



Thursday, May 30, 2024

Bidder:

Traverse City Light & Power (TCLP) will receive sealed bids in the office of TCLP, 1131 Hastings Street, Traverse City, Michigan, 49686, until **Thursday, June 20, 2024, at 2:00PM EST** for the following project:

**Pole Inspection Program**  
(specifications attached)

It is the sole responsibility of the Bidder to check the website for updates and addenda prior to the bid being submitted. Updates can be found using the following link: <http://www.tclp.org/Display/Items/RFPs>. Bidder may also sign up to receive notifications when bids and RFP's are posted by sending an e-mail requesting same to [stvardek@tclp.org](mailto:stvardek@tclp.org).

TCLP reserves the right to accept or reject any or all bids, waive irregularities, and to accept the bids either on an entire or individual basis that is in the best interest of TCLP.

TCLP accepts no responsibility for any expense incurred by the Bidder in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the Bidder.

Only the successful Bidder will be notified. If you desire, you may call for results.

You must indicate on the **outside** of the sealed envelope that the bid is for the "Pole Inspection Program."

You must submit **TWO (2) SEALED COPIES** of the bid to TCLP prior to the above-indicated time and date or the bid will not be accepted. Alternatively, e-mailed bids will be accepted. Please indicate in the subject line of the e-mail that you are submitting a "Sealed Bid" together with the project description "Pole Inspection Program" and submit your e-mailed bid to [stvardek@tclp.org](mailto:stvardek@tclp.org).

Please note that if you have previously submitted an informal quote, you will still need to submit a sealed bid prior to the date and time specified above in order to be considered. Please ensure that all requirements listed in the specifications are met.

PLEASE SUBMIT BID TO: Stephanie Tvardek, Scheduling & Operations Coordinator  
Traverse City Light & Power  
1131 Hastings Street  
Traverse City, MI 49686



## A. SPECIFICATIONS

### 1. Scope of Work

TCLP is requesting bids to provide technical and professional assistance concerning pole inspection. The project area includes approximately 6,927 poles on the TCLP electrical system within the City of Traverse City, Michigan. All bidders must familiarize themselves with the site conditions prior to submitting a bid for this project.

The Successful Bidder will be required to submit a Certificate of Insurance meeting the requirements stated herein along with a Performance and Payment Bond (for the Total Construction Cost) prior to commencing the work. These Bonds shall remain in effect at least until one year after the date when final payment becomes due.

Bids must be submitted on a unit price basis on the attached forms along with a 10% bid bond. All sales, consumer, use and other similar taxes required by law to be paid by the Bidder shall be included in the bid price.

### 2. Instructions to Bidders

- a. All bids must be submitted on the forms provided. Complete and return **ONLY** the following forms:
  1. Section C – Iran Economic Sanctions Act
  2. Section E – Submission Form
  3. Attachment A – Unit Pricing
- b. Successful Bidder invoicing will be completed on a monthly basis based on the number of units completed and cost per unit, as per Attachment ‘A’ – Unit Pricing.
- c. The Successful Bidder will submit all invoices directly to the Engineer for payment. All invoices must show Traverse City Light & Power as the invoiced party.

### 3. Pre-Bid Meeting

There is no scheduled pre-bid meeting, however, the deadline for questions and/or clarifications is **Monday, June 10, 2024, at 2:00PM EST**. Please direct ALL questions to Daren Dixon, Operations Manager, Traverse City Light & Power, at [ddixon@tclp.org](mailto:ddixon@tclp.org).

### 4. Completion Date

- a. All work on the project(s) must be fully completed by the Successful Bidder no later than **December 31, 2024**.



## 5. Pole Inspection

### a. Required

- i. Perform wood pole testing (visual, sonic/sound and selective bore testing) of poles identified as having TCLP attachments within the Traverse City area.
- ii. All poles that fail the above-mentioned visual test, or poles that have been in service longer than 10 years require a sonic/sound test. If after sounding the pole the inspector suspects any defects, the pole should then be bored at least once to detect interior decay along with a partial excavation 8” deep on one side of the pole looking for decay below ground level.
- iii. All poles with sufficient defects that warrant rejection to be reported to the utility.
- iv. In the course of performing the wood pole testing, the Successful Bidder is expected to perform a limited visual inspection of the entire structure and is responsible for immediately reporting to the utility any imminent electrical or mechanical hazards relating to TCLP equipment, including but not limited to broken crossarms, tree(s) on the line, broken poles, floating conductors, etc.
- v. Collect high accuracy locations and information for new (and missing) poles and the modification of the location and information for existing pole features (to high-accuracy locations using Eos GPS/GNSS positions).
  - o GPS/GNSS Pole Locations – At all pole locations, either capture new (and missing) pole features or move existing pole features using high accuracy GPS/GNSS locations (< 1’ spatial accuracy preferred > than 3’ may be rejected). This also entails the collection of pole-related data to update information on existing pole features and collect new information on new (and missing) pole features:
    - Pole Height
    - Pole Class
    - Pole Ownership

### b. Supplemental Services – Optional

- i. Collection of data for foreign attachments (Foreign Attachment Audit and Foreign Attachment Code Violations).
  - Foreign Attachment Audit – At all pole locations, collection information for:
    - Number of attachments
    - Type of attachments
    - Owner of attachments
    - Height of attachments



- Foreign Attachment Code Violations – At all pole locations (existing, new, missing), document clearance violations with respect to foreign attachments.
  - Between facilities
  - To ground
  
- ii. Capture Pole Photos – At all pole locations (existing and new) capture one (1) photo of the top of the pole and one (1) photo that includes the entire length of pole from ground to top. Photo resolution will be dictated by the ArcGIS Field Maps app being utilized (no less than Medium: 480x640 resolution). All pole photos will be stored in the form of Esri feature attachments to the existing or new pole features.

## 6. Pole Data and Delivery

The preceding items will require the use of TCLP Esri tools (a single ArcGIS Field Maps application referencing ArcGIS Enterprise - Portal for ArcGIS services) linked to an external high-accuracy Eos Arrow GPS/GNSS receiver.

Although compatible with Android devices (Android 8.0 (Oreo) or later), TCLP requires the use of newer Apple iOS devices (iPad or iPhone with iOS 14.5 or later) for use with the Esri and Eos GPS/GNSS tools. TCLP will provide the required Esri user accounts along with basic user guides for Esri and Eos GPS/GNSS tools as needed to complete the work.

## 7. Locating & Traffic Control

- a. All underground locating (Miss Dig) requests are the responsibility of the Successful Bidder.
  
- b. Successful Bidder is responsible for all traffic control, road, land and shoulder closures required to complete the project including flaggers. All required traffic control signage must be utilized and be in accordance with the latest edition of the Michigan Manual of Uniform Traffic Control Devices. All traffic control along state-controlled highways must meet MDOT standards, regulations and requirements.

## 8. Safety Rules

- a. The Successful Bidder shall have a written safety program in place to adequately protect their employees from workplace hazards. Written documentation of the safety program and employee trainings shall be made available to Owner upon request. The Successful Bidder is ultimately responsible for the safety of all Successful Bidder employees while completing the project(s).
  
- b. TCLP reserves the right to stop work on the project(s) immediately following any Successful Bidder related injury or accident during the accident investigation period.



## **9. Leaving the Project(s) for Extended Time Periods**

- a. Following commencement of work on the project(s), the Successful Bidder shall not abandon the Project for an extended length of time unless granted written permission from TCLP. TCLP will review the project schedule to verify that the Successful Bidder has provided sufficient crews and equipment to keep the project on schedule prior to granting permission to leave for an extended time period. TCLP's intent is to ensure the Successful Bidder is progressing throughout the duration of the Project.
- b. Should the Successful Bidder leave the project and not comply with the items above, TCLP retains the right to complete those incomplete items and charge the Successful Bidder for all labor and equipment time and material utilized. This includes payment to outside Successful Bidders to complete the required work.

## **10. Contract Date Extensions**

- a. All requests for contract date extensions shall be written requests and submitted to TCLP.
- b. Extensions requests based on weather related delays shall include documentation provided by the Successful Bidder of non-working days due to inclement weather.



## B. INSURANCE REQUIREMENTS

The following insurance requirements must be met throughout the project:

- a. The Successful Bidder shall file with Traverse City Light & Power (TCLP) satisfactory certificates of insurance prior to commencement of construction. The form, content and limits of such insurance, together with the insurer thereof in each case, shall be acceptable to TCLP (Best rating of A or better.) Advance written notice will be given to TCLP before any material modification, cancellation, or expiration of any policy covered thereby. Notice of policy material modification, cancellation, or expiration shall be made by certified mail to TCLP.
- b. Should any of the insurance requirements stated herein be terminated by the Insurer, the Insurer will mail thirty days written notice to TCLP. Failure to mail by the Insurer will not waive the obligation or liability of any kind upon the insurer affording coverage. These requirements must be stated on all certificates of insurance. Modifications of the standard cancellation clause is acceptable.
- c. All certificates shall list any exclusions which are nonstandard within the industry as they appear on the policy.
- d. Each insurance policy shall have an Additional Insured endorsement naming TCLP, its officers, agents, directors, and employees (including the Engineer). The issuing company for comprehensive general liability and excess liability shall waive subrogation of all claims against parties named as additional insureds.
- e. The worker's compensation, automobile liability, and general liability insurance specified shall apply to all Successful Bidders on site.
- f. For insurance purposes, the title of ownership of the equipment, if any, furnished by the Successful Bidder shall remain with the Successful Bidder until official acceptance of the work by TCLP.
- g. Third Party Beneficiaries. If the Successful Bidder is doing all or a part of the work in public rights-of-way, the City of Traverse City and Grand Traverse County, including their Departments and Commissions, are third party beneficiaries of the Successful Bidder's obligations under this RFP and they shall be added as named Additional Insureds in all requires insurance policies. Except for those entities, there are no other third party beneficiaries intended by the parties.
- h. Insurance types and coverages:
  1. Workers' Compensation: The parties shall maintain suitable workers compensation insurance pursuant to Michigan law and Successful Bidder shall provide a certificate of insurance or copy of state approval for self-insurance to TCLP upon execution of this Contract.



2. Comprehensive General Liability Insurance Coverage: Naming the City Of Traverse City and TCLP as additional insured's:

Limits for bodily injury or death not less than \$2,000,000 for each person \$2,000,000 for each incident.

This insurance must cover timber trespass

3. Owners and Successful Bidders Protective Liability Insurance Coverage \$2,000,000.00 minimum coverage.

The Successful Bidder agrees not to change such insurance and agrees to maintain such insurance throughout the period of performance of this Agreement. Successful Bidder will upon execution of this Agreement provide a certificate of insurance to the TCLP Controller. Such certificate shall name TCLP as an additional insured with the broad form endorsement for ongoing operations and completed operations on the insurance policies for general liability, excess liability, and Successful Bidder liability. Successful Bidder shall also provide Additional Insured Endorsement CG 20330413 or its equivalent. If any of the required insurance is not renewed or canceled, the Successful Bidder and all subSuccessful Bidders shall cease operations and shall not resume until new insurance is obtained. Successful Bidder shall obtain Third Party Notice Endorsement IL 79901010 for each required policy requiring the insurer to give Owner 30 days' notice of non-renewal or cancellation.

4. Comprehensive Automobile Liability Insurance Coverage: On all self-propelled vehicles used in connection with the contract whether owned, non-owned, or hired in the minimum coverage amount of \$2,000,000.

Property damage limit shall not be less than \$1,000,000 for each incident.



**C. IRAN ECONOMIC SANCTIONS ACT**

**Sworn and Notarized Affidavit of Compliance  
Iran Economic Sanctions Act  
Michigan Public Act No. 517 of 2012**

All bidders must submit the following certification statement in compliance with Public Act No. 517 of 2012 (the “Iran Economic Sanctions Act”) and attach this form to the bid. **Traverse City Light & Power shall not accept any bid that does not include this sworn and notarized certification of statement.**

The undersigned, the owner or authorized officer of \_\_\_\_\_ (the Bidder), hereby certifies, represents and warrants that the Bidder (including its officers, directors and employees) is not an “Iran linked business” within the meaning of the Iran Economic Sanctions Act, and that in the event the Bidder is awarded a contract for the Pole Inspection Program, the Bidder will not become an “Iran linked business” at any time during the course of performing the work or any services under the contract.

The Bidder further acknowledges that any person who is found to have submitted a false certification is responsible for a civil penalty of not more than \$250,000.00 or 2 times the amount of the contract or proposed contract for which the false certification is made, whichever is greater, the cost of Traverse City Light & Power’s investigation, and reasonable attorney fees, in addition to the fine. Moreover, any person who submitted a false certification shall be ineligible to bid on a Request for Proposal for 3 years from the date it is determined that the person has submitted the false certification.

BIDDER

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by

\_\_\_\_\_ .

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
\_\_\_\_\_, County, \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_





## D. BID SUMMARY

### **Bidder – Please complete and return**

**TITLE: Pole Inspection Program**

**DUE DATE: Thursday, June 20, 2024, at 2:00PM EST**

Having carefully examined the specifications and any other applicable information, the bidder proposes to furnish all items necessary for and reasonably incidental to the proper completion of this bid. Bidder submits this bid and agrees that the bid may not be withdrawn for a period of thirty (30) days from the actual date of the opening of the bid.

Bidder understands and agrees, if selected as the successful bidder, to accept a Contract (Attachment B) from TCLP and to provide proof of any required insurance.

Bidder submits this bid and agrees to meet or exceed all TCLP's requirements and specifications unless otherwise indicated in writing and attached hereto.

Bid forms are to be completed, including bid sheet, and submitted.

Bidder understands that TCLP reserves the right to accept any or all bids in whole or in part and to waive irregularities in any bid in the best interest of TCLP. The bids will be evaluated and awarded on the basis of the best value to TCLP. Criteria used will include, but not be limited to, bidder/Successful Bidder's ability, qualifications, experience, price, and overall capability meeting the needs of TCLP. TCLP is sales tax exempt – Government.

Bidder shall pay all sales, consumer, use and other similar taxes required to be paid by Bidder in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the work.

The Bidder certifies that it is in compliance with the City of Traverse City's Nondiscrimination Policy as set forth in Administrative Order No. 47 and Chapter 605 of the City's Codified Ordinances.

The Bidder certifies that none of the following circumstances have occurred with respect to the Bidder, an officer of the Bidder, or an owner of a 25% or more share in the Bidder's business, within 3 years prior to the bid:

- a) conviction of a criminal offense incident to the application for or performance of a contract;
- b) conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense which currently, seriously and directly reflects on the Bidder's business integrity;



- c) conviction under state or federal antitrust statutes;
- d) attempting to influence a public employee to breach ethical conduct standards; or
- e) conviction of a criminal offense or other violation of other state, local, or federal law, as determined by a court of competent jurisdiction or an administrative proceeding, which in the opinion of the City indicates that the bidder is unable to perform responsibility or which reflects a lack of integrity that could negatively impact or reflect upon TCLP, including but not limited to, any of the following offenses or violations of:
  - i. The Natural Resources and Environmental Protection Act.
  - ii. A persistent and knowing violation of the Michigan Consumer Protection Act.
  - iii. Willful or persistent violations of the Michigan Occupational Health and Safety Act.
  - iv. A violation of federal, local, or state civil rights, equal rights, or non-discrimination laws, rules or regulations.
  - v. Repeated or flagrant violations of laws related to the payment of wages and fringe benefits.
- f) the loss of a license or the right to do business or practice a profession, the loss or suspension of which indicates dishonesty, a lack of integrity, or a failure or refusal to perform in accordance with the ethical standards of the business or profession in question.

Terms: Payment will be made as soon as possible upon invoicing.

Bidder certifies that as of the date of this bid, Bidder's company or Bidder is not in arrears to TCLP or the City of Traverse City for debt or contract and is in no way a defaulter as provided in Section 152, Chapter XVI of the Charter of the City of Traverse City.

Bidder agrees that the bid may not be withdrawn for a period of thirty (30) days from the actual date of the opening of the bid.

**Please direct ALL questions to: Daren Dixon, Operations Manager, Traverse City Light & Power, at [ddixon@tclp.org](mailto:ddixon@tclp.org).**



**E. SUBMISSION FORM**

By submitting a response to this RFP you acknowledge that TCLP may be required from time to time to release records in its possession under the Michigan Freedom of Information Act. By submitting a response, you hereby give permission to TCLP to release any records or materials submitted by you as TCLP may be requested to do so as permitted by the Freedom of Information Act, MCL 15.231 et seq.

Submitted by:

_____		_____	
Signature		Company Name	
_____		_____	
Name and Title (Print)		Company Address	
_____		_____	
Phone	Fax	City,	State, Zip
_____		_____	
		Sole proprietorship/partnership/corporation	
_____		_____	
		If corporation, state of corporation	

The Successful bidder’s name shall appear as follows on any Contract or Purchase/Service Order documents:

\_\_\_\_\_  
Company Name

Contract or Purchase/Service Order documents shall be mailed to:

\_\_\_\_\_  
Attention

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City , State, Zip

\_\_\_\_\_  
Email Address





**REFERENCES:** (include name of organization, contact person, and daytime phone number).

1.

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Phone Number

2.

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Phone Number

3.

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Phone Number



**ATTACHMENT A – UNIT PRICING**

**UNIT PRICING – Required (per pole):**

- 1. Visual Test (all poles) \$ \_\_\_\_\_
- 2. Sonic/Sound Test (those that fail above visual test or >10 years) \$ \_\_\_\_\_
- 3. Bore Test (those that fail above sound test) \$ \_\_\_\_\_
- 4. Verify Pole Data (height, class, owner) \$ \_\_\_\_\_
- 5. GPS Pole Locations \$ \_\_\_\_\_

**UNIT PRICING – Supplemental Services, Optional (per pole):**

- 6. Foreign Attachment Audit \$ \_\_\_\_\_
- 7. Foreign Attachment Code Violations \$ \_\_\_\_\_
- 8. Capture Pole Photo \$ \_\_\_\_\_

**PLEASE LIST ANY ADDITIONAL COSTS/SERVICES NOT LISTED ABOVE:**

- 9. \_\_\_\_\_ \$ \_\_\_\_\_
- 10. \_\_\_\_\_ \$ \_\_\_\_\_
- 11. \_\_\_\_\_ \$ \_\_\_\_\_
- 12. \_\_\_\_\_ \$ \_\_\_\_\_
- 13. \_\_\_\_\_ \$ \_\_\_\_\_
- 14. \_\_\_\_\_ \$ \_\_\_\_\_

Estimated Start Date: \_\_\_\_\_  
Estimated Completion Date: \_\_\_\_\_

**TRAVERSE CITY LIGHT AND POWER  
POLE INSPECTION AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the TRAVERSE CITY LIGHT AND POWER DEPARTMENT, a Michigan municipal electric utility, of 1131 Hastings Street, Traverse City, Michigan, 49686, ("TCL&P"), and \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_, MI (the "Contractor");

WITNESSETH:

WHEREAS, TCL&P desires to engage the services of the Contractor to furnish technical and professional assistance concerning pole inspection of the project which is described as:

**Traverse City Light and Power Pole Inspection Program**

and the Contractor wishes to furnish such technical and professional service to TCL&P and has represented that Contractor has the education, expertise, capability, equipment, and the necessary licenses to perform such Work;

THEREFORE, the parties mutually agree as follows:

1. Scope of Services. The Contractor shall provide services in accordance with and as set forth in Schedule A, "Scope of Work", attached hereto and incorporated herein by reference.
2. Compensation and Method of Payment. TCL&P shall pay to the Contractor and the Contractor agrees to accept as full compensation for services under this Agreement an amount not to exceed payment of \$ \_\_\_\_\_ in accordance with Schedule B, "Timetable for Activities and Schedule of Payments," attached hereto and incorporated herein by reference.
3. Period of Performance. The Work to be rendered under this Agreement shall commence within 30 calendar days of this Agreement. Performance and completion of performance shall be in accordance with the schedules attached hereto.
4. Independent Contractor. The relationship of the Contractor to TCL&P is that of an independent Contractor and in accordance therewith, Contractor covenants and agrees to conduct itself consistent with such status and that neither it nor its employees, officers or agents will claim to be an officer, employee or agent of TCL&P, or make any claim, demand or application, to or for any rights or privileges applicable to any officer or employee of same, including, but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

5. Contractor Responsibility. The Contractor shall perform the Work in a good and workmanlike manner, take proper safety and health precautions to protect the work, the workers, the public, and the property of others and assumes the risk in performing under this Agreement. Contractor shall be solely responsible and answerable in damages for all improper Work, accidents or injuries to person or property. Any damage from any cause whatsoever shall be repaired by Contractor at its own expense. Contractor shall make a careful examination of the site, plans, specifications and all conditions affecting the Work, and any failure to make such examination will not be a valid excuse for failure to do the Work as a basis for any claim for extra compensation or extension of time.

6. Indemnity and Hold Harmless Provision. Contractor shall defend, indemnify, hold harmless and release TCL&P and the City of Traverse City and their officers and employees, from and against any and all claims, liabilities, losses, damages, actual attorneys' fees and settlement expenses for damages to public or private property, for injuries to persons, or for other claims allegedly or actually resulting from or arising out of the performance or non-performance of the contracted Work, whether during the progress or after completion thereof. The defense, indemnity, hold harmless and release obligations contained herein shall exclude only those matters in which the claim arises out the sole negligence of TCL&P, the City of Traverse City, or any of their respective officers or employees. This defense, indemnity, hold harmless and release provision shall not be limited by reason of any insurance coverage. The obligations herein shall apply to claims which sound in either tort or contract.

- Check if Contract for work in MDOT Right of Way – Contractor shall additionally hold harmless, indemnify and defend in litigation, the State of Michigan, the Michigan Department of Transportation and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the Michigan Department of Transportation, until the contractor achieves final acceptance of TCL&P.

7. Bonds. The Contractor shall, at the time of execution hereof by TCL&P, provide a performance bond in an amount of not less than one-hundred percent (100%) of the contract price in favor of TCL&P, conditioned upon the faithful performance of the contract and completion on or before the date specified; and a labor and material bond running to TCL&P in an amount of not less than one-hundred percent (100%) of the contract price for the protection of subcontractors, material suppliers and labor. The bonds shall be in substantially the same form as the current AIA bond forms, or in such other form as is approved by TCL&P's General Counsel. TCL&P may waive the requirement for these bonds if the contract is less than \$50,000 and the signature of the Executive Director appearing at the end of this paragraph shall be deemed to be a waiver of the bond requirements.



8. Insurance. The Contractor shall acquire and maintain the following forms of insurance coverage until completion of the Work:

- A. Commercial General Liability insurance coverage, including Contractor's Protective Liability, Completed Operations, Contractual Liability, Explosion, Collapse and Underground Coverage, on an occurrence basis with a Combined Single Limit applicable to the Work only of One Million and 00/100 (\$1,000,000.00) Dollars each occurrence for bodily injury and property damage. The policy shall name The City of Traverse City and TCL&P as additional insureds for ongoing operations and completed operations.
- B. Owners and Contractors Protective Liability insurance coverage with a Combined Single Limit applicable to the Work only of One Million and 00/100 (\$1,000,000.00) Dollars each occurrence for bodily injury and property damage. The policy shall name The City of Traverse City and TCL&P as additional insureds for ongoing operations and completed operations.

All insurance policies referred to above shall provide insurance coverage to The City of Traverse City and TCL&P on a primary basis and contain a provision that the insurer will not cancel, materially change or fail to renew the coverage provided by such policy without first giving The City of Traverse City and TCL&P thirty (30) days' prior written notice. All deductibles required by such policies shall be the obligation of Contractor. The insurance referred to above shall not reduce or limit Contractor's obligation to indemnify and defend The City of Traverse City and TCL&P as provided in this Agreement.

- Check if Contract for work in MDOT Right of Way – The policies shall also include as named insured the State of Michigan, the Transportation Commission, the Michigan Department of Transportation, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the Michigan Department of Transportation and all officers, agents, and employees thereof, pursuant to a maintenance contract.

The Contractor agrees not to change such insurance and agrees to maintain such insurance throughout the period of performance of this Agreement. Contractor will upon execution of this Agreement provide to the TCL&P Controller certificates of insurance which Contractor is required to purchase acquire and maintain. If any of the required insurance is not renewed or canceled, the Contractor and all subcontractors shall cease operations and shall not resume until new insurance is obtained.

9. Workers' Compensation. The parties shall maintain suitable workers' compensation insurance pursuant to Michigan law and Contractor shall provide a certificate of insurance or copy of state approval for self-insurance to the TCL&P Controller upon execution of this Agreement.

10. Security. If the work requires the Contractor to have access to TCL&P secured facilities, such as substations, Contractor shall:

- (a) perform background checks on employees who will access the facilities;
- (b) only allow those employees to have access who have no record of crime or misconduct causing damage or injury;
- (c) only allow employees access to substation who are trained to perform work within a substation;
- (d) identify the secured facility and the names of all employees who will be accessing secured facility;
- (e) inform TCL&P operators at (231) 932-4589 at the time of entry and at the time of exit of the employees; and
- (f) promptly return to TCL&P all keys and keycards to secured facilities when the work is completed.

11. Compliance with Regulations. The Contractor shall familiarize itself with and comply with all applicable statutes, rules and regulations of all Federal, State and local governments and agencies having jurisdiction, and bears the risk of any such authorities or changes thereto.

12. Standard of Conduct. Contractor shall tender all services under this Agreement according to generally accepted professional practices for the intended use of the Work. The employees of the Contractor shall maintain a professional appearance that includes Contractor logo or other means of identification during performance of the Work.

13. TCL&P's Obligation. TCL&P shall provide Contractor with all information currently available to it upon request of the Contractor. TCL&P's Executive Director or such other person as the Executive Director shall designate shall be TCL&P's representative for purposes of this Agreement.

14. Third-Party Beneficiaries. If the Contractor is doing all or a part of the Work in public rights of way, the City of Traverse City and Grand Traverse County, including their Departments and Commissions, are third-party beneficiaries of the Contractor's obligations under this Agreement and they shall be added as named Additional Insureds in all required insurance

policies. Except for those entities, there are no other third-party beneficiaries intended by the parties.

15. Non-Discrimination. The Contractor agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of their actual or perceived race, color, religion, national origin, age, sex, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Breach of this covenant may be regarded as a material breach of this contract. The Contractor agrees to require similar provisions from any sub-contractor.

16. Prohibition Against Assignment. This Agreement is intended to secure the service of Contractor because of its ability and reputation and none of the Contractor's duties under the Agreement shall be assigned, subcontracted, or transferred without the prior written consent of the TCL&P Executive Director. Any assignment, subcontract or transfer of Contractor's duties under this Agreement must be in writing.

17. Third-Party Participation. The Contractor agrees that despite any subcontract entered into by the Contractor for execution of activities or provision of services related to the completion of this project, the Contractor shall be solely responsible for carrying out the project pursuant to this Agreement. The Contractor shall specify in any such subcontract that the subcontractor shall be bound by this Agreement and any other requirements applicable to the Contractor in the conduct of the project, unless TCL&P and the Contractor agree to modification in a particular case. The Contractor shall not subcontract unless agreed upon in writing by TCL&P's Executive Director.

18. Interest of Contractor. The Contractor represents that its officers and employees have no interest and covenant that they will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Contractor's services and duties hereunder. The Contractor further covenants that in the performance of the Agreement, no person having any such interest shall be employed, Contractor further covenants that neither it nor any of its principals are in default to the City of Traverse City.

19. Covenant Against Contingent Fees. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach of violation of this warranty, TCL&P shall have the right to annul this Agreement with liability, or in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

20. Qualifications of the Contractor. The Contractor specifically represents and agrees that its officers, employees, agents and consultants have and shall possess the experience, knowledge, and competence necessary to qualify them individually for the particular duties they perform hereunder.

21. Electronic Transactions. The parties agree to conduct this transaction by electronic means. This Agreement may be executed by providing an electronic signature under the terms of the Uniform Electronic Transactions Act. This Agreement may not be denied legal effect or admissibility as evidence solely because it is in electronic form, permits the completion of the business transaction referenced herein electronically instead of in person, or has been stored electronically. As an alternative to physical delivery, any document, including any signed document or written notice, may be delivered in electronic form only by the following indicated methods: \_\_\_ Facsimile \_\_\_ Email \_\_\_ No Electronic Delivery. Documents with original signatures shall be provided upon request of any party.

22. Notice. Notices pursuant to this Agreement shall be given to TCL&P as follows:

{Name}  
 {Address}  
 {Phone Number}  
 {Email address}

Notices pursuant to this Agreement shall be given to Contractor as follows:

{Name}  
 {Address}  
 {Phone Number}  
 {Email address}

23. Amendments. This Agreement may be modified from time to time, but such modifications shall be in writing and signed by both parties.

24. Termination for Fault. If TCL&P determines that the Contractor has failed to perform or will fail to perform all or any part of the services, obligations, or duties required by this Agreement, TCL&P may terminate or suspend this Agreement in whole or in part upon written notice to the Contractor specifying the portions of the Agreement and in the case of suspension shall specify a reasonable period not more than thirty (30) days nor less than fifteen (15) days from receipt of the notice, during which time the Contractor shall correct the violations referred to in the notice. If a performance bond was required, notice shall be given to the surety on the bond. If the Contractor or its bonding company does not correct the violations during the period provided for in the notice, this Agreement shall be terminated upon expiration of such time. Upon termination, any payment due the Contractor at time of termination may be adjusted to cover TCL&P's additional costs occasioned by reason of the termination. This provision for termination shall not limit or modify any other right of TCL&P to proceed against the Contractor or its bonding company at law or under the terms of this Agreement.

25. Force Majeure. If because of Force Majeure, either party is unable to carry out any of its obligations under this agreement (other than obligations of such party to pay or expend money for or in connection with the performance of this Agreement), and if such party promptly gives to the other party concerned written notice of such force majeure, then the obligations of the party giving such notice will be suspended to the extent made necessary by such force

majeure and during its continuance, provided the effect of such force majeure is eliminated insofar as possible with all reasonable dispatch. "Force Majeure" means unforeseeable events beyond a party's reasonable control and without such party's fault or negligence, including, but not limited to, acts of God, acts of public enemy, acts of the federal government, acts of another party to this Agreement, fire, flood, inclement weather, epidemic, quarantine restrictions, strikes and embargoes, labor disturbances, the unavailability of raw materials, legislation, charter amendments or referendum, orders or acts of civil or military authority, injunctions, or other causes of a similar nature which wholly or substantially prevent performance. Upon termination by TCL&P due to Force Majeure, the Contractor shall be entitled to and TCL&P shall pay the costs actually incurred in compliance with this Agreement until the date of such termination.

26. Delay. If the Contractor is delayed in the completion of the Work due to acts of TCL&P or due to Force Majeure, the time for completion shall be extended for a period determined by the TCL&P to be equivalent to the time of such delay. The Contractor shall not be entitled to recover damages or costs sustained by reason of such delays.

27. Interpretation. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. The pronouns and relative words used herein are written in the neuter and singular. However, if more than one person or entity joins in this Agreement on behalf of Contractor, or if a person of masculine or feminine gender joins in this Agreement on behalf of Contractor, such words shall be interpreted to be in the plural, masculine or feminine as the sense requires.

28. Dispute Resolution. If any party has a dispute with another regarding the meaning, operation, or enforcement of any provision of this Agreement, the disputing parties agree to meet and confer to negotiate a resolution of the dispute. They further agree as follows:

- (a) Mediation. If they are unable to resolve the dispute themselves, and before formally instituting any other dispute mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of MCR 2.411, to bring them together in at least one mediation session.
- (b) Venue. All meetings, hearings and actions to resolve the dispute shall be in Grand Traverse County.
- (c) Initiation. A party may initiate mediation by written request and proposing a mediator. The other party shall promptly respond in writing and cooperate in the scheduling. Violation of this provision is a material breach of this contract and a party in such breach is responsible for all the other party's actual attorney fees and costs in filing a lawsuit through conclusion of mediation.

29. Venue. Any and all suits for any and every breach of this Agreement may only be instituted and maintained in any state court of competent jurisdiction in the County of Grand Traverse, State of Michigan.

30. Michigan Freedom of Information Act. The Contractor acknowledges that Traverse City Light & Power may be required from time to time to release records in its possession under the Michigan Freedom of Information Act. The Contractor hereby gives permission to Traverse City Light & Power to release any records or materials received by Traverse City Light & Power as it may be requested to do so as permitted by the Freedom of Information Act, MCL 15.231 et seq.

31. Entire Agreement. This Agreement, together with all items incorporated herein by reference, constitutes the entire agreement of the parties and there are no valid promises, conditions or understandings which are not contained herein. It is understood that should Contractor recommend further work concerning the project, TCL&P is under no obligation to engage Contractor in such work.

32. Authority to Execute. The parties agree that the signatories appearing below have the authority and are duly authorized to execute this Agreement on behalf of the party to the Agreement.

33. Counterparts. This Agreement may be signed in one or more counterparts, and each counterpart will be considered an original Agreement. All of the counterparts will be considered one document and become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

APPROVED AS TO SUBSTANCE:

TRAVERSE CITY LIGHT AND POWER  
DEPARTMENT

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
\_\_\_\_\_

APPROVED AS TO FORM:

CONTRACTOR

PRE-APPROVED

\_\_\_\_\_  
W. Peter Doren  
General Counsel

\_\_\_\_\_  
  
\_\_\_\_\_

ATTACHMENT A

SCOPE OF WORK

The parties agree that the Work for TCL&P shall consist of the following:

ATTACHMENT B

TIMETABLE FOR ACTIVITIES

SCHEDULE of PAYMENTS

Payments shall be made to the Contractor as follows:

Final payment shall be made upon completion of all Contractor's services. Total payment including expenses shall not exceed \$\_\_\_\_\_.