

**REQUEST FOR PROPOSALS**

**MICHIGAN STRATEGIC FUND**

**FY 2022 STATE OF MICHIGAN TRAVEL GUIDE PRODUCTION SERVICES**

**RFP-CASE-320673**

## **REMINDER**

Please check your proposal to make sure you have included all of the specifications in the Request for Proposals. In addition, please submit an electronic version of each of the following:

- Technical Proposals (Section II-A);
- Price Proposal (Section II-B);
- Signed Independent Price Determination Certificate (Attachment B); and
- Conflicts of Interest Disclosure (if applicable) (Section II-G).

**BIDDERS ARE RESPONSIBLE FOR ASSURING THAT THE FOLLOWING IDENTIFYING INFORMATION APPEARS IN THE SUBJECT LINE OF YOUR EMAIL:** “*RFP-CASE-320673 Technical Proposal*” and “*RFP-CASE-320673 Price Proposal*” with *Company Name*, and “*message 1 of 3*” as appropriate if the bid consists of multiple emails.

**The Michigan Strategic Fund (the “MSF”) will not respond to telephone inquiries, or visitation by Bidders or their representatives. Bidder’s sole point of contact concerning the RFP is below and any communication outside of this process may result in disqualification.**

Contract Services  
Michigan Strategic Fund  
300 North Washington Square, 3rd Floor  
Lansing, Michigan 48913  
[contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org)

## **IMPORTANT DUE DATES**

- **April 6, 2021, at 3:00 p.m.:** Questions from potential Bidders are due via email to [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org). Please note: The MSF will not respond to questions that are not received by the above date and time. In addition, questions that are phoned, faxed or sent through regular mail will not be accepted.
- **April 13, 2021, by close of business:** Responses to all qualifying questions will be posted on the MSF’s website, [Michiganbusiness.org/320673](http://Michiganbusiness.org/320673).
- **May 19, 2021, at 3:00 p.m.:** Electronic versions sent separately of each of your Technical Proposal and Price Proposals due to the MSF via email to [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org). **Proposals will not be accepted via U.S. Mail or any other delivery method.**

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**REQUEST FOR PROPOSAL**  
**FY 2022 STATE OF MICHIGAN TRAVEL GUIDE PRODUCTION SERVICES**  
**RFP-CASE-320673**

This Request for Proposals (the “RFP”) is issued by the Michigan Strategic Fund (the “MSF”), Contract Services unit (the “CS”). The Michigan Economic Development Corporation (the “MEDC”) provides administrative services associated with the programs and activities of the Michigan Strategic Fund Act on behalf of the MSF. CS is the sole point of contact with regard to all bidding and contractual matters relating to the services described in this RFP. CS is the only office authorized to change, modify, amend, alter, clarify, etc. the specifications, terms and conditions of this RFP and any contract(s) awarded as a result of this RFP (the “Contract”). CS will remain the SOLE POINT OF CONTACT throughout the bidding process. ***The MSF will not respond to telephone inquiries, or visitation by Bidders or their representatives. Bidder’s sole point of contact concerning the RFP is below and any communication outside of this process may result in disqualification.***

Contract Services  
Michigan Strategic Fund  
300 North Washington Square  
Lansing, Michigan 48913  
[contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org)

## SECTION I

### STATEMENT OF WORK

#### A) **PURPOSE**

The purpose of this RFP is to obtain proposals for the Michigan Economic Development Corporation (MEDC) from full-service integrated marketing partners and publishers with extensive knowledge of the Michigan tourism product. The selected partner will execute copy writing and content development, sales, production, and proactive distribution of the official State of Michigan warm weather, fall and winter travel guides, featuring articles, with a focus on editorial expertise, compelling photography, and innovative distribution solutions.

The MEDC anticipates executing a multi-year contract with the selected vendor and expects to add supplemental funding, if approved, each year of the contract term to continue implementation and enhancement of the campaign.

#### B) **BACKGROUND AND OBJECTIVES**

For more than 20 years, Travel Michigan has entered into a contract with a full-service, integrated marketing partner and publisher for the development, sales, production and proactive distribution of the official state of Michigan travel guides, featuring articles with a focus on high quality content, editorial experience, compelling photography and innovative – but proven – proactive distribution solutions. In 2020, we printed two seasonal guides—a spring/summer guide and a fall/winter guide. The guide’s final presentation should be an inviting, user-friendly piece that features comprehensive information designed to “pitch” Michigan as an appealing travel destination to prospective visitors. The overall major objective is to encourage inquirers to make specific travel plans to visit Michigan.

The guide needs to feature experiential, compelling, dynamic content that differentiates Michigan from our competitors. Therefore, the project will be awarded to that vendor whose bid clearly demonstrates its ability to accomplish this objective in an innovative, logically organized, informative and vividly attractive format, balanced with cost-efficient considerations.

The official state travel guide is promoted via the Travel Michigan call center when inquirers phone Michigan’s toll-free number for general travel information; via social media engagement; at various Travel Michigan public relations and social media events; by the Travel Michigan website; through the Pure Michigan consumer tourism e-newsletter program; and at Michigan’s 14 Welcome Centers.

#### Travel Michigan Marketing Overview

##### **Objectives**

**The role of the official state travel guide in our overall marketing efforts will be:**

1. To serve as a proactive marketing tool that would be effective in enticing readers to come to Michigan.

2. To target consumers who have a proven interest in traveling to Michigan.
3. To enhance readers' perception of Michigan.
4. To extend Travel Michigan's reach in out-of-state markets.
5. To afford the Michigan travel industry an effective way to invest advertising dollars to promote their tourism product outside Michigan.
6. To produce the State's official warm-weather and official fall/winter, full-color, glossy travel guide at the most economical cost.
7. To complement Travel Michigan's overall campaign marketing efforts.
8. To support Travel Michigan's successful Pure Michigan branding initiatives.

### **C. CONTRACTOR DUTIES & QUALIFICATIONS**

The following is a preliminary list of the major tasks involved for developing the end product of this project. The Contractor is not, however, constrained from supplementing this listing with additional steps, sub-tasks or elements deemed necessary to permit the development of alternative approaches or the application of proprietary analytical techniques.

#### **Editorial & Content**

1. The Contractor will be responsible for publishing a four-color official warm weather state travel guide, as well as a four-color fall/winter travel guide to showcase Michigan as a desirable travel destination.
2. The Contractor will be responsible for supporting the Pure Michigan tourism marketing strategy by providing expert creative, production, personnel and/or sub-contractors.
3. The Contractor must demonstrate a commitment to diversity, equity and inclusion in policy, practice and creative work.
4. The contractor must demonstrate passion for and commitment to Michigan.
5. The Contractor must work with Travel Michigan in the execution of this work to assure it is consistent with Travel Michigan's overall goals and objectives.
6. The Contractor must create original, **unique content** for all editorial pages. The Contractor is responsible for all fact checking and proofing.
7. The Contractor must provide an **original list of articles** presented in a reader-friendly format with appealing and compelling photography. Editorial must be sensitive to a well-balanced geographical representation and ethnic diversity.
8. Provide Pure Michigan with final, high-quality (Epson or similar) color proofs with final all-inclusive pagination for all travel guides.
9. The Contractor must provide creative project management and execution for design, layout,

illustrations and artwork, production, distribution, marketing and promotion, sponsorship, and advertising sales. The design must focus on instant reader impact.

10. The Contractor must develop, write, edit, photograph, and provide specified pre-press preparations for the annual official state travel guide which will carry the subtitle **“Official Travel Guide.”** (The contractor is encouraged to suggest a new title for each season’s travel guide).
11. The Contractor shall provide corrected page proofs which include all listings, and editorial copy and a proof with ads, copy and graphics in position prior to the final finished color proof. However, Travel Michigan shall have unlimited author’s alterations on all proofs.
12. The Contractor must provide all editorial material in an electronic format with full rights to Travel Michigan for advertising, public relations, and online use.
13. The Contractor must provide an online version of each feature in the guide utilizing a rich media canvas. Therefore, the contractor must demonstrate their ability to design, implement and support a format using integrated voice, streaming video, animation, hosting podcast and web collaboration in a converged network.
14. The digital edition must be interactive with page-turning feature, social media sharing and links from all properties in the guide, including ads. It must also comply with all applicable accessibility standards and be screen-reader friendly. This rich media version must be compatible with major mobile devices, i.e., iPad, iPhone, Android, Mac & PC networks.
15. The Contractor must provide four additional interactive articles per season with accompanying photography and podcast to complement for the Pure Michigan (michigan.org) website each year during the terms of this contract.
16. The Contractor shall compile two indexes, one by city and one listed by activity and/or attraction.

Minimum content considerations (the overall edit ÷ ad ratio is 60÷40):

- Line-up of feature articles based on the most up-to-date research and travel trends.
- Editorial development with consistent tone.
- Selection and placement of appealing and compelling photography.
- Descriptive copy and photo captioning.
- Michigan map showing major cities and major roads.
- Formatted advertising pages.

## **Photography**

1. The Contractor must provide all new photography WITH FULL RIGHTS to the Michigan Economic Development Corporation, through Travel Michigan and the Michigan Strategic Fund for advertising, public relations, media distribution, or collateral materials to promote Michigan tourism, including the Travel Michigan and other websites as designated by Michigan Economic Development Corporation. The Contractor must ensure that all photography supplied pursuant to this contract is a certified Michigan location.

2. All images obtained by Contractor **must include permission for the State and Michigan Economic Development Corporation to use images on website, promotional materials and other uses as determined to promote the pure Michigan brand and the state of Michigan.**

## **Advertising**

The Contractor shall solicit paid advertising to help defray the cost of the publication. The Contractor shall have total responsibility for all bad advertising debt in the publication. The Contractor shall solicit appropriate advertisers (both **Michigan-based travel-related businesses and corporate accounts**) however; all advertisers and advertising must be travel-related and subject to Travel Michigan approval. (Commission rates must be addressed in the pricing component. See Attachment A).

1. The Contractor must present a sales strategy and a proposed rate structure subject to Travel Michigan approval.
2. The Contractor must develop and manage an aggressive advertising and marketing strategy. Although the publication is to be advertiser-supported, it is not intended that the advertising will drive the editorial component.
3. The Contractor agrees that all rate discounts offered to potential advertisers receive prior approval from Travel Michigan before offering the discount to the potential advertiser.
4. The Contractor agrees that all "make goods" receive prior approval from Travel Michigan and that a written record be forwarded to Travel Michigan as well as to the Contractor's accounting department.
5. The Contractor agrees to provide Travel Michigan bi-weekly advertising sales reports, which reflect the net/net advertising revenue to date. These reports must be broken down into appropriate categories as determined by Travel Michigan.
6. The Contractor shall be responsible for responding to all complaints regarding advertising, service, and processing of complaints for adjustments. The Contractor shall provide a report listing all complaints received, the name and location of business/person making the complaint and the action taken to resolve the complaint.
7. The Contractor shall develop and provide a media kit and rate card for the official state travel guide.
8. The Contractor shall solicit advertising from all regions of the state of Michigan in order to present the most geographic balance possible.
9. The state shall inspect and approve all advertising materials, media releases another publicity/marketing items.
10. The only advertisements that shall be allowed in the official state travel guide shall be advertisements of businesses that provide a direct service to the traveling and/or tourism public in the state of Michigan.
11. The Contractor shall only be allowed to sell advertisements to businesses licensed to

operate within the state of Michigan and businesses that have a place of operation within the state of Michigan unless specifically pre-approved by the State in writing.

12. The Contractor shall be aware that the State may elect to make changes in design, theme, and editorial comment, to the publication at no cost to the State.
13. The Contractor is responsible for providing an up-to-date comprehensive state highway map.
14. The Contractor must provide advertisers an opportunity to showcase their product via a rich media application.

### **Project Management**

The Contractor will be responsible for a number of intricate account management functions.

1. The Contractor is responsible for providing support, direction, and overall quality assurance.
2. The Contractor will conduct regular update meetings.
3. The Contractor must recommend ways to grow the magazine's ROI.
4. The Contractor must conduct a readership survey within the timeframe on this contract, date to be mutually determined.
5. The Contractor must provide bulk shipping of guides.
6. The Contractor shall provide the State a comprehensive schedule for all phases of planning, which should include copy writing, design, advertising, production, and delivery.

### **Distribution**

1. The Contractor must provide a complete list of available databases and/or any and all mailing lists that are available to Travel Michigan for proactive distribution to households in Travel Michigan target markets, or as determined by research.
2. The Contractor must demonstrate its ability to match Travel Michigan's target market demographics and to distribute by mail the publication to a minimum of 500,000 for the warm weather travel guide and up to 50,000 to 60,000 copies of the fall/winter travel guides to households in the Travel Michigan's target markets as outlined earlier.

Up to 100,000 copies of the guide shall be bulk shipped, at cost, to Travel Michigan's warehouse. Additionally, 50,000 copies (taken from the bulk quantity) shall be bulk shipped directly to Travel Michigan's fulfillment center, Michigan CVBs and other Michigan entities as determined by Travel Michigan.

### **Marketing**

1. The Contractor must recommend innovative ways to drive traffic to michigan.org from the printed piece and other resources at its disposable.

2. The Contractor's final product must complement and support Travel Michigan's "***Pure Michigan***" branding initiative.

#### **Ownership of contents**

1. The Contractor will provide the contents of the guide, including editorial material, photography, artwork, graphics, schematics, and maps. The Guide shall be considered a collective work and shall be deemed work for hire under applicable copyright law. The State will provide Contractor with certain materials that the State owns, such as artwork and maps.

**The Contractor is encouraged to recommend alternative ways to publish and distribute the official travel guides while still adhering to Travel Michigan strategic goals and marketing objectives.**

**The Contractor is encouraged to recommend optional proactive distribution points and opportunities that it would like to be considered by Travel Michigan.**

## SECTION II PROPOSAL FORMAT

To be considered, each Bidder must submit a COMPLETE proposal in response to this RFP using the format specified. Bidder's proposal must be submitted in the format outlined below. There should be no attachments, enclosures, or exhibits other than those required in the RFP or considered by the Bidder to be essential to a complete understanding of the proposal. Each section of the proposal should be clearly identified with appropriate headings:

### **A) TECHNICAL PROPOSAL**

1. Business Organization and History – State the full name, address, and phone and facsimile number of your organization and, if applicable, the branch office or other subordinate element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation; if as a corporation, include the state in which it is incorporated. If appropriate, the proposal must state whether the organization is licensed to operate in the State of Michigan.
2. Statement of the Problem – State in succinct terms your understanding of the problem(s) presented by this RFP.
3. Narrative – Include a narrative summary description of the proposed effort and of the services(s)/products(s) that will be delivered.
4. Technical Work Plans – Provide a detailed research outline and timelines for accomplishing the work.
5. Prior Experience – Describe the prior experience of your organization which you consider relevant to the successful accomplishment of the project defined in this RFP. Include sufficient detail to demonstrate the relevance of such experience. Proposals submitted should include, in this Section, descriptions of qualifying experience to include project descriptions, costs, and starting and completion dates of projects successfully completed; also include the name, address, and phone number of the responsible official of the client organization who may be contacted.

The MSF may evaluate the Bidder's prior performance with the MSF, and prior performance information may be a factor in the award decision.

6. Project Staffing – The Bidder must be able to staff a project team which possesses talent and expertise in the field of the requirements of this RFP. Identify a Project Manager and staff assigned by name and title. Include biographies, experience and any other appropriate information regarding the work team's qualification for this initiative. Indicate staff turnover rates. Show where the project team will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the work. Indicate the amount of dedicated management time for the Bidder's Project Manager and other key individuals. Do not include any financials for the contemplated work within the Technical Proposal. Resumes of qualifications should be supplied for proposed project personnel.

Please Note: The MSF further reserves the right to interview the key personnel assigned by the Contractor to this project and to recommend reassignment of personnel deemed unsatisfactory.

7. Subcontractors – List here all subcontractors that will be engaged to accomplish the project described in this RFP; include firm name and address, contact person and complete description of work to be subcontracted. Include descriptive information concerning subcontractor's organization and abilities. Also, the information provided in response to A-5, above, should include detailed information about each potential subcontractor.

8. Bidder's Authorized Expediter – Include the name and telephone number of person(s) in your organization authorized to expedite any proposed contract with the MSF.

9. Additional Information and Comments – Include any other information that is believed to be pertinent, but not specifically asked for elsewhere.

## **B) PRICE PROPOSAL**

Provide the cost/rate/price information for all firms/persons named in your Price Proposal to demonstrate the reasonableness of your Price Proposal. Attach a schedule of all expenses covering each of the services and activities identified in your proposal.

The MSF is exempt from federal excise tax, and state and local sales taxes. The Price Proposal should not include taxes.

**THE PRICE PROPOSAL MUST BE IDENTIFIED AND SENT SEPARATELY FROM THE TECHNICAL PORTION OF YOUR PROPOSAL ACCORDING TO THE INSTRUCTIONS OF THIS RFP. Separately sealed price proposals will remain sealed until the JEC has completed evaluation of the technical proposals.**

Bidders Please Note: Rates quoted in response to this RFP are firm for the duration of the Contract; no price increase will be permitted.

## **C) PROPOSAL SUBMITTAL**

Submit separately marked electronic versions of each of your Technical Proposal and Price Proposal to the MSF via email to [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org) not later than **3:00 p.m. on May 19, 2021**. The MSF has no obligation to consider any proposal that is not timely received. **Proposals will not be accepted via U.S. Mail or any other delivery method.**

BIDDERS ARE RESPONSIBLE FOR ASSURING THAT THE FOLLOWING IDENTIFYING INFORMATION APPEARS IN THE SUBJECT LINE OF YOUR EMAIL: "*RFP-CASE-320673 Technical Proposal*" and "*RFP-CASE-320673 Price Proposal*" with *Company Name*, and "*message 1 of 3*" as appropriate if the bid consists of multiple emails.

**SECTION III  
RFP PROCESS AND TERMS AND CONDITIONS**

**A) PRE-BID MEETING/QUESTIONS**

A pre-bid meeting will not be held. Questions from Bidders concerning the specifications in this RFP must be received via e-mail no later than **3:00 pm on April 6, 2021**. Questions must be submitted to:

Contract Services  
[contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org)

**B) PROPOSALS**

To be considered, Bidders must submit a complete response to this RFP, using the format provided in Section II of this RFP, by **3:00 p.m. on May 19, 2021**. No other distribution of proposals is to be made by the Bidder.

The Technical Proposal must be **signed physically or electronically** by an official of the Bidder authorized to bind the Bidder to its provisions. The proposal must include a statement as to the period during which it remains valid; this period must be at least one hundred fifty (150) days from May 19, 2021. The rates quoted in the Price Proposal must remain firm for the period indicated in Section II.

**C) ECONOMY OF PREPARATION**

Each proposal should be prepared simply and economically, providing a straightforward, concise description of the Bidder's ability to meet the requirements of the RFP. Emphasis should be on completeness and clarity of content.

**D) SELECTION CRITERIA**

Responses to this RFP will be evaluated based upon a three-step selection process. The proposal must address the requirements described in Section II of this RFP.

The first step is an evaluation of which proposals satisfactorily meet the requirements of this RFP as stated in Section II.

1) Step I – Initial evaluation for compliance

a) *Proposal Content* – Contract Services will screen the proposals for technical compliance to include but not be limited to:

- Timely submission of the proposal.
- Technical Proposal and Price Proposal clearly identified and sent separately.
- Proposal signed physically or electronically by an official of the Bidder authorized to bind the Bidder to its provisions.
- Proposals satisfy the form and content requirements of this RFP.

2) Step II – Criteria for Satisfactory Technical Proposals

- a.) During the second step of the selection process, proposals will be considered by a Joint Evaluation Committee (the “JEC”) comprised of individuals selected by the MSF. Only those proposals that satisfy the requirements described in this RFP, as determined in the sole discretion of the JEC, will be considered for evaluation in Step II. The JEC reserves the right to request additional information from any Bidder.
- b.) *Competence, Experience and Staffing Capacity* – The proposal should indicate the ability of the Bidder to meet the requirements of this RFP, especially the time constraints, quality, and recent projects similar to that described in this RFP. The proposal should indicate the competence of the personnel whom the Bidder intends to assign to the project, including education and experience, with particular reference to experience on projects similar to that described in this RFP and qualifications of Bidder’s Project Manager and the Project Manager’s dedicated management time, as well as that of other key personnel working on this project.

		<b>Weight</b>
1.	Statement of Work	40
2.	Bidder Information	30
3.	Prior Experience	15
4.	Staffing	15
<b>TOTAL</b>		<b>100</b>

- c.) During the JEC’s review, Bidders may be required to make oral presentations of their proposals to the JEC. These presentations provide an opportunity for the Bidders to clarify the proposals. The MSF will schedule these presentations, if required by the JEC.
- d.) Only those proposals receiving a score of **80 points or more** in the technical proposal evaluation will have their pricing evaluated to be considered for award.

3) Step III – Criteria for Satisfactory Price Proposal

- a.) Based on what is in the best interest of the MSF, the MSF will award the Contract considering value, quality, and the ability to meet the objectives of this RFP, of proposals that were approved as a result of this two-step evaluation process.
- b.) The MSF reserves the right to consider economic impact on the State of Michigan when evaluating proposal pricing. This includes, but is not limited to: job creation, job retention, tax revenue implications, and other economic considerations.
- c.) The award recommendation will be made to the responsive and responsible Bidder who offers the best value to the MSF and the State of Michigan. Best value will be determined by the Bidder meeting the minimum point threshold and offering the *best proposal that meets the objectives of the RFP.*

- d.) The MSF reserves the right to award to another “best value” contractor in case the original Awardee does not accept the award.

**E) BIDDERS COSTS**

The MSF is not liable for any costs incurred by any Bidder prior to signing of the Contract by all parties.

**F) TAXES**

The MSF may refuse to award a contract to any Bidder who has failed to pay any applicable taxes or if the Bidder has an outstanding debt to the State of Michigan or the MSF.

Except as otherwise disclosed in an exhibit to the Proposal, Bidder certifies that all applicable taxes are paid as of the date the Bidder’s Proposal was submitted to the MSF and the Bidder owes no outstanding debt to the State of Michigan or the MSF.

**G) CONFLICT OF INTEREST**

The Bidder must disclose, in an exhibit to the proposal, any possible conflicts of interest that may result from the award of the Contract or the services provided under the Contract.

Except as otherwise disclosed in the proposal, the Bidder affirms that to the best of its knowledge there exists no actual or potential conflict between the Bidder, the Bidder’s project manager(s) or its family’s business or financial interests (“Interests”) and the services provided under the Contract. In the event of any change in either Interests or the services provided under the Contract, the Bidder will inform the MSF regarding possible conflicts of interest which may arise as a result of such change and agrees that all conflicts shall be resolved to the MSF’s satisfaction or the Bidder may be disqualified from consideration under this RFP. As used in this Section, “conflict of interest” shall include, but not be limited to, the following:

- 1) Giving or offering a gratuity, kickback, money, gift, or anything of value to a MSF official, officer, or employee with the intent of receiving a contract from the MSF or favorable treatment under a contract;
- 2) Having or acquiring at any point during the RFP process or during the term of the Contract, any contractual, financial, business or other interest, direct or indirect, that would conflict in any manner or degree with Bidder’s performance of its duties and responsibilities to the MSF under the Contract or otherwise create the appearance of impropriety with respect to the award or performance of the Contract; or
- 3) Currently in possession of or accepting during the RFP process or the term of the Contract anything of value based on an understanding that the actions of the Bidder or its affiliates or Interests on behalf of the MSF will be influenced.

**H) BREACH OF CONTRACT**

Except as otherwise disclosed in an exhibit to Bidder's proposal, Bidder is not in material default or breach of any contract or agreement that it may have with the State of Michigan or any of its departments, commissions, boards or agencies, or any other public body in the State of Michigan. Further, Bidder represents and warrants that it has not been a party to any contract with the State of Michigan or any public body that was terminated within the previous five (5) years because the Bidder failed to perform or otherwise breached an obligation of such contract.

**I) DISCLOSURE OF LITIGATION**

Except as otherwise disclosed in an exhibit to Bidder's proposal, there is no criminal litigation, investigations or proceedings involving the Bidder (and each subcontractor, if subcontractors will be used to provide the goods/services requested under this RFP) or any of the Bidder's officers or directors or any litigation or proceedings under the Sarbanes-Oxley Act. In addition, Bidders must disclose in the exhibit requested under this Section of the RFP any civil litigation, arbitration or proceeding to which the Bidder (or, to the extent Bidder is aware, any subcontractor) is a party and which involves: (1) disputes that might reasonably be expected to adversely affect the viability or financial stability of the Bidder (or subcontractor); or (2) a claim or written allegation of fraud or breach of contract against Bidder (or, to the extent Bidder is aware, subcontractor), by a governmental or public entity arising out of their business dealings with governmental or public entities. Details of any settlements which Bidder is prevented from disclosing under the terms of the settlement may be annotated as such. Bidders must also disclose any investigations by the Internal Revenue Service or any other federal or state taxing body or court.

**J) FALSE INFORMATION**

If the MSF determines that a Bidder purposefully or willfully submitted false information in response to this RFP, the Bidder will not be considered for an award and any resulting Contract that may have been executed may be terminated.

**K) ADDITIONAL DISCLOSURE**

All Bidders should be aware that proposals submitted to the MSF in response to this RFP may be subject to disclosure under the provisions of Public Act 442 of 1976, as amended, known as the Freedom of Information Act ("FOIA"). Accordingly, confidential information should be excluded from Bidders' proposals. Bidders, however, are encouraged to provide sufficient information to enable the MSF to determine the Bidder's qualifications and to understand or identify areas where confidential information exists and could be provided. The FOIA also provides for the complete disclosure of the Contract and any attachments or exhibits thereto.

**L) PRICES HELD FIRM**

LENGTH OF TIME PRICES ARE TO BE HELD FIRM: All rates quoted in Bidder's response to this RFP will be firm for the duration of the Contract. No price changes will be permitted. IN THE EVENT THAT PROPOSED CHANGES ARE NOT ACCEPTABLE TO THE MSF, THE CONTRACT SHALL BE TERMINATED AND THE MODIFIED CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING.

**M) BEST AND FINAL OFFER**

At any time during the evaluation process, the JEC may request a Best and Final Offer (“BAFO”) from any Bidder. This will be the final opportunity for a Bidder to provide a revised proposal. The scope of the changes allowed in the BAFO will be published as part of the issuance of the BAFO request.

**Bidders are cautioned to propose the best possible offer at the outset of the process, as there is no guarantee that any Bidder will be allowed an opportunity to engage in Pricing Negotiations or requested to submit a Best and Final Offer.**

**N) CLARIFICATION/CHANGES IN THE RFP**

Changes made to the RFP as the result of responses made to qualifying questions or concerns will be posted on [Michiganbusiness.org/320673](http://Michiganbusiness.org/320673). Applicants are encouraged to regularly check this site for changes or other information related to the RFP.

**O) ELECTRONIC BID RECEIPT**

ELECTRONIC VERSIONS OF EACH OF YOUR TECHNICAL AND PRICE PROPOSALS SENT SEPARATELY MUST BE RECEIVED AND TIME-STAMPED BY THE MSF TO [contractsandgrants@michigan.org](mailto:contractsandgrants@michigan.org), ON OR BEFORE **3:00 p.m. on May 19, 2021**. Bidders are responsible for timely submission of their proposal. THE MSF HAS NO OBLIGATION TO CONSIDER ANY PROPOSAL THAT IS NOT RECEIVED BY THE APPOINTED TIME.

**P) RESERVATION OF MSF DISCRETION**

Notwithstanding any other statement in this RFP, the MSF reserves the right to:

- 1) reject any and all proposals;
- 2) waive any errors or irregularities in the bidding process or in any proposal;
- 3) rebid the project;
- 4) negotiate with any Bidder for a reduced price, or for an increased price to include any alternates that the Bidder may propose;
- 5) reduce the scope of the project, and rebid or negotiate with any Bidder regarding the revised project; or
- 6) defer or abandon the project.

The MSF’s decision is final and not subject to appeal. Any attempt by an applicant, collaborating entity, or other party of interest to the project to influence the awards process, to appeal, and/or take any action, including, but not limited to, legal action, regarding the proposal or awards process in general may result in the applicant’s disqualification and elimination from the award process.

**Q) JURISDICTION**

Any legal action arising from or concerning this RFP shall be brought in the Michigan Court of Claims or, as appropriate, the Ingham County Circuit Court in Ingham County, Michigan. Nothing

in this RFP shall be construed to limit the rights and remedies of the MSF that are otherwise available.

**R) ADDITIONAL CERTIFICATION**

Pursuant to Public Act 517 of 2012, an Iran linked business is not eligible to submit a bid on a request for proposal, with a public entity.

Bidders must include the following certification in the technical proposal:

“Bidder certifies that it is not an Iran-linked business as defined in MCL 129.312.”

Failure to submit this certification will result in disqualification from consideration.

**SECTION IV  
CONTRACTUAL TERMS AND CONDITIONS**

**A) CONTRACT TERMS AND CONDITIONS**

- 1) The Contract – The proposal selected will be subject to the terms and conditions of the MSF’s Professional Services Contract (the “Contract”) in substantially the same form as attached to this RFP as Attachment A. The MSF reserves the right to modify any provisions of the Contract.
- 2) Term of Work – It is estimated that the activities in the proposed Contract will cover the period August 1, 2021 through July 31, 2022, with up to four, one-year extensions. The MSF, in its sole discretion, may extend the Term and allocate additional resources, subject to available funding.
- 3) Modification of Service – The MSF reserves the right to modify the requested services during the course of the Contract. Such modifications must be made in writing and may include the addition or deletion of tasks or any other modifications deemed necessary. Any changes in pricing proposed by the bidder resulting from the requested changes are subject to acceptance by the MSF. Changes may be increases or decreases.

In the event changes are not acceptable to the MSF, the Contract shall be subject to competitive bidding based upon the new specifications.

- 4) Subcontracting – The MSF reserves the right to approve any subcontractors for the Contract and to require the bidder, upon award of the Contract, to replace subcontractors that the MSF finds to be unacceptable.
- 5) Award of Contract – The MSF reserves the right to award all or any part of this RFP and, based on what is in the best interest of the MSF, the MSF will award the Contract considering price, value and quality of the bids.

**B) CONTRACTOR RESPONSIBILITIES**

The selected Bidder will be required to assume responsibility for all contractual activities offered in this RFP whether or not the Bidder performs them. Further, the MSF will consider the selected Bidder to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Contract.

**C) ACCEPTANCE OF PROPOSAL CONTENT**

If awarded a Contract, the contents of this RFP will become contractual obligations. The following constitute the complete and exclusive statement of the agreement between the parties as it relates to this transaction:

- 1) This RFP (including subsequent written clarification provided in response to questions raised by email ) and any Addenda thereto; and
- 2) Final executed Contract.

In the event of any discrepancies between the above documents, the final executed Contract shall control. Failure of the successful Bidder to accept these obligations may result in cancellation of the award.

**D) PROJECT CONTROL AND REPORTS**

1) Project Control

- a) The selected Bidder (the “Contractor”) will carry out this project under the direction and control of the Business Support Unit of the MSF.
- b) The MSF will appoint a Contract Manager for this project. Although there will be continuous liaison with the Contractor team, the Contract Manager will meet with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.
- c) The Contractor will submit brief written monthly summaries of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated which should be brought to the attention of the Contract Manager and notification of any significant deviation from previously agreed upon work plans.
- d) Within five (5) working days of the execution of the Contract, the Contractor will submit a work plan to the Contract Manager for final approval. This work plan must be in agreement with Section III-A of this RFP as proposed by the Bidder and accepted by the MSF for contract, and must include the following:
  - (i) The Contractor's project organizational structure.
  - (ii) The Contractor's staffing table with names and titles of personnel assigned to the project. This must be in agreement with staffing of the accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the MSF.
  - (iii) The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
  - (iv) The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan.

**ATTACHMENT A**

**PROFESSIONAL SERVICES CONTRACT**  
**TERMS AND CONDITIONS**

The Michigan Strategic Fund (the "MSF") enters into a binding agreement for professional services (the "Agreement") with CONTRACTOR (the "Contractor"). The MSF and Contractor shall sometimes be referred in this Agreement individually as a "Party" or collectively as "Parties."

**Contractor:**           Name  
                              Address  
                              Address

**I. NATURE OF SERVICES**

Contracts and Grants to fill in a description of the Nature of Services based upon the information in the CASE.

**II. PERFORMANCE SCHEDULE**

Starting Date: MONTH XX, 20XX

Ending Date: MONTH XX, 20XX

The term of this Agreement (the "Term") shall begin on the Starting Date and end on the Ending Date, unless terminated earlier, as permitted under Section V(J) of this Agreement.

**III. COMPENSATION INFORMATION**

- A) The MSF agrees to pay Contractor an amount not to exceed XXX Dollars (\$XXX) during the Term. An initial payment in the amount of XXX Dollars (\$XXX) shall be made by the MEDC to the Contractor within thirty days of the execution of this Agreement by both Parties (the "Initial Payment"). This amount includes all embedded expenses.
  
- B) Subsequent payment(s) Payment under this Agreement shall be made by the MSF to Contractor upon receipt and approval by the Contract Manager, as identified in Section IV, of Contractor's billing statement(s) stating that the work for which payment is requested has been appropriately performed. Contractor shall provide Contractor's billing statement(s) to Contract Manager or at Contract Manager's direction on a monthly basis. Contract Manager shall provide Contractor with appropriate submission instructions of Contractor's billing statement(s).
  
- C) All billing statement(s) must reflect actual work done. The specific details of billing statement(s) and payments will be agreed upon between the Contract Manager and the Contractor after the Agreement has been signed and accepted by both the Contractor and the MSF.

- D) Public Act 533 of 2004 requires that payments under this Agreement be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the State Integrated Governmental Management Applications (SIGMA) Vendor Self Service (VSS) website ([www.michigan.gov/VSSLogin](http://www.michigan.gov/VSSLogin)).
- E) Changes in the budget will be allowed only upon prior review and written approval by the Contract Manager.
- F) Contractor's billing statement(s) may be subject to a final audit prior to the release of final payment.

#### **IV. MSF CONTRACT MANAGER**

The Michigan Economic Development Corporation (the "MEDC") provides administrative services to the MSF. Contractor should communicate with the following MEDC representative or designee regarding this Agreement:

[Name] (the "Contract Manager")  
Michigan Economic Development Corporation  
300 North Washington Square  
Lansing, Michigan 48913  
[xxx@michigan.org](mailto:xxx@michigan.org)

#### **V. TERMS AND CONDITIONS**

##### **A) Contractor Duties**

Contractor agrees to undertake, perform, and complete the services described in Exhibit A, which is incorporated herein by reference. In the event of any inconsistency between the provisions of Exhibit A and this Agreement, the provisions of this Agreement shall control.

##### **B) Independent Contractor**

Contractor will act as an independent contractor under this Agreement, and neither Contractor nor any employee or agent or contract personnel of Contractor is, or shall be deemed to be, an employee of the MSF due to this Agreement and the relationship between Contractor and MSF. In its capacity as an independent contractor, Contractor agrees to and represents the following:

- 1) Contractor will provide the services under this Agreement free from the direction or control of the MSF or the MEDC as to means, manners, and methods of performance;
- 2) Contractor has the right, and does fully intend, to perform services for third parties during the Term;
- 3) Contractor acknowledges that any work product developed by Contractor in performance of this Agreement shall be the sole property of the MSF and the MSF shall have the right to copyright or otherwise protect its rights in and ownership of the work product;

- 4) The services required by this Agreement shall be performed by Contractor, or Contractor's employees or contract personnel, and the MSF or the MEDC shall not hire, supervise, or pay any assistants to help Contractor;
- 5) Neither Contractor nor Contractor's employees or contract personnel shall receive any training from the MSF or the MEDC in the professional skills necessary to perform the services required by this Agreement;
- 6) Neither Contractor nor Contractor's employees or contract personnel shall be required by the MSF or the MEDC to devote full time to the performance of the services required by this Agreement; and
- 7) Contractor does not receive the majority of its annual compensation from the MSF or the MEDC.

The Parties acknowledge and agree that the MSF is entering into this Agreement with reliance on the representations made by Contractor relative to its independent contractor status.

C) **Permits and Licenses**

Contractor declares that Contractor has complied with all federal, state and local laws requiring any business permits, certificates or licenses required to carry out the services to be performed under this Agreement, and Contractor will maintain those permits, certificates, and/or licenses throughout the Term.

D) **Materials**

Contractor will furnish all materials, equipment and supplies used to provide the services required by this Agreement.

E) **State and Federal Taxes**

The MSF and the MEDC will not:

- 1) Withhold FICA (Social Security and Medicare taxes) from Contractor's payments or make FICA payments on Contractor's behalf; or
- 2) Make state or federal unemployment compensation contributions on Contractor's behalf, or withhold state, federal, or local income tax from Contractor's payments.

Contractor shall pay all taxes incurred while performing services under this Agreement, including, but not limited to, all applicable income taxes. If requested by the MSF or the MEDC, Contractor shall provide proof that such payments have been made.

F) **Fringe Benefits**

Contractor understands that neither Contractor nor Contractor's employees or contract personnel are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of the MSF or the MEDC.

G) **Workers' Compensation**

The MSF or the MEDC shall not obtain workers' compensation insurance on behalf of Contractor or Contractor's employees. If Contractor hires employees to perform any work under this Agreement, Contractor shall cover those employees with workers' compensation insurance and shall maintain such insurance during the Term. The MSF or the MEDC may, in its discretion, require Contractor to provide evidence of such coverage.

H) **Unemployment Compensation**

The MSF or the MEDC shall make no state or federal unemployment compensation payments on behalf of Contractor or Contractor's employees or personnel. Contractor will not be entitled to these benefits in connection with work performed under this Agreement. If Contractor files a petition for and receives unemployment compensation, the total amount of unemployment compensation awarded to and received by Contractor shall be deducted from and be an offset against the amount of compensation due and payable to Contractor by the MSF under this Agreement.

I) **Access to Records**

During the Term, and for seven (7) years after the Ending Date, Contractor shall maintain reasonable records, including evidence that the requested services actually were performed and the identity of all individuals paid for such services, and shall allow access to those records by the MSF, the MEDC or their authorized representative at any time during this period.

J) **Termination**

Either Party may terminate its obligations under this Agreement by giving the other Party thirty (30) calendar days prior written notice of such termination.

The MSF may immediately terminate this Agreement upon written notice to Contractor if Contractor materially breaches its obligations under this Agreement or engages in any conduct which the MSF, in its sole discretion, determines has or could have an adverse impact on the State of Michigan's (the "State") or the MSF's reputation or interests. In addition, the MSF may immediately terminate this Agreement upon written notice to Contractor, without further liability to the MSF or the State, its departments, agencies, and employees, if Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense relating to a State, public, or private contract or subcontract; or convicted of a criminal offense including, but not limited to, any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State employees; convicted under state or federal antitrust statutes; or convicted of any other criminal offense that, in the sole discretion of the MSF, reflects on Contractor's business integrity.

Contractor acknowledges that MSF's performance of its payment obligation is dependent upon the continued approval of funding and/or the MSF's continued receipt of State funding. In the event that the State Legislature, the State Government or any State official, public body corporate, commission, authority, body or employees, including the MSF:

- (i) takes any action which fails to provide, terminates or reduces the funding that is related to the source of funding for this Agreement; or
- (ii) takes any action that is unrelated to the source of funding for this Agreement, but affects the MSF's ability to perform obligations under this Agreement, the MSF may terminate this Agreement by providing thirty (30) calendar days notice prior to the effective date of cancellation. In the event, however, that the action of the State Legislature, the State of Michigan or MSF results in an immediate absence or termination of funding, this Agreement may be terminated effective immediately upon delivery of notice to the Contractor. In the event of immediate termination of funding, the MSF will make payment through the effective date of termination for any undisputed services rendered and expenses incurred.

The MSF shall have no obligation to Contractor for any fees or other payments incurred in connection with this Agreement after the effective date of termination. Upon termination, all work product prepared or produced by Contractor pursuant to this Agreement shall be immediately delivered to the MSF. Payment for any undisputed services rendered and expenses incurred through the effective date of termination will then promptly be made by the MSF. Any Initial Payment made to the Contractor is subject to reimbursement in an amount determined by the Contract Manager in the event the Contractor terminates the Agreement prior to the Ending Date.

**K) MEDC and MSF Employees**

Contractor will not hire any employee of the MEDC or MSF to perform any services covered by this Agreement without prior written approval from the Chief Executive Officer of the MEDC or President of the MSF.

**L) Confidential Information**

Except as required by law, Contractor shall not use or disclose, either before, during or after the Term, any proprietary or confidential information, including, but not limited to, applications, business bids, business plans, economic development analyses, computer programs, databases and all materials furnished to Contractor by the MSF or the MEDC (collectively, "Confidential Information") without the prior written consent of the MSF or the MEDC, except to the extent necessary to perform services on the MSF or MEDC's behalf. Confidential Information does not include:

- (i) information obtained by Contractor from third party sources;
- (ii) that is already in the possession of, or is independently developed by, Contractor;
- (iii) that becomes publicly available other than through breach of this subsection; or

- (iv) is released with the prior written consent of the governmental entity or entities that provided the Confidential Information to Contractor.

Contractor acknowledges that all information provided by the MSF or the MEDC in connection with Contractor's duties under this Agreement shall be treated as Confidential Information unless otherwise stated in this subsection.

**M) Conflict of Interest**

Except as has been disclosed to the MSF or the MEDC, Contractor affirms that neither the Contractor nor its affiliates or their employees has, shall have, or shall acquire any contractual, financial business or other interest, direct or indirect, that would conflict in any manner with Contractor's performance of its obligations under this Agreement or otherwise create the appearance of impropriety with respect to this Agreement.

Contractor further affirms that neither Contractor nor any affiliates or their employees has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or its affiliates or either's employees on behalf of the MSF or the MEDC would be influenced. Contractor shall not attempt to influence any MEDC or MSF employee by the direct or indirect offer of anything of value. Contractor also affirms that neither Contractor nor its affiliates or their employees has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or its affiliate, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the execution of this Agreement.

In the event of a change in either the interests or services under this Agreement, Contractor will inform the MSF or the MEDC regarding possible conflicts of interest that may arise as a result of such change. Contractor agrees that conflicts of interest shall be resolved to the MSF's or the MEDC's satisfaction or the MSF may terminate this Agreement. As used in this subsection, "conflict of interest" shall include, but not be limited to, conflicts of interest that are defined under the laws of the State of Michigan.

**N) Representations of Contractor**

Contractor affirms to the best of its knowledge that it or its owners:

- 1) do not have any criminal convictions;
- 2) are not subjects of any pending criminal investigation;
- 3) are not subjects of any past, present or pending investigations by the Internal Revenue Service or any other federal, state, local taxing authority, or court;
- 4) are not subjects of any past, pending or present litigation regarding its conduct; and
- 5) are not in material default or breach of any contract or agreement that it may have with the State of Michigan, the MSF or any other public body.

Contractor further represents and warrants that it has not been a party to any contract with the State, the MSF or other public body that was terminated within the previous five (5) years due to the Contractor's failure to perform or otherwise breached an obligation of such contract.

O) **State of Michigan Competitors**

Any information or knowledge Contractor gains during the course of this Agreement concerning the economic development efforts of the State of Michigan, the MSF, the MEDC or the business conditions or business community in Michigan shall not be disclosed to any public or private party, sovereign authority or foreign government, during the Term and for a period of two (2) years after the later of the Ending Date, the effective date of termination of this Agreement or so long as any information remains confidential pursuant to any contract, law, treaty, resolution or other enforceable promise.

P) **Irreparable Injury**

Contractor acknowledges that if it breaches any of its obligations under subsections L or O, it will cause damages of an irreparable and continuing nature to the MSF, for which money damages alone will not provide adequate relief. Therefore, in addition to all appropriate monetary damages, the MSF is entitled to obtain injunctive relief, including, but not limited to, a temporary restraining order to prohibit the Contractor's continuing breach. The MSF shall have the right to obtain such relief without having to post any bond or other surety.

Q) **Indemnification and Contractor Liability Insurance**

Contractor shall indemnify, defend, and hold harmless the MSF, its Board and its employees, and the MEDC, its Executive Committee, its Corporate Board of Directors, and its employees (the "Indemnified Parties") from any and all liability arising out of or in any way related to Contractor's performance under this Agreement, including any liability resulting from any acts of Contractor's employees or agents.

Contractor shall purchase and maintain such insurance to protect the Indemnified Parties from claims that might arise out of or as a result of Contractor's operations. Contractor will provide and maintain its own errors and omissions liability insurance for Contractor's indemnification obligation under this Agreement. The insurance shall be written for not less than One Million Dollars (\$1,000,000) of coverage, but Contractor's indemnification obligation is not limited to this amount.

R) **Total Agreement**

This Agreement, together with Exhibit A, contains the entire agreement between the Parties superseding any prior or concurrent agreements as to the services being provided and no oral or written terms or conditions which are not contained in this Agreement shall be binding. This Agreement may not be changed except by written agreement signed by the Parties.

S) **Assignment/Transfer/Subcontracting**

Contractor shall not assign, transfer, convey, subcontract, or otherwise dispose of any duties or rights under this Agreement without the prior specific written consent of the MSF. Contractor agrees that any of Contractor's future successors or subcontractors will be bound by the provisions of this Agreement, unless the MSF otherwise agrees in a specific written consent. The MSF reserves the right to approve subcontractors for this Agreement and to require Contractor to replace subcontractors who are found to be unacceptable to the MSF or the MEDC.

T) **Non-Discrimination and Unfair Labor Practices**

In connection with this Agreement, Contractor shall comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101 *et seq.*, and all other federal, state and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment with respect to his or her hire, tenure, terms, conditions, privileges of employment, or any matter directly or indirectly related to employment because of his or her race, religion, color, national origin, age, gender, height, weight, marital status, or physical or mental disability unrelated to the individual's ability to perform the duties of a particular job or position. Contractor further agrees that every subcontract entered into in connection with this Agreement will contain a provision requiring nondiscrimination in employment, as required in this Agreement, binding upon each subcontractor.

Pursuant to 1980 PA 278, State Contracts with Certain Employees Prohibited Act (the "Act"), MCL 423.321 *et seq.*, the State shall not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled by the United States National Labor Relations Board. Contractor, in relation to this Agreement, shall not enter into a contract with a subcontractor, manufacturer, or supplier whose name appears on this register. Pursuant to section 4 of the Act, the MSF may void this Agreement if, after the Starting Date, the name of the Contractor as an employer or the name of the subcontractor, manufacturer or supplier of Contractor appears on the register.

A breach of this subsection constitutes a material breach of this Agreement.

U) **Jurisdiction**

The laws of the State of Michigan shall govern this Agreement. The Parties shall make a good faith effort to resolve any controversies that arise regarding this Agreement. If a controversy cannot be resolved, the Parties agree that any legal actions concerning this Agreement shall be brought in the Ingham County Circuit Court in Ingham County, Michigan, USA. By signing this Agreement, Contractor acknowledges that it is subject to the jurisdiction of this court and agrees to service by first class or express delivery wherever Contractor resides, in or outside of the United States.

V) **Compliance with Laws**

Contractor shall comply with all applicable state, federal and local laws and ordinances in

providing the services under this Agreement.

W) **No Partnership or Agency Relationship**

This Agreement does not create a partnership relationship. Further, neither Contractor nor Contractor's employees or other representatives shall hold themselves out to third parties as an agent or representative of the State of Michigan, the MSF or the MEDC nor shall they have any authority to take any action or enter into any agreement on behalf of the State of Michigan, the MSF or the MEDC.

X) **No Third Party Beneficiaries**

There are no expressed or implied third party beneficiaries to this Agreement.

Y) **Counterparts**

This Agreement may be executed in one or more counterparts and by facsimile, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

Z) **Reimbursement**

If this Agreement is terminated as a result of the misuse of funds as reasonably determined by the MSF, MSF shall have no further obligation to make any payments to Contractor. Furthermore, Contractor shall reimburse MSF for payments which were expended for purposes other than those described in this Agreement, as well as any funds that were previously disbursed under this Agreement but not yet expended by Contractor.

AA) **Severability**

All of the clauses of this Agreement are distinct and severable and, if any clause shall be deemed illegal, void or unenforceable, it shall not affect the validity, legality or enforceability of any other clause or provision of this Agreement. To the extent possible, the illegal, void or unenforceable provision shall be revised to the extent required to render the Agreement enforceable and valid, and to the fullest extent possible, the rights and responsibilities of the Parties shall be interpreted and enforced to preserve the Agreement and the intent of the Parties. Provided, if application of this section should materially and adversely alter or affect a Party's rights or obligations under this Agreement, the Parties agree to negotiate in good faith to develop a structure that is as nearly the same structure as the original Agreement (as may be amended from time to time) without regard to such invalidity, illegality or unenforceability.

BB) **Publicity**

At the request and expense of the MSF or the MEDC, the Contractor will cooperate with the MSF or the MEDC to promote the Scope of Work through one or more of the placement of a sign, plaque, media coverage or other public presentation at the project or other location acceptable to the Parties.

CC) **Survival**

The terms and conditions of sections III, V(B), V(E), V(F), V(G), V(H), V(I), V(L), V(O), V(P), V(Q), V(S), V(U), V(W), V(X), V(Z) and V(AA) shall survive termination of this Agreement.

The signatories below warrant that they are empowered to enter into this Agreement.

**CONTRACTOR ACCEPTANCE:**

CONTRACTOR

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Authorized Signer  
Its: Title

**MSF ACCEPTANCE:**

Michigan Strategic Fund

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Authorized Signer  
Its: Title

**ATTACHMENT B**

**INDEPENDENT PRICE DETERMINATION AND  
PRICES HELD FIRM CERTIFICATION**

**INDEPENDENT PRICE DETERMINATION**

By submission of a proposal, the Bidder certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:

1. The prices in the proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other Bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to award directly or indirectly to any other Bidder or to any competitor; and
3. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not submit a proposal for the purpose of restricting competition.

Each person signing the proposal certifies that she/he:

- A) Is the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal and has not participated (and will not participate) in any action contrary to 1, 2, and 3 above; or
- B) Is not the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal but has been authorized, in writing, to act as agent for the persons responsible for such decision in certifying that such persons have not participated (and will not participate) in any action contrary to 1, 2, and 3 above.

A proposal will not be considered for award if this Attachment B has been altered so as to delete or modify 1 or 3, above. If 2, above, has been modified or deleted, the proposal will not be considered for award unless the Bidder provides, with this Attachment B, a signed statement which sets forth, in detail, the circumstances of the disclosure and the MEDC determines that such disclosure was not made for the purpose of restricting competition.

**PRICES HELD FIRM**

LENGTH OF TIME PRICES ARE TO BE HELD FIRM: All rates quoted in bidder's response to this RFP will be firm for the duration of the Contract. No price changes will be permitted.

Signed \_\_\_\_\_

Date \_\_\_\_\_