



REQUEST FOR PROPOSAL

**Preliminary and Final Design of
Humboldt Ave (CSAH 57) Reconstruction (53rd Avenue North to 57th Avenue North)**

Humboldt Ave Reconstruction – From 53rd Avenue North to 57th Avenue North
In Brooklyn Center, Minnesota
City Project 2026-01
County Project 2182800

Issued by:

CITY OF BROOKLYN CENTER

July 29, 2024

Proposals due by 4:00 p.m. on Monday, August 19, 2024

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Request for Proposal

1. Introduction

1.1 Introduction

The City of Brooklyn Center, Minnesota (“City”) in cooperation with Hennepin County is soliciting proposals for professional services for the preliminary design, final design, construction administration, and inspection services for the reconstruction of a 0.5-mile segment of Humboldt Ave (CSAH 57) between 53rd Avenue North and 57th Avenue North.

2. Instruction to Proposers

2.1 General Rules

This Request for Proposals ("RFP") is an invitation for Proposers to submit a proposal to the City. It is not to be construed as an official and customary request for bids, but as a means by which the City can facilitate the acquisition of information related to the purchase of services. Any proposal submitted as provided herein constitutes a suggestion to negotiate and **NOT A BID**.

2.2 Estimated RFP Timeline

7/29/2024	Release of RFP
8/15/2024	Closing date for submitting all questions to the scope of services manager, 4:00 p.m.
8/19/2024	Final date for receiving proposals, 4:00 p.m.
8/29/2024	Recommendation and tentative notification
9/09/2024	City Council Professional Services Contract consideration
9/10/2024	Effective start date of Contract

These dates are subject to revision or cancellation by the City at its sole and absolute discretion.

2.3 Proposal Submission

Submit an electronic proposal via email. Only electronic proposals submitted via email will be accepted. The electronic proposal shall be a Portable Document Format (PDF) and shall be in a version that allows selecting of text. The proposal shall have pages numbered and be limited to 10 pages in length with personnel resumes included as an attachment and will not be counted towards the 10 page limit.

The respondent’s proposal must include a brief letter of transmittal signed by an individual or individuals authorized to bind the respondent contractually. The transmittal letter shall include the statement:

“In compliance with the Request for Proposals and to all conditions imposed therein, the undersigned offers and agrees to furnish the services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation. By signature hereto, the respondent certifies that all representations and certifications contained in its proposal are complete and accurate as required.”

Failure to include this statement in the proposal may result in the removal of the Respondent from consideration in the RFP process.

Submit the proposal package to:

Ahmed Omer, P.E. City Engineer at aomer@brooklyncentermn.gov

Proposals must be received no later than **4:00 p.m. on Monday, August 19, 2024**, e-mailed copies will only be accepted. Failure to submit a proposal on time may be grounds for rejection of the proposal; however, the City reserves the right, at its sole and absolute discretion, to accept proposals after the time and date specified.

Proposal

2.4 Inquiries and Communication Restriction

Inquiries concerning this RFP shall be submitted as follows, in writing via e-mail to the Scope of Services Manager and the Alternate Scope of Services Manager

Scope of Services Manager: The designated Scope of Services Manager shall be:

SCOPE OF SERVICES MANAGER
Ahmed Omer, P.E.
Phone: 763-569-3326
aomer@brooklyncentermn.gov

All inquiries will be answered and sent out to all Proposers via email to the main contact indicated by each firm.

All Proposers will be given the same opportunity and access. All communications regarding this Scope of Services from Proposers are restricted solely to the designated contacts listed above as the designated Scope of Services Manager or Alternate Scope of Services Manager. This restriction will be in effect for consultants from, July 29, 2024, through the Notice to Proceed or Award of Contract as granted by the City Council. Communications related to this Scope of Services during the proposal process with an employee or representative of the City other than the designated Scope of Services Manager or Alternate Scope of Services Manager may result in the offending proposer being disqualified from further consideration. Communication with any personnel from Brooklyn Center, City Manager, City Council, Hennepin County and/or relevant Consultant(s) is strictly prohibited without prior approval of the designated Scope of Services Manager or Alternate Scope of Services Manager. Any such communication will result in the offending proposer being disqualified from further consideration.

2.5 Addenda

The City reserves the right to modify the RFP at any time prior to the proposal due date. If the RFP is modified, addenda to the RFP will be provided to all Proposers known to have received a copy of the RFP. It is the responsibility of each prospective Proposer to assure receipt of all addenda.

The City will modify the RFP only by formal written addenda and it will be sent to Proposer's main contact via email. Proposer's proposal should be based on the specifications herein and any formal written addenda from the City, not oral or other interpretations or clarifications, including those occurring at potential pre-Proposal meetings, site visits, etc.

2.6 City's Right to Withdraw, Cancel, Suspend and/or Modify RFP

The City reserves the right to withdraw, cancel, suspend, and/or modify this RFP for any reason and at any time with no liability to any prospective Proposer for any costs or expenses incurred in connection with the RFP or otherwise.

2.7 Proposer's Right to Withdraw or Modify Proposal

A proposal may be withdrawn by written request of the Proposer prior to the proposal due date. Prior to the proposal due date, changes may be made, provided the change is submitted in writing and signed by an officer or authorized representative of the Proposer. No modification, unless in writing, will be accepted.

2.8 Proposals Will Not Be Returned

Upon submission, proposals will not be returned.

2.9 Public Disclosure of Proposal Documents

Under Minnesota law, proposals are private and nonpublic until the proposals are opened on the proposal due date. Once the proposals are opened, the name of the Proposer becomes public. All other data in the proposal is private or nonpublic data until completion of the evaluation process. The evaluation process is completed when the City enters into a contract with a Proposer. At that time, all remaining data submitted by all Proposers is public with the exception of data exempted under Minn. Stat. Section 13.37 of the Minnesota Government Data Practices Act.

If the Proposer believes nonpublic data is included in its proposal, Proposer shall clearly identify the data and cite the Minnesota Government Data Practices Act exemption(s). However, the Proposer agrees, as a condition of submitting a proposal, the City will not be liable or accountable for any loss or damage which may result from a breach of confidentiality, as may be related to the proposal. Pricing, fees and costs are public data.

The Proposer agrees to indemnify and hold the City, its officials, agents and employees harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision.

2.10 Proposer's Costs

The City shall not be responsible for any costs incurred by Proposer in connection with this RFP. Proposer shall bear all costs associated with proposal preparation, submission and attendance at presentation interviews, or any other activity associated with this RFP or otherwise.

2.11 Collusion

If the City determines that collusion has occurred among Proposers, none of the proposals of the participants in such collusion shall be considered. The City's determination shall be final.

2.12 Conflict of Interest

The Proposer affirms that, to the best of its knowledge, its proposal does not present a conflict of interest with any party or entity, which may be affected by the terms of a contract resulting from this RFP. The Proposer agrees that, should any conflict or potential conflict of interest become known, it will

immediately notify the City of the conflict or potential conflict, and will advise the City whether it will or will not resign from the other engagement or representation. Further, the City may make reasonable efforts to avoid, mitigate, or neutralize an organizational conflict of interest by a Proposer in all competitive procurements. To avoid an organizational conflict of interest by a Proposer, the City may utilize methods including disqualifying a Proposer from eligibility for a contract award or canceling the contract if the conflict is discovered after a contract has been issued. To mitigate or neutralize an organizational conflict of interest by a Proposer, the City may use methods such as revising the scope of work to be conducted, allowing Proposers to propose the exclusion of task areas that create a conflict, or providing information to all Proposers to assure that all facts are known to all Proposers. The City may, at its sole and absolute discretion, waive any conflict of interest.

3. Scope of Services

3.1 Technical Requirements (Attachment 1)

The City is seeking a motivated Consultant team to perform all services necessary to deliver this project. The needed services are expected to be all-inclusive of the tasks to deliver this project. In general, this includes Preferred Concept Layout preparation and approval, final plan preparation, and bid specifications. Attachment 1 details the “Project Information for Consultants” and better outlines the needed services.

4. Contents of Proposal

4.1 Proposal Content

Additional information such as supporting tables, graphs, staff resumes, technical references, company literature, etc. may be included in the submittal but should be provided as a supplemental attachment to the proposal(s), not as part of the proposal text. All proposals must include the following information and must be submitted in the order listed:

1. Title Page/Cover Letter – Introduces the Consultant submitting the proposal, including the name, address, telephone number, fax number and email address of the contact person(s) representing the same and also the names of other firms or individuals participating in the proposal. Each proposal shall be signed by a principal of the Proposer firm, or another person, who is fully authorized to act on behalf of the Proposer.
2. Table of Contents – Identify the proposal material by section and page number.
3. Project Overview/Understanding – A statement of the objectives, goals and tasks required of this RFP to demonstrate the firm’s understanding of the nature of the contract and work required.
4. Deliverables – A detailed description and/or listing of the deliverables to be provided by the Consultant. See Attachment 1 for detailed project requirements. Firms are encouraged to propose additional tasks or activities if they believe such tasks or activities will substantially improve the results of the project. These proposed additional tasks should be separated from the required material.
5. Experience and Qualifications – Identify the general background, structure, and organization and available resources in personnel/experience/information systems of the participating firm or firms. An outline of the responder’s background and experience must include examples of the responder’s prior experience with similar projects. The responder shall also provide an organizational chart showing personnel assigned to the project along with a description of which project tasks each person(s) will be responsible for and relevant detail regarding their training, education and experience. No change in personnel assigned to the project will be permitted without the written approval of the Brooklyn Center Project

Manager.

6. Project Staff and Team – A single project manager from the firm must be identified. In addition to the project manager the Proposer shall at a minimum provide details on the lead Project Engineer, core design team, Lead Inspector(s) and subconsultants (if any). For each of the key personal the Proposer shall provide detailed educational, experience and any additional information to demonstrate competence and ability to fulfill the obligations of the contract. The project manager must have been a project manager on a similar project prior to working on this project. The Consultant project manager must be available in a local office (Minneapolis/St. Paul metropolitan area) during the entire project period.
7. Proposed Work Plan and Approach – Provide a detailed work plan that identifies the major project tasks to be accomplished and one that can be used as a scheduling and managing tool, as well as the basis for invoicing. The work plan must present the responder’s approach, task breakdown, deliverable due dates, personnel working on the project, hours/cost per task and personnel. Specific techniques, methodologies and approach to Quality Control should be included in this section.
8. The Proposer must identify its subconsultants and associated key personnel for services described in this RFP. The Proposer shall detail the role of each subconsultant’s key personnel and their qualifications.

Note the following:

- Proposals must be complete and concise.
- Examples of engineering products completed for similar projects and proposed procedures and methodologies are strongly recommended for inclusion in responses.
- Responders must adhere to all terms of this RFP.
- All costs incurred in responding to this RFP will be borne by the responder.

4.2 Conflict of Interest Disclosure

The Proposer shall identify any and all potential conflict of interests pursuant to Section 2.12 of this RFP.

4.3 Exceptions to Brooklyn Center’s Professional Services Agreement

Brooklyn Center’s Professional Services Agreement is included as Attachment 2 and is herein incorporated by reference. If a Proposer has a concern or objection to any of these provisions, it should so indicate in its proposal. The City reserves the right to require compliance with these provisions and to negotiate final terms, conditions and requirements with the successful Proposer(s) that are in the City’s best interest.

5. Evaluation and Selection

5.1 Proposal Evaluation and Recommendation for Selection

The RFP does not commit the City to award a contract. Submission of a proposal as provided herein will neither obligate nor entitle a Proposer to enter into a contract with the City. The City, reserves the following rights, to be exercised in the City’s sole and absolute discretion: 1) to determine whether any aspect of a proposal satisfactorily meets the criteria established in this RFP; 2) to seek clarification or additional information from any Proposer(s); 3) to negotiate, sequentially or simultaneously, pricing and/or terms with any Proposer(s) or contractor(s) that did not submit a proposal; 4) to reject any or all proposals with or without cause; 5) to waive any irregularities or informalities in a proposal; and 6) to

cancel and/or amend by addenda this RFP, in part or entirely.

Evaluation of proposals will be conducted by a selection committee that may include a combination of City staff, County Staff, and other individual(s) determined and selected by the City. The City may consider or reject such evaluation(s) for any or all proposals. Such evaluations are for the sole benefit of the City, and as such, they are not binding upon the City, nor may they be relied upon in any way by a Proposer.

5.2 Evaluation of Responsiveness

The City will consider all the material submitted by the Proposer to determine whether the Proposer's offer is in compliance with the terms and conditions set forth in this RFP. Responses that do not comply with the provisions in this RFP may be considered nonresponsive and may be rejected.

5.3 Written Proposal Evaluation

All responses received by the deadline will be evaluated by the evaluation panel. The evaluation panel will evaluate the content of the written proposal based on the following criteria:

- A. Project Understanding (15%):** The Proposer will describe the firm's understanding of the project scope.
- B. Project Work Plan, Approach and Schedule (25%):** The Proposer will be evaluated on clarity, innovativeness, conciseness, organization and the overall responsiveness to the RFP. Thoroughness of the proposed work program, including personnel assignments by employee classification (and estimated time needed for each task) and timelines, benchmarks, milestones and deliverables for completion of the project primary tasks.
- C. Project Personnel/Team (15%):** The Proposer will be evaluated on the assignment of qualified and experienced engineering staff responsible for the project that have proven their ability to work together as a team on similar projects. The assignment of a single Project Manager who is skilled in managing projects of a similar scope, schedule and budget. The Project Manager designated will be the singular focal point for City staff communications.
- D. Firm Experience/History (10%):** The Proposer will be evaluated on the firm's qualifications, expertise and key project personnel in performing the services required to complete the design as demonstrated by the firm's previous and current projects. Consideration will be given to Project Personnel/Team and Firm Experience/History in the following areas:
- E. Cost to Value (35%):** The Proposer will provide a Work Plan itemization and summary that includes Consultant scope/task/hour/fee for the proposed work as compared to the value received by the City of Brooklyn Center. The Cost to Value proposal should coincide with the personnel assigned to the project and the Project Approach and Schedule as outlined in Part B of this section.

5.4 Execution of Contract

Before a contract becomes effective between the City and any Proposer, the contract award must be approved by the City Council. If for any reason the City Council does not ratify and sign the contract, then there are no binding obligations whatsoever between the City and the Proposer relative to the proposed contract.

6. Attachments

- 6.1** Attachment 1 - Technical Requirements
- 6.2** Attachment 2 - Brooklyn Center's Professional Services Agreement

Attachment 1
TECHNICAL REQUIREMENTS

Preliminary and Final Design of
Humboldt Ave (CSAH 57 – From 53rd Ave to 57th Ave)
In Brooklyn Center, Minnesota
City Project 2026-01
County Project 2182800

SECTION 1: Proposed Project

1.1 GENERAL

Brooklyn Center is preparing for the reconstruction of the Humboldt Ave project area which extends from 53rd Avenue to 57th Avenue. Humboldt Avenue was originally constructed between 1966 and 1969. Existing streets are generally 36-foot wide with no curb and gutter. The right-of-way is 66-ft.

The existing water main in the Humboldt Avenue project area is a 6-inch diameter CIP installed in 1966.

The existing sanitary sewer consists of 8-inch diameter VCP lateral sewers. These sewers were originally installed in 1952. Approximately 64 percent of the sanitary sewer is subject to root intrusion. Root sawing must be performed on an annual basis to maintain the system conveyance capacity.

The proposed engineering project entails reconstructing 2,660 linear feet of Humboldt Ave including water and sanitary main replacement. Also, the County and the City would like to use this project as an opportunity to connect the two east/west bikeways that already exist on 53rd Ave N and 57th Ave N.

Brooklyn Center requests proposals for professional services for the preliminary design, final design, and construction administration of the project. The Consultant is expected to demonstrate knowledge and experience with municipal street reconstruction requirements. This project is scheduled to be constructed in 2026.

1.2 PROJECT FUNDING

The estimated construction cost of the project is \$5,650,000. The project funding is comprised of local funds, including, Street Construction Funds, Storm Drainage Utility funds, Sanitary Sewer Utility, Water Utility, Street Light Utility, and Special Assessments. The project funding also includes outside funds, including Hennepin County Transportation Advancement Account funds.

1.3 CONTRACT TIME

Professional Services performed under this contract are anticipated to begin in September 2024.

Preliminary Project Schedule:

Start Date of Contract:	September 2024
Anticipated Bid Opening:	February 2026
Start Construction:	April 2026
End Construction:	November 2026

SECTION 2: Work to be Completed by others

2.1 Geotechnical Report

The selected consultant will be provided with a geotechnical report with the following information;

- A CAD sketch showing exploration locations
- Pavement summary logs of the pavement cores and material thicknesses
- Boring logs describing materials encountered.
- Recommendations for pavement section design, utility construction, and estimated infiltration rates.
- Logs of the borings describing the materials encountered and presenting the results of groundwater measurements, pavement thicknesses, and laboratory tests.
- A summary of the subsurface profile and groundwater conditions.
- Consultant to advise on any additional borings to support design. The city will be responsible for obtaining additional borings.

2.2 Existing Utilities

The selected consultant will be provided with the following existing utility information;

- Sanitary sewer televising videos.
- Storm sewer main televising.

SECTION 3: Consultant's Work

3.1 GENERAL

A sample of anticipated Consultant work tasks and expectations are listed as follows. Other needed, expected or suggested work tasks should also be included in the proposals. As indicated in the Scope of Services section, the needed services are expected to be all-inclusive of the tasks to deliver this project. A suggested rule of thumb: if you are questioning if needed or not, include it as an optional task.

3.2 MEASUREMENT UNITS

The design must use the English Customary System of measurement.

3.3 PROJECT MANAGEMENT

The selected Consultant will coordinate with the designated City Project Manager. The selected Consultant will be expected to make periodic progress reports to, and provide information as requested by City staff.

3.4 PUBLIC INVOLVEMENT

The selected Consultant must plan for, prepare presentation materials, conduct and prepare meeting summaries for Public Involvement meetings, if needed. Two meetings are expected. The Consultant must also develop a Public Engagement Plan and an In-Construction Communication plan.

3.5 AGENCY INVOLVEMENT

The selected Consultant must plan for and coordinate, prepare presentation materials, conduct and prepare meeting summaries for Project Management Team (PMT) meetings throughout the duration of the project. Meetings should be held at least once per month.

3.6 UTILITY COORDINATION

The selected Consultant must coordinate installation, replacement and/or relocation of facilities within or adjacent to the project. The selected Consultant must coordinate with Hennepin County Permits Department for plan and field review of permits issued during design and construction for new utilities or utilities to be relocated in the corridor.

3.7 RIGHT-OF-WAY AND EASEMENTS

The selected Consultant must determine the right-of-way and easement needs to construct and maintain the project improvements. If the design requires it, the Consultant must coordinate easement and property acquisition with property owners, the City, and County and provide any needed property research, appraisals, documentation and certified easement descriptions and exhibits

3.8 TOPOGRAPHIC SURVEY

The selected Consultant must perform a topographical survey including preliminary survey, structure inventory, measurements and other field observations necessary to complete the design plans and specifications. Locations and depths of all structures, including top nuts of valves, shall be obtained to evaluate potential conflicts, plus at least two manholes downstream/upstream outside of the project.

3.9 WATER SYSTEM MODELING (OPTIONAL TASK)

The selected consultant must provide a report containing the following analysis;

- Fire flow analysis.
- Evaluation of pipe upsizing/downsizing for residence time, stagnation, system pressures, and fire flows.
- An updated water system data file and report of results/recommendations.

3.10 CITY AND HENNEPIN COUNTY STAFF APPROVED PREFERRED CONCEPT LAYOUT

The selected consultant must develop and prepare a Preferred Concept Layout and obtain City and County approval.

3.11 PRELIMINARY AND FINAL CONSTRUCTION PLANS

The selected Consultant shall provide preliminary and final construction plans for the project and follow the guidelines and standards for a MnDOT State Aid Project, including any Hennepin County-specific guidelines and standards (e.g., drainage, signing & striping, traffic, streetscape). Major task to be included as part of the final design:

1. Plan Preparation.
 - a. Title sheet and general layout
 - b. Statement of Estimated Quantities
 - c. Soils / construction notes
 - d. Standard plates
 - e. Tabulations
 - f. Typical sections and Pavement Design
 - g. Miscellaneous Details
 - h. Standard Plan sheets
 - i. Detour Plan sheets
 - j. Construction Staging and Traffic Control Plans
 - i. Analyze two (2) staging alternatives and determine project construction duration and impact on project cost
 - k. Alignment plans and tabulations
 - l. In place Topo, Utility
 - m. Removal plans
 - n. Construction plans and profiles

- o. Intersection details
 - p. ADA pedestrian ramp details
 - q. Drainage plans, profiles and tabulation sheets
 - r. Storm Water Pollution Prevention Plan
 - s. Erosion Control Plans (Includes Temporary Erosion/Sediment Control)
 - t. Turf establishment plans
 - u. Sanitary and water main plans, profiles and tabulations.
 - v. Signing and Striping plans
 - w. Cross section sheets
2. Storm sewer design must meet the City's Minimum Engineering Standards for Stormwater Conveyance on City streets and use Hennepin County's design guidance for County roads. The project will likely trigger the County's MS4 requirements. The County follows the Minnesota Pollution Control Agency's (MPCA) Minimum Control Measure (MCM) 5 flow chart (<https://www.pca.state.mn.us/sites/default/files/wq-strm4-92.pdf>).
 3. Stormwater Management Report including:
 - a. Calculations for watershed and ordinance compliance, treatment volume for the project, treatment planned per facility and for the total project, water quality, and rate control calculations for the total project. Compliance will be approved by the city, presentation at a watershed commission meeting is not anticipated.
 - b. Include annual pollutant removal for TP and TSS (from MIDS or other approved WQ model)
 - c. Narrative to support the plan to meet the requirements and to document the findings of the above tasks.
 - d. Demonstrate adherence to the Shingle Creek Watershed Commission and MPCA requirements.
 4. Permits: Permitting associated with the improvements will be produced and coordinated by the consultant.
 5. Provide recommendations for public utility replacements.
 - a. Sanitary main replacement and or lining feasibility and recommendations.
 - b. Water main replacement recommendations.
 6. Prepare preliminary and final construction cost estimates broken down by funding sources.
 7. Bid Management.
 8. Provide a fully executed Minnesota Pollution Control Agency (MPCA) "Notice of Termination" document for the Construction Stormwater permit for the project file.
 9. AutoCAD preferred design software. Microstation acceptable with full conversion at end of project to AutoCAD. All design and sheet files in AutoCAD are part of the project deliverables.
 10. Optional tasks which may be added during the design process:
 - a. Draft operations & Maintenance guidance for stormwater treatment infrastructure.
 - b. Phase I and Phase II ESA.
 - c. Construction Support

Attachment 2
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is made and entered into this ____ day of _____, 20____, by and between the City of Brooklyn Center, a Minnesota municipal corporation, located at: 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430 (the “City”) and _____, a _____ company located at: _____ (the “Consultant”). The City and the Consultant may hereinafter be referred to individually as a “party” or collectively as the “parties.”

RECITALS

- A. The City desires to obtain the professional services set forth in the attached Exhibit A for the City.
- B. The Consultant represents that it has the necessary skill, equipment, licensing, and personnel to provide the requested services to the City.
- C. The City desires to contract with the Consultant to provide, and the Consultant desires to provide, the requested professional services in accordance with the terms and conditions of this Agreement.

AGREEMENT

In consideration of the mutual promises and agreements hereinafter set forth, the City and the Consultant hereby agree as follows:

- 1. **Consultant's Services.** The Consultant agrees to provide the City the professional services identified in the Consultant’s proposal attached hereto as Exhibit A (the “Proposal”), as such services may be further defined herein or expanded pursuant to written orders or supplemental letter agreements agreed to by the parties (collectively, the “Services”). Any such written orders or supplemental agreements mutually approved by the parties are incorporated in and made part of this Agreement by reference. All Services provided by the Consultant, and any prior approved subcontractors, shall be of similar quality of other professionals who provide similar services and consistent with any applicable professional standards. Consultant agrees to use the City's standard specifications in any bidding documents prepared under this Agreement. The requirements of this section may be waived by the City if the City Engineer determines, by written authorization, that they are not necessary for the successful provision of the Services.

2. **Time for Performance of Services.** The Consultant will endeavor to perform and complete the Services within the prescribed days from the date of the contract award. Any changes in the established schedule must be expressly approved by the City in writing. The Consultant shall promptly notify the City if it anticipates that it will not be able to provide any of the required Services within the established timeline.
3. **Compensation for Services.** The City agrees to pay the Consultant for providing the Services as set forth in Exhibit B, attached hereto and incorporated herein by reference. No additional commissions, fees, or reimbursement shall otherwise be due under this Agreement. Additionally, the City shall not be responsible for payment for any work performed by the Consultant that is not expressly listed in Exhibit A unless otherwise expressly agreed to by the City in writing.
4. **Request for Payment.** The Consultant must submit itemized bills for services provided to the City on a monthly basis. Bills submitted will be paid in the same manner as other claims made to the City.

For work reimbursed on an hourly basis, the Consultant must indicate for each employee, his or her classification, the number of hours worked, rate of pay for each employee, a computation of amounts due for each employee, the total amount due, the original contracted amount, the current requested amount and the total amount. Consultant must verify all statements submitted for payment are in compliance with Minnesota Statutes, sections 471.38 and 471.391. For reimbursable expenses, the Consultant must provide such documentation as reasonably required by the City.

5. **Term.** The term of this Agreement will be from _____ through receipt of all Consultant deliverables, the date of signature by the parties notwithstanding. The parties may, however, agree in writing to extend the term of this Agreement for such additional periods as they deem appropriate, and upon the terms and conditions as herein stated or as may be stated in the written extension.
6. **Audit Disclosure.** The Consultant must allow the City, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Consultant's books, records, documents, and accounting procedures and practices that are pertinent to all Services provided under this Agreement for a minimum of six years from the termination of this Agreement.
7. **Data Practices.** The Consultant shall manage all data created, collected, received, stored, used, maintained, or disseminated by the Consultant pursuant to this Agreement in accordance with, and subject to the requirements of, the Minnesota

Government Data Practices Act, Minnesota Statutes, Chapter 13 (“Act”). The Consultant shall immediately notify the City if it receives a request for data related to the Services and shall work with the City to respond to the request in accordance with the Act. Any reports, information, or other data given to, prepared, or assembled by the Consultant under this Agreement which the City requests be kept confidential must not be made available to any individual or organization without the City’s prior written approval unless disclosure is required by law.

8. **Services Products and Ownership of Documents.** All deliverables and products of the Services including, but certainly not limited to, complete and incomplete records, materials, information, reports, recommendations, drawings, plans, and specifications prepared and developed in connection with the provision of the Services pursuant to this Agreement shall become the property of the City, but the Consultant may retain copies of such materials and may reuse standard portions of such materials in the normal course of its business.
9. **Termination.** This Agreement may be terminated by City for any reason by seven (7) day's written notice to Consultant delivered to the address written above. The Consultant may terminate this Agreement if the City fails to cure any material breach of its term within 30 days of its receipt of written notice of breach from the Consultant. Any such notice of breach shall specifically identify the alleged material breach and what is required to cure it. Upon termination under this provision, the Consultant will be paid for Services properly rendered and reimbursable expenses incurred, if applicable, until the effective date of termination, and no Services shall be provided following written notice of termination unless expressly agreed to in writing by the City. The Consultant’s indemnification, audit disclosure, and data practices obligations shall survive the termination of this Agreement.
10. **Force Majeure.** Neither party shall be deemed in default under this Agreement, nor shall a party hold the other party responsible, for any cessation, interruption, or delay in the performance of its obligations hereunder due to earthquake, flood, fire, storm, natural disaster, act of God, war, armed conflict, labor strike, lockout, or boycott, provided that the party relying on this section gives the other party prompt written notice thereof and takes all steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event. If this event extends for a period of more than 30 days, either party may immediately terminate this Agreement.
11. **Subcontractor.** The Consultant must not enter into subcontracts for any of the Services provided for in this Agreement without the express written consent of the City.

12. **Independent Contractor.** The Consultant shall be deemed an independent contractor. The Consultant's duties will be performed with the understanding that the Consultant has special expertise as to the Services which the Consultant is to perform and is customarily engaged in the independent performance of the same or similar services for others. The manner in which the Services are performed shall be controlled by the Consultant; however, the nature of the Services and the results to be achieved shall be specified by the City. The Consultant is not to be deemed an employee or agent of the City and has no authority to make any binding commitments or obligations on behalf of the City except to the extent expressly provided herein. All Services provided by the Consultant pursuant to this Agreement shall be provided by the Consultant as an independent contractor and not as an employee of the City for any purpose including, but not limited to, income tax withholding, workers' compensation, unemployment compensation, FICA taxes, liability for torts, and eligibility for employee benefits.
13. **Not Exclusive.** This Agreement does not constitute an exclusive contract between the City and the Consultant. The City remains free to contract for similar services from other consultants and the Consultant remains free to contract to provide similar services to others, provided that any such contracts do not interfere with the delivery of the Services under this Agreement.
14. **Assignment.** Neither party will assign this Agreement, nor any interest arising herein, without the written consent of the other party.
15. **Services Not Provided For.** No claim for services furnished by the Consultant not specifically provided for and identified herein as part of the Services will be honored by the City. The Consultant agrees that the City may enter into subsequent agreements with the Consultant for additional services contained in the Proposal at the rates and costs proposed by the Consultant therein. Any subsequent agreement for additional services shall be in writing and signed by both Parties.
16. **Severability.** The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision will not affect the remaining provisions of the Agreement.
17. **Entire Agreement.** This document, including the above recitals, the attached exhibits, and documents expressly incorporated herein by reference, constitute the entire agreement between the parties and it supersedes all oral agreements and negotiations between the parties regarding the subject matter of this Agreement. Any alterations, amendments, deletions or waivers of the provisions of this Agreement will be valid only when expressed in writing and duly signed by the parties unless otherwise provided herein.

18. **Compliance with Laws and Regulations.** In providing the Services hereunder, the Consultant must abide by all statutes, ordinances, rules and regulations pertaining to the provision of the Services to be provided. Any violation will constitute a material breach of this Agreement and entitle the City to immediately terminate this Agreement.
19. **Equal Opportunity.** During the performance of this contract, the Consultant must not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability or age. The Consultant must post in places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. The Consultant must incorporate the foregoing requirements of this paragraph in all of its subcontracts for program work, and will require all of its subcontractors for such work to incorporate such requirements in all subcontracts for program work. Violation of any part of this provision may lead to the immediate termination of this Agreement.
20. **Waiver.** Any waiver by either party of a breach of any provisions of this Agreement will not affect, in any respect, the validity of the remainder of this Agreement.
21. **Indemnification.** To the fullest extent permitted by law, the Consultant, and the Consultant's successors or assigns, agree to protect, defend, save, and hold harmless the City, its officials, agents, and employees from all claims, suits, or actions of any kind, nature, or character, and the costs, disbursements, and expenses of defending the same including, but not limited to, attorneys' fees, professional services, and other technical, administrative, or professional assistance resulting from or arising out of the alleged negligence, breach of contract, or willful misconduct of the Consultant, its subcontractors, agents, or employees related to or arising out of the performance of, or failure to perform, the Services under this Agreement. There shall be no limitation on the Consultant's liability. Nothing herein shall be construed as a limitation on or waiver of any immunities or limitations on liability available to the City under Minnesota Statutes, Chapter 466, or other law.
22. **Insurance.** During the entire term of this Agreement, the Consultant must maintain workers' compensation insurance (to the extent required by law) and commercial general liability insurance with a per occurrence limit of no less than \$1,500,000 and \$2,000,000 aggregate, for both personal injury and property damage.

These policies shall name the City as an additional insured for the Services provided under this Agreement and shall provide, as between the City and the

Consultant, that the Consultant's coverage shall be the primary coverage in the event of a loss. If the Consultant is providing either architectural or engineering services, the Consultant must also maintain during the term of this Agreement a professional liability insurance policy with the same limits as for commercial general liability. A certificate of insurance on the City's approved form which verifies the existence of these insurance coverages must be provided to the City before work under this Agreement is commenced.

23. **Third Party Rights.** The parties to this Agreement do not intend to confer on any third party any rights under this Agreement.
24. **Headings.** The headings contained in this Agreement have been inserted for convenience of reference only and shall in no way define, limit, or affect the scope and intent of this Agreement.
25. **Governing Law and Venue.** This Agreement will be controlled by the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota in Hennepin County, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

IN WITNESS WHEREOF, the City and the Consultant have caused this Professional Services Agreement to be executed by their duly authorized representatives in duplicate on the respective dates indicated below and effective as of the date first written above.

CITY OF BROOKLYN CENTER

CONSULTANT: _____

By: _____
Elizabeth Heyman, Public Works Director

By: _____

Date: _____

Its: _____

By: _____
Dr. Reggie Edwards, City Manager

Date: _____

Date: _____

EXHIBIT A

Proposal to Provide Professional Services

(attached hereto)

EXHIBIT B

Compensation for Services