



City Clerk

NOTICE

Thank you for your inquiry regarding the City of St. Joseph project listed below:

2025 Botham Avenue Reconstruction Project
PROFESSIONAL ENGINEERING

If your consultant plans to bid on this project, please send an e-mail response to City Clerk Abby Bishop abishop@sjcity.com with the following information:

Consultant Name: _____
Project Name: _____
Consultant's Contact Person: _____
Telephone Number: _____
Fax Number: _____
E-Mail Address: _____
Postal Address: _____

The City of St. Joseph Engineering and Clerk Departments will use this information to communicate with you in the event an addendum or change to this project is issued. If you do not send this information to the City of St. Joseph, you will not receive any follow-up notification of any changes to the project.



City Clerk

Date of Issue: October 23, 2023

REQUEST FOR PROPOSALS PROFESSIONAL SERVICES

The City of St. Joseph invites interested Consultants to submit information regarding their experience, qualifications, and fees for providing professional engineering services for the 2025 Botham Avenue Reconstruction Project. The information submitted, including experience, qualifications, fee schedule, and information requested, as a part of this Request for Proposal will be reviewed for the purpose of evaluating the Consultant for further consideration. The City is desirous of receiving proposals for an amount not to exceed a specified dollar figure for the duration of the project, as described in the following pages. In the event the Consultant is unable to submit such a proposal, the Consultant is invited to submit a proposal based on the fee/compensation structure that the Consultant deems most appropriate. In any case, the proposal submitted should cover any and all expenses related to the project. **PRIMARY CONSIDERATION WILL BE GIVEN TO PROPOSALS SUBMITTED IN THE FIRM SPECIFIC DOLLAR FORMAT REQUESTED.**

Favorable pricing will be one element of the selection process, but the experience of the Consultant, qualifications, experience and ability of assigned staff, resources, ingenuity, creativity, completeness of the level of service proposed and timeliness of service proposed by the Consultant will be significant factors in award of this professional service contract. Final decision on selection of the Consultant for this project will be determined by the City of St. Joseph City Commission. The City of St. Joseph reserves the right to reject any and all proposals or parts of proposals. The City also reserves the right to waive any irregularities, inconsistencies, or take what other action is appropriate as determined by the City to be in the best interest of the City.

Questions regarding the scope of work to be accomplished may be directed to Tim Zebell, City Engineer at (269) 983-5541. Questions pertaining to the selection process, insurance requirements, or other procedural requirements should be directed to Abby Bishop, City Clerk at (269) 983-6325. Proposals may be mailed or delivered to the City of St. Joseph City Clerk, 700 Broad Street, St. Joseph, Michigan 49085. Sealed envelopes should be plainly marked:

A complete Request for Proposal may be viewed or downloaded at www.sjcity.com, or mailed by contacting the City Clerk.

REQUEST FOR PROPOSAL: PROFESSIONAL ENGINEERING SERVICES
2025 Botham Avenue Reconstruction Project

CLOSING DATE AND TIME: 3:00 p.m., December 19, 2023

PROPOSAL INDEX
PROFESSIONAL ENGINEERING SERVICES

2025 Botham Avenue Reconstruction Project

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Draft Contract

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1 **CITY OF ST. JOSEPH INSTRUCTIONS FOR PROPOSAL SUBMISSION**

1.1 Examination of Request for Proposal Documents

Before submitting a proposal, the Consultant shall carefully examine the specifications and shall fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal the sum to cover the cost of all items included on the proposal form.

1.2 Withdrawal of Proposals

Any Consultant may withdraw its proposal, either personally, by facsimile or by letter, at any time prior to the scheduled closing time for receipt of proposals.

Each proposal shall be considered binding and in effect for a period of one hundred and twenty (120) days after the closing date.

1.3 Opening of Proposals

Proposals will be opened and evaluated as soon as practical after the closing date and time set forth in cover page.

1.4 Evaluation of Proposals

It is the intent of the City of St. Joseph to evaluate all proposals quickly and be prepared to recommend an award at the January 22, 2024 City Commission meeting.

1.5 Proposal Form

1.5.1 Whenever forms are provided, each proposal shall be made on the form provided and shall be submitted in a sealed envelope bearing the title of work and the name of the Consultant, and shall be signed by an individual authorized to execute the proposal on behalf of the Consultant. The requested extra copies must be submitted with the original proposal.

1.5.2 Modifications: Alternate written proposals submitted may be considered; however, final determination as to suitability and compliance with specifications of the City will lie with the City. It is recommended that if an alternate proposal is to be suggested that the Consultant provide both a proposal that meets all specifications and any alternate proposals. In this way the Consultant can have its alternate considered, but if the alternate is not acceptable the proposal meeting specifications can still be considered.

1.5.3 Delivery of Proposals: Proposals shall be delivered by the time and to the place stipulated in the Request for Proposals. It is the sole responsibility of the Consultant to see that its proposal is received in the proper time. Any proposals received after the closing date and time will be returned unopened.

1.6 Non-Discrimination

The Contractor agrees to comply with the Federal Civil Rights Act of 1964 as amended; the Federal Civil Rights Act of 1991 as amended; the Americans with Disabilities Act of 1990 as amended; the Elliott-Larsen Civil Rights Act, Article 2, Act no. 453, Public Act of 1976 as amended; the Michigan Persons with Disabilities Civil Rights Act, Article 2, Act. No. 220; Public Act of 1976, as amended, and all other applicable Federal, State, and Local laws and regulations. Specifically, Consultants, contractors and subcontractors shall not discriminate against any employee or applicant for employment with respect to such person's hire, tenure, terms,

conditions, or privileges of employment, or any matter directly or indirectly related to employment because of such person's height, weight, race, color, religion, national origin, ancestry, age, marital status, sex or disability, as defined by law. Breach of this covenant may be regarded as a material breach of the contract.

Consultant, contractors and subcontractors agree to abide by Chapter 9, Article X of the City of St. Joseph Code of Ordinances, and shall not discriminate against in employment, accommodations, or services because of race, color, religion, national origin, age, sex, sexual orientation, gender identity, height, weight, marital status, or because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Breach of this covenant may be regarded as a material breach of the contract.

The City of St. Joseph in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color or national origin in consideration for an award.

1.7 Indemnity and Insurance

1.7.1 Indemnity:

To the fullest extent permitted by Laws and Regulations, the Consultant shall indemnify and hold harmless the City and its officers, directors, employees, agents and consultants from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the performance of the Work or from the failure to comply with any covenant or term of the contract, provided that any such claim, cost, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom or (ii) is caused in whole or in part by any act or omission of the Consultant, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any act or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such person or entity.

In any and all claims against the City or any consultants, agents, officers, directors or employees of the City by any employee (or the survivor or personal representative of such employee) of the Consultant, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation above shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant, Contractor or any such Subcontractor, Supplier or other person or organization under workers' compensation Acts, disability benefit Acts or other employee benefit Acts.

Insurance coverage required by the Consultant constitutes the minimum requirements and those requirements shall in no way lessen or limit the liability of the Consultant under the terms of the contract. The Consultant shall procure and maintain at Consultant's own cost and expense any additional claims or amounts of insurance that, in the judgment of the City, may be necessary for Consultant's proper protection in the prosecution of the work.

1.7.2 Insurance:

During the term of the services provided as part of this RFP, the successful bidder must procure and maintain the following insurance with carriers acceptable to the City and admitted to do business in the State of Michigan with a minimum of an A- Rating by AM Best, and provide proof of the same to the City:

- Worker's Compensation Insurance, including employers' Liability coverage, in accordance with Michigan law.
- Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$2,000,000 per occurrence and \$4,000,000 aggregate. Coverage shall include the following extensions: A.) contractual liability, B) independent contractors coverage, and C.) broad form general liability extensions or equivalent.
- Motor Vehicle Liability Insurance, including Michigan No-Fault coverages, with limits not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. Coverage shall include all owned vehicles, non-owned vehicles, and hired vehicles.
- The Commercial General Liability Insurances shall include an endorsement naming as an additional insured the City of St. Joseph, all elected and appointed officials, employees, volunteers, boards, commissions, and/or authorities and boards, including members, employees and volunteers thereof.

Professional Liability Coverage (errors and omissions) covering an actual or alleged error, statement, act, omission, neglect or breach of official duty, including misfeasance, malfeasance, and non-feasance - at least \$3,000,000/claim and aggregate.

All insurance shall include an endorsement that contains a 30-day advance written notice of change in coverage or cancellation to the City Manager, City of St. Joseph, Michigan, 700 Broad Street, St. Joseph, Michigan 49085.

THE CITY OF ST. JOSEPH, ITS AGENTS, ELECTED OFFICIALS, AND EMPLOYEES, SHALL BE INCLUDED AS ADDITIONALLY NAMED INSURED WITH RESPECT TO ALL LIABILITY POLICIES HEREIN (WITH THE EXCEPTION OF PROFESSIONAL LIABILITY AND WORKER'S COMPENSATION COVERAGE) WHICH SHALL BE INDICATED ON ALL APPLICABLE CERTIFICATES OF INSURANCE.

If an "occurrence" policy is unavailable for the professional liability coverage, please include a statement from your insurance agent or broker indicating non-availability of the occurrence form. Under these circumstances, a "claims made" form will be considered if the Consultant keeps the policy in force, or purchases "tail" coverage for a minimum of 3 years after the termination of the contract.

It shall be the responsibility of the Consultant to provide similar insurance for each subcontractor, or to provide evidence that each subcontractor carries his own insurance in like amounts, prior to the time such subcontractor proceeds to perform under the contract.

The Consultant's insurance policy shall be primary for the additional insured, and not excess over any policy held by the additional insured. Coverage shall be maintained throughout the course of the project. The stated insurance requirements shall not be interpreted to limit the liability of the Consultant. All deductibles and SIRs are the responsibility of the Consultant.

1.8 Representations

If any questions or responses require revision to the Request for Proposal as originally published, such revisions will be by formal amendment only. If the Request for Proposal includes a contact person for technical information, Consultants are cautioned that any oral or written representations made by this or any person that appear to change materially any portion of the Request for Proposal shall not be relied upon unless subsequently ratified by a written addendum to the Request for Proposal issued by the City Engineer or City Clerk. For determination as to whether any representation made requires that an amendment be issued, contact the City Engineer for questions related to scope of work and the City Clerk for all other questions.

1.9 Project Information Sheet

Responsive proposals must include a fully executed interested party information sheet located in the document proposal, Section 4.0. This document is self-explanatory.

1.10 Concept Statement

After fully evaluating proposal requirements and the project description, each Consultant shall develop a concept statement that will describe the proposed method for project implementation. The City will use the concept statement to determine the degree of understanding of the project, evaluate methodology proposed and compare feasibility of the methods proposed in evaluating proposals received. The concept statement should be limited to five 8-1/2 " x 11" page(s) to be double-spaced. The estimated number of work hours reflected in the lump sum proposal shall be indicated in the Project Information Sheet Item Number 4.6.

1.11 Responsive Proposals

At a minimum, responsive proposals shall include the following:

- 1.11.1 A project information sheet in format provided in the Request for Proposal package (5 copies)
- 1.11.2 A project concept statement (5 copies)
- 1.11.3 A proposal cost summary page in format provided in the Request for Proposal package (5 copies). Maximum consideration will be given to projects quoted in the single not-to-exceed project cost format.
- 1.11.4 Electronic version of the items listed in 1.11.1 through 1.11.3 in a pdf file format.

Interested Consultants may also provide any additional information not otherwise requested that may aid the responsible parties in award of this professional service contract. Unnecessarily elaborate responses beyond that sufficient to present a complete and effective response to the solicitation are not desired and may be construed as an indication of a lack of cost consciousness. Unless specifically requested in the solicitation, elaborate art work, corporate brochures, lengthy narratives, expensive paper, specialized binding, and other extraneous presentation materials are neither necessary nor desired.

1.12 Award Criteria

Favorable pricing will be one element of the selection process, but all of the following factors will be used in evaluating proposals received:

- 1.12.1 Responsiveness to Request for Proposal specifications.

- 1.12.2 Project Cost.
 - 1.12.3 Qualifications of Consultant.
 - 1.12.4 Qualifications and experience of the staff to be assigned to the project.
 - 1.12.5 References.
 - 1.12.6 Demonstrated capability to perform the type of work requested.
 - 1.12.7 Understanding of project requirements including the estimated number of hours of work.
 - 1.12.8 Professional creativity including proposal preparation and presentation.
 - 1.12.9 Scope of services to be provided.
 - 1.12.10 Ability to meet the proposed schedule for the services to be provided.
- 1.13 Evaluation of the above criteria shall be the responsibility of City Staff and the City of St. Joseph City Commission. Regretfully, the number and quality of proposals received may logistically prohibit the possibility of providing every Consultant with the opportunity to make a formal presentation. Therefore, Consultants are encouraged to take maximum advantage of representing the qualities of the Consultant through its proposal presentation.

2 PROFESSIONAL ENGINEERING SERVICE REQUIREMENTS

2.1 Professional Services Minimum Requirements

The scope of professional services to be provided shall be in compliance with the following provisions. Interested consultants are expected to comply with all conditions outlined in the request for proposals, but if exception is taken to any provision, the exception taken shall be annotated and explained on a plain bond sheet that must be attached to the proposal page.

2.2 Scope of Services

2.2.1 Background

The anticipated limits of this project is Botham Avenue from South State Street to Niles Avenue (M-63). The scope of the project is anticipated to include full roadway reconstruction including water main, storm sewer and replacement of sanitary sewer services on a recently lined sewer main. A jack and bore under Niles Avenue to the easterly intersection of Botham Avenue and Niles Avenue is also included. Lead service line replacements were completed in advance of the project. All work is to be confined to City and MDOT Right-of-Way, on City property or within existing utility easements. The City is programmed to receive federal aid for this project as part of the Twin Cities Area Transportation Study (TwinCATs) Transportation Improvement Program (TIP). The City is also in the process of applying for State Revolving Fund (SRF) loan funding.

2.2.2 The Consultant shall develop plans suitable for approval and bidding the project through MDOT including all required work, details and specifications. It is the intent of the City to use the same Consultant for construction administration and engineering services,

however, authorization to proceed with the construction administration and inspection service will be contingent upon federal aid obligation and MDOT award of the project.

- 2.2.3 Funding sources for this project include the City Street Improvement, City Water Improvement and City Sewer Funds in addition to federal road grant funding noted above. A. State Revolving Fund (SRF) low interest loan through the Michigan Department of Environment, Great Lakes and Energy (EGLE) will also be used so long as the City scores within the fundable range on the project priority list(s).

2.3 Proposed Project

- 2.3.1 The project consists of complete reconstruction of Botham Avenue from South State Street to Niles Avenue. Specifically, the intention is to replace the existing 6” water main on Botham Avenue with 12” water main as identified in the 2016 Water System Reliability Study and 2022 DWSRF Project Plan Amendment. The existing 10” sanitary sewer was lined and sanitary sewer manholes were rehabilitated in 2022 reducing the expected scope on the wastewater collection system to sanitary sewer service replacements. Verification of active sewer services will be required to determine services that need to be re-established versus plugged will also be required. Replacement of storm sewer within the project limits adhering to the City’s MS4 NPDES permit will also be required.

The Consultant shall also assist the City in determining the type of pavement (hot mix asphalt or concrete) to specify for the project. Mix designs, geosynthetics and life cycle costs shall be considered in the analysis. Lead service line replacements have been completed in the project area therefore water service work is expected to be limited to public side replacements only. If a lead service is encountered, replacement will be required to comply with the new State of Michigan Lead and Copper Rule.

The Botham Avenue Reconstruction Project is included on the current Transportation Improvement Plan for federal street funding assistance. The City also intends to use SRF low interest low funding for the project so long as the applications scores within the fundable range. The Botham Avenue Reconstruction Project is included in the current DWSRF and CWSRF project plans.

2.3.2 Level of Effort Required

The project is included in the Twin Cities Area Transportation Study (TwinCATs) Transportation Improvement Program (TIP) list. The Consultant shall be responsible for complying with all MDOT and FHWA rules and policies for these types of projects. TIP funding for the Project will be available in October 2024.

The level of effort required by the Consultant for the 2025 Botham Avenue Reconstruction Project includes, but is not limited to:

- A. Verify accuracy of existing data and drawings.
- B. Assist the City in discussions with MDOT and EGLE to coordinate the requirements of the TIP and SRF programs.
- C. Establish the right-of-way limits, confirm that no right-of-way procurement or easements are required for the project.
- D. Assist the City with SRF administrative tasks including but not limited to providing information for the Rate Methodology, assistance and review of the Part I, II and III applications and completion of the Alternatives Justifiable Expenditures (AJE) if

needed.

- E. Assist the City in conducting any public hearings and/or informational meetings to explain the project to affected property owners. Up to two public meeting are anticipated prior to construction. Although rare, the Consultant shall also attend City Commission Meetings as may be requested.
- F. Prepare construction plans and specifications and cost estimates in accordance with MDOT – Local Agency Program, EGLE and City of St. Joseph specifications (see 2.3.5 C) and regulations (including all necessary soil testing) for:
 - (i) Roadway reconstruction and resurfacing.
 - (ii) Topographic surveying on State Plane Coordinates to match the City’s 1999 topographic aerial datum.
 - (iii) MDOT administration. The Consultant shall be designated as the Project Engineer and submit all required plans, applications and perform all construction administration, staking, testing and the like to meet MDOT requirements.
 - (iv) Soil borings and pavement cores to a minimum depth of 2 feet below the deepest utility and as needed for the jack & bore within MDOT’s right-of-way.
 - (v) Plans sheets including: Title Sheet, removals, details, cross-sections, plan and profiles, traffic maintenance and control plans, pavement marking and permanent signage plans.
 - (vi) Roadway cross sections at 25-foot intervals and at all driveways.
 - (vii) ADA sidewalk ramp design and staking.
 - (viii) Sanitary sewer, storm sewer and water main utility design. Should the construction impact water and/or sanitary services, water services are replaced to the curb stop, sanitary services to a clean-out in the tree lawn and storm sewer connections may be provided for ground water/sump pump discharges from properties within the construction influence area.
 - (ix) Estimation of quantities and cost estimates.
 - (x) Preparation and submittal of all necessary permit applications. Permit fees to either be paid directly or reimbursed by the City.
 - (xi) Meetings with the City, MDOT, EGLE, BCDC, St. Joseph Public Schools, Corewell Health and local businesses as needed.
 - (xii) Submit all plans, specifications and cost estimates for review and approval by City of St. Joseph, EGLE and MDOT.
 - (xiii) Preparation of record drawings for review and approval of the City.

2.3.3 Information Furnished by the City

The City of St. Joseph has limited information including the TIP application, 2016 General Plan & Reliability Study, 2022 CWSRF Project Plan, 2022 DWSRF Project

Plan, utilities in GIS, sanitary, storm and water main atlases, record drawings from nearby projects, sanitary sewer videos, 2016 LIDAR (topographic information only), 1999 topographic aerials in CAD, and water service replacement documentation that may be used by the Consultant for this project.

2.3.4 Design Scope

The design effort has been divided into three different phases as follows:

A. Conceptual Design Phase

During this phase, the Consultant shall be responsible for the following (where applicable) as a minimum:

- (i) Meet with City of St. Joseph staff to review scope, work plans, schedule and define specific design features.
- (ii) Meet with and confirm the necessary MDOT, EGLE and City program and design standards, regulations and requirements.
- (ii) Review Lead Service Line Replacement records with City staff to confirm all private side service replacement work is complete.
- (iii) Provide concepts for the cross-town bike route called for in the City's 2016 Master Plan.
- (iv) Identify traffic control plan requirements, including but not limited to the MDOT traffic signal at Niles Avenue and Botham Avenue.
- (v) Prepare conceptual plans and topography survey.
- (vi) Evaluate potential safety improvements and assist City staff with the communication of any recommended changes that involve MDOT.
- (vii) Identify Local, State and Federal permits that may be required.
- (viii) Evaluate site for potential environmental concerns and potential impacts to the design and construction. Inform the City if outside environmental services are recommended.
- (ix) Submit NEPA documentation, including but not limited to MDOT Form 5322.
- (iv) Identify the soil investigation requirement including, but not limited to soil borings for the roadway design, utility design, and the jack and bore of the watermain within MDOT's right-of-way.
- (v) Confirm or revise the project's preliminary cost estimate.

B. Preliminary Design Phase

During this phase, the Consultant shall develop preliminary design documents in accordance with the approved Conceptual Design phase. The purpose of this phase of the design is to prepare drawings and calculations and to outline specifications and cost estimates as necessary to permit review by the City. The

information developed during the Preliminary Design Phase shall be assembled in a Preliminary Design Package which shall contain the following information (where applicable) as a minimum:

- (i) Preliminary roadway plan and profile sheets.
- (ii) Preliminary design including roadway and utility reconstruction/rehabilitation plans, roadway cross sections, traffic control and construction phasing plan.
- (iii) Preliminary cost estimates with suitable backup quantity takeoff and cost information. Cost estimates shall be prepared on the basis of available current pricing.
- (x) Draft permit applications.
- (v) Obtain soils information (where appropriate).
- (vi) Assistance with SRF documentation/administration as may be needed.
- (xi) Program Application/Grade inspection to MDOT.

C. Final Design Phase

During this phase, the Consultant shall develop the final design documents in accordance with the approved Preliminary Design. This phase is comprised of two stages of completion. The first stage of completion shall result in project progress completion of approximately 75% to 90% as necessary to permit review by the City.

The information developed during the first stage of the Final Design Phase shall be assembled in a Final Design Package (four bound copies) which contains the following information (where applicable) as a minimum:

- (i) Reproducible construction drawings.
- (ii) Edited versions of specifications, additional technical specifications and special provisions for MDOT and EGLE submittal.
- (iii) Final cost estimate by specification section as previously described.
- (iv) Grade inspection meeting and plan revisions as requested by the City, MDOT and EGLE.
- (v) Complete and submit permit applications.

- D. The second stage of the Final Design Phase shall include the necessary effort to complete the project as previously described (including all final review items requested by the City).

2.3.5 Design Criteria

The Consultant shall prepare plans and specifications which are consistent with standard design practice, and meet the overall design requirements of MDOT, EGLE and the City of St. Joseph. The following design criteria are described by technical discipline and

shall be followed unless deviation is approved by the City.

- A. All design work shall consist of showing all new or modified utilities, services, roadways, drives, curbs, non-motorized paths, sidewalks, structures, fences, gates and removal of existing features where required. All grades shall be designed so as to blend in with existing conditions to the extent possible. Utilities shall be relocated or extended as required for the proposed work.
- B. The Consultant shall be fully responsible for obtaining sufficient pavement corings and soil borings and interpretation necessary to adequately determine existing conditions to design the proposed work. Borings shall be planned for intervals of no more than 250 feet and as needed to meet MDOT jack & bore permit requirements.
- C. MDOT, EGLE and City standards shall be followed for roadway and utility design where applicable as determined by the City Engineer. Specifications for utility and road work are to be drafted based upon specifications used for recent City projects. Examples of specifications will be provided.
- D. All design shall be compatible with current MDOT, EGLE and City specifications and/or requirements.

2.3.6 Drawing Requirements

All drawings shall be prepared in a professional manner in accordance with the following criteria:

- A. The Engineer's Drafting Standards shall be used as the basis for drawing requirements unless otherwise directed by the City. The plans shall be designed in English units.
- B. Preliminary plans may be prepared utilizing reproducible or Mylar. Drawing revisions, which are normally anticipated following review of preliminary plans shall be performed by the Consultant without additional compensation except for changes in scope.
- C. Final design drawings shall include a cover sheet prepared by the Consultant listing all drawings included.
- D. The Consultant shall submit drawings to MDOT and EGLE in the hard copy and electronic formats required by the agencies.

2.3.7 Right of Way Services

No easement or Right-of-Way acquisition services are anticipated for the full reconstruction project. Locating and maintaining all work within Right-of-Way, City Property and existing easements shall be required.

2.3.8 Specifications

All specifications shall be prepared in a professional manner in accordance with the following criteria:

- A. Plans and Specifications - Prepare all plans and specifications to satisfy MDOT, EGLE and City requirements.

- B. Incorporate local technical specifications.
- C. Submit all plans and specifications to MDOT in the required format for bidding.

2.3.9 Bidding Administration

Provide staff and support necessary to assist MDOT during the bidding of the project.

2.3.10 Length of Service

The Consultant's services shall be required up to and including the final construction acceptance by MDOT and the City. Authorization to proceed with construction phase services shall be as detailed in Section 2.2.2

2.3.11 Responsibilities of the City

The City Engineer will closely follow progress of the work and will provide the following:

- A. Act as the project manager for the City. The City Engineer shall be designated as the Project Supervisor in the MDOT Program Application.
- B. Ensure compliance of all financial obligations.
- C. Transmit instructions, receive information, interpret and define the City policies and provide decisions in a timely manner.
- D. Furnish pertinent City records and/or information for use by the Consultant.
- E. Provide access to public lands as required by the Consultant.
- F. Promptly notify the Consultant when the City Engineer, MDOT or EGLE observes or becomes aware of any deviation in the project.
- G. Review progress drawings and specifications and offer in writing decisions pertaining thereto in a timely fashion.

2.3.12 Construction Scope - Administration of Construction Contract

Duties, responsibilities and limitations of authority of the Consultant shall not be restricted, modified or extended without written agreement of the City.

- A. Project Administration Coordinate and accomplish all tasks required to administer this project. Coordinate with City personnel. All construction-engineering services shall be in accordance with current MDOT and City of St. Joseph policies and procedures. The Consultant shall follow all MDOT construction administration standards including the use of field manager or current MDOT construction administration software program. The Consultant shall attend and conduct weekly meetings throughout the construction period.
- B. Inspection Provide all record drawing information, necessary field staking, testing, full-time daily inspection on all underground work and daily full-time inspection as needed on surface work, and appropriate paperwork regarding the above activities.
- C. Material Testing The Consultant shall perform all required material testing and inspection pursuant to City, EGLE and MDOT procedures. Testing shall

include, but not be limited to: utility, soil, backfill, aggregate, compaction, concrete and bituminous materials.

- D. Citizen Complaints Address citizen complaints and concerns in a timely and satisfactory manner.
- E. Contractor Pay Requests: Based on the observations of the Consultant and evaluations of the Applications for Payment of the Contractor, the Consultant shall review and certify the amounts due the Contractor.
- F. Record Drawings The Consultant shall prepare record drawings and documents showing the actual “as-built” conditions upon completion of the construction. These plans will be delivered to the City two weeks following the request for acceptance of the facility. Record drawings shall consist of three sets of full-sized plans and one set of electronic documents. Electronic record drawings shall be provided in CAD (AutoCAD 2018 version), GIS (City schema will be provided) and pdf formats.
- G. The Consultant shall prepare Change Orders/Contract Modifications and Construction Change Directives, with supporting documentation and data if deemed necessary by the Consultant for the approval of MDOT and the City and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.
- H. The Consultant certification for payment shall constitute a representation to the City based on the observations of the Consultant at the site and on the data comprising the application for payment of the contractor, that the work has progressed to the point indicated and that, to the best of the knowledge of the Consultant, information and belief, the quality of work is in accordance with the contract documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents correctable prior to completion and to specific qualifications expressed by the Consultant. However, the issuance of a certificate for payment shall not be a representation that the Consultant has (1) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the City to substantiate that right to payment by the contractor, or (2) ascertained how or for what purpose the contractor has used money previously paid on account of his contract sum.
- I. The Consultant shall have the authority to reject Work which does not conform to the Contract Documents. Whenever the Consultant considers it necessary or advisable for implementation of the intent of the Contract Documents, the Consultant will have authority to require additional inspection or testing of the Work in accordance with provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Consultant nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Consultant to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.
- J. The Consultant shall review and approve or take other appropriate action upon submittals of the Contractor such as Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information

expressed in the Contract Documents. The action of the Consultant shall be taken with such reasonable promptness as to cause no delay in the Work while allowing sufficient time in its professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The review of the Consultant shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Consultant, of construction means, methods, techniques, sequences or procedures. The approval of the Consultant of a specific item shall not indicate approval of a system of which the item is a component. When professional certification of performance characteristics of materials or systems are required by the Contract Documents, the Consultant shall be entitled to rely upon such certification to establish that the materials or systems will meet the performance criteria required by the Contract Documents.

3 PROFESSIONAL SERVICE REQUIREMENTS

3.1 Available Information

The City of St. Joseph has limited information as previously identified in section 2.3.3.

3.2 Funding

Federal funding in the amount of \$687,540 is programmed in the Twin Cities Area Transportation Study (TwinCATs) Transportation Improvement (TIP) Program respectively for fiscal year 2025. Total project cost is estimated at \$1,520,000 with construction at \$1,250,000. City match for and engineering services funding is budgeted in the City of St. Joseph, Street Improvement, City Sewer and City Water Improvement Funds. The City is also pursuing low-interest SRF funding to finance the eligible items related to water supply.

3.3 Coordination of Work Required

Unless specifically identified as work to be provided by the City staff, the Consultant shall furnish supervision and all labor, equipment, supplies, materials (except as otherwise noted herein), and perform satisfactorily the professional services at the frequencies and during the times as specified herein. The professional service shall include all functions normally considered a part of completing this work in a satisfactory manner. Compensation to cover any and all expenses shall be included in the proposed project cost.

3.4 Default

The City may, by written notice to the Consultant, terminate the right to proceed as to the whole or any part of the contract (1) if the Consultant fails to perform the services within the time specified or any extension thereof, (2) so fails to make progress as to endanger performance of the contract in accordance with its terms, or (3) the Consultant fails to perform any other provisions of the contract. The Consultant shall not be subject to this provision if failure to perform the contract arises out of any cause beyond its control and without any fault or negligence by the Consultant or subcontractors.

3.5 Extra Work

During the period of this contract there may be occasions when extra services are required which are not a part of this contract. The Consultant shall indicate the hourly rate to be paid for extra work on Section 4.8 of the Project Information Sheet. Rates for any expense items related to extra work shall also be indicated on the Project Information Sheet (i.e., copy/duplication, telephone calls, lodging, mileage, etc.). The hourly rates provided shall be inclusive of all labor, overhead, and profit. Costs for services provided in these situations will be negotiated at the time of each occurrence and will be based on the rates quoted. Any such work must have pre-approval of the City Contract Administrator. The City will not be responsible for additional invoices for work or materials that did not have written pre-approval.

3.6 Status of Consultant

The Consultant and its employees at all times shall be considered as independent contractors and not as City employees. In delivering services, the Consultant shall exercise all supervisory control and general control over all day-to-day operations, including control over all workers' duties, payment of all wages to its employees, and the right to hire, fire, and discipline all employees. As an independent contractor, payment to the Consultant under this contract shall not be subject to any withholding for tax, social security, or other purposes, nor shall the Consultant or employees of the Consultant be entitled to any City of St. Joseph fringe benefit programs.

3.7 Time and Progress

It is understood and agreed that TIME IS OF THE ESSENCE in respect to the work contemplated hereunder, and the Consultant agrees to do the work covered by the contract in conformity with the provisions set forth herein and to prosecute all work with all due diligence, so as to complete any work required under the contract within the shortest reasonable period of time. The Consultant shall identify on the Cost Summary Proposal Page the estimated time necessary to complete each phase of the project in as short a period of time as possible that will allow for an overall high-quality project.

It is of utmost importance that the following timetable be adhered to:

<u>Phase</u>	<u>Completion Date</u>
Consultant Proposals Due	December 19, 2023
Consultant Interviews (week of)	January 8, 2024
Award Contract to Consultant	January 22, 2024
Begin Design, NEPA, ROW Certification Process	January 23, 2024
Meet with MDOT LA, EGLE WIFS staff (week of)	February 19, 2024
Submit NEPA Documentation MDOT Form 5323	April 8, 2024
Submit Acceptable GI Package to MDOT LAP	August 5, 2024*
Approximate Grade Inspection Date	September 4, 2024*
Submit Final ROW Certification	September 27, 2024*
SRF Part I & Part II Application Due	November 27, 2024*
Advertise for Bids	November 29, 2024*
Bid Opening	January 3, 2025*
SRF Tentative Project Award	January 27, 2025*
SRF Order of Approval	February 26, 2025*
Construction Window Begins	April 7, 2025*
Construction Completion on or before	November 14, 2025*

The MDOT Planning Guide and SRF Milestone Schedules have not been established, therefore the dates marked with an asterisk (*) are subject to change, the Consultant is expected to make all necessary submittals for a January 2025 MDOT bid open. Please note this timeline is not meant to hold the Consultant responsible for conditions over which it has no control, but is intended to

provide the Consultant with direction on how the project must progress using high-quality standards necessary to implement a first-class and workmanlike project.

3.8 Employees of the Consultant

The Consultant shall at all times be responsible for the conduct and discipline of its employees and/or any subcontractor or persons employed by the Consultant. All workers must have sufficient knowledge, skill, and experience to properly perform the work assigned to them. Any worker employed by the Consultant, who in the opinion of the City Contract Administrator, does not perform work in a skilled manner, or acts in a disorderly or intemperate manner, or engages in sexual harassment or other forms of inappropriate behavior as defined by the City Contract Administrator, shall, at the written request of the City Contract Administrator, be removed immediately from the project and shall not be utilized again in any portion of the work without approval of the City Contract Administrator.

3.9 Laws and Municipal Ordinances

The Consultant shall keep fully informed of and abide by all federal, state and local laws, rules and regulations in any manner, including those affecting persons engaged or employed in the work, or the equipment and materials used in the work, and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

3.10 City Contract Administrator

The City Engineer, or his designated representative, shall be the City Contract Administrator. The City Contract Administrator will approve payments, oversee schedules, and generally be responsible for overseeing the execution of the contract.

3.11 Supervision by Consultant

The Consultant will supervise and direct the work of its employees. The Consultant will be solely responsible for the means, methods, techniques, sequences, and procedures of the professional services performed. The Consultant will appoint a Project Supervisor who shall have been designated in writing by the Consultant at the time the Request for Proposal is submitted. The Project Supervisor shall have full authority to act on behalf of the Consultant and all communications given to the Project Supervisor shall be as binding as if given to the Consultant. The Project Supervisor shall be present to the extent necessary so as to perform adequate supervision and coordination of the work.

3.12 Billing and Payment

The Consultant shall present an invoice in duplicate at the appropriate identified times, billing for services rendered. The billing shall be at the contracted price. The billing shall reference the appropriate purchase order number. The billing shall contain, if applicable, adjustments for additions, deletions, or changes in service. The City will strive to pay the billed amount within thirty (30) days after receipt of invoice, but the City will not pay any interest penalties for late payments.

3.13 Assignability

The Consultant agrees that the work proposed shall be accomplished by the Consultant identified under Section 4.2 and any subcontractors identified under Section 4.9. The Consultant agrees that any work under the contract to be assigned to another consultant, and/or subcontractor shall be done only with the prior approval of the City Contract Administrator.

3.14 Copyright

The Consultant shall irrevocably transfer, assign, set over, and convey to the City of St. Joseph all rights, title, and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to the Contract. The Consultant further agrees to execute such documents as the City of St. Joseph may request to effect such transfer or assignment. Further, the Consultant agrees that the rights granted to the City of St. Joseph by this paragraph are irrevocable. The Consultant's remedy in the event of termination of or dispute over any agreement entered into as a result of this solicitation shall not include any right to rescind, terminate, or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of any agreement entered into as a result of this solicitation shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this paragraph.

4 CITY OF ST. JOSEPH PROJECT INFORMATION SHEET

If adequate space is not provided for a complete response, please attach additional pages as necessary and identify by number. Proposals will not be considered responsive unless all requests for information are provided. Please use such terms as none, not applicable, unknown, etc., if requested information does not pertain or cannot be provided.

4.1 Please indicate the response that best describes your business:

____ Sole Proprietor ____ Partnership ____ Corporation

____ Other (please explain) _____

4.2 Consultant Name: _____

Address: _____

Telephone Number: _____ Fax: _____

First Date in Business: _____

4.3 Is your Consulting Firm involved in any proceedings that may affect the ability of the Consultant to continue under the current Consulting Firm name for the duration of the project?

____ Yes ____ No

If yes, please explain (use additional page)

4.4 Is your Consulting Firm up for sale? ____ Yes ____ No

If yes, please explain (use additional page).

4.5 Primary staff to be assigned to the project:

Owner/Partner: _____

Project Supervisor: _____

Principal Professional(s): _____

Other Significant Technicians and Employees to be Assigned:

Please provide resume for the Consultant’s Project Supervisor, Project Engineer and principal professionals to be assigned at time of proposal submission for personnel listed above.

4.6 Estimated project hours of work reflected in the lump sum proposal are as follows: Design phase includes all work up to and including pre-construction conference. Construction phase shall be based on 45 working days at 10 hours per day.

	<u>Design Phase</u>	<u>Construction Phase</u>
4.6.1 Owner/Partner:	_____ hours	_____ hours
4.6.2 Professionals:	_____ hours	_____ hours
4.6.3 Technicians:	_____ hours	_____ hours
4.6.4 Clericals:	_____ hours	_____ hours
4.6.5 Others (Please Identify)		
_____	_____ hours	_____ hours
_____	_____ hours	_____ hours

4.7 Experience: Please indicate below the experience of the individuals listed in Item 4.5 from your Consulting Firm pertaining to the specific type of work listed. Please restrict projects listed to those projects performed by the individuals identified for the City of St. Joseph project. Under the Self-Evaluation Section, please rate how you believe the contact person in charge of the project would rate services if they were contacted by the City of St. Joseph and asked to rate overall satisfaction with the services provided by your Consulting Firm. Please restrict your Self-Evaluation responses to the terms Excellent, Good, Satisfactory, and Unsatisfactory.

4.7.1 Please list professional service projects similar to work requested for this project where staff identified in Section 4.5 have provided professional services.

<u>Name of Unit/ Company</u>	<u>Project Contact Person</u>	<u>Phone</u>	<u>Construction Cost</u>	<u>Self Evaluation</u>
----------------------------------	---------------------------------------	--------------	------------------------------	----------------------------

- A.
- B.
- C.

(If more than three projects have been performed, please list the top three that you feel are most comparable to the scope of work being requested. Do not list projects over 10 years old.)

4.7.2 Please list other related projects that staff identified in Section 4.5 have provided professional services for.

<u>Name of Unit/ Company</u>	<u>Project Contact Person</u>	<u>Phone</u>	<u>Construction Cost</u>	<u>Self Evaluation</u>
----------------------------------	---------------------------------------	--------------	------------------------------	----------------------------

- A.
- B.
- C.

(If more than three projects have been performed, please list the top three that you feel are most comparable to the scope of work being requested. Do not list projects over 10 years old.)

4.7.3 List any other professional service projects that you feel may indicate the ability of your consultant to perform the work requested {use additional page(s) if necessary}.

4.8 If it becomes necessary to perform extra work as defined in Section 3.5, the following hourly rates will apply:

4.8.1 Owner/Partner: \$_____ /hour

4.8.2 Professionals: \$_____ /hour

4.8.3 Technicians: \$_____ /hour

4.8.4 Clericals: \$_____ /hour

4.8.5 Others (Please Identify)

_____ \$_____ /hour

_____ \$_____ /hour

Rates quoted should be inclusive of all expenses including, but not limited to personnel services, fringe benefits, overhead, and profit required by the Consultant.

4.8.6 Please list any expense rates that may apply to extra work. If no expense rates are indicated, no expenses will be allowed. Expenses and Charge Back Rates:

4.9 Subcontractors

4.9.1 Do you propose to use any subcontractors to perform work in accordance with this proposal? ____Yes ____No. (If yes, please identify subcontractor and work to be performed.)

4.10 A project Information Sheet (5 copies), and Project Concept Statement (5 copies), and a Request for Proposal Cost Page (5 copies) and an electronic version of the same are required for submission as a part of these specifications. Have all items been included with your proposal?

____Yes ____No If answer is no, please explain.

4.11 The award of the contract for professional services is based upon the draft contract form attached. Is this document, as proposed, acceptable to you if you were to be awarded the bid? ____Yes
____No.

If no, please explain in detail any provisions that would need to be changed, added, or deleted.
(Use additional page(s) if necessary.)

4.12 Section 3.7 establishes a consultant timeline for this project. Can your Consulting Firm implement the project fully and professional within the timeline outlined? ____Yes ____No.

If no, please explain why the timeline cannot be met and provide a timeline below that addresses the major landmarks addressed in Section 3.7 {use additional Page(s) if necessary}.

I certify that all information provided above is complete, accurate, and to the best of my knowledge, true. I further certify that I am fully authorized by the Consulting Firm identified in Question 4.2 above to execute this information sheet on behalf of that Consultant.

I hereby state that I have read, understand, and agree to be bound by all terms of this Request for Proposal Document.

CONSULTANT: _____

BY: _____
(Signature)

NAME: _____
(Please Print

POSITION: _____

TELEPHONE: _____

5 CITY OF ST. JOSEPH REQUEST FOR PROPOSALS -- COST SUMMARY

I the undersigned, certify that I have read and fully understand all of the specifications supplied by the City of St. Joseph in this Request for Proposals.

ALL EXCEPTIONS TAKEN TO SPECIFICATIONS SUPPLIED BY THE CITY OF ST. JOSEPH ARE ATTACHED AND IDENTIFIED BY NUMERICAL REFERENCE TO THE REQUEST FOR PROPOSAL SECTION ON A PLAIN SHEET IMMEDIATELY FOLLOWING THE PROPOSAL PAGE.

I propose to provide professional services as specified in the Request for Proposals, except as outlined on the attached sheet entitled "Exception to Specification", for the total sum of:

2025 Botham Avenue Reconstruction Project

Engineering Design Phase Services	\$ _____
Construction Phase Services	\$ _____
GRAND TOTAL	\$ _____

I commit to meet the timetable for project completion as detailed in Proposal Section 3.7.

If you cannot submit a proposal in the format requested, please attach a schedule of total compensation that will cover any and all expenses and services related to the project.

I hereby state that I have the authority to submit this proposal which will become a binding contract if accepted by the City of St. Joseph. I further state that I have not communicated with nor otherwise colluded with any other person or Consultant, nor have I made any agreement with nor offered or accepted anything of value from an Official or employee of the City of St. Joseph that would tend to destroy or hinder free competition.

I hereby state that I have read, understand, and agree to be bound by all terms of this Request for Proposal Document.

Signed: _____ Name: _____

Title: _____ Date: _____

Consultant Name: _____

Address: _____

Telephone: _____

DRAFT CONTRACT AGREEMENT

Following is a “*draft copy*” of the contract that will be executed by the City and the Consultant for the completion of this project.

DRAFT AGREEMENT BETWEEN
CITY OF ST. JOSEPH AND THE CONSULTANT

This AGREEMENT made as of the _____ day of _____, 2024, between the City of St. Joseph, a Michigan municipal corporation located at 700 Broad Street, St. Joseph, Michigan, (the “City”)and _____, (the “Consultant”):

The City and the Consultant enter into this Agreement for the professional services of Consultant to be provided to the City in regard to the “2025 Botham Avenue Reconstruction Project,” referred to as “the Project.” As part of this Agreement, the following documents, which are referenced collectively as the “Contract Documents” are fully incorporated:

City’s Request for Proposal dated October _____, 2023.
Contractor’s Bid Proposal dated December _____, 2023.

1. SERVICES OF THE CONSULTANT

The services of the Consultant consist of those services performed by the Consultant, its employees and subcontractors as set forth in the Contract Documents. The Consultant shall perform its services using the ordinary and customary skill used by members of its respective profession under similar circumstances at the same time in the same locality, and as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The list of duties and responsibilities included in this Agreement is not meant to be exhaustive and does not relieve Consultant of any responsibilities assigned as part of this Agreement or any other agreement between the parties.

It is understood and agreed that TIME IS OF THE ESSENCE in respect to the work contemplated and the Consultant agrees to perform its services in conformity with the provisions set forth in this Agreement and to prosecute all work with all due diligence so as to complete any work required within the shortest reasonable period of time.

2. RESPONSIBILITIES OF THE CITY

- 2.1** The City shall provide all available information regarding requirements for the Project, including the objectives of the City, schedule, constraints and criteria.
- 2.2** The City shall establish and update an overall budget for the Project.
- 2.3** If requested by the Consultant, the City shall furnish evidence that financial arrangements have been made to fulfill the obligations of the City under this Agreement.
- 2.4** The City may furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the City shall require to verify Applications for Payment of the Contractor or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the City.
- 2.5** Prompt written notice shall be given by the City to the Consultant if the City becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

3. DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS

The Drawings, Specifications, and other documents prepared by the Consultant for this Project are instruments of the City, who shall be deemed the owner of the documents for all intents and purposes. The Consultant shall be permitted to retain copies, including reproducible copies, of the Drawings, Specifications and other documents of the Consultant for information and reference in connection with the Project or for the Consultant's use on other projects.

4. TERMINATION, SUSPENSION OR ABANDONMENT

4.1 This Agreement may be terminated by either party upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

4.2 If the project is suspended by the City for more than 30 consecutive days, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the compensation of the Consultant shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the services of the Consultant. Suspension of the project under this section shall not give rise to any claim against the City.

4.3 This Agreement may be terminated by the City upon not less than seven (7) day's written notice to the Consultant in the event that the Project is permanently abandoned. If the Project is abandoned by the City for more than 90 consecutive days, the Consultant may terminate this Agreement by giving the City written notice.

4.4 In the event of termination by the City for the default of the Consultant, the City may take over the work and services and prosecute them to completion by contract or otherwise, and the Consultant shall be liable to the City for any excess cost caused the City by reason of such completion of work.

4.5 In the event of termination not the fault of the Consultant, the Consultant shall be compensated for services performed prior to termination.

4.6 Termination not the fault of the Consultant shall not give rise to any claim against the City for damages or for compensation in addition to that provided under this section. Such payment so made to Consultant shall be in full settlement for services rendered under and pursuant to this agreement. In the event of termination by either party, all finished or unfinished documents, data studies and reports prepared by Consultant under and pursuant to this agreement for which the Consultant has been compensated shall, at the option of the City, be available to be used by the City.

5. PAYMENTS TO THE CONSULTANT

5.1 Except as provided in 5.2, no deductions shall be made from the compensation of the Consultant on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Consultant has been found to be liable. Reimbursable expenses shall include preparation and duplication of plans and specifications required by a contractor to bid on this project. Reimbursable expenses may also include any other expenses agreed to by the Consultant and the City, provided the expenses were identified and agreed to prior to the expense being incurred.

5.2 When the City has reasonable grounds for believing that a claim exists or will exist against the Consultant, arising out of the negligence of the Consultant or breach of any provisions of this agreement, then the City may withhold payment of any amount otherwise due and payable to the Consultant under this agreement. The amount withheld may be retained by the City for that period as it may deem advisable to protect the City against any loss and may, after written notice to the Consultant, be applied in satisfaction of any claim described. No interest shall be payable by the City

on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of the City.

6. DISPUTE RESOLUTION. If there is a dispute between the parties arising out of or relating to this Agreement, the following steps shall be taken:

6.1 Negotiation. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between their respective representatives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within 20 days after delivery of said notice, representatives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within 60 days of the disputing party's notice, or if the parties fail to meet within 20 days, either party may initiate mediation of the controversy or claim as provided below.

6.2. Mediation. If a dispute arises out of or relates to this Agreement or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute by mediation administered by the American Arbitration Association under its Construction Industry Mediation Procedures before resorting to litigation. If a party fails to respond to a written request for mediation within 30 days after service or fails to participate in any scheduled mediation conference, that party shall be deemed to have waived its right to mediate the issue in dispute.

6.3 Litigation, Waiver of Jury Trial and Venue. If the dispute has not been resolved by negotiation and mediation as provided above, either party may initiate litigation upon 30 days' written notice to the other party. Suit must be filed with the Berrien County, Michigan Trial Court or the United States District Court, for the Western District of Michigan, Southern Division, within one (1) year of the event or events giving rise to the claim (exclusive of any tolling period) or within any statutorily specified time limit, whichever is less, or be forever barred. Both the parties specifically waive their right to a jury trial in such litigation.

6.4 Exclusive Procedures. The procedures specified in this Section shall be the sole and exclusive procedures for the resolution of disputes between the parties arising out of or relating to this agreement; provided, however, that a party may seek a preliminary injunction or other provisional judicial relief if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo. Despite such action the parties will continue to participate in good faith in the procedures specified in this Section.

6.5 Tolling Statute of Limitations. All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in this Section are pending. The parties will take such action, if any, required to effectuate such tolling.

6.6 Extension of Deadlines. All deadlines specified in this Section may be extended by mutual agreement.

7. MISCELLANEOUS PROVISIONS

7.1 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant.

7.2 The Consultant shall have the right to include representations of the design of the Project, including photographs, among the promotional and professional materials of the Consultant. The materials of the Consultant shall not include the confidential or proprietary information of the City if the City has previously advised the Consultant in writing of the specific information considered by the City to be confidential or proprietary. The City shall provide professional credit for the Consultant on the construction sign and in the promotional materials for the Project.

7.3 The Consultant shall remain available and on-call to address any potential warranty claims that may

result from any phase of the project. The Consultant shall also be available to evaluate any possible system failure that may be allegedly attributable to design criteria provided by the Consultant. This provision shall be defined as a basic service for which compensation is represented.

7.4 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion.

8. GOVERNING LAW. This agreement shall be governed by the law of the State of Michigan, excluding Michigan's conflict of law principles.

9. ATTORNEY FEES. In the event that any actions filed in any court as a result of the breach of this agreement by the Consultant, in addition to all the sums that the Consultant may be called upon to pay for said breach, it is also responsible for all the actual attorney fees and costs of the City in pursuing the litigation.

10. SEVERABILITY. The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provision shall be deemed to be in full force and effect as if it had been executed by both parties subsequent to the expungement of the invalid provision.

11. ENTIRE AGREEMENT. This Agreement represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Consultant.

12. SUCCESSORS. The City and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the City nor the Consultant shall assign this Agreement without the written consent of the other.

13. WAIVER. The failure to enforce any provision in this Agreement shall not constitute a waiver or serve as a bar to the enforcement of that provision or any other provision in this Agreement. The waiver of a breach of any provision in this Agreement must be in writing.

14. CONFLICT. In the event of a conflict between the terms contained in the Contract Documents, the Contract Documents shall be determined to prevail in the following order: this Agreement, the Consultant's Bid Proposal dated December _____, 2023, the Request for Proposal dated October 19, 2023 as amended or addended.

15. NOTICE. Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth below or to such other address as one party may have furnished to the other in writing.

Contractor
Attn:

City of St. Joseph
Attn: City Engineer
700 Broad Street
St. Joseph, MI 49085
(269) 983-5541

16. EXECUTION IN COUNTERPARTS. This Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

- 17. **DIGITAL SIGNATURES.** The parties hereto acknowledge and agree under the Uniform Electronic Transactions Act, MCL 450.832, *et seq.* that this Contract may be executed with the electronic signature of any person authorized and required to sign on behalf of the parties hereto.
- 18. **REPRESENTATIONS.** Each person signing this Agreement represents and warrants that he/she is duly authorized to enter into this Agreement on behalf of his/her respective party.

This Agreement entered into as of the day and year first written above.

CITY OF ST. JOSEPH

CONSULTANT

(signature)

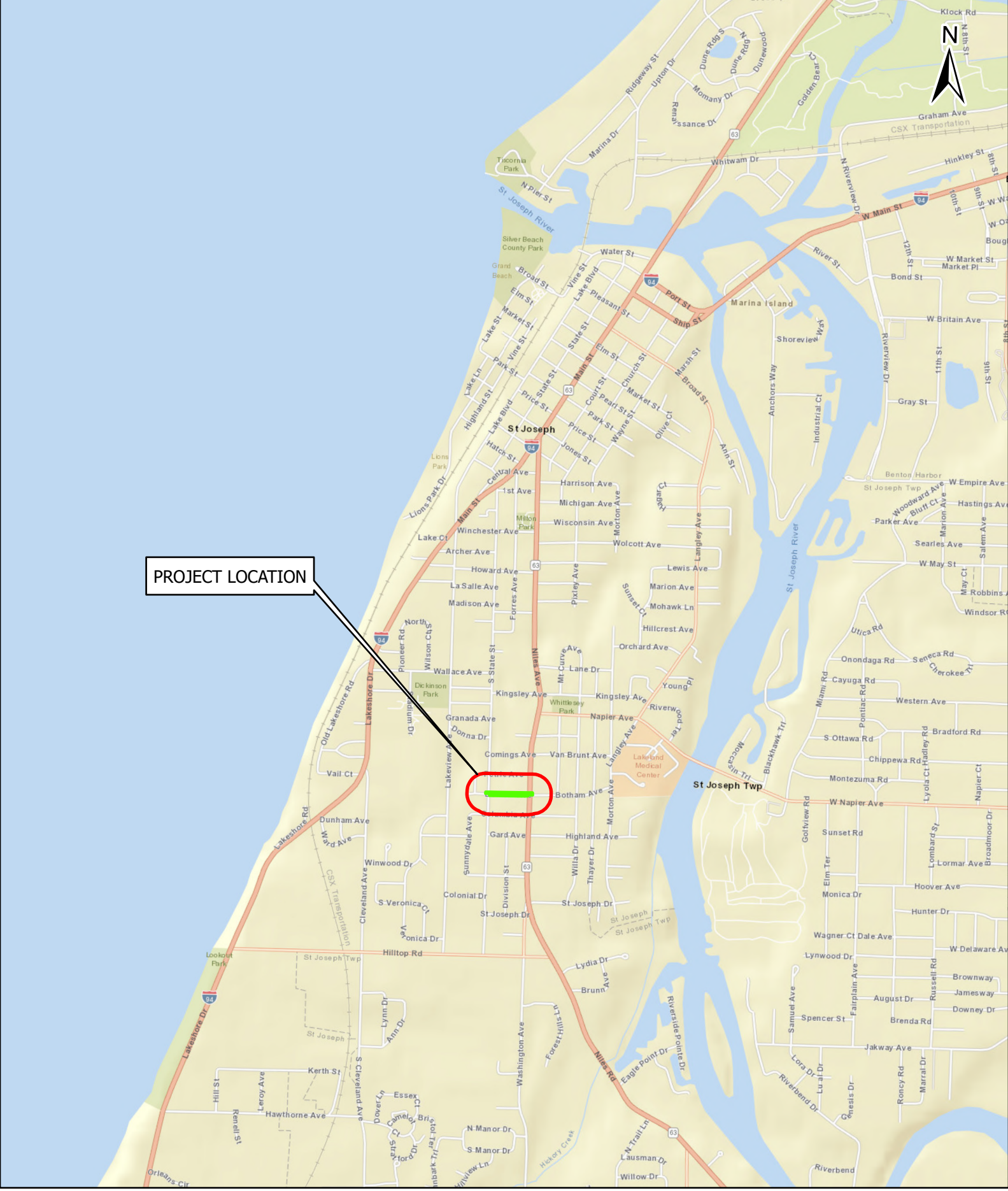
(signature)

John M. Hodgson, City Manager
Name and Title

Name and Title

Approved as to form:

City Attorney



City of St. Joseph
 Engineering Department
 700 Broad Street
 St. Joseph, MI 49085
 Telephone: 269-983-5541

Botham Avenue Reconstruction - Project Location













Scale: 1" = 2,000'

Created By: austin



City of St. Joseph
 Engineering Department
 700 Broad Street
 St. Joseph, MI 49085
 Telephone: 269-983-5541

Botham Avenue Reconstruction - Existing Utilities

-  Curb Stop Valve
-  Stormwater Catch Basins
-  Stormwater Manholes
-  Sanitary Sewer Manholes
-  Water Hydrant
-  Water System Valve
-  Water Service Line
-  Hydrant Lead
-  Stormwater Gravity Mains
-  Sanitary Sewer Gravity Mains
-  Water Mains
-  Project Area

Created By: austin