

## CITY OF SAINT PAUL

*Mayor Melvin Carter*

Room 280 City Hall/Court House      Telephone    651-266-8900  
15 West Kellogg Boulevard  
Saint Paul, Minnesota 55102-1674

# City of Saint Paul/ Saint Paul Regional Water Services Request for Professional Services Agreement Packet

**For:** City of Saint Paul/ Saint Paul Regional Water Services Project Managers, Assigned Department Attorney, Professional Service Providers

**Purpose:** The purpose of this Request for Professional Services Agreement Packet is to facilitate a smooth and expedited contract implementation process.

### Instructions:

City Project Managers, please work with your Assigned Department Attorney and the Professional Service Provider to complete this Packet. Professional Services Provider proposals in lieu of this form will not be accepted. This document creates the basis for the project scope of work and governing contract terms between the City and the Professional Service Provider. Once complete, the City Project Manager will submit this form in Microsoft Word format to the City's Procurement Group.

This packet includes:

- Section I: City Project Manager & Professional Service Provider Checklist (Pg. 2)
- Section II: General Contact Information (Pg. 3)
- Section III: Professional Services Project Information (Pg. 4-5)
- City Terms and Conditions (Pg. 6-13)



Purchasing for:

City of Saint Paul, Saint Paul Regional Water Services, Port Authority

Visit our Web Site at: [www.stpaulbids.com](http://www.stpaulbids.com)

## Section I

### City Project Manager & Professional Service Provider Checklist

Do not move on to Section II until complete. Check All that apply

☒ **The Professional Services Provider is a registered supplier with the City.**

If the Professional Services Provider is not a registered supplier with the City, they should register on the City's Supplier portal: [www.stpaulbids.com](http://www.stpaulbids.com). The system will issue a supplier number to the Professional Service Provider when the registration process is complete.

The Professional Service Provider is not eligible for contracting with the City without a supplier number.

☒ **The Professional Service Provider has current Insurance.**

The Professional Service Provider must attach a current certificate of insurance (COI) signed by the Professional Services Provider's agent, and worker's compensation insurance (or an exemption form.) Review Section 22 of the City's Terms and Conditions (attached) for additional insurance requirements.

**COI's will not be accepted without the following language in the Description of Operations box:**

***City of Saint Paul, its official, employees, agents and representatives and the Board of Water Commissioners of the City of Saint Paul, Its officials, employees, agents and representatives are Additional insured.***

☒ **The Professional Services Provider has a current Affirmative Action Plan on file with the City of Saint Paul.** (Only applicable for contracts \$50,000 or more.)

If the Professional Services Provider is unsure, or does not have a current Affirmative Action Plan, Please contact Yia Tao at [Yia.Thao@ci.stpaul.mn.us](mailto:Yia.Thao@ci.stpaul.mn.us). ([A contract will not be signed until a current plan is on file with the City.](#))

☒ **Professional Services Provider has read and agrees to City Terms and Conditions below.** (If there are requested changes to the terms and conditions, Professional Service Provider must notify City Project Manager and City Attorney. Changes are granted at the discretion of the City.)

Section II  
General Contact information

Professional Service Provider Fills Out the Following Information

\*Please provide the contract information of the person responsible for contract signature\*

Name: [Regents of the University of Minnesota](#)  
Contact Name: [Nicolas J. Allyn, J.D.](#)  
Email Address: [nic@umn.edu](mailto:nic@umn.edu)  
Mailing Address: [Office of Sponsored Projects Administration, University of Minnesota, 200 Oak Street SE, Suite 450, Minneapolis, MN 55455](#)  
Phone Number: [612-625-7054](#)

City Project Manager Fills Out the Following Information:

City Department: [Saint Paul Regional Water Services](#)  
Project Manager Name: [Will Menkhaus](#)  
Project Manager Email: [William.Menkhaus@ci.stpaul.mn.us](mailto:William.Menkhaus@ci.stpaul.mn.us)  
Professional Services Provider Vendor Number #: [1068](#)  
Professional Services Provider Supplier Number #: [1102](#)  
Contract Start Date: [Jan. 12, 2021](#)  
Contract End Date: (include enough time for project payment close out): [Nov. 1, 2022](#)  
Contract Not to Exceed Amount: [\\$709,087.00](#)

## Section III

### Project Information

To be completed by the City Project Manager and Professional Services Provider.  
Assigned Department Attorney to review.

#### **1. Project Description and Purpose:**

As part of its McCarron's Water Treatment Plant Improvements project, SPRWS will need to collaborate with a team of experts to staff a pilot treatment plant for approximately 15 months, to collect water samples, and to perform analytical work on the collected samples. The University of Minnesota (UMN) is uniquely positioned and uniquely qualified to provide this staffing of the facility and to perform the requisite analytical work.

UMN students and staff will collaborate with the selected Design-Builder for the McCarron's Water Treatment Plant Improvements project to staff the pilot facility, collect samples, run analytical tests, report water quality results, and provide expert input on the data collected.

#### **2. Scope of Work:**

##### Deliverables

- Data generated from analyses – this data will be entered into a project data management system. Data will be updated on a regular basis (monthly at minimum).
- Piloting mid-point report – At approximately the mid-point of the project, UMN will develop a comprehensive report focusing on research findings from the first half of piloting efforts.
- Piloting completion report – Upon culmination of the piloting efforts, UMN will develop a comprehensive report discussing the findings from the piloting process.

##### Analytical Work

UMN will collect samples in accordance with the tables shown below. UMN will be responsible for all analysis of these samples and for reporting of the data. Samples will be collected in accordance with the timeline specified by the Design-Builder (Jacobs Engineering) in their final Piloting Plan.

**Table 1**  
**List of Pesticides, Pharmaceuticals, and Emerging Contaminants**

Compound	Use	logK <sub>ow</sub>	Detection method(s)
atenolol	beta blocker	4.46	Orbitrap MS
atrazine	herbicide	2.61	Orbitrap MS
carbamazepine	anticonvulsant & mood stabilizer	2.45	Orbitrap MS
fluoxetine	antidepressant	4.05	Orbitrap MS
benzotriazole	corrosion inhibitor	1.44	Orbitrap MS
norgestrel	birth control	3.48	Orbitrap MS
metformin	Type 2 diabetes	-2.64	Orbitrap MS
gemfibrozil	lipid regulator	4.77 (2.19 at pH 7)	Orbitrap MS
metolachlor	herbicide	3.13	Orbitrap MS
sulfamethoxazole	antibiotic	0.89	Orbitrap MS
tris(2-chloroethyl) phosphate	flame retardant	1.44	Orbitrap MS

**Table 2**  
**Chemical Analytes**

Analyte	Method type	Method ID	No. samples
Geosmin	Headspace SPME GC-MS	6040D	200
2-MIB	Headspace SPME GC-MS	6040D	200
HAAs	Methylation GC-ECD or GC-MS	USEPA 552.3	100
THMs	GC-ECD or GC-MS	USEPA 551.1	100
NDMA	SPE LC-MS/MS	-	100
1,4-dioxane	SPE GC-MS	USEPA 522	200
CECs (see Table 1)	SPE LC-Orbitrap	-	200
Microcystins	SPE LC-MS/MS	USEPA 544	200
Bromide (possibly bromate)	IC	USEPA 300.1	96
Lead & Copper	ICP-MS	6020B	216
Chlorine (total)	Hach kit		300
Chlorine (free)	Hach kit		300
Monochloramine	Hach kit		300
Chloride, sulfate	IC	USEPA 300.1	364

**Table 3**  
**Microbiological Analytes**

Analyte	Method type	Method ID	No. samples
Coliforms	Colilert	IDEXX	50
Heterotrophic plate counts (HPC)	SimPlate	IDEXX	100
DNA Extraction			200
Total Bacteria	qPCR	-	200
Ammonia-oxidizing bacteria (AOB)	qPCR	-	200
Ammonia-oxidizing archaea (AOA)	qPCR	-	200
Comammox bacteria	qPCR	-	200
Selected pathogen	qPCR	-	200
DNA Sequencing	Illumina MiSeq	-	100
AOC	Culturing and Plating	9217	120
ATP (media, water)	Luciferin/luciferase	-	200

Additional analytical work will include the following bench-scale experiments:

- Batch Sorption – UMN will perform batch sorption experiments to investigate the residual geosmin sorption capacity of the aged GAC from the full-scale filters. Experiments will be used to establish the sorption kinetics and to determine the timeframe over which equilibrium sorption occurs.
- Ozone/AOPs – UMN will perform tests to determine the ozone demand of the raw water and the lime-softened and recarbonated water from the full-scale plant. All experiments will be performed at temperatures of 5, 10, and 20 degrees Celcius.

Specific details regarding the precise methods of how each experiment will performed are included in the UMN proposal for this work. UMN will be responsible for meeting their commitments laid out therein and for abiding by industry-standard best practices for all testing.

### **3. Compensation Terms: (Please attach rate schedule if applicable)**

UMN will track costs for supplies and expenses and will bill SPRWS on the basis of actual expenses. An overhead markup of 18% will be applied to all direct costs.

Included below is the budget estimate on which the total contract cost is based. The value of the contract shall not exceed a total of \$709,087.00 unless there is a change to the scope of work which results in a Change Order approved by the Board of Water Commissioners.

Item	Amount
<b>UMN Personnel</b>	
Post-doctoral Researchers	\$227,378
Undergraduate Students	\$89,288
Faculty investigators	\$141,754
<b>Supplies and Expenses</b>	
Laboratory Supplies	\$50,000
Laboratory Services	\$67,500
Equipment Repair and Maintenance	\$20,000
<b>Travel</b>	
In-state travel to SPRWS for pilot plant operation, sampling, and meetings	\$5,000
<b>Total direct costs (TDC)</b>	<b>\$600,921</b>
<b>Indirect costs (IDC; 18% of TDC)</b>	<b>\$108,166</b>
<b>Total</b>	<b>\$709,087</b>

The budget estimate included herein assumes the following time commitments:

- Prof. Hozalski – 4.25 months
- Prof. LaPara – 1.25 months
- Prof. Arnold – 1.25 months
- First Post-Doc Student – 20 months of full-time work
- Second Post-Doc Student – 15 months of full-time work
- Third Post-Doc Student – 18 months of part-time (50%) work
- Undergraduate Research Assistant - 6,873 hours of time

In order to track staff time, UMN uses an effort reporting system which complies with federal requirements. Effort reporting is more-or-less analogous to tracking working hours. UMN staff will be compensated based upon actual hours worked as reported through the University's effort reporting system. A summary of the assumed time commitments and hourly rates for each relevant staff member is shown below:

Title/Role	Weighted Hourly Salary*	Hourly Fringe	Hourly Rate	Number of Hours	Cost
Hozalski, PI	\$ 86.83	\$ 31.69	\$ 118.52	736.70	\$ 87,313.68
Arnold, Co-PI	\$ 104.60	\$ 38.18	\$ 142.78	216.66	\$ 30,934.71
LaPara, Co-PI	\$ 79.47	\$ 29.01	\$ 108.48	216.68	\$ 23,505.45
Post-Doc #1	\$ 23.84	\$ 6.06	\$ 29.90	3466.50	\$ 103,648.35
Post-Doc #2	\$ 23.71	\$ 6.02	\$ 29.73	2599.20	\$ 77,274.22
Post-Doc #3	\$ 23.75	\$ 6.03	\$ 29.78	1559.94	\$ 46,455.01
UGRAs	\$ 13.00	\$ -	\$ 13.00	6868.33	\$ 89,288.29
<b>Total Personnel Cost Estimate</b>					<b>\$ 458,419.71</b>
<p>*A 3% per fiscal year cost of living increase was used for budgeting this project. The hourly rate is weighted based on when each position's effort is expected to occur. This is an approximation of each position's hourly salary. The UMN tracks personnel costs based on effort reporting, so invoices do not include hours worked.</p>					

SPRWS and UMN have agreed that expenses (including staff time) incurred by UMN prior to the approval of this contract will be reimbursable in accordance with the contract terms provided that the contract is ultimately approved. UMN recognizes, however, that approval of the contract cannot be guaranteed until the contract has been executed. As such, UMN recognizes that all expenses incurred prior to the signing of this contract will be incurred at the University's risk. In the event that the contract is not approved, no compensation will be provided for such expenses.

**4. Requested Reimbursable Expenses and Details: (Reimbursement is at the discretion of the City.)**

As shown in the budget estimate above, travel to and from the SPRWS campus for purposes of pilot plant operation, sample collection, and meeting attendance will be reimbursed by SPRWS. Reimbursement for travel will not exceed a value of \$5,000.

As described above, direct expenses for UMN (ex. Laboratory Supplies) will be compensated on the basis of cost plus an 18% markup to account for University overhead expenses.

**5. Other Information:**

The University of Minnesota will be responsible for collaborating fully with the Jacobs Engineering team during the piloting process. Because Jacobs Engineering has been selected by SPRWS as the Design-Builder for the McCarron's Water Treatment Plant Improvements project, SPRWS staff may, at times, task Jacobs with the responsibility of overseeing UMN's work. In such instances, UMN will be responsible for taking direction from Jacobs Engineering provided that the directions issued by Jacobs align with this Contract and with the proposal for this work provided by UMN.

Finally, SPRWS reserves the right to review and comment on any research papers generated by UMN prior to publication. Once UMN has provided documents for review, SPRWS will review and comment within 30 days.



# SPRWS Terms and Conditions

THIS AGREEMENT, made and entered into on the effective date above by and between the BOARD, OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL, hereinafter referred to as "The Board," d/b/a Saint Paul Regional Water Services ("SPRWS") and the above named Contractor, hereinafter referred to as "Contractor." A Contractor is a party to a contract; and who contracts to do the work for another.

The Board and Contractor, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, agree as follows:

Contractor agrees to provide the services comprised of tasks, deliverables, and timelines described in this Agreement.

## **Section 1. Time For Completion.**

The services rendered by Contractor will be commenced upon execution of the Agreement and notification by the Board to proceed and will be completed in accordance with the schedule mutually agreed upon with the Board which follows, but no later than the expiration date above.

Contractor will not proceed with any task without specific authorization from the Project Manager designated by the Board ("Board's Project Manager").

In the event that there are delays caused by actions of the Board or which may be reasonably requested by the Contractor which can change the completion date, Contractor will request an extension of time for completion of the project. The Board's Project Manager will review the request and may grant to the Contractor such extensions of contract time as may be reasonable.

## **Section 2. Project Management.**

The Board requires the Contractor to assign specific individuals as principal project members and to assure that the major work and coordination will remain the responsibility of these individuals during the term of the Agreement. Removal of any principal project member without replacement by equally qualified individuals or without the prior written approval of the Saint Paul Regional Water Services General Manager is grounds for termination of the Agreement by the Board.

The Board has designated the individual on Page 1, as the Board's Project Manager for this Agreement, and the individual to whom all communications pertaining to the Agreement will be addressed. The Project Manager will have the authority to transmit instructions, receive information, and interpret and define the Board's policy and decisions pertinent to the work covered by this Agreement.

## **Section 3. Billings and Payment.**

That for Contractor's faithful performance of this Agreement, the Board hereby agrees to compensate Contractor in the amount(s) and according to the schedule herein.

The amounts herein will fully compensate Contractor for all work and associated costs. The Board will honor no claim for services and/or costs provided by the Contractor not specifically provided for in this Agreement. Total costs for the project will not exceed the amount referenced herein.

Contractor will submit an itemized invoice monthly or after services are complete. Upon receipt of the invoice and verification of the charges by the Board's Project Manager, the Board will make payment to Contractor within thirty five (35) days.

## **Section 4. Board Responsibilities**

The Board agrees to provide Contractor with access to any information from Board documents, staff, and other sources needed by Contractor to complete the work described herein.

**Section 5. Amendment or Changes to Agreement.**

A. Board or Contractor may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes and method of compensation must be authorized in writing in advance by the Board.

B. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when reduced to writing and duly signed by the parties

C. Modifications or additional schedules will not be construed to adversely affect vested rights or causes of action which have accrued prior to the effective date of such amendment, modification, or supplement. The term "this Agreement" as used herein will be deemed to include any future amendments, modifications, and additional schedules made in accordance herewith.

**Section 6. Notices.**

Except as otherwise stated in this Agreement, any notice or demand to be given under this Agreement will be delivered in person or deposited in United States Certified Mail, Return Receipt Requested. Any notices or other communications will be addressed to the individuals and addresses listed above.

**Section 7. Survival of Obligations.**

A. The respective obligations of the Board and Contractor under these terms and conditions, which by their nature would continue beyond the termination, cancellation, or expiration hereof, will survive termination, cancellation or expiration hereof.

B. If a court or governmental agency with proper jurisdiction determines that this Agreement, or a provision herein is unlawful, this Agreement or that provision, will terminate. If a provision is so terminated but the parties legally, commercially, and practicably can continue this Agreement without the terminated provision, the remainder of this Agreement will continue in effect.

**Section 8. Entire Agreement.**

It is understood and agreed that this entire Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matters herein.

**Section 9. Commencement of Work.**

Contractor will not perform any work pursuant to this contract without the specific prior agreement of the designated representative of the BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL ("the Board"). No claim for services or products provided by the Contractor not specifically provided for in this contract, or not specifically agreed to in advance will be honored by the Board.

**Section 10. Invoicing and Payment.**

Contractor will submit invoices clearly itemizing all goods and/or services provided to the Board department making the purchase. The Board will make payment in accordance with Chapter 471.425. Such payment may be made using a pay voucher, purchase order, or authorized procurement card, or department will notify Contractor of any problems, omissions, or defects in the goods and/or services received.

**Section 11. Records, Dissemination of Information.**

A. For purposes of this Agreement, the following words and phrases will have the meanings set forth in this section, except where the context clearly indicates that a different meaning is intended.

"Work product" will mean any report, recommendation, paper, presentation, drawing, demonstration, or other materials, whether in written, electronic, or other format that results from Contractor's services under this Agreement.

"Supporting documentation" will mean any surveys, questionnaires, notes, research, papers, analyses, whether in written, electronic, or in other format and other evidences used to generate any and all work performed and work products generated under this Agreement.

“Business records” will mean any books, documents, papers, account records and other evidences, whether written, electronic, or in other format, belonging to Contractor and pertaining to work performed under this Agreement.

**B. INTELLECTUAL PROPERTY RIGHTS:** The CONTRACTOR shall own all rights, title, and interest in all of the copyrights in the WORKS and DOCUMENTS. WORKS shall mean all databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, tapes, and disks, created or originated by the CONTRACTOR, its employees, and subcontractors, either individually or jointly with others, in the performance of this Contract. WORKS shall include the DOCUMENTS. The DOCUMENTS are the originals of any databases, computer programs, reports, notes, or other documents, whether in physical or electronic forms, prepared by the CONTRACTOR, its employees, or subcontractors, in the performance of this Contract. The DOCUMENTS shall be the exclusive property of the CONTRACTOR. The SPRWS agrees to, and hereby does, assign all rights, title, and interest it may have in the WORKS and the DOCUMENTS to the CONTRACTOR. The SPRWS shall, at the request of the CONTRACTOR, execute all papers and perform all other acts necessary to transfer or record the CONTRACTOR's ownership interest in the WORKS and DOCUMENTS.

**C. LICENSE TO SPRWS:** The CONTRACTOR hereby grants to the SPRWS a non-exclusive, perpetual, irrevocable, no-fee right and license to make, have made, reproduce, modify, distribute, perform, and otherwise use the WORKS and DOCUMENTS for any and all purposes, in all forms and manners that the SPRWS, in its sole discretion, deems appropriate. The CONTRACTOR shall, upon the request of the SPRWS, execute all papers and perform all other acts necessary, to document and secure said right and license to the WORKS and DOCUMENTS by the SPRWS. At the request of the SPRWS, the CONTRACTOR shall permit the SPRWS to inspect the original DOCUMENTS and provide a copy of any of the DOCUMENTS to the SPRWS, without cost, for use by the SPRWS in any manner the SPRWS, in its sole discretion, deems appropriate.

**D. SPRWS recognizes that publication of data derived from this project is of foremost importance to the University of Minnesota, and SPRWS acknowledges the University's right to publish such data.**

**E. In the event that deliverable work products include drawings, Contractor will provide a complete set of as-built record drawings in AutoCAD or ESRI GIS format (plan view only in GIS), as may be determined appropriate by Board's Project Manager. AutoCAD drawings will include any customized Plot Style Tables (.ctb or .stb) or line types (.lin) and will not require links to other drawings. Whether required as an incidental or specifically addressed in the Proposal, final payment to Contractor for work of this Agreement will not be approved until as-built record drawings are received and approved by Board's Project Manager.**

**F. In the event of termination, all documents finished or unfinished, and supporting documentation prepared by the Contractor under this Agreement, will be delivered to the Board by Contractor by the termination date and there will be no further obligation of the Board to Contractor except for payment of amounts due and owing for work performed and expenses incurred to the date and time of termination.**

**G. When remotely accessing the Board's electronic resources, the Contractor agrees to abide by the requirements outlined in “SPRWS Policy for Remote Access to Electronic Resources by Outside Parties”, available from Board's Project Manager upon request.**

**H. The Contractor agrees to maintain all business records in such a manner as will readily conform to the terms of this Agreement and to make such materials available at its office at all reasonable times during this Agreement period and for six (6) years from the date of the final payment under the contract for audit or inspection by the City, the Board, the Auditor of the State of Minnesota, or other duly authorized representative.**

**I. The Contractor agrees to abide strictly by Chapter 13, Minnesota Government Data Practices Act, and in particular Minn. Stat. §§ 13.05, subd. 6 and 11; and 13.37, subd. 1 (b) and Minn. Stat. §§ 138.17 and 15.17. All of the data created, collected, received, stored, used, maintained, or disseminated by the Contractor in performing functions under this Agreement is subject to the requirements of the Minnesota Government Data Practices Act and Contractor must comply with those requirements as if it were a governmental entity. If any provision of this Agreement is in conflict with the Minnesota Government Data Practices Act or other Minnesota state laws, state law will control.**

## **Section 12. Human Rights/Affirmative Action/Equal Economic Opportunity.**

Contractors must comply with the City of Saint Paul's Human Rights Department's Affirmative Action Requirements in Employment pursuant to Section 183.04 of the Saint Paul Legislative Code, the Rules Governing Affirmative Requirements in Employment, and Chapter A-17 of the Saint Paul Administrative Code governing racial harassment. The Contractor agrees to comply with all federal, state and local laws, resolutions, ordinances, rules, regulations and executive orders pertaining to unlawful discrimination on account of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status, or status with regard to public assistance and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to the same.

## **Section 13. Affirmative Action Contract Specifications.**

Every contractor or subcontractor whose total accumulated contract awards from the City of Saint Paul over the preceding twelve months have met or exceeded \$50,000 must complete and submit to the Department an Affirmative Action Program Registration form along with a \$75 registration fee (City of Saint Paul Administrative Code Ordinance 86.06 and City of Saint Paul Legislative Code Ordinance 183.04).

## **Section 14. Compliance With Applicable Law.**

The Contractor agrees to comply with all federal, state and local laws or ordinances, and all applicable rules, regulations and standards established by any agency of such governmental units, insofar as they relate to the Contractor's performance of the provisions of this Contract. It will be the obligation of the Contractor to apply for, pay for and obtain all permits and/or licenses required.

## **Section 15. Conflict of Interest.**

Contractor's acceptance of this agreement indicates compliance with Chapter 24.03, City of Saint Paul Administrative Code: "Except as permitted by law, no city official or employee will be a party to or have a direct financial interest in any sale, lease, or contract with the City." The contractor also affirms that to

the best of the Contractor's knowledge, their involvement in this contract does not result in a conflict of interest with any part or entity which may be affected by the terms of this contract. The Contractor agrees that should any conflict or potential conflict of interest become known to the contractor, they will immediately notify the Purchasing Systems Manager of the situation so that a determination can be made about Contractor's ability to continue performing services under this Agreement.

## **Section 16. Hold Harmless.**

Each party shall be responsible for claims, losses, damages and Expenses which are proximately caused by the wrongful or negligent acts or omissions of that party or its agents, employees or representatives acting within the scope of their duties. The liability of the Contractor is as set out in chapter 3.736 of the Minnesota Statutes and subject to the limitations therein. The liability of SPRWS and the Board of Water Commissioners is as set out in chapter 466 of the Minnesota Statutes and any other laws related thereto. Nothing herein shall be construed to limit either party from asserting against third parties any defenses or immunities (including common law, statutory and constitutional) it may have or be construed to create a basis for a claim or suit when none would otherwise exist. This provision shall survive the termination of this Agreement.

## **Section 17. Assignment.**

The Board and Contractor each binds itself and its successors, legal representatives, and assigns of such other party, with respect to all covenants of this Contract; and neither the Board nor the Contractor will assign or transfer their interest in this Contract without the written consent of the other.

## **Section 18. Termination.**

This Agreement will continue in full force and effect until completion of the project as described herein unless either party terminates early for cause.

A. With Cause. The Board reserves the right to terminate this Agreement if the Contractor violates any of the terms or does not fulfill, in a timely and proper manner, its obligations under this Agreement as determined by the Board. In the event that the Board exercises its right to withhold payment or terminate under this Section, it will submit written notice to the Contractor, specifying the extent of such withholding or termination under this Section, the reasons therefore, and the date upon which such withholding or termination becomes effective. Upon receipt of such notice, the Contractor will take all actions necessary to discontinue further commitments of funds to the extent that they relate to the terminated portions of this Agreement.

B. In the event of termination, the Board will pay Contractor for all services and/or products, actually, timely, and faithfully rendered up to the receipt of the notice of termination and thereafter until the date of termination. The Contractor will deliver all work products and supporting documentation developed up to the time of termination prior to the Board rendering final payment for service.

## **Section 19. Amendments or Changes.**

Any alteration, variation, modification or waiver of the provisions of the specifications that may have occurred during the bidding process or amendments to this Contract will be valid only when reduced to writing and duly signed by the Contractor and the Board.

## **Section 20. Interpretation of Agreement, Venue.**

This Contract will be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this agreement will be venued in the District Court of the County of Ramsey, Second Judicial District, State of Minnesota.

## **Section 21. Independent Contractor.**

It is agreed by the parties, that at all times and for all purposes, within the scope of the Agreement resulting from this solicitation, the relationship of the Contractor to the Board is that of independent contractor and not that of employee. No statement contained in the specification or resulting Agreement will be construed so as to find the Contractor an employee of the Board, and Contractor will be entitled to none of the rights, privileges, or benefits of Saint Paul employees.

## **Section 22. Waiver.**

The waiver by the Board of any breach under the terms of this Agreement or the foregoing by the Board of any of the rights or remedies arising under the terms of this Agreement will not constitute a waiver of the Board's right to any rights and/or remedies with respect to any subsequent breach or default of the terms of the contract. The rights and remedies of the Board provided or referred to under the terms of the contract are cumulative and not mutually exclusive.

## **Section 23. Additions.**

During the contract period, the Board reserves the right to request pricing for and add to the contract a limited number of like items to accommodate the need for any items that may have been inadvertently omitted from the lists included in this request document.

## **Section 24. Subcontracting.**

The Contractor agrees not to enter into any subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the Board.

## **Section 25. Force Majeure.**

Neither the Board nor the Contractor will be held responsible for performance if its performance is prevented by acts or events beyond the party's reasonable control, including, but not limited to: severe weather and storms, earthquake or other natural occurrences, strikes and other labor unrest, power failures, electrical power surges or current fluctuations, nuclear or other civil military emergencies, or acts of legislative, judicial, or executive authorities.

## **Section 26. Entire Agreement.**

The specifications and other solicitation materials associated with this Agreement and these General Terms and Conditions will constitute the entire Agreement between the parties and will supersede all prior oral or written negotiations.

## **Section 27. Insurance.**

Contractor will be required to carry insurance of the kind and in the amounts shown below for the life of the contract. Certificates for General Liability Insurance must state that the City of Saint Paul, its officials, employees, agents and representatives, and the Saint Paul Board of Water Commissioners, its officials, employees, agents and representatives are Additional Insureds. Policy must include an "all services, products, or completed operation endorsement as a sublimit to the General Liability Policy. Errors and omissions coverage must be included if the Contractor will be providing services for the City as a sublimit of the General Liability policy. Agent must state on the certificate if company carries errors and omissions coverage.

### **1. General or Business Liability Insurance**

\$1,500,000 per occurrence  
\$2,000,000 aggregate per project  
\$2,000,000 products/completed operations total limit  
\$1,500,000 personal injury and advertising

Errors and Omissions  
\$1,000,000 per occurrence  
\$1,000,000 aggregate

### **2. Automobile Insurance.**

- a. Commercial Vehicles. When commercial vehicles will be used in connection with a contract, these minimum coverage amounts are required:

Bodily Injury  
\$750,000 per person  
\$1,000,000 per accident

Property Damage  
Not less than \$50,000 per accident  
Coverage will include: hired, non-owned and owned auto

Personal Vehicles. When personal vehicles are used in connection with a contract, the City is not required to be named as Additional Insureds, but proof of insurance is required prior to commencement of activities. Contractor must provide the Board and the City with Endorsements from insurance company

Bodily Injury  
\$30,000 per person  
\$60,000 per accident

Property Damage  
\$20,000 per accident

- b. Rental Vehicles. When rental vehicles are used in connection with a contract, the Contractor will either purchase insurance from the rental agency, or provide the City with proof of insurance as stated above.

3. Worker's Compensation and Employer's Liability. Worker's Compensation coverage is required per Minnesota Statutes. Employer's Liability will have a minimum of:

\$500,000 per accident  
\$500,000 per employee;  
\$500,000 per disease policy limit.

- a. Contractors with 10 or fewer employees who do not have Worker's Compensation coverage are required to provide the City and the Board with a completed "Certificate of Compliance" (State of Minnesota form MN LIC 04) verifying their number of employees and the reason for their exemption.

4. Professional Services Coverage. Professional Liability Insurance is required when a contract is for service for which professional liability insurance is available for purchase. Professional Liability will have minimum liability limits of:

\$1,000,000 per occurrence  
\$1,000,000 aggregate

Higher liability limits may be required at the discretion of the City or the Board depending on project scope.

5. Work Scope Specific Insurance. Pollution Liability or Hazardous Waste, Builder's Risk, or other specialty insurance is required when a contract for which the insurance type will apply in the following minimum amounts:

Pollution Liability / Hazardous Waste  
\$1,000,000 per occurrence  
\$1,000,000 aggregate

Builder's Risk Insurance is required for the cost of the project.

Fireworks Insurance is required in the amount of \$5,000,000 minimum when fireworks will be used at an event to be held on City property.

Liquor Liability Insurance is required when liquor will be served at an event. Limits are dependent on the size of the event, but will not be less than:

\$1,000,000 per occurrence  
\$1,000,000 aggregate

Higher limits and/or additional insurance coverage may be required at the discretion of the City or the Board depending on project scope.

## 6. General Insurance Requirements

a. All policies will be written on an occurrence basis or as acceptable to the City of Saint Paul and the Board. Certificates of insurance must indicate that the policy is issued on an occurrence basis

b. The Contractor may not commence any work until Certificates of Insurance covering all of the insurance required for this project is approved and the Project manager has issued a notice to proceed. Insurance must remain in place for the duration of the original contract and any extension periods.

c. The City and the Board reserve the right to review Contractor's insurance policies at any time, with reasonable notice provided, to verify that City requirements have been met.

d. Nothing will preclude the the City and/or the Board from requiring Contractor to purchase and provide evidence of additional insurance if the scope of services change, if the amount of the contract is significantly increased, or if the exposure to the City or its citizens is deemed to have increased.

e. Satisfaction of policy limits required above for General Liability and Automobile Liability Insurance, may be met with the purchase of an umbrella or excess policy. Any excess or umbrella policy will be written on an occurrence basis, and if such policy is not written by the same insurance carrier, the proof of underlying policies (endorsement) will be provided with any certificate of insurance.

#### **Section 28. Counterparts.**

The parties may sign this Agreement in counterparts, each of which constitutes an original, but all of which together constitute one instrument

#### **Section 29. Electronic Signatures.**

The parties agree that the electronic signature of a party to this Agreement will be as valid as an original signature of such party and will be effective to bind such party to this Agreement. The parties further agree that any document (including this Agreement and any attachments or exhibits to this Agreement) containing, or to which there is affixed, an electronic signature will be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, "electronic signature" also means a manually signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g., via PDF) of an original signature. Any party's failure to produce the original signature of any electronically transmitted signature will not affect the enforceability of this Agreement

#### **Section 30. Additional Terms and Conditions Incorporated by Reference**

The City and/or the Board may incorporate by reference Federal, State, and/or project specific specifications or proposals. Except as otherwise provided in this Agreement, if any provision contained in the Federal, State, or project specific specifications or proposal is in conflict with, or inconsistent with, any provision in these general Terms and Conditions, the more restrictive provision will control.