection and testing by the Commission within 30 calendar days of the Commission's receipt of them ("**Commission Review Period**"), unless otherwise provided in Schedule A. If the Contract Activities are not fully accepted by the Commission, the Commission will notify Contractor by the end of the Commission Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the Commission finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 22, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the Commission. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the Commission may cancel the order in whole or in part. The Commission, or a third party identified by the Commission, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

- 16. Reserved**

- 17. Reserved**

- 18. Reserved**

- 19. Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the Commission. All undisputed amounts are payable within 45 days of the Commission's receipt.



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Contractor may only charge for Contract Activities performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The Commission is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the Commission's exclusive use. All prices are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the Commission under this Contract.

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

The Commission will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the Commission at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the Commission is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the Commission 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 Commission to Contractor under this Contract.

- 20. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
- 21. Stop Work Order.** The Commission may suspend any or all activities under the Contract at any time. The Commission will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 7 calendar days, or any longer period agreed to by Contractor, the Commission will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The Commission will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
- 22. Termination for Cause.** The Commission may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the Commission: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the Commission to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the Commission terminates this Contract under this Section, the Commission will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience,



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effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 23, Termination for Convenience.

The Commission will only pay for amounts due to Contractor for Contract Activities accepted by the Commission on or before the date of termination, subject to the Commission's right to set off any amounts owed by the Contractor for the Commission's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the Commission in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the Commission incurs to procure the Contract Activities from other sources.

- 23. Termination for Convenience.** The Commission may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 24, Transition Responsibilities. If the Commission terminates this Contract for convenience, the Commission will pay all reasonable costs, as determined by the Commission, for Commission approved Transition Responsibilities.
- 24. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the Commission (not to exceed **30** calendar days), provide all reasonable transition assistance requested by the Commission, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the Commission or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, records, reports and other documentation, to the Commission or the Commission's designee; (c) taking all necessary and appropriate steps, or such other action as the Commission may direct, to preserve, maintain, protect, or return to the Commission all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the Commission; (d) transferring title in and delivering to the Commission, at the Commission's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the Commission and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 25. General Indemnification.** Contractor must defend, indemnify and hold the Commission, its agents, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or



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damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The Commission will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced.

Contractor must, to the satisfaction of the Commission, demonstrate its financial ability to carry out these obligations.

The Commission is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the Commission deems necessary. Contractor will not, without the Commission's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any Commission employee, official, or law may be involved or challenged, the Commission may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the Commission, or any of its subdivisions under this Section, must be coordinated with the General Counsel of the Commission. An attorney designated to represent the Commission may not do so until approved by the Commission.

- 26. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the Commission the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the Commission with appropriate credits to the Commission against Contractor's charges and reimburse the Commission for any losses or costs incurred as a consequence of the Commission ceasing its use and returning it.
- 27. Limitation of Liability and Disclaimer of Damages.** IN NO EVENT WILL THE COMMISSION'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT. The Commission is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 28. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the Commission and its General Counsel within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's



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claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

- 29. Commission Data.** All data and information provided to Contractor by or on behalf of the Commission, and all data and information derived therefrom, is the exclusive property of the Commission (“**Commission Data**”); this definition is to be construed as broadly as possible and specifically includes all records created by Contractor in the course of implementing this Contract. Commission data shall not be destroyed by Contractor. Upon request, Contractor must provide to the Commission, or a third party designated by the Commission, all Commission Data within 10 calendar days of the request and in the format requested by the Commission. Contractor will assume all costs incurred in compiling and supplying Commission Data. No Commission Data may be used for any marketing purposes.
- 30. Reserved**
- 31. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.
- a. Meaning of Confidential Information.** For the purposes of this Contract, the term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, Commission Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written



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contract to maintain the Commission's Confidential Information in confidence. At the Commission's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

- c. **Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. **Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the Commission, at the sole election of the Commission, the immediate termination, without liability to the Commission, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. **Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return Commission Data to the Commission following the timeframe and procedure described further in this Contract. Should Contractor or the Commission determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the Commission's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

32. **Reserved**

33. **Reserved**

34. **Reserved**

35. **Records Maintenance, Inspection, Examination, and Audit.** The Commission or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the Commission or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.



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Within 10 calendar days of providing notice, the Commission and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 36. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the Commission or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the Commission of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the Commission to terminate this Contract under Section 22, Termination for Cause.
- 37. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence the Commission, any individual Commissioner, or Commission employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the Commission of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract. Contractor shall also abide by the Commission's Conflict of Interest Policy in effect.
- 38. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.



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- 39. Professional Ability of Contractor.** Commission has relied upon the professional training and ability of Contractor to perform the services in this Contract as a material inducement to enter into this Contract. Contractor shall provide properly skilled professional and technical personnel to perform all services under this Contract. All work by Contractor under this Contract shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.
- 40. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 41. Unfair Labor Practice.** Under MCL 423.324, the Commission may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 42. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 43. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the Commission or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 44. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the Commission may immediately contract with a third party.
- 45. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to



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creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the Commission's right to terminate the Contract.

- 46. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written Commission approval, and then only in accordance with the explicit written instructions of the Commission.
- 47. Website Incorporation.** The Commission is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 48. Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits which are hereby expressly incorporated, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE COMMISSION FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE COMMISSION, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 49. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 50. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 51. Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

Contract Modification. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.