

REQUEST FOR PROPOSALS TO PROVIDE PROFESSIONAL ENGINEERING SERVICES



CITY OF INVER GROVE HEIGHTS

January 2023

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INTRODUCTION

The City of Inver Grove Heights is issuing this Request for Proposals (RFP) to identify consulting firms to provide specific technical consulting services to support City staff. The City will complete the selection and retention of Consultants for professional engineering and will be effective for a period of five years.

The City has identified multiple service areas where the need may arise for use of outside consultants. Firms may express interest and be eligible in any of the service areas for which they are qualified. The City may exclude firms from all or specific service areas depending on comparative scores with other firms if the City determines that there is sufficient coverage for specific services.

Selection and future work assignments will take into consideration the workload, expertise, costs and past performance of proposing consulting firms and their representatives.

STATEMENT INSTRUCTIONS/SCHEDULE

Direct all responses, questions, and correspondence to:

Paul Merchlewicz, City Engineer
City of Inver Grove Heights
8150 Barbara, MN 55337
651.450.2572
pmerchlewicz@ighmn.gov

Submit all questions in writing via e-mail by 1:00 p.m. on January 27, 2023. The City will forward all responses to questions to all firms. Contact with any other City Staff pertaining to this RFP may result in rejection of the consultant's submittal.

The City will accept RFP's on or before 4:30 p.m., February 10, 2023. Submit RFPs via email or at the Inver Grove Heights front desk in digital format. The City will not accept paper or printed copies of proposals.

RFP Review Process Schedule:

Request for RFP Advertised	January 13, 2023
Deadline for submittal of RFP Questions	January 27, 2023
RFP's Submittal Due Date	February 10, 2023
City review of RFP's and interviews as necessary	February/March 2023
Contract negotiation completed.....	March/April 2023
Contract consideration by City Council	April 2023

The City of Inver Grove Heights Professional Engineering Services pool will be effective for a period of five years beginning in April 2023 and ending April 2028.

The City reserves the right to modify this schedule at the City's discretion. The City will post notification of changes in the response due date on the City Web site or as otherwise stated herein.

REQUEST FOR PROPOSAL CONTENT

The RFP may be no longer than eight pages excluding Cover Letter/Title Page, Table of Contents, resumes, and references.

- A. **Cover Letter/Title Page:** Include an explanation of the RFP, the name of the firm, local address, telephone and fax number, name of the contact person, their e-mail address, and the date.
- B. **Table of Contents:** Include identification of the material by section and page number.
- C. **Consultant Profile:** Include the technical service area(s) the firm can provide and identify the basis of the firm's interest for each of the technical service areas for consideration.

Include qualifications of the firm as it relates to each of the technical service area(s) including descriptions of completed projects specifically related to that technical service area.

- D. **Resumes:** Include the name(s), experience, and qualifications of person(s) that will be primarily responsible for the management and administration of a contract with the City whether specific technical work tasks or overall projects.

Provide qualifications and resumes of the primary professional support staff identified to participate on various City projects or technical work tasks with their anticipated long-term availability.

- E. **References:** Include a list of municipal client references where related technical services provided by the staff identified above and the name and telephone number of a contact person at that municipality.

Include a list of current municipal clients identifying projects in progress, specific activities, and the name of a contact person at the municipality.

Include a list of previous or current professional services provided to the City of Inver Grove Heights and client representatives.

Include a list of private clients (if any) for whom work has been or is currently underway within the City of Inver Grove Heights, including the type of project, specific activities performed, and the name of a contact person at the client.

- F. **Fees:** Include a fee schedule for 2023 including hourly rates, specialty rates, multipliers, percentages, etc., for the various classifications of personnel proposed to provide professional services under a contract with the City. Identify any reimbursable costs. Identify and list excluded services separately from these hourly rates (i.e., mileage, etc.). Include copies of the firm's 2022 and 2021 fee schedules as well.

Specifically state the firm's preferred method of calculating fees for each type of services provided (hourly, hourly not exceed, lump sum, etc.).

- G. **Format:** Submit all information electronically to pmerchlewicz@ighmn.gov by the date specified in the RFP Review Process Schedule above.

CONSULTANT SERVICE AREAS

Municipal Engineering

- Feasibility Reports
- Plans and Specifications
- Project Management
- Construction Administration
- Construction Inspection
- Construction Staking
- Construction Cost Estimates
- Special Assessments
- Comprehensive System Plans
- MSA Administration on Relevant Projects
- Private Utility Coordination
- Bidding Services
- Record Drawing Preparation
- Private Development Plan Review

Transportation Engineering

- Traffic Impact Studies/Mitigation Analysis
- Traffic Forecasting
- Intersection Control Evaluations/Signal Justification Reports
- Intersection Layout and Geometrics
- Comprehensive Transportation Planning
- Temporary and Permanent Traffic Control
- Street Lighting Analysis and Design
- Circulation/Site Plan Layout and Analysis
- Site Plan Layout and Analysis
- Preliminary Layouts
- Traffic Signal System Design
- MSAS Traffic Counts

Parks and Recreation

- Parks, trail, and recreation facility development, improvement, and renovation projects, including:
 - Feasibility Reports
 - Plans and Specifications
 - Project Management
 - Construction Administration
 - Construction Inspection
 - Construction Surveying
 - Cost Estimates
- Comprehensive system plans (including park systems, park trails, etc.)

Surface Water and Natural Resources

- Wetland Delineation and Mitigation Analysis
- Wetlands Assessment
- Water Quality Analysis, Design and Construction Management of Water Quality Improvement Projects
- Hydraulic and Hydrologic Analysis
- NPDES Permitting (Stormwater and MS4)
- Comprehensive System Plans (e.g., Park system, Trails, Storm Water, Wetlands, Wildlife Management, Urban Forest)
- Pond and Wetland Monitoring
- Lake Restoration
- Aquatic Plant Surveys & Management Plans
- Floodplain Management
- Localized Flooding Analysis
- Non-Degradation & Total Maximum Daily Load (TMDL) review
- Erosion control
- Best Management Practices/ Low Impact Development Techniques

Technical Specialty Consulting Services

Geotechnical Services

- Pavement Coring, Soils Exploration, Recommendations and Reports
- R-value Determinations
- Materials Testing
- Density and Compaction Testing
- Construction density and material testing
- Pavement structural analysis/testing

Municipal Utilities

- Water System Modeling
- Analysis of Water Supply Sources and Costs
- Comprehensive Water System Planning
- Potable Water Storage Design
- Wells
- Pump Houses
- PRV Design
- Groundwater Modeling
- Well Field Management, Source Water Protection and Well Head Protection
- Ground & Surface Water Treatment Plant Operation
- SCADA, Telemetry, etc.
- Lift Station Analysis & Design
- Comprehensive Sewer System Planning
- Water Treatment Plant Facilities Studies
- Water Treatment/Distribution System Operational Studies
- Water Treatment Plant Design
- Water Distribution System Hydraulic Modeling
- Source Water Supply Engineering
- Well field studies
- Monitoring wells
- Well design, permitting, construction and pump tests
- Groundwater Modeling
- Water Storage Facility Design
- Pumping/Lift Station Design and Rehabilitation
- Sanitary Sewer System/Combined sewer system modeling
- Sanitary Sewer System Engineering
 - I/I Evaluation
- Rate Cost of Service Studies, Rate analysis and design
- Water Storage Tank/Tower Inspections
- Water Storage Tank/Tower Maintenance Project Design/Delivery/Coating Inspections
- Cellular Operator management services and inspections

Land Surveying

- Topographic Surveys
- Subdivisions/Plats
- Certificates of Survey
- Easement Descriptions
- Lot Corner Monumentation
- Property Records Investigations
- Construction Staking

Structural

- Buildings
- Retaining Walls
- Bridges
- Cell/Communications Towers
- Parking Structures
- Structures Maintenance
- Water Reservoirs

Architectural Services Supporting Public Works & Parks Facilities

- Park Shelter Buildings
- Utility Operation Structures (including well houses, reservoirs, etc.)
- Municipal Buildings (including expansions, remodeling, etc.)
- Landscape Architecture

Communications

- | | |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| • Antenna | • Alarms |
| • Fiber Optics - Design & Management/Relocations | • SCADA |
| • RF Analysis | • Cell/Communications Tower Plan & Leasing Review, Construction Management, and Record Drawing Documentation |
| • Radio | |
| • Telemetry | |

Public Works/GIS

- | | |
|--------------------------------------|---------------------------------|
| • Asset Management Systems | • Data development and creation |
| • Application Development/Coding | • Project management |
| • GIS Systems design and maintenance | • GIS training services |

Electrical/Mechanical

- | | |
|--------------------------------------|-------------------------------------|
| • Streetlights | • System rehab (MCCs, wiring, etc.) |
| • Energy management | • SCADA |
| • Pump efficiency and rehabilitation | |

Relocation/Benefit Analysis

- Appraisals - Real Estate
- Relocation Services
- Land Rights Assistance

STATEMENT OF QUALIFICATION EVALUATION AND FIRM SELECTION

- A. **Qualification Based Selection (QBS):** The City intends to select those firms evaluated to be best qualified to perform the work for the City. The City will base qualifications on experience, cost, compatibility, and other applicable performance factors.
- The City intends to establish a pool of qualified professional service providers that provides a broad base of experience and expertise that the City can utilize as needed.
- B. **Review and Recommendation Process:** Based upon review of the submitted RFP's, City staff may choose to interview firms for further Professional Engineering Service consideration. City Staff will prepare a recommendation on the retaining of firms for consideration and approval by the City Council.
- C. **Financial Liability Limitations:** The City is not liable for any expenses incurred by the applicant including, but not limited to, expenses associated with the preparation of the statement, attendance at interviews, preparation of a cost statement or any future contract negotiations.
- D. **Right of Review:** The City reserves the right based on the qualification criteria to reject any or all RFP's or to request additional information from any or all applicants.
- E. **Qualification Evaluation Criteria:** The City will evaluate whether to include a professional services consultant in the pool in one or more technical service areas based on a range of factors. Among these factors are the following:
1. An evaluation of the consultant's technical qualifications.
 2. Work experience and reputation.
 3. Available personnel.
 4. Recommendations of past and existing clients.
 5. Previous experience with the City of Inver Grove Heights.
 6. Actual or potential conflict of interest with other private or public clients and the City of Inver Grove Heights, including other governmental agencies, doing business with the City.
 7. The ability of the firm to directly provide the necessary services without use of sub-consultants.
 8. History of questionable consulting actions or poor consultant contract performance.
 9. Willingness to enter into the City's Master Professional Services Agreement.
 10. Hourly fees and other expenses.

CONSULTANT SERVICES PERFORMANCE REVIEW

The City will evaluate the performance of each professional consultant annually with reference to standards and procedures developed by the City Engineer. Whenever feasible, the Project Manager most associated with the consultant's work will conduct evaluations within the first months following the close of the calendar year. The City will retain evaluation information for future reference and shall be available for public inspection. The City will provide the Consultant with copies of the evaluation information and be provide an opportunity to comment or correct any errors or omissions. An automatic renewal of the agreement between the City and Consultant will occur annually for the duration of this provided that the annual

performance evaluation is satisfactory, the terms and conditions are similar, and the City Engineer assents to a continuation of the contract.

The Consultant may update its fee schedule annually by providing the City with a revised fee schedule on an annual basis, in accordance with the City's Master Professional Services Agreement, Article 5.

CONTRACT EXECUTION

A. Negotiations and Contract Execution

The City will initiate negotiation of a service contract with the top ranked firm(s). If the City and firm(s) cannot agree on satisfactory terms, the City will terminate negotiations and initiate them with the next highest ranked consultant. These efforts will continue in descending order until the City reaches satisfactory agreement(s) with consultant(s).

The City will conduct contract negotiations regarding a definite scope of work and time for performance. The negotiations will include estimates of attendant staffing, material, and services.

The City will use established fee schedules or curves for comparative purposes only. All contracts will use a standard format, to the extent possible. This includes the use of uniform terms and conditions and renewal clause.

Appendix A of this RFP includes a copy of the City's Master Professional Services Agreement. The City recommends, if a consultant does not feel this agreement is acceptable, do not submit to this request. City Council will authorize contract awards when required by law, and upon recommendations of the City Manager.

A. Contracting Ethics

1. No elected official or employee of the City who exercises any responsibilities in the review, approval or implementation of the proposal or contract shall participate in any decision, which affects his or her direct or indirect personal fiscal interests.
2. It is a breach of ethical standards for any person to offer, give, or agree to give any City employee or Council person, or for any City employee or Council person to solicit, demand, accept, or agree to accept from another person or firm, a gratuity or an offer of employment whenever a reasonable prudent person would conclude that such consideration was motivated by an individual, group or corporate desire to obtain special, preferential, or more favorable treatment than is normally accorded to the general public.
3. The firm shall not assign any interest in a City contract and shall not transfer any interest in the same without the prior written consent of the City.
4. To remove any potential or actual conflict of interest, a consultant representing any private party client submitting a project or activity to the City shall disclose same to City and shall not represent or review the project or activity on behalf of the City.
5. Any firm providing professional services to the City shall not accept any private client or project which, by its nature, places it in ethical conflict during its representation of the City of Inver Grove Heights.
6. The City requires affirmative action and, therefore, the firm selected shall not discriminate under the contract against any person in accordance with federal, state,

and local regulations as more fully set forth in the City's Standardized Professional Services Agreement.

CITY INFORMATION

The City of Inver Grove Heights is a Plan A Statutory City, which is a Council/City Administrator form of government. Additional information on the City and Capital Improvement Program can be located on the City's website: <https://www.ighmn.gov>.

MASTER AGREEMENT FOR PROFESSIONAL SERVICES

The City's Master Professional Services Agreement is shown in Appendix A. If a consultant does not feel it can enter into the terms of this agreement, it is advisable to not submit qualifications.

APPENDIX A: STANDARD AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

CITY OF INVER GROVE HEIGHTS
MASTER PROFESSIONAL SERVICES AGREEMENT

This **MASTER PROFESSIONAL SERVICES AGREEMENT** (Agreement) is entered into this ____ day of _____, 20__, by and between the City of Inver Grove Heights, a Minnesota municipal corporation, (City) and _____, a _____ (Consultant).

WHEREAS, the City has solicited proposals from qualified consulting firms interested in providing professional services to the City related to engineering, transportation engineering, surface water and natural resources, geotechnical services, municipal utilities, land surveying, structural, architectural services, and other similar professional services (the “Services”); and

WHEREAS, Consultant has provided a Proposal to the City which the City finds acceptable, and the City hereby wishes to secure Services from the Consultant, subject to the terms and conditions of this Agreement on an as-needed basis; and

WHEREAS, Consultant desires to perform the Services for the City as requested under the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual consideration contained herein, it is hereby agreed by City and Consultant as follows:

1. **Term of Agreement**. This Agreement shall be in effect from the date of execution by all parties and shall continue for a term of five (5) years.

2. **Scope of Services**. Consultant shall provide professional Services to the City based upon the written request of the City. City hereby agrees to engage Consultant as an Independent Contractor for the purposes of performing all of the Services detailed in a Written Authorization to Proceed signed by an authorized City representative subject to the terms and conditions herein.

3. **Time is of the Essence**. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of individual Written Authorizations to Proceed. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. Notwithstanding any other provision of this Agreement, the Consultant shall not have liability for or be deemed in breach because of delays caused by any factor outside of its reasonable control, including but not limited to natural disasters, adverse weather, or acts of the City, third parties, or governmental agencies.

4. **Contract Documents**. The following documents shall be referred to as the “Contract Documents,” all of which shall be taken together as a whole, as the contract between the City and Consultant:

- A. This Professional Services Agreement.
- B. The Request for Proposals to Provide Professional Engineering Services, dated January, 2023 (attached as part of **Exhibit A**)
- C. Consultant's Proposal to Provide Professional Services (attached as part of **Exhibit A**)
- D. Written Authorization to Proceed for any Services contracted during the term of this Agreement.

In the event of a conflict among the provisions of the Contract Documents, the terms of the Written Authorization to Proceed followed by the terms of this Professional Services Agreement shall control in resolving any such conflict within the Contract Documents.

5. Compensation. The City shall pay the Consultant and the Consultant shall accept as payment for performance of the Services described in the Written Authorization to Proceed the fee(s) as described on **Exhibit B**. The total contract amount listed on **Exhibit B** is inclusive of reimbursables, taxes, and all other charges (the "Fee"). Unless the City has agreed to pay the Consultant on an hourly basis, this Fee shall not be adjusted if the estimated hours to perform a task, the number of required meetings, or any other estimate or assumption is exceeded without approval of a written change order by the City. Consultant shall submit itemized bills for the Services provided to the City on a monthly basis. Prior to payment, Consultant will submit evidence that all payrolls, materials bills, subcontractors, and other indebtedness connected with the Services have been paid as may be required by the City. Bills submitted to the City shall be paid in the same manner as other claims made to the City. The Fees for Professional Services shall be as specified in the attached **Exhibit B**, or as specified in the Written Authorization to Proceed. The Consultant may update its fee schedule annually by providing the City with its revised fee schedule.

6. Change Orders. Any changes to the Written Authorization to Proceed shall require prior written approval by the authorized representative of the City or by the City Council. The City will not pay additional compensation for Services that do not have prior written authorization.

7. Compliance with Laws and Regulations. In providing Services hereunder, Consultant shall abide by all laws, regulations, statutes, ordinances, and rules pertaining to the provisions of the Services to be provided to the City.

8. Standard of Care. Consultant represents that it has the requisite training, skills, and experience necessary to provide the Services, and is appropriately licensed and has obtained all permits from all applicable agencies and governmental entities. Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional consultant under similar circumstances. Consultant agrees to comply with all applicable federal, state, and local laws and regulations governing the Services to be provided under this Agreement.

9. Indemnification. The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the City harmless from any damage, liability, or cost (including reasonable attorney's fees and cost of defense) to the extent caused by the Consultant's negligent acts, errors,

or omissions in the performance of the professional services under this Agreement and those of his or her subcontractors or anyone for whom the Consultant is liable. No supplemental agreement, work order, or Authorization to Proceed under this Agreement may reduce or limit this obligation.

10. Insurance. Unless more specific insurance provisions are listed in the Written Authorization to Proceed, the following will apply. At all times during its performance under this Agreement, Consultant will obtain and keep in force the following types of insurance in the following amounts:

- i. Commercial General Liability. Consultant will obtain and keep Commercial General Liability insurance including coverage for bodily injury and property damage with limits not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate.
- ii. Automobile Liability. Consultant will obtain and keep Automobile Liability insurance with a minimum limit of not less than \$1,000,000 per occurrence, Combined Single Limit for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable.
- iii. Professional Liability/Errors & Omissions. Consultant will obtain and keep Professional Liability/Errors & Omissions insurance with a limit of not less than \$1,000,000 per claim/occurrence and \$2,000,000 annual aggregate for damages caused by error, omission or negligent acts related to any professional services to be provided under this Agreement. If written on a claims-made basis, the professional liability insurance will be maintained for a period of not less than two (2) years following the expiration or termination of this Agreement.
- iv. Workers' Compensation/Employers Liability. Consultant will obtain and keep Workers' Compensation insurance as required by statute and Employers Liability insurance with limits not less than \$1,000,000 each accident, \$1,000,000 disease – each employee, \$1,000,000 disease – policy limit.

These insurance policies are to be issued by an insurance company authorized to do business in the State of Minnesota with an A.M. Best rating of A- or better. City shall be included as an additional insured for General Liability and Automobile Liability. Limit requirements may be met through combination of Primary and Umbrella/Excess insurance. All such policies will provide for thirty (30) days' written notice to the City prior to cancellation or non-renewal or ten (10) days' written notice for non-payment of premium. Consultant's insurance must be primary and non-contributory with regard to any insurance or self-insurance maintained by the City. Consultant and its insurers waive all rights of subrogation against the City. A Certificate of Insurance evidencing the requirements contained in this clause must be provided prior to the commencement of the Services and annually thereafter as dictated by the terms of the Certificate of Insurance.

11. Independent Contractor. The City hereby retains Consultant as an Independent Contractor upon the terms and conditions set forth in this Agreement. Consultant is not an employee of the City and is free to contract with other entities as provided herein. Consultant shall be responsible for selecting the means and methods of performing the work outlined in the Written Authorization to Proceed. Consultant shall furnish any and all supplies, equipment, and incidentals

necessary for Consultant's performance under this Agreement. Consultant shall be exclusively responsible under this Agreement for Consultant's own FICA payments, Workers Compensation payments, unemployment compensation payments, withholding amounts, and/or self-employment taxes if any such payments, amounts, or taxes are required to be paid by law or regulation.

12. Subcontractors. Consultant shall not enter into any subcontracts for Services provided under this Agreement without the express written consent of the City. Consultant shall comply with the provisions of Minnesota Statutes § 471.425. Consultant must pay subcontractor for all undisputed services provided by subcontractor within ten (10) days of Consultant's receipt of payment from the City. Consultant must pay interest of 1.5% (one and one-half percent) per month or any part of a month to subcontractor on any undisputed amount not paid on time to subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10.

13. Minnesota Government Data Practices Act. Pursuant to Minnesota Statutes, § 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Consultant in performing the functions of the City while performing the Services are subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, and Consultant must comply with the Minnesota Government Data Practices Act as it applies to (1) all data provided by the City pursuant to this Agreement, and (2) all data created, collected, received, stored, used, maintained, or disseminated by Consultant pursuant to this Agreement. Consultant is subject to all the provisions of the Minnesota Government Data Practices Act, including but not limited to the civil remedies of Minnesota Statutes, Section 13.08, as if it were a government entity. In the event Consultant receives a request to release data, Consultant must immediately notify City. City will give Consultant instructions concerning the release of the data to the requesting party before the data is released. Consultant agrees to defend, indemnify, and hold City, its officials, officers, agents, employees, and volunteers harmless from any claims resulting from Consultant's officers', agents', partners', employees', assignees', or subcontractors' unlawful disclosure and or use of protected data. The terms of this paragraph shall survive the cancellation or termination of this Agreement.

14. Intellectual Property Rights

A. Intellectual Property Rights of City. City owns all rights, title, and interest in all the intellectual property rights, including copyrights, patents, trade secrets, trademarks and service marks in the Works and Documents created and paid for under this Agreement. "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes and disks conceived, reduced to practice, created or originated by the Consultant, its employees, agents and subcontractors, either individually or jointly with others in the performance of this Agreement. Works includes Documents. "Documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Consultant, its employees, agents, or subcontractors, in the performance of this Agreement.

Documents will be the exclusive property of the City and the Consultant must immediately return all such Documents to the City upon completion or cancellation of this Agreement. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire”. The Consultant assigns all right, title, and interest it may have in the Works and the Documents to the City. The Consultant must, at the request of the City, execute all papers and perform all other acts necessary to transfer or record the City’s ownership interest in the Works and Documents.

B. Intellectual Property Rights of Consultant. The Consultant retains title and interest in all its standard details, plans, specifications, and engineering computation documents (“Previously Created Works and Documents”), whether in written or electronic form, which have been incorporated into the Works and Documents, but which were developed by the Consultant independent of this Agreement. The Consultant issues to the City a royalty-free, nonexclusive, and irrevocable license to use the Previously Created Works and Documents.

C. Notification. Whenever the Consultant reasonably believes it, or its employees or subcontractors has made an invention, improvement, or discovery (whether or not patentable) in the performance of this Agreement, and has or actually or constructively reduced it to practice, the Consultant will immediately give the City’s authorized representative written notice thereof and must promptly furnish the City’s authorized representative with complete information and/or disclosure thereon.

D. Representation. The Consultant must perform all acts and take all steps necessary to ensure that all intellectual property rights in the Works and Documents created and paid for under this Agreement are the sole property of the City and that neither the Consultant nor its employees, agents or subcontractors retain any interest in and to the Works and Documents created and paid for under this Agreement, except that the Consultant need not obtain patents, copyrights or trademarks. The Consultant represents that the Works and Documents created and paid for under this Agreement do not and will not infringe upon any intellectual property rights of other persons or entities. The Consultant will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the City, at the Consultant’s expense, from any action or claim brought against the City to the extent that it is based on a claim that all or part of the Works or Documents created and paid for under this Agreement infringe upon the intellectual property rights of others. The Consultant will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs and damages including but not limited to reasonable attorney fees. If such a claim or action arises, or in the Consultant’s or the City’s opinion is likely to arise, the Consultant must, at the City’s discretion, either procure for the City the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents created and paid for under this Agreement as necessary and appropriate to obviate the infringement claim. This remedy of the City will be in addition to and not exclusive of other remedies provided by law. This

Article does not apply to Consultant's Previously Created Works and Documents as described in 14.B.

E. City's Reuse of Works and Documents. If the Works and Documents created and paid for under this Agreement are engineering plans, specifications or recommendations requiring the certification of a licensed professional engineer, the City acknowledges that such plans, specifications, and recommendations have been created solely for the specific project covered by this Agreement and may not be suitable for reuse on other projects. There will be no restriction on reuse of the Works and Documents created and paid for under this Agreement but reuse without the written verification or adaptation by the Consultant will be done at City's sole risk and without liability to the Consultant.

15. Equal Opportunity and Non-Discrimination. Consultant agrees to comply with applicable provisions of all applicable federal, state, and city laws, regulations, statutes, and ordinances pertaining to the civil rights and non-discrimination in the application for and employment of applicants for employment, employees, subcontractors and suppliers of the Consultant.

16. Assignment. Neither party shall assign this Agreement, or any interest arising herein, without the written consent of the other party.

17. Waiver. Any waiver by either City or Consultant of any breach of this Agreement shall be in writing. No waiver by a party of any default or nonperformance will be deemed a waiver of any subsequent default or nonperformance.

18. Notices. Any notice required under this agreement shall be sent to the parties as follows:

City: City of Inver Grove Heights
Attention: City Engineer
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Consultant: _____

19. Termination. This Agreement may be terminated by either party upon thirty (30) days' written notice delivered to the other party at the address listed in Section 20 of this Agreement. Upon Termination, if there is no default by Consultant, Consultant shall be paid for Services rendered and reimbursable expenses until the effective date of Termination. This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of Termination notice to cure or to submit a plan for cure that is acceptable to the other part.

20. Controlling Law/Venue. The City and Consultant agree to negotiate all disputes related to this Agreement in good faith for a period of thirty (30) days from the date of the notice of dispute prior to proceeding to file a lawsuit regarding the dispute. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. In the event of litigation, the exclusive venue shall be in the District Court of the State of Minnesota for Dakota County.

21. Entire Agreement. The entire agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

**[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK
SIGNATURES TO FOLLOW]**

In witness whereof, Consultant and City and caused this Agreement to be executed on their behalf by the proper officers.

Date: _____, 20__

CITY OF INVER GROVE HEIGHTS

BY: _____

Brenda Dietrich, Mayor

ATTEST: _____

Rebecca Kiernan, City Clerk

CONSULTANT

Dated: _____, 20__

By: _____

Its: _____

SAMPLE

EXHIBIT A
REQUEST FOR PROPOSAL AND CONSULTANT STATEMENT OF
QUALIFICATIONS (PROPOSAL)

SAMPLE

EXHIBIT B

SCHEDULE OF PAYMENT AND FEE SCHEDULE

SAMPLE