

# PROFESSIONAL SERVICES CONTRACT

This Contract for Professional Services (the “Contract”) is by and between the County of Genesee, a Michigan Municipal Corporation, whose principal place of business is located at 1101 Beach Street, Flint, Michigan 48502 (the “County”), and **[Contractor Name]**, a **[State] [Entity Type]**, whose principal place of business is located at **[Contractor Address]** (the “Contractor”) (the County and the Contractor together, the “Parties”).

## 1. Term

### 1.1 Initial Term

The initial term of this Contract commences on **[Start Date]**, and shall be effective through **[End Date]** (the “Initial Term”).

### 1.2 Extension Terms

The County has the option to extend this Contract for up to three (3) additional one year terms (the “Extension Terms”).

## 2. Scope of Work

The Contractor agrees to perform the services described on Exhibit A (the “Services”).

## 3. Compensation

**INSTRUCTIONS: Select only one of the three Compensation Options (Unit Rate, Budget Reimbursement, or Flat Fee). Then, delete this sentence and the Compensation Options that are not used:**

*Unit Rate.* The Contractor shall be paid according to the rates identified on Exhibit A. The total amount paid to the Contractor shall not exceed \$\_\_\_\_\_. The Contractor must provide to the County monthly invoices in a form acceptable to the County, along with any necessary supporting documentation such as time sheets. The County will pay the Contractor within sixty (60) days of the County’s acceptance of the invoice and supporting documentation.

*Budget Reimbursement.* The County will reimburse the Contractor for approved expenses incurred by the Contractor in the performance of this Contract. The total amount paid to the Contractor under this Contract shall not exceed \$\_\_\_\_\_. The Contractor’s projected budget for the Initial Term of this Contract is attached as Exhibit B (the “Budget”). If this Contract is extended, the County and the Contractor will agree in writing on a projected Budget for each Extension Term.

- 3.1 If requested in writing by the Contractor, and supported by good cause, the Contract Administrator may authorize a transfer between Budget line items of up to 10% of the total annual Budget for a Contract Term. No such transfer is authorized until approved in writing by the Contract Administrator.
- 3.2 The County will not approve any expense not identified in the Budget, and the County will not approve any expenses in excess of the amounts identified in the Budget.
- 3.3 The Contractor must provide to the County monthly invoices in a form acceptable to the County, along with any supporting documentation such as time sheets and receipts for incurred expenses. The County will pay the Contractor within sixty (60) days of the County's acceptance of the invoice and supporting documentation.

*Flat Fee.* The Contractor shall be paid a flat fee of \$ [REDACTED] for the performance of the Services. Upon completion of the Services, the Contractor must provide to the County an invoice in a form acceptable to the County, along with any necessary supporting documentation. The County will pay the Contractor within sixty (60) days of the County's acceptance of the invoice and supporting documentation.

4. **Taxes.** The County is a Michigan Municipal Corporation. The Contractor acknowledges that the County is exempt from Federal Excise Tax and Michigan Sales Tax.

#### 5. **Contract Administrator**

The contract administrator for this Contract is [Contract Administrator] (the "Contract Administrator"). The Contractor acknowledges that the Contract Administrator is the primary County contact for notices and instructions related to this Contract. The Contractor agrees to provide a copy of all notices related to this Contract to the Contract Administrator.

#### 6. **Warranties**

The Contractor warrants that:

- 6.1 The Services will be performed in a good and workmanlike manner and in accordance with generally acceptable practices in the industry.
- 6.2 The Contractor will comply with all federal, state, and local laws in the performance of the Services.
- 6.3 The Contractor will comply with the requirements of any federal or state grants used to fund or support this Contract.

- 6.4 The Contractor will obtain and maintain all applicable licenses and permits necessary to provide the Services for the entire term of this Contract.
- 6.5 The Contractor will obtain and maintain all applicable licenses and permits necessary to provide the Services for the entire term of this Contract.

The Contractor agrees to indemnify, defend, and hold harmless the County, its officials, officers, agents, and employees from any and all claims, damages, or liability, including defense costs, arising out of the Contractor's breach of these warranties.

## **7. Suspension of Work**

### **7.1 Order to Suspend Performance**

Upon written order of the Contract Administrator, the Contractor agrees to immediately suspend performance of the Services. The Contractor shall not be entitled to compensation for any Services performed during any period in which the Contract Administrator has directed that the Services be suspended.

### **7.2 Necessary Actions Before Suspension**

If immediate suspension of the Services would cause harm, injury, or damage to persons or property, the Contractor must immediately notify the Contract Administrator of the nature of such harm, injury, or damage, and obtain written authorization from the Contract Administrator to take such necessary action as to prevent or minimize such harm, injury or damage. Actions authorized by the Contract Administrator pursuant to this paragraph are compensable.

## **8. Termination**

### **8.1 Termination for Cause**

If the Contractor is in breach of any provision of this Contract, and such breach continues for fourteen (14) days after written notice is issued to the Contractor by the County of the breach, the County may terminate this Contract. Such termination for cause is effective upon receipt of the notice of termination by the Contractor.

In addition to any other remedies provided by law or this Contract, the Contractor shall be responsible for all costs incurred by the County as a result of the Contractor's breach and termination, including any costs to obtain substitute performance.

## 8.2 Immediate Termination

If the County, in its discretion, determines that the Contractor's breach of this Contract constitutes a threat to public health, safety, or welfare, the County may terminate this Contract immediately upon notice to the Contractor.

In addition to any other remedies provided by law or this Contract, the Contractor shall be responsible for all costs incurred by the County as a result of the Contractor's breach and termination, including any costs to obtain substitute performance.

## 8.3 Termination for Convenience

If the County determines that it is in the County's best interests, the County may terminate this Contract upon thirty (30) days written notice to the Contractor.

The County shall pay for all work properly performed up to the effective date of the notice of termination.

## 8.4 Termination for Lack of Funding

If this Contract is funded by public funds or a grant from a public or private entity, and the funds are not appropriated or the grant is discontinued, the County may terminate this Contract by written notice specifying the date of termination.

The County shall pay for all work properly performed up to the effective date of the notice of termination.

## 9. **Equipment Purchased with County Funds [Budget Reimbursement Contracts ONLY. Delete this Section if the method of compensation is not Budget Reimbursement.]**

9.1 The Contractor shall not purchase Equipment for the performance of this contract using funds provided by the County unless such purchase is clearly identified in a line item in Contractor's Budget.

### 9.2 Reporting

The Contractor agrees that any Equipment purchased for the performance of the Services with funds supplied by the County under this Contract must be reported to the Contract Administrator upon purchase. For the purposes of this paragraph, Equipment is defined as tangible, non-expendable, personal property having useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit.

### 9.3 Conveyance to the County

Upon the County's request at the termination of this Contract for any reason, the Contractor agrees to convey to the County all title in any Equipment purchased for the performance of the Services with funds supplied by the County under this Contract.

## 10. Nondiscrimination

The Contractor covenants that it will not discriminate against an employee or applicant of employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, sexual identity, gender, gender identity, gender expression, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position, and that it will require the same non-discrimination assurances from any subcontractor who may be used to carry out duties described in this contract. Contractor covenants that it will not discriminate against businesses that are owned by women, minorities or persons with disabilities in providing services covered by this Contract, and that it shall require the same assurances from subcontractors. Breach of this covenant shall be regarded as a material breach of this contract.

## 11. Freedom of Information Act

This Contract and all attachments, as well as any other information submitted by the Contractor to the County, are subject to disclosure under the provisions of MCL 15.231, *et seq.*, known as the "Freedom of Information Act".

## 12. Intellectual Property

Any intellectual property created by the Contractor in the performance of the Services shall be considered a work made for hire, and any and all rights in such intellectual property shall belong solely to the County. Upon the County's request, the Contractor agrees to execute any documents necessary to convey ownership of such intellectual property to the County.

## 13. Audit Rights

### 13.1 Certification of Accurate Information

Contractor certifies that all information provided to the County by the Contractor relating to the award or modification of this Contract, or any payment or dispute related to this Contract, is true and correct. The Contractor further certifies that its accounting system conforms to generally accepted accounting principles.

### 13.2 Inspection

The Contractor agrees that the County may inspect the Contractor's plant, place of business, or worksite to ensure compliance with the terms of this Contract. If this Contract is funded or supported with any state or federal grant funds, the state or federal agencies responsible for administering the applicable grants may examine the Contractor's plant, place of business, or worksite to ensure compliance with the terms of this Contract and the terms of the applicable grant.

### 13.3 Audit

The Contractor agrees that the County may examine the Contractor's records to ensure compliance with the terms of this Contract. If this Contract is funded or supported with any state or federal grant funds, the state or federal agencies responsible for administering the applicable grants may examine the Contractor's records to ensure compliance with the terms of this Contract and the terms of the applicable grant.

### 13.4 Records Retention

The Contractor agrees to maintain any business records related to this Contract or the Contractor's performance under this Contract for a period of at least three (3) years after final payment.

## 14. Identity Theft Prevention

14.1 In the event that the Contractor will obtain identifying information during the performance of the Services, the Contractor must take reasonable precautions to ensure that such identifying information is protected from unauthorized disclosure and is used only for the purpose of performing the Services.

14.2 For the purposes of this Paragraph, "identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including but not limited to name, address, telephone number, social security number, date of birth, driver's license number, taxpayer identification number, or routing code.

## 15. Insurance Requirements and Indemnification

The Contractor shall at all times maintain in full force and effect for duration of the term of this agreement the following insurance coverages. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan, having an AM Best rating of at least A- and acceptable to Genesee County. *In addition, the County reserves the right to modify or waive at any time any applicable insurance requirements based on the scope of services provided*

*at the discretion of the County's Risk Manager or other authorized representative of the County.*

**Commercial General Liability Insurance** on an "occurrence basis" with minimum limits of \$1,000,000 per occurrence and a \$3,000,000 aggregate limit.-. The policy shall name Genesee County, including all employees, elected and appointed officials and volunteers, all boards, commissions, and/or authorities, and their board members, employees, and volunteers as additional insureds. Coverage shall be primary and non-contributory, including a waiver of subrogation in favor of the County.

**Workers' Compensation Insurance** – as required by and in accordance with all applicable statutes of the State of Michigan, including Employers' Liability Coverage.

**Automobile Liability** – Including Michigan No-Fault coverages, with limits of liability not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. Coverage shall include all owned, non-owned, and hired vehicles. Limits may be satisfied using primary and excess/umbrella liability policies. -. The policy shall name Genesee County, including all employees, elected and appointed officials and volunteers, all boards, commissions, and/or authorities, and their board members, employees, and volunteers as additional insureds.

**Professional Liability Insurance** – in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. If this policy is a claims made form, the Contractor shall be required to keep said policy in force, or purchase "tail" coverage for a minimum of three (3) years after the termination of this contract.

**Cyber Liability Insurance** – in an amount not less than \$1,000,000 per occurrence and \$1,000,000 aggregate including, data breach response, network security liability and business interruption. Coverage should be primary and non-contributory, name Genesee County as additional insured. Including legal and regulatory compliance.

**Umbrella Liability** - in an amount not less than \$2,000,000 per occurrence and \$5,000,000 aggregate, including Products Completed Operations.

A licensee or its insurance broker shall notify the County of any cancellation or reduction in coverage within seven (7) days of receipt of insurer's notification to that effect. The contractor, licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the County Risk Manager within five (5) business days in the event of expiration or cancellation of coverage.

#### 15.1 Insurance Certificate and Additional Insured Coverage

- 1. Certificate of Insurance** – The contractor must provide a Certificate of Insurance evidencing the required insurance set forth above. The Certificate Holder should be listed as follows:

Genesee County  
Attn: Risk Management  
1101 Beach Street, Flint, MI 48502

- 2. Endorsements** In addition, the contractor must provide the following endorsements, including but not limited to:

- a. An additional insured endorsement (equivalent in coverage to ISO form CG 20 10 and CG 20 37) naming the "Genesee County, its officials, employees and agents, all boards, commissions and/or authorities and board members, including employees and volunteers thereof" as additional insureds under the general liability policy. No person or department should be identified as the additional insured. Coverage afforded shall be considered primary and any other insurance or self-insurance, maintained by or available to the County shall be considered secondary and/or excess.
- b. An endorsement to each policy stating that such policy shall not be cancelled or reduced in coverage except after thirty (30) days prior written notice to County. Cancellation, material restriction, nonrenewal or lapse of any of the required policies shall be grounds for immediate termination of the Agreement by the County. If any of the required coverages expire during the term of the contract, the vendor shall deliver renewal certificates, endorsements, and/or policies to County at least ten (10) days prior to the expiration date.

In lieu of required endorsements, a copy of the policy sections, where coverage is provided for additional insured and cancellation notice, may be acceptable. Copies of all policies mentioned above shall be furnished, if so requested.

## 15.2 Indemnification

The Contractor agrees to indemnify, defend, and hold harmless the County, its officials, officers, agents, and employees from any and all claims, damages, or liability, including defense costs, arising out of the Contractor's performance of the Services or presence on the County's property or worksite. Contractor agrees that the insurance requirements specified in the contract do not reduce the liability Contractor has assumed in the indemnification/hold harmless section of the Contract.

## 16. Independent Contractor

The Contractor and its agents and employees are independent contractors and are not the employees of the County.

## 17. General Provisions

### 17.1 Entire Contract

This Contract, consisting of the following documents and Exhibits, embodies the entire Contract between the Parties.

17.1.1. The Contract – This Professional Services Contract

17.1.2. Exhibit A – The Scope of Work

17.1.3. Exhibit B – The Contractor’s Budget **INSTRUCTIONS: If this is not a budget reimbursement contract delete this provision**

There are no promises, terms, conditions, or obligations relating to the Services other than those contained herein. In the event of a conflict between this Contract and any Exhibit, the terms of this Contract shall control.

### 17.2 No Assignment

The Contractor may not assign or subcontract this Contract without the express written consent of the County.

### 17.3 Modification

This Contract may be modified only in writing executed with the same formalities as this Contract.

### 17.4 Binding Effect

The provisions of this Contract shall apply to and bind the heirs, executors, administrators, and assigns all of the parties hereto.

### 17.5 Headings

The paragraph headings in this Contract are used only for ease of reference, and do not limit, modify, construe, and or interpret any provision of this Contract.

### 17.6 Governing Law and Venue

This Contract is entered into under the laws of the State of Michigan. Any litigation between the Parties arising out of this Contract must be initiated

within two years of the cause of action accruing and must be brought in a court of competent jurisdiction in Genesee County, Michigan.

17.7 Subpoena Power

The Contractor acknowledges and understands that the Chairperson of the Genesee County Board of Commissioners, pursuant to MCL 46.3(5), as amended, has the power to administer oaths, issue subpoenas, and compel a person's attendance in the same manner as a court of law. The Contractor agrees to submit to this power with respect to this Contract.

17.8 Severability and Survival

In the event that any provision of this Contract is deemed by any court of competent jurisdiction to be legally ineffective, such decision shall have no effect on the remaining provisions of this Contract.

17.9 Interpretation

Each Party has had opportunity to have this Contract reviewed by legal counsel and has had equal opportunity to contribute to its contents. In the event of any dispute concerning the interpretation of this Contract, there shall be no presumption in favor of any interpretation solely because the form of this Contract was prepared by the County.

17.10 Remedies

All remedies specified in this Contract are non-exclusive. The County reserves the right to seek any and all remedies available under this Contract and applicable law in the event that the Contractor fails to abide by the terms of this Contract.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their duly authorized agents.

**CONTRACTOR NAME**

COUNTY OF GENESEE

By: \_\_\_\_\_  
[Name]  
[Title]

By: \_\_\_\_\_  
James Avery, Chairperson  
Board of County Commissioners

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

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



**EXHIBIT A**  
**Description of the Services**

**[INSTRUCTIONS: Describe the services to be performed by the Contractor.**

- **The description of the services should be detailed enough that a third party who knows nothing about the Contract would be able to determine whether the contractor has fulfilled his/her obligations.**
- **Be specific as to deliverables, milestones, and project schedule.**
- **Be sure to include required reports, specifying the due dates and content.]**

EXHIBIT B  
Contractor's Projected Budget  
[Date] to [Date]

**[INSTRUCTIONS: If this is not a Budget Reimbursement contract, delete this Exhibit.]**