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Owner: City of Muskegon

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Project Title: Water Filtration Plant – Beach Street Transmission Main Flow Meter

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Project #: 2221055

Date of Addendum: August 29, 2023

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## Notice to Prospective Bidders

In accordance with Article 1 of the General Conditions, this Addendum is hereby issued as part of the Contract Documents.

1. Any bids received on or before August 29, 2023 will be returned unopened to the bidder.
2. Replace all references in the Contract Documents to the bid date and time with **2:00 PM (local time) on Tuesday, September 12, 2023**.
3. Contract documents were previously posted on the Prein&Newhof Plan Room. Project documents as revised by this Addendum No. 1 will be posted to the City of Muskegon website at <https://www.muskegon-mi.gov/muskegon/bid-postings>.
4. **Section 00 11 13 Advertisement Subsection 3** – Replace entire subsection 3. with the following:

Contract documents may be examined online at <https://www.muskegon-mi.gov/muskegon/bid-postings> or at the offices of:

City of Muskegon, 933 Terrace Street, Muskegon, MI 49440  
Prein&Newhof, 4910 Stariha Drive, Muskegon, MI 49441  
Prein&Newhof, 3355 Evergreen Drive NE, Grand Rapids, MI 49525  
And some local plan rooms.

5. **Section 00 11 13 Advertisement Subsection 4** – Replace the first paragraph of subsection 4. with the following:

Drawings and specifications are available online at <https://www.muskegon-mi.gov/muskegon/bid-postings>. Bidder assumes sole risk for any project specifications and drawings, electronic or hard copy, obtained other than directly from the City of Muskegon. Hard copy drawings and specifications are available for the fee of 40 dollars from the City of Muskegon. Fees are payable by cash or check only and are not refunded.

6. **Section 00 11 13 Advertisement Subsection 8** – Replace the date listed of August 15, 2023 for a site inspection with September 7, 2023.

7. **Section 00 11 13 Advertisement Subsection 9** – Replace the date listed of September 12, 2023 for Owner consideration of award with October 12, 2023.
8. **Section 00 11 13 Advertisement Subsection 10** – Replace the dates listed for Substantial Completion and Ready for Final Payment with May 10, 2024 for each.
9. The following **Equal Opportunity Clause** shall be incorporated in the Contract Documents:

The Equal Employment Opportunity Clause required under Executive Order 11246, the affirmative action commitment for disabled veterans and veterans of the Vietnam era, set forth in 41 CFR 60-250.4 the affirmative action clause for handicapped workers, set forth in 40 CFR 60-741.4 and the related regulations of the Secretary of Labor, 40 CFR Chapter 60, are incorporated by reference. Bidder certifies that it complies with the authorities cited above, and that it does not maintain segregated facilities or permit its employees to perform services at locations where segregated facilities are maintained, as required by 41 CFR 60-1.8

10. The following **Local Preference Policy** shall be incorporated in the Contract Documents:

The City Commission may give local preference on purchases and contractors to local businesses. If a contractor or business is located within the city limits of the City of Muskegon, a bid may be accepted at or within 2% of the lowest non-local bid. A contractor or business located within the County of Muskegon, a bid may be accepted at or within 1% of the lowest non-local bid.

Any contractor electing to pay prevailing wage to its employees may be granted an additional 1% allowance, up to a maximum of 3%. Prevailing wage will be paid according to the newest wage determination published by the U.S. Federal Government and agreed upon before awarding a contract. Contractor will be required to sign an affidavit ensuring proper payment to employees.

11. The attached **Notice of Requirement for Affirmative Action** shall be added to the Contract Documents.
12. The attached **Anti-Kickback Act** shall be incorporated in the Contract Documents.

13. The attached **Adopted Labor Standards Provisions** shall be incorporated in the Contract Documents.

14. Contractor shall complete and submit the attached **Non-Collusion Affidavit of Prime Bidder** with its bid.

*Peter W. Brink*

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Peter W. Brink, P.E.

Enclosures:    **Notice of Requirement for Affirmative Action**  
                  **Anti-Kickback Act**  
                  **Adopted Labor Standards Provisions**  
                  **Non-Collusion Affidavit of Prime Bidder**

c:            Plan Holders

AFFIRMATIVE ACTION

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION  
TO INSURE EQUAL EMPLOYMENT OPPORTUNITY AND  
PROHIBITING DISCRIMINATION IN EMPLOYMENT**

(Federal Executive Order 11243)

Michigan: Elliot-Larson Civil Rights Act

The attention of bidders is particularly called to the requirements for ensuring that employees and applicants for employment are not discriminated against.

During the performance of this contract, the contractor agrees as follows:

The contractor will not discriminate against any employee or applicant for employment because of religion, race, color, national origin, age, sex, height, weight, familial status, marital status, disability, sexual orientation or gender identity, or status as a Vietnam Era Veteran. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment, without regard to their religion, race, color, national origin, age, sex, height, weight, familial status, marital status, disability, sexual orientation or gender identity, or veteran background. Such action shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship.

LOCAL EMPLOYMENT EFFORT

The City of Muskegon requires that the contractor must hire local trades and labor employees from the City of Muskegon, County of Muskegon and/or this SMSA (Standard Metropolitan Statistical Area) for the duration of this project, insofar as these are available to perform the necessary work. Supervisory and/or technical staff officials are exempt from this requirement.

LABOR STANDARDS PROVISION

EMPLOYMENT AND PREVAILING WAGE AND SALARY REQUIREMENTS

The attention of bidders is particularly called to the requirements covered in these documents concerning the payment of not less than the prevailing wage and salary rates specified, and in regard to conditions of employment with respect to certain categories and classifications of employees.

All laborers and mechanics employed by this contract shall be paid unconditionally and not less than once each week, and without subsequent deduction or the rebate on any account (except such payroll deductions as are permitted by the applicable regulations issued by the City of Muskegon).

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION

Executive Order 11246

1. The Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Adopted Equal Employment Specifications."
2. The goals and the timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

**GOALS FOR PARTICIPATION IN EACH TRADE**

TRADE	MINORITY	FEMALE
<b>ALL</b>	<b>14%</b>	<b>6.9%</b>

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the Contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the Contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the Contract resulting from this solicitation, the "covered area" is the City of Muskegon, County of Muskegon, and State of Michigan.

## ANTI-KICKBACK ACT

**NOTICE TO CONTRACTORS:** The Contractor shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the Copeland Anti-Kickback Act (Title 40 U.S.C., Section 276c), and any amendment or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto, and shall be responsible for the submission of affidavits required by subcontractor thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerance, and exemptions from the requirements thereof.

### Copeland “Anti-Kickback” Act Policy

The Copeland “Anti-Kickback” Act prohibits contractors or subcontractors engaged in building construction or repair from persuading an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract.

**NOTICE TO MUNICIPAL EMPLOYEES:** *Any employee who offers or approves the offer of a business consideration must ensure that it is ethical and proper in all respects. The offer of a business consideration cannot reasonably be interpreted as an attempt to gain an unfair business advantage or otherwise reflect negatively on the reputation of the City of Muskegon and/or the recipient. The business consideration shall not violate this anti-kickback policy.*

The City of Muskegon’s (Muskegon) staff, representatives, and contractors are prohibited from receiving unreasonable compensation from grantors, grantees, contractors, applicants, or any other person or individual for the purpose of receiving preferential treatment of any kind. The guidelines below define Muskegon’s policy toward kickbacks and the penalties for offering kickbacks to Muskegon employees, representatives or contractors.

**Definition: “Kickback”** for the purposes of this policy (excluding de minimis gifts), means substantial money, fees, commission, gifts, gratuity, object of value, or offer of employment, which is provided or offered, directly or indirectly, to any City of Muskegon employee, contractor or contracted employee, vendor or vendor employee, or consultant for the purpose of improperly obtaining or rewarding favorable treatment in connection with a City of Muskegon project or contract.

### **This policy prohibits any person or organization from:**

Providing or attempting to provide or offering to provide kickbacks;  
Soliciting, accepting or attempting to accept kickbacks; or  
Including, directly or indirectly, the amount of kickbacks in any contract awarded by City of Muskegon, contractors, or subcontractors.

*Any employee found to be in violation of this policy will be subject to an investigation by the City of Muskegon’s Compliance Officer to determine if the policy was infringed upon. Depending on the results of the investigation, appropriate discipline will be determined. The employee may be subject to civil or criminal penalties as provided under U.S. law.*

Any applicant, grantee, contractor, consultant, or vendor in violation of this policy will be prohibited from participation in any City of Muskegon project, contract, or activity and may be subject to additional civil or criminal penalties as provided under U.S. law (Title 40 U.S.C., Section 276c).

Muskegon reserves the right to recover damages from any person who knowingly engages in such prohibited conduct and from any person whose employee, contractor, or subcontracted employee provides, accepts, or charges a kickback.

### ADOPTED LABOR STANDARDS PROVISIONS

The following clause is applicable unless this contract is exempt under the rules and regulations of the Secretary of Labor issued pursuant to Executive Order No. 11246 of September 24, 1965 (30FR 12319), as amended. During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or natural origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous place, available to employees and applicants for employment, notices to be provided by the contracting officer setting for the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 1246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with the procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provision of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to and subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provide, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction. The contractor may request the United States to enter into such litigation to protect the interests of the United States.

