

## REQUEST FOR PROPOSALS

**TO: ALL INTERESTED CONTRACTORS**

**FROM: JOE MEYERS, EXECUTIVE DIRECTOR YDDA**

**SUBJ: YPSILANTI DOWNTOWN DEVELOPMENT AUTHORITY STREET SCAPE  
MAINTENANCE SERVICES**

**DATE:**

The Ypsilanti Downtown Development Authority (YDDA) is seeking a qualified contractor to provide maintenance service for the landscape and streetscape elements within its Downtown Development Area (see map attached to these specification). The selected contractor must be able to provide a variety of services for maintaining the downtown area including, but not limited to landscaping, planting, irrigation, weed control, trash removal, and other services as outlined in the attached specifications. Minority and Woman-Owned Business Enterprises and Section 3 Business Concerns seeking to provide this service are encouraged to apply.

The term of this service contract will be immediately upon YDDA authorization to proceed from April 1, 2017 through March 31, 2019 with a one year contract extension option for April 1, 2019 through March 31, 2020, based upon the mutual consent of both parties with the same terms and conditions. The YDDA Board of Directors shall review the bids and select the contractor and its decision shall be final.

Instructions to bidders and specification for the desired scope of service are attached to this invitation to bid. For further information regarding this request for bids please contact Joe Meyers at 734-482-9762 or [joe@ypsilantidda.org](mailto:joe@ypsilantidda.org).

**Sealed bids shall be submitted to the Ypsilanti City Clerks Office at Ypsilanti City Hall, One South Huron Street, Ypsilanti MI 48197 by no later than February 10, 2017 at 2:00 p.m. at which time a public bid opening will be conducted. Proposals shall be clearly marked "Downtown Streetscape Maintenance Services Bid" on the outside envelope.**

# **YPSILANTI DOWNTOWN DEVELOPMENT AUTHORITY STREETScape MAINTENANCE SERVICES REQUEST FOR PROPOSALS**

## **INSTRUCTIONS TO BIDDERS**

### **1. PROPOSALS**

- A.** In submitting their bid, each bidder represents that they have read and understand the bidding documents.
- B.** Proposals shall be submitted only on forms provided by the YDDA and shall be priced as indicated on the Proposal Form and shall be for all items of the Contract. The Contract will be awarded on the basis of the lowest qualified bid with a preference in using services based in the Ypsilanti area.
- C.** Sealed proposals shall be submitted to the Ypsilanti City Clerk's Office at Ypsilanti City Hall, One South Huron Street, Ypsilanti MI 48197 by no later than Friday February 10, 2017 at 2:00 p.m. Proposals shall be clearly marked with the bidder name and "Downtown Streetscape Maintenance Service Bid" on the outside envelope.
- D.** The City Clerk Office shall conduct a public bid opening on Friday, February 10, 2017 at 2:00 p.m. in the Ypsilanti City Council Chambers at One South Huron Street, Ypsilanti, MI 48197
- E.** Proposals shall be made in full conformity with all the conditions set forth in these specifications. Bids and Bid bonds are firm, must remain in effect and cannot be withdrawn for a period of sixty (60) days after the public opening.
- F.** The City of Ypsilanti's Addendum to Agreement for Services shall be incorporated as part of the contract with the contractor selected by the YDDA according to this Request for Proposals.
- G.** The selected contractor shall be required to provide a performance bond for one hundred (100) percent of the total amount of the final contract as part of the contract documents. Completed and signed Contractors Affidavit forms shall also be required as part of the contract.

### **2. PROJECT WORK AREA**

- A.** The project work area is defined as the Development Area of the Ypsilanti Downtown Development Authority as shown on the enclosed map.
- B.** The project work area includes all public right-of-ways and public street furnishing within the Development Area including sidewalks, parking lots, parking lot islands, curbs, planters, trees, and tree grates and other public areas and furnishings.
- C.** The project work area includes the following public parking lots and associated planting islands: S. Huron parking lot, N Huron parking lot, Adams parking lot, N. Washington parking lot.

### **3. INSPECTION OF SITE AND CONTRACT DOCUMENTS**

- A.** Before submitting a proposal, each bidder shall personally make a determination as to the extent of the work area and condition of the streetscape and landscape to be involved in this contract. Each bidder shall be held to have satisfactorily determined the conditions, and shall complete the work in whatever material and under whatever conditions that may be encountered or created without extra cost to the YDDA.
- B.** Each bidder shall be held to have compared the work area with the specifications and to have been satisfied as to the conditions of the work site, existing conditions, and other factors affecting the implementation of the work, before delivery of the proposal.

- C. No allowance or extra consideration on behalf of the bidder will subsequently be allowed by reason of error or oversight on the part of the bidder or on account of interference by YDDA or other bidder activities.
- D. Each bidder shall be responsible for being aware of and in compliance with applicable federal, state and local laws, ordinances, regulations and licensing requirements affecting performance of the work.
- E. A pre-bid conference will be held on Friday, January 27, 2017 at 2:00 p.m at the Ypsilanti City Hall located at One South Huron Ypsilanti, MI 48197 in the City Council Chambers. All bidders are encouraged to attend this meeting prior to submitting a proposal. **This is not a mandatory meeting.**

**4. TIME OF COMPLETION**

- A. Contract Begin Date: April 1, 2017
- B. Contract End Date: March 31, 2019
- C. Optional One Year Extension: April 1, 2019 – March 31, 2020

The YDDA reserves the right to terminate the contract at any time for Contractor’s negligence, misuse of YDDA and other public or private property, poor performance, or failure to complete a work item, within the time stipulated as determined and evaluated by the YDDA.

**5. NAMES AND STATUS OF BIDDER**

- A. The names and legal status of the bidder as a corporation, partnership, or individual shall be stated in the proposal.
- B. Anyone signing a proposal as an agent of another or others shall submit legal evidence of the authority to do with the proposal.

**6. EXPERIENCE AND FINANCIAL STATEMENT**

It is the intention of the YDDA to award this contract to a Contractor fully capable, both financially and with related experience, to perform and complete the work in a satisfactory manner. Appropriately, the YDDA requires that each bidder under consideration submit a statement of experience and financial status.

**7. EXPLANATION TO BIDDERS**

- A. The YDDA Director shall give verbal answers to inquiries regarding the scope of work and these specifications previous to award of the contract. Any verbal statements regarding the same by any other person shall be non-binding.
- B. Explanations desired by bidders shall be requested of the YDDA Director in writing, and if explanations are necessary, a reply will be made in the form of an Addendum, a copy of which will be forwarded to each bidder whose work is affected. No request for explanation received within in four working days of the bid deadline date will be given consideration.
- C. Addenda issued to bidders prior to the date of receipt of proposals shall become a part of the specifications and all proposals shall include the work described in the addenda.
- D. Failure of the YDDA to send or of the bidder to receive, any such interpretations shall not relieve the bidder from obligation under the bid as submitted.

**8. INCREASE OR DECREASE IN CONTRACT QUANTITIES**

The YDDA reserves the right to increase, decrease or delete items in the proposal in order to match the contract amount to the funds available.

## **9. AWARD OF CONTRACT**

The YDDA reserves the right to reject any or all bids, to waive or not waive informalities or irregularities in bids or bidding procedures, and to accept or further negotiate cost, terms, or conditions of any bid determined by the YDDA to be in the best interests of the YDDA even though not the lowest bid.

## **10. EQUAL OPPORTUNITY**

The contractor agrees to perform this work and contract in accord with all federal, state and local laws and will not discriminate against any person, employee or applicant for employment because of race color, religion, sex, sexual orientation, national origin, disability as set forth in the American's with Disability Act, age, height, weight, or marital status (except in so far as it relates to a bona fide or occupational qualification reasonable and necessary to the normal operation of the business). Breach of this provision may be regarded as a material breach of the contract.

## **11. PROJECT SUPERVISOR**

The contractor shall designate a single project supervisor who is authorized to act as their agent and be responsible for supervision and coordination of all workers and subcontractors in accordance with the contract and these specifications. The project supervisor shall be the main contact between the contractor and the YDDA and shall provide an office phone and a mobile phone number so that the YDDA may contact the supervisor in case of emergency. The contractor shall appoint an alternate supervisor during times of illness, vacation, and other absences.

## **12. YDDA REPRESENTATIVE**

The YDDA representative shall be the primary contact between the contractor and the YDDA. The YDDA representative shall be Joe Meyers, 1 S. Huron St., Ypsilanti, MI 48197 (734) 482- 9762.

**CONTRACT FOR DOWNTOWN STREETScape MAINTENANCE SERVICES YPSILANTI  
DOWNTOWN DEVELOPMENT AUTHORITY  
YPSILANTI, MICHIGAN**

The **YPSILANTI DOWNTOWN DEVELOPMENT AUTHORITY** located at 1. S. Huron St, Ypsilanti, Michigan 48197, hereinafter referred to as the "AUTHORITY", hereby contracts with \_\_\_\_\_ of \_\_\_\_\_ hereinafter referred to as the "CONTRACTOR", and the parties agree to the following terms.

1. The AUTHORITY requested bids for downtown streetscape maintenance services and the CONTRACTOR submitted an eligible bid proposal that has been accepted by the AUTHORITY for completion of the desired services.
2. The scope of work shall include general duties associated with the maintenance of the downtown development area public landscaping and streetscape areas, as detailed in the attached bid documents, and generally including the following activities:
  - a. Weed control in hardscape areas.
  - b. Loose trash removal including cleaning of Downtown dumpster enclosures.
  - c. Care and maintenance of trees and shrubs.
  - d. Care and maintenance of public parking lot planting islands.
  - e. Care and maintenance of Michigan Avenue median planters.
  - f. Care and maintenance of hanging baskets.
  - g. Care and maintenance of W. Cross rain garden bump outs.
  - h. Other general maintenance duties as may be requested by the AUTHORITY.
3. Project Work Area. The project work area is defined as the Development Area of the AUTHORITY as shown on the map incorporated in the bid documents that are a part of this contract. The project work area includes all public right-of-ways and public street furnishings within the Development area including sidewalks, parking lots, islands, curbs, planters, trees, and tree grates and other public areas and furnishings. The project work area includes the following public parking lots and associated planting islands: S. Huron Parking Lot, N. Huron Parking Lot, N. Adams Parking Lot, and the Upper Level Parking Lot at Ypsilanti City Hall at One South Huron Street, Ypsilanti, Michigan.
4. Time of Performance. The CONTRACTOR shall begin and commence work within ten (10) days of AUTHORITY approval to proceed and shall conduct the specified work activities in two phases:
  - a. Year 1 & 2: From April 1, 2017 through March 31, 2019.
  - b. Year 3: From April 1, 2019 through March 31, 2020.
5. Payment. The AUTHORITY shall reimburse the CONTRACTOR, in accordance with the approved bid proposal incorporated herein, on a monthly basis for services rendered and materials supplied in a satisfactory manner. The CONTRACTOR shall submit a monthly

invoice that provides a detailed description of the dates of service, types and locations of services performed. The AUTHORITY representative shall review the invoice and service documentation and submit the invoice for payment to the City of Ypsilanti upon approval.

6. Use of Streets and Right-of-Ways. The CONTRACTOR'S operations in public streets, sidewalks, and public right-of-ways shall be confined to as small a space as practicable, so as not to cause an undue inconvenience to the public, motorists, pedestrians, businesses or abutting properties, and shall be subject to approval by the AUTHORITY.
7. Maintenance of Service. The CONTRACTOR shall be responsible for ensuring that drainage paths to existing sewer and storm drain facilities are not blocked as a result of work activities associated with these specifications or contract. During the progress of work, the CONTRACTOR shall accommodate both vehicular and pedestrian traffic and shall maintain free access to fire hydrants, water, and gas valves. In the event of the CONTRACTOR'S failure to comply with these provisions, the AUTHORITY may, with or without notice, cause the same to be done and will deduct the cost of such work from any money due or to become due the CONTRACTOR under this contract, but performance of such work by the AUTHORITY, shall serve in no way to release the contractor from his general or particular liability for the safety of the public or the work.
8. Cleanliness of the Work. The CONTRACTOR shall keep the work and all property occupied by him in a neat and orderly condition at all times. Waste material, rubbish, and debris shall not be allowed to accumulate. CONTRACTOR'S equipment and excess materials shall be promptly removed from public property, as they become no longer needed for the progress of the work or at completion of the contracted work.
9. Water Supply Unless otherwise authorized by the AUTHORITY, the CONTRACTOR shall be responsible for using his own water supply and related equipment for watering of planting beds and planters.
10. Materials and Equipment. CONTRACTOR shall furnish all labor, materials, tools, equipment, utilities, transportation, and supervision necessary to perform and complete all work under the terms of this contract in a satisfactory manner. CONTRACTOR shall bear the risk of loss for equipment and materials until the work under this contract is complete and all equipment and excess material is removed from the work area.
11. Ordinances and Codes. All work shall be conducted in accordance with all local, state, and federal rules and regulations and all established codes and best management practices applicable thereto and shall conform in all respects to requirements of all competent authorities having jurisdiction thereover.
12. Compliance with MIOSHA. All of the CONTRACTOR'S and subcontractors operations and construction equipment shall comply with requirements of the Michigan Occupational Safety and Health Act insofar as they apply to the work to be performed under this contract.

13. Use of Subcontractors. The CONTRACTOR shall not subcontract, sublet, or transfer their contract of any portion or any payment due him thereunder, without the written consent of the Authority.
14. Special Events. Special events are scheduled at certain locations in the downtown district from time to time that will require modifications to the schedule, services, and locations of services under this contract. The AUTHORITY will provide the CONTRACTOR at least five (5) days notice prior to such special events.
15. Monthly Progress Meetings. The project supervisor shall be available to meet with the AUTHORITY representative on a monthly basis to review work activities and progress under the contract. Additional meetings may be requested by the AUTHORITY if necessary to address additional service needs or unforeseen circumstances.
16. Governance. This Agreement shall be construed in accordance and governed by the laws of the State of Michigan and situs for any claims shall be Washtenaw County, Michigan.
17. Resolution of Disputes. In the event of any dispute concerning this contract or the terms thereof, the parties agree to binding arbitration according to the rules of the American Arbitration Association. Any arbitration shall be conducted in Ypsilanti, Michigan.
18. Inclusion of Bid Documents. The bid documents and approved bid proposal from CONTRACTOR are part of this contract and incorporated herein by reference. This contract shall take precedence in case of any conflict between this contract and any bid document.
19. Addendum to Agreement for Services. The City of Ypsilanti's standard Addendum to Agreement for Services is part of this contract and incorporated herein by reference.

This is the entire contract between the parties and no modification or variation of the same shall be recognized except in writing by the parties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2017, in Ypsilanti, Michigan.

In Witness:

**YPSILANTI DOWNTOWN DEVELOPMENT AUTHORITY**

\_\_\_\_\_

**By:** \_\_\_\_\_

\_\_\_\_\_

**By:** \_\_\_\_\_

**YPSILANTI DOWNTOWN DEVELOPMENT AUTHORITY  
STREETSCAPE MAINTENANCE SERVICE CONTRACT**

**APPENDICES**

- Appendix A: Addendum to Agreement for Services
- Appendix B: Bid Documents Request for Proposals
- Appendix C: Minority and Female Status Report
- Appendix D: Living Wage Ordinance Compliance Report
- Appendix E: Performance Bond
- Appendix F: Contractor's Declaration
- Appendix G: Contractor's Affidavit
- Appendix H: Map of Service Area

## **ADDENDUM TO AGREEMENT FOR SERVICES**

This Addendum shall be a part of a certain agreement between the YPSILANTI DOWNTOWN DEVELOPMENT AUTHORITY of, 1 S. Huron, Ypsilanti Michigan 48197 referred to as “AUTHORITY” and \_\_\_\_\_ of \_\_\_\_\_ referred to as “CONTRACTOR”, a Michigan Corporation

1. This Addendum is an addition and amendment to the primary Contract between the parties. In an event of a conflict between the language of this Addendum and the primary Contract, the language and terms of this Addendum shall take precedence.
2. **Standard of Performance.** The CONTRACTOR shall perform the Contract faithfully and diligently and perform the services in a competent, professional, satisfactory and proper manner and during the Contract term or extensions thereof, use every best effort and endeavor to promote the interests of the AUTHORITY and devote such time, attention, skill, knowledge and ability as is necessary to most effectively and efficiently carry out and perform the Contract.
3. The parties understand and agree that the AUTHORITY may terminate this Contract at any time with or without notice. In such event the CONTRACTOR will be compensated for work already completed.
4. This Contract is to be performed in Washtenaw County, Michigan and all legal venues shall exclusively lie therein.
5. The parties agree that time is of the essence in the performance of this Contract by the CONTRACTOR.
6. Each provision of this Contract shall be separately enforceable and in the event that a court of competent jurisdiction determines or adjudges that any provision of this Contract is invalid or illegal, such decision shall not affect the rest of the Contract which shall remain in full force and effect.
7. This Agreement shall be governed by and construed in accordance with the laws of Michigan.
8. **Independent Contractor.** The relationship of the CONTRACTOR to the AUTHORITY is and shall continue to be that of an independent contractor and no liability or benefits such as worker's compensation, pension rights, or other rights or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to either party as a result of the performance of this Contract.
9. **Waiver of Liability.** The CONTRACTOR hereby waives any claim against the AUTHORITY and agrees not to hold the AUTHORITY liable for any personal injury or damage incurred by it, its employees or associates on this project which is not held by a court of competent

jurisdiction to be directly attributable to the sole and/or gross negligence or malicious intentional conduct of any employee of the AUTHORITY acting within the scope of their employment. It further agrees to hold the AUTHORITY harmless from any such claim by its employees or associates.

10. For the purpose of the hold harmless indemnity and insurance provisions contained in this Contract, the term "AUTHORITY" shall be deemed to include the City of Ypsilanti and all other associated, affiliated, allied or subsidiary entities, or commissions, officers, agents, representatives and employees.

11. The following Indemnification Agreement shall be, and is hereby, a provision of the Contract and shall be endorsed on the reverse sides of all certificates of insurance:

"The CONTRACTOR agrees to protect, defend, indemnify and hold the AUTHORITY and its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this Agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copy right (or application for any thereof) or any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The CONTRACTOR further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent."

12. Insurance.

a. The CONTRACTOR prior to commencing work shall provide at his own cost and expense the following insurance to the AUTHORITY (in insurance companies licensed and/or approved in the State of Michigan, which insurance shall be evidenced by certificates and/or policies as determined by the AUTHORITY. All policies and certificates of insurance shall be approved by the Director of the AUTHORITY prior to the inception of any work.

b. Each certificate or policy shall require that, thirty days prior to cancellation or material change in the policies, notice thereof shall be given to the AUTHORITY of registered mail, return receipt requested, for all of the following stated insurance policies. All such notices shall name the CONTRACTOR and identify the contract number.

c. All property losses shall be made payable to and adjusted with the AUTHORITY.

d. In order to determine financial strength and reputation of insurance carriers, all companies providing the coverages required shall be licensed or

approved by the Insurance Bureau of the State in which the work is performed and shall have a financial rating not lower than XI and a policyholder's service rating no lower than B+ as listed in A.M. Best's Key Rating Guide, current edition. Certificates of insurance shall note A.M. Best's Rating. Companies with ratings lower than B+: XI will be acceptable only upon written consent of the Owner.

e. All policies and certificates of insurance of the CONTRACTOR shall contain the following clauses:

(1) The clause "other insurance provision" in a policy in which the AUTHORITY is named as an insured, shall not apply to the AUTHORITY.

(2) The insurance companies issuing the policy or policies shall have no recourse against the AUTHORITY (Including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(3) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of the CONTRACTOR.

(4) The AUTHORITY (at its option) shall be listed as an Additional Named Insured on the following insurance coverages provided by the CONTRACTOR.

YES <input checked="" type="checkbox"/>	NO	1) Comprehensive General Liability
YES <input checked="" type="checkbox"/>	NO	2) Automobile Liability
YES <input checked="" type="checkbox"/>	NO	3) Owners Contractors Protective Liability

f. The CONTRACTOR shall maintain at its own expense during the term of this Contract the following insurance:

(1) Worker's Compensation insurance with Michigan statutor/ limits and employers' liability insurance with minimum limits of \$100,000 each accident.

(2) General Liability insurance with a minimum limit of liability per occurrence of \$1 Million Combined Single Limit (Bodily Injury/Property Damage).

This insurance shall indicate on the Certificate of Insurance the following coverages:

- (a) Premises - Operations
- (b) Independent Contractor and Subcontractors
- (c) Products and Completed Operations
- (d) Broad Form Contractual
- (e) Broad Form Liability Endorsement

(2) Automobile Liability insurance with minimum limits of liability, per occurrence, of \$1 Million Combined Single Limit (Bodily Injury/Property Damage) unless otherwise indicated in the "Special Conditions" of the Contract specifications. This insurance shall include for bodily injury and property damage the following coverages:

- (a) Owned automobiles

- (b) Hired automobiles
- (c) Non-owned automobiles

(2) Protective Liability Insurance: Owners and Contractors. The CONTRACTOR shall provide the original and duplicate policy of insurance to the AUTHORITY Executive Director. This insurance contract shall name the AUTHORITY as the insured and remain in effect until the contract is accepted by the AUTHORITY.

The insurance shall provide minimum limits of liability per occurrence of \$500,000 Combined Single Limit. Said insurance shall provide that the term "Owner" or AUTHORITY shall be deemed to include all authorities, boards, bureaus, commissions, divisions, departments, districts and offices of the AUTHORITY and the individual members, employees and agents thereof in their official capacities.

(3) Construction Insurance: The CONTRACTOR at his own cost and expense shall provide and maintain the applicable construction insurance until the Contract is accepted by the AUTHORITY and/or its designee. This coverage shall be written for 100% of the completed value covering the AUTHORITY as the insured, with a deductible of not more than \$1,000. The CONTRACTOR shall provide the original and duplicate policy to the AUTHORITY (unless the AUTHORITY/ shall accept, in lieu thereof, all contained endorsements including all applicable provisions and coverages).

(4) Professional Services. CONTRACTOR shall provide professional liabilities (errors and omissions) insurance, with minimum limits of \$1 Million each occurrence.

(5) Disability Benefits: The CONTRACTOR shall provide proof of compliance with the Disability Benefits Law. (If applicable).

(6) Additional insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Special Conditions" of the contract specifications.

b. If any of the Property and Casualty insurance requirements are not complied with at their renewal dates, payments to the CONTRACTOR will be withheld until those requirements have been met, or at the option of the AUTHORITY, the AUTHORITY may pay the Renewal Premium and withhold such payments from any monies due the CONTRACTOR.

c. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under the Contract, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due the CONTRACTOR until such time as the CONTRACTOR shall furnish such additional security covering such claims as may be determined by the AUTHORITY.

d. If at any time any of the foregoing policies shall be or become unsatisfactory to the AUTHORITY to form or substance, or if a company insuring any

such policy shall be or become unsatisfactory to the AUTHORITY, the CONTRACTOR shall upon notice to that effect from the AUTHORITY promptly obtain a new policy, submit the same to the AUTHORITY Director for approval and submit a certificate thereof as herein provided. Upon failure of the CONTRACTOR to furnish, deliver and maintain such insurance as above provided, this Contract, at the election of the AUTHORITY may be forthwith declared suspended, discontinued or terminated. Failure of the CONTRACTOR to take out and/or maintain or the taking out and/or maintenance of any required insurance, shall not relieve the CONTRACTOR from any liability under the Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the CONTRACTOR concerning indemnification.

2. Conflict of Interest. The CONTRACTOR covenants that neither said corporation nor any officer, agent or employee of the corporation has any interest nor shall they acquire any interest, directly or indirectly, which would conflict in the manner or degree of performance with the Contract.

3. Contingent Fees. The CONTRACTOR warrants it has not employed or retained any company or person other than bonafide employees working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company, or person, other than a bonafide employee working solely for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award of making this Contract. For breach or violation of this warranty, the AUTHORITY shall have the right to annul the Contract without liability or, at its discretion, to deduct from the fees due the CONTRACTOR, or otherwise, recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

4. Equal Opportunity. The CONTRACTOR has knowledge of and agrees to comply with the provisions of the Ypsilanti City Ordinance 538, Affirmative Action.

5. The CONTRACTOR further agrees to perform this Contract in accord with all federal, state and local laws and will not discriminate against any person on the basis of race, sex, sexual orientation, color, national origin, religion, handicap status, heights, weight, marital status, or other criteria which is not relevant to the particular job.

6. The CONTRACTOR further agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability as set forth in the American's With Disability Act, age, height, weight, or marital status (except insofar as it relates to a bonafide or occupational qualification reasonable necessary to the normal operation of the business). Breach of this provision may be regarded as material breach of the Agreement.

7. Permits. The CONTRACTOR shall secure and bear the cost of any permits or licenses of a temporary nature necessary for the prosecution of the work. In particular, he shall secure and bear the cost of shutting off and turning on public services of every nature which may be required by his operations. Where such discontinuance of service affects consumers, due and sufficient notice shall be served upon those so affected.

8. Davis-Bacon Act. Pursuant to City Code section 2.298(8), and the Davis-Bacon Act, Title 29. 40 UCS Section 276A-276A-5 the rates of wages paid to employees of the CONTRACTOR on this work shall be the prevailing wages for this locality to all class of workers employed by the CONTRACTOR on this improvement, as forth in the Code and Act.

9. In the event the contract provides for improvement of real property or performing management construction services as provided in MCLA 125.1591, the following provisions apply:

(A) A contract between CONTRACTOR and the AUTHORITY for an improvement as provided above shall contain the following provisions:

(a) That if a CONTRACTOR discovers one or both of the following physical conditions of the surface or subsurface at the improvement site, before disturbing the physical condition, the contractor shall promptly notify the AUTHORITY of the physical condition in writing:

(i) A subsurface or a latent physical condition at the site is differing materially from those indicated in the improvement contract.

(ii) An unknown physical condition at the site is of an unusual nature differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the improvement contract.

(b) That if the AUTHORITY receives a notice under subdivision (A), the AUTHORITY shall promptly investigate the physical condition.

(c) That if the AUTHORITY determines that the physical conditions do materially differ and will cause an increase or decrease in costs or additional time needed to perform the contract, the AUTHORITY's determination shall be made in writing and an equitable adjustment shall be made and the contract modified in writing accordingly.

(d) That the CONTRACTOR cannot make a claim for additional costs or time because of a physical condition unless the CONTRACTOR has complied with the notice requirements of subdivision (A). The AUTHORITY may extend the time required for notice under subdivision (A).

(e) The CONTRACTOR cannot make a claim for an adjustment under the contract after the CONTRACTOR has received the final payment under the contract.

(B) If the CONTRACTOR does not agree with the AUTHORITY's determination, with the AUTHORITY's consent the CONTRACTOR may complete performance on the contract.

(C) At the option of the AUTHORITY, the CONTRACTOR and the AUTHORITY shall arbitrate the CONTRACTOR'S entitlement to recover the actual increase in contract time and costs incurred because of the physical condition of the improvement site. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association and judgment rendered may be entered in any court having jurisdiction.

(D) If an improvement contract does not contain the provisions required under (A), the provisions shall be incorporated into and considered part of the improvement contract.

21. **Living Wage. NOTE: THIS PARAGRAPH TO BE USED ONLY IF CONTRACT IS OVER \$10,000.**

A. (1) Living Wages shall be paid according to the Ypsilanti Living Wage Ordinance No. 892 (The Ordinance), and

(2) Suitable notices shall be posted in the work place; and

(3) Evidence of compliance including payroll records shall be provided to the Ypsilanti Personnel Department within 10 days of written request from the Ypsilanti Personnel Department.

B. In the event of violation of the provisions of The Ordinance or this contract this contract may be modified or terminated to comply with the provisions of The Ordinance, including withholding of moneys in amount equal to Living Wages not paid in accordance with The Ordinance and the AUTHORITY may also take action to recover the amount of the contract provided to any person found to have violated The ordinance.

C. Any employee shall have a separate cause of action to enforce the provisions of this contract and The Ordinance and any rights conferred under The Ordinance, in law and or equity, and any court of competent jurisdiction upon proper proof and the prevailing of the employee in such action, shall award actual damages, wage restitution, interest and actual attorney fees.

D. The AUTHORITY shall have the right to enforce this contract and The Ordinance in law or equity by court process including specific performance.

22. Citizenship The CONTRACTOR is responsible for ensuring that all employees have furnished proof of their right to work in the United States.

23. Not in Default to AUTHORITY. The CONTRACTOR hereby certifies that the CONTRACTOR is not in default to the AUTHORITY, and that there are no unpaid taxes, real or personal, owed to the AUTHORITY by the CONTRACTOR, and the CONTRACTOR has no other unfulfilled obligations to the AUTHORITY and is compliance with all Ypsilanti City codes and ordinances. The parties understand that a breach of this provision is a material breach of the contract.

24. This Contract and attachments hereto are the sole Contract and Agreement between the parties. Any changes, additions or deletions shall not be effective or actionable unless they are in writing signed by the parties.

IN WITNESS WHEREOF, the undersigned have set their hands this day of \_\_\_\_\_, 2017.

In the presence of:

\_\_\_\_\_

\_\_\_\_\_ a Michigan Corporation, CONTRACTOR

By: \_\_\_\_\_

**YPSILANTI DOWNTOWN  
DEVELOPMENT AUTHORITY.  
AUTHORITY**

\_\_\_\_\_

By: \_\_\_\_\_  
Joe Meyers, Executive Director

**YPSILANTI DOWNTOWN DEVELOPMENT AUTHORITY STREETScape MAINTENANCE  
SERVICES REQUEST FOR PROPOSALS**

Name of Bidding Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

As the authorized representative of the bidding contractor named above, I hereby declare familiarity with the location of the proposed scope of services and conditions under which it must be performed, that these specifications have been carefully examined, are understood and accepted as adequate for the purpose, and agrees to contract with the Ypsilanti Downtown Development Authority (YDDA) to perform all specified tasks and to furnish all labor, materials, tools, equipment, utilities, transportation and supervision necessary to perform and complete, in a satisfactory manner, all work required in conjunction with the above named project and to accept as full payment thereof, subject to additions and/ or deletions required by the contract, the sum of \_\_\_\_\_ total year 1 & 2 Dollars.

TOTAL YEAR 1 BASE BID: \$ \_\_\_\_\_

TOTAL YEAR 2 BASE BID: \$ \_\_\_\_\_

OPTIONAL YEAR 3 BASE BID: \$ \_\_\_\_\_

**BID ANALYSIS**

Unit prices shall be submitted for all proposed contract work. Contractor is responsible to verify site conditions, specifications, estimated quantity of labor and material requirements. All work to be completed in accordance with these specifications. Contractor shall use certified organic practices and standards where applicable in this bid.

**1. WEED CONTROL IN HARDSCAPE AREAS**

Treatment and removal of weeds from public sidewalks, parking lots, curb edges, tree grates, and other public right-of-ways.

Year 1: 4 treatments

Year 2: 4 treatments

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**2. LOOSE TRASH REMOVAL**

Removal of loose trash from public sidewalks, parking lots, common dumpster areas in the N. and S. Huron St. parking lots and Adams St. lot, and the general areas of the Washington Street Parking lot, alleyways, planting areas and other public rights-of-way. Dumpsters to be emptied by Republic Services and street receptacles to be emptied by City's Department of Public Services.

Year 1: Weekly

Year 2: Weekly

\$ \_\_\_\_\_

\$ \_\_\_\_\_

Extra trash pick-up and power-washing of common dumpster areas in the N. and S. Huron St. parking lots and Adams St. lot as needed including bulk item/trash removal.

Year 1: As needed

Year 2: As needed

\$ \_\_\_\_\_/yr

\$ \_\_\_\_\_/yr

**3. PARKING LOT PLANTING ISLANDS**

Monitor all planting islands every 2 weeks and remove weeds as needed to maintain weed-free beds;

Year 1: Bi-weekly

Year 2: Bi-weekly

\$ \_\_\_\_/hr \$ \_\_\_\_/yr

\$ \_\_\_\_/hr \_\_\_\_/yr

Fall clean-up, dead-head and remove foliage from annuals and perennials as appropriate and clean out/rake all planting beds.

Year 1: One per year

Year 2: One per year

\$ \_\_\_\_/hr \$ \_\_\_\_/yr

\$ \_\_\_\_/hr \$ \_\_\_\_/yr

Spring clean-up, dead-head and remove foliage as appropriate, clean out/rake all planting beds, and improve soil as needed (except S. Huron Parking Lot entrance islands).

Year 1: One per year

Year 2: One per year

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

Water all planting beds 3 times per week or as directed by YDDA to meet seasonal needs. Please include an ala carte cost for additional watering as requested when necessary to due seasonal needs.

Year 1: 3 /wk as needed

Year 2: 3/wk as needed

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

Water all planting beds on afternoon of Ypsilanti Pride Day if plantings conducted by volunteers (third Saturday in May unless otherwise defined).

Year 1: 1 application

Year 2: 1 application

\$ \_\_\_\_\_/app

\$ \_\_\_\_\_/app

#### 4. MICHIGAN AVENUE MEDIAN/NORTH WASHINGTON PLANTERS

Monitor all planters every 2 weeks and remove weeds as needed to maintain weed-free beds

Year 1: Bi-weekly

Year 2: Bi-weekly

\$ \_\_\_\_\_

\$ \_\_\_\_\_

Fall clean-up and remove foilage from all median planters

Year 1: One per year

Year 2: One per year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

Prepare and cultivate soil of all planters in and install annuals (as directed and supplied by YDDA).

Year 1: One per year

Year 2: One per year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

Replant planters with replacement annuals as needed and directed by the YDDA.

Year 1: As needed

Year 2: As needed

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

Water planters 3 times per week or as directed by YDDA to meet seasonal needs. Weekly costs shall be

based on actual applications up to 3 such applications each week based on seasonal needs. Additional applications shall be made only with permission of YDDA. Please include an ala carte cost for additional watering.

Year 1 3/ wk as needed

Year 2: 3/wk as needed

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

5. HANGING BASKET PLANTERS

Replant hanging basket planters with replacement annuals as needed and directed by the YDDA.

Year 1: As needed

Year 2: As needed

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

Water hanging basket planters 3 times per week or as directed by YDDA to meet seasonal needs. Weekly costs shall be based on actual applications up to 4 such applications each week based on seasonal needs. Additional applications shall be made only with permission of YDDA. Please include the ala carte costs for additional watering as needed.

Year 1: 3/wk as needed

Year 2: 3/ wk as needed

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

Water and Install hanging basket planters on afternoon of Ypsilanti Pride Day.

Year 1: 1 application

Year 2: 1 application

\$\_\_\_\_\_/app

\$\_\_\_\_\_/app

ADDITIONAL COST: if the DDA adds additional hanging baskets, please provide a per basket cost for watering and installing hanging baskets

Year 1:

Year 2: 1 application

\$\_\_\_\_\_/per basket

\$\_\_\_\_\_/per basket

9. DEPOT TOWN RAINGARDENS

Monitor all rain gardens every 2 weeks and remove weeds as needed to maintain weed-free beds;

Year 1: Bi-weekly

Year 2: Bi-weekly

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

\$\_\_\_\_\_/hr \$\_\_\_\_\_/yr

Monitor all rain gardens every 2 weeks and remove all loose trash and debris;

Year 1: Bi-weekly

Year 2: Bi-weekly

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

\$ \_\_\_\_\_/hr \_\_\_\_\_/yr

Fall clean-up, dead-head and remove foliage from perennials as appropriate and clean out/rake all rain gardens.

Year 1: One per year

Year 2: One per year

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

Spring clean-up, dead-head and remove foliage as appropriate, clean out/rake all rain gardens, and improve soil as needed.

Year 1: One per year

Year 2: One per year

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/yr

\$ \_\_\_\_\_/hr \$ \_\_\_\_\_/

Water all rain gardens as directed by YDDA to meet seasonal needs.

Year 1: As needed

Year 2: As needed

\$ \_\_\_\_\_/app

\$ \_\_\_\_\_/app



### MINORITY AND FEMALE STATUS REPORT

The City of Ypsilanti has adopted an ordinance requiring contracts over \$2,000 and employing at least one person, to submit information to the City regarding minority and female participation in your workforce. This document consists of five sections of which I and IV are required to be completed by the contractor. To verify compliance with the ordinance, the contractor must complete section II or III but not both. Contractors may comply without regard to this document by submitting an acceptable affirmative action plan consistent with the guidelines of the Michigan Civil Rights Commission.

.....

SECTION I. Company Name \_\_\_\_\_ Contact Person \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_ Zip \_\_\_\_\_

County \_\_\_\_\_ Phone \_\_\_\_\_ Date Prepared \_\_\_\_\_

Contract For \_\_\_\_\_ City Department \_\_\_\_\_

.....

SECTION II.

JOB CATEGORY	# OF EMPLOYEES	# OF FEMALES	% OF FEMALES	# OF MINORITIES	% OF MINORITIES
OFFICIALS, ADMINISTRATORS, MANAGERS					
PROFESSIONALS					
SKILLED CRAFT					
CLERICAL					
TECHNICIANS					
OPERATORS					
SERVICE WORKERS					
LABORERS					
SERVICE/ MAINTENANCE					
SALES					
<b>EMPLOYMENT TOTALS *</b>					

\* NOTE: AN AFFIRMATIVE ACTION STATEMENT **MUST** BE ATTACHED IF THE OVERALL FEMALE PECENTAGE DOES NOT EQUAL AT LEAST 46.6% AND THE OVERALL MINORITY PERCENTAGE DOES NOT EQUAL AT LEAST 12.9%.

SECTION III. Assurances of Minority Contract Compliance

COMPLETE THIS SECTION ONLY IF YOU DID NOT COMPLETE SECTION II.

\_\_\_ Part A. The general contractor named in Section I assures the City of Ypsilanti that 10% of the prime contract will be expended on services or supplies from minority contractors or from persons employing at least 50% minorities:

_____	_____	_____	_____
Subcontractor's Name	Telephone	Subcontract Value	
_____	_____	_____	_____
Street Address	City	State	Zip Code

\_\_\_ Part B. An Affirmative Action Plan is attached.

\_\_\_ Part C. The general contractor named in Section I is a minority owned business.

.....

SECTION IV. Contractor's Certification

I hereby swear that this is a true and correct document and I am an authorized representative of this company.

_____	_____
Authorized Signature	Date

Sworn before me \_\_\_\_\_ a Notary Public on this day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Signature

.....

CITY USE ONLY - AUTHORIZED CITY REPRESENTATIVE CERTIFICATION (DEPARTMENT SUBMITTING CONTRACT)

I, \_\_\_\_\_, as the City Representative for the above contract do hereby affirm that this document was prepared in accordance with the City of Ypsilanti charter, ordinances and bid specifications.

_____	_____
City Authorized Representative	Date

.....

SECTION V. CERTIFICATION OF COMPLIANCE

I, \_\_\_\_\_, Affirmative Action Compliance Officer, do hereby certify that, to the records on file in my office, the contractor doing business as stated above is in compliance with Ordinance 538.

_____	_____
Date	

REV. 03/05 - HR DEPARTMENT

# **SAMPLE ONLY**

## **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYMENT POLICY STATEMENT**

We are an equal opportunity employer and make employment decisions on the basis of merit; We want to have the best available person in every job. Company policy prohibits unlawful discrimination based on race, color, religion, sex, ancestry, sexual orientation, national origin, marital status, age, physical or mental disability, or any other status or condition made unlawful by Federal, state, or local law.

The company is committed to complying with all applicable equal employment opportunity laws and pledges not to discriminate against employees or applicants because of any of the protected classifications listed above or other non-job related characteristics. This commitment applies to all persons involved in the company's operations and prohibits unlawful discrimination by all employees at all levels.

To comply with applicable laws ensuring equal employment opportunities to qualified individuals with disabilities, we will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless undue hardship would result.

Also, we wish to issue a firm statement of personal commitment that affirmative action employment is a fundamental company policy. All department heads are responsible for the enforcement of affirmative action and transmitting to all employees and citizens of our community our commitment to this goal.

Our equal employment policy requires us to practice specific affirmative action throughout the company to overcome effects of past discrimination. Affirmative action affects all employment practices, including hiring, promotions and layoffs.

---

Signature of Company Official

---

Date

## LIVING WAGE ORDINANCE COMPLIANCE REPORT

The City of Ypsilanti has adopted Ordinance 892, which requires any person(s) receiving financial benefit from the City of Ypsilanti to pay their employees a living wage, financial benefit shall mean (1) any contract to primarily furnish services in the amount of \$10,000, or more, in any 12 month period, or (2) the receipt of grant money, financial assistance, or a tax abatement in the amount of \$10,000, or more, in any 12 month period, financial benefit does not include maintenance services purchased at the time of purchase of equipment.

Every person that receives a financial benefit from or through the City of Ypsilanti shall pay a living wage to all persons who work on the contract or who work in (or whose base of employment is in) the workplace or location that receives the grant money, tax abatement, or financial assistance. Living Wage is defined as wages of \$14.43 per hour when health care is not provided, and \$12.93 per hour when health care is provided.

Please complete the sections listed below. Section A is mandatory.

By completing Section B, you certify that your contract or agreement with the City of Ypsilanti is not subject to Ordinance 892.

By completing Section C, you certify that your contract, agreement, or other form of financial assistance is subject to Ordinance 892. As a requirement of the Ordinance, the City's Human Resources Department may request proof of compliance with the Ordinance. **You are required to furnish the Human Resources Department with copies of payroll records within 10 days of a written request. Failure to comply with the request may cause the contract to be modified or terminated to comply with the provision of the Living Wage Ordinance, including withholding of moneys in amount equal to Living Wages not paid in accordance with this Ordinance, and the City may also take action to recover the amount of any contract provided to any person found to have violated the Ordinance.**

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ypsilanti has the right to modify, terminate, cancel, or suspend a contract if the Ordinance is violated.

SECTION A: COMPANY INFORMATION	
Company Name & Contact Person:	Street Address, City, State, Zip Code:
Telephone Number:	Contract For: YDDA Streetscape Maintenance Contract
Date Prepared;	City Department Downtown Development Authority

SECTION B – Not subject to Ordinance 892	
I hereby swear that this is a true and correct document and I am an authorized representative of this company.	
Signature:	Date:

SECTION C – Subject to Ordinance 892	
I hereby swear that this is a true and correct document and I am an authorized representative of this company.	
Signature:	Date:

SECTION D – Authorized City Representative Certification (Department Submitting Contract)	
I, _____, as the City Representative for the above contract do hereby affirm that this was prepared in accordance with the City of Ypsilanti charter, ordinances, and bid specifications.	
Signature:	Date:

SECTION E – Certification of Receipt	
I, _____, do hereby certify that I have received this notice for compliance with Ordinance 892, and if the ordinance in fact applies to this contract, I will insure compliance by requesting payroll records from the company once the contract is approved by City Council.	
Signature:	Date:

SECTION F – Certification of Compliance	
I, _____, do hereby certify that I requested and received payroll records from the company listed in section A, and they do comply with the provision of Ordinance 892.	
Signature:	Date:

\* Health Care Benefits include those paid for by the employer or making an employer contribution toward the purchase of health care.

REV. 6/09 - HR DEPARTMENT

**PERFORMANCE BOND**

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address)

SURETY (Name and Address of Principal  
Place of Business)

OWNER (Name and Address)

City of Ypsilanti Downtown Development Authority  
1 S. Huron  
Ypsilanti, MI 48197

CONTRACT

Date:

Amount:

Description: Streetscape Maintenance Services for the Ypsilanti Downtown Development  
Authority's Development Area.

BOND

Date (Not Earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms established in  
the following sections of this Performance Bond, do each cause this Performance Bond to be duly  
executed on its behalf by its authorized officer, agent or representative.

CONTRACTOR AS PRINCIPAL SURETY

Company: \_\_\_\_\_(Corp.Seal) Company:\_\_\_\_\_ (Corp. Seal)

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Name & Title: \_\_\_\_\_ Name & Title: \_\_\_\_\_

(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)



1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the contract, which is incorporated herein by reference.
2. If the Contractor performs the contract, the Surety and the Contractor have no obligation under this Bond, except to participate in conferences as provided in Section 3.1.
3. If there is no Owner default, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner has notified the Contractor and the Surety at the addresses described in Section 10 below, that the Owner is considering declaring a Contractor default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor's default; and
  - 3.2 The Owner has declared a Contractor default and formally terminated the Contractor's right to complete the Contract. Such Contractor default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Section 3.1; and
  - 3.3 The Owner has agreed to pay the balance of the Contract price to:
    - 3.3.1 The Surety in accordance with the terms of the Contract;
    - 3.3.2 Another contractor selected pursuant to Section 4.3 to perform the Contract.
4. When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Contract; or
  - 4.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
  - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the Owner the amount of damages as described in Section 6 in excess of the balance of the Contract price incurred by the Owner resulting from the Contractor default; or
  - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances;
    - 4.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefore to the Owner; or
    - 4.4.2 Deny liability in whole or in part and notify the Owner citing reasons therefore.

5. If the Surety does not proceed as provided in Section 4 with reasonable promptness, the Surety shall be deemed to be in default on the bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under Section 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Contract, and the responsibilities of the Owner to the Surety shall not be greater than those to the Owner under the Contract. To a limit of the amount of this bond, but subject to commitment by the Owner of the balance of the Contract price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:
  - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Contract;
  - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's default, and resulting from the actions or failure to act of the Surety under Section 4; and
  - 6.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or nonperformance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Contract, and the balance of the Contract price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on the bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.
9. Any proceeding, legal or equitable, under this bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this bond has been furnished to comply with a statutory or other legal requirement, in the location where the Contract was being performed, any provision in this bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

- 12.1 Balance of the Contract Price: The total amount payable by the Owner to

The Contractor under the Contract after all proper adjustments have been made, including allowance to the Contractor or any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contract or under the Contract.

- 12.2 Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract documents and changes thereto.
- 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

**CONTRACTOR'S DECLARATION**

I hereby declare that I have not, during the period \_\_\_\_\_  
to \_\_\_\_\_ A.D., 2017 performed any work, furnished any material, sustained any loss, damage or delay for any  
reason, including soil conditions encountered or created, or otherwise done anything for which I shall ask,  
demand, or sue for or claim compensation from \_\_\_\_\_ or  
his agents, in addition to the regular items in set forth in the contact entitled  
\_\_\_\_\_ and dated  
\_\_\_\_\_ A.D., 2017 for  
\_\_\_\_\_ executed between myself and the Owner, and in the Change Orders for work  
issued by the Owner in writing as provided thereunder, except as I hereby make claim for additional  
compensation and/or extension of time, as set forth on the itemized statement attached hereto.

There (is) (is not) an itemized statement attached.

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Contractor

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**CONTRACTOR'S AFFIDAVIT**

STATE OF MICHIGAN )  
 ) S.S  
COUNTY OF WASHTENAW )

The undersigned, \_\_\_\_\_ hereby represents that on \_\_\_\_\_ A.D., 2017. he (it) was awarded a contract by the Ypsilanti Downtown Development Authority, 1 S. Huron, Ypsilanti, Michigan 48197, herein after referred to as the "Owner" \_\_\_\_\_ to accordance with the terns and conditions of the Contract entitled \_\_\_\_\_; and the undersigned further represents that the subject work has now been accomplished and the said Contract has now been completed.

The undersigned hereby warrants and certifies that all of his (its) indebtedness arising by reason of said Contract has been fully or satisfactorily secured, and that all claims from subcontractors and others for labor and material used in accomplishing said project, as well as all other claims arising from performance of said Contract, have been fully paid or satisfactorily secured. The undersigned further agrees that if any such claim should arise, he (it) shall assume responsibility for the same immediately upon request to do so by the Owner.

The undersigned for a valuable consideration, receipt of which is hereby acknowledged, does further hereby waive, release or relinquish any and all such claims or right of lien which the undersigned now has or may hereafter acquire upon the subject premised for labor and material used in accomplishing said project by the Owner.

This affidavit is freely and voluntarily given with full knowledge of the facts on this \_\_\_\_\_ day of A.D., 2017.

\_\_\_\_\_  
Contractor

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

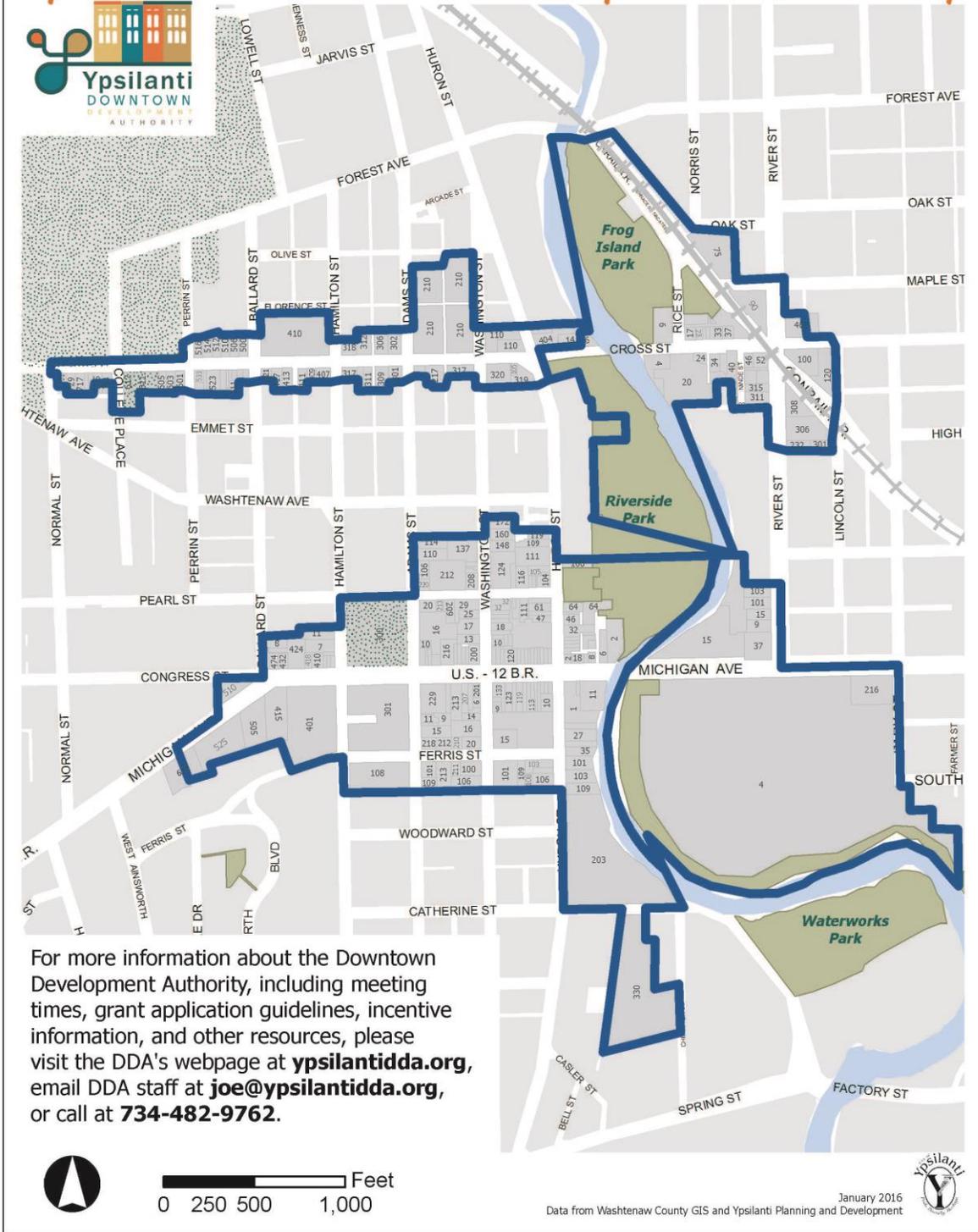
Subscribed and sworn before a Notary Public in and for Washtenaw County, Michigan on this \_\_\_\_\_ day of A.D., 2017,

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

# SERVICE AREA

## Ypsilanti Downtown Development Authority



For more information about the Downtown Development Authority, including meeting times, grant application guidelines, incentive information, and other resources, please visit the DDA's webpage at [ypsilantidda.org](http://ypsilantidda.org), email DDA staff at [joe@ypsilantidda.org](mailto:joe@ypsilantidda.org), or call at **734-482-9762**.

January 2016  
Data from Washtenaw County GIS and Ypsilanti Planning and Development