



Monday, June 24, 2024

Bidder:

Traverse City Light & Power (TCLP) will receive sealed bids in the office of TCLP, 1131 Hastings Street, Traverse City, Michigan, 49686, until **Wednesday, July 24, 2024, at 11:00 AM EST** for the following project:

**TCLP HQ Facilities Feasibility Study**  
(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 "TCLP HQ Facilities Feasibility Study."

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 "TCLP HQ Facilities Feasibility Study" 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 direct ALL questions to:** Jacob Hardy, Sustainability & Key Accounts Manager, Traverse City Light & Power, at [jhardy@tclp.org](mailto:jhardy@tclp.org). The deadline for questions and/or clarifications is **Wednesday, July 17, 2024, at 3:00 PM EST**.

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

Currently, TCLP operates from a headquarter location at 1131 Hastings, St. with a staff of roughly 50 employees with additional new hires expected in the immediate and not so distant future. As such, our utility is looking to expand its available space to accommodate new employees, facilitate the growth of its Fiber Optic service offerings, improve building efficiencies and sustainability, enhance employee collaboration and create opportunities to expand other services offerings to the community.

Currently, most staff operate from this location; a footprint that includes office space, yard space, fleet bays, operations workspaces and warehousing amongst a series of separate facilities. (For a facility map, including square footage, please refer to Appendix A.) Additionally, TCLP recently opened a customer service center in downtown Traverse City at 130 Hall St., which has the capacity to be occupied by roughly 8 employees – which consists of 3 customer service representatives, 1 private office and an IT workspace.

To preface its plans for developing a future facilities solution via master planning, TCLP has engaged in internal stakeholder engagement to gauge space requirements, future FTE counts and desired functionality. In addition, TCLP is currently engaged with a consultant to outline its future FTE strategy and organizational alignment that will directly inform size, department layout considerations and functional space requirements for its future facilities to right-size it's operations. The outcomes of these activities will be made available to the selected bidder to assist in the development of this study.

The purpose of this study is to perform a complete analysis of each program element within the operations of TCLP and prepare a comprehensive space program, blocking and stacking plans, typical floor plans, and multiple site analysis models to identify the optimal and most cost-effective solution to host TCLP operations for the foreseeable future. The selected firm must evaluate and provide concepts for repurposing existing spaces, or relocation to an entirely new facility. The intent of this study is to bring the expertise of a firm specializing in the design of efficient office space, and creative workplace solutions to maximize the productivity of TCLP staff. This concept is desired to minimize capital outlay and ongoing operational expenses for the owner. Concepts such as open office environments, consolidation of efficient shared spaces, highly technical workspace areas, increased day lighting and views, up to date, electrified HVAC systems and improved information technology systems are but a few of the objectives of the study. Specialized spaces that coordinate the needs of the office employees as well as improved interface with the public for meetings and customer service functions of the city are also desired.

TCLPs desire is to have fully electrified operations with the goal of being Carbon Neutral. This will include EV charging stations for fleet (currently 5 vehicles) and customers. Renewable



energy and storage will be strongly considered as a component of any scenario. At the very least TCLP desires its facilities to be ready for future renewable energy projects.

The scope of work for the A/E services solicited under this RFP is as follows:

**TCLP Feasibility Study:**

- Provide a complete Facility Condition Assessment to evaluate current inventory and condition of all spaces, including office spaces, yard space, truck/fleet bays and warehouse at facilities identified in Appendix A - excluding 130 Hall St. The Facilities Condition Assessment must provide detailed analysis regarding the current use of the facility, including architectural, structural, envelope, mechanical, electrical, plumbing, life safety, and other critical building systems.
- Development of a comprehensive program identifying each departmental area and associated support spaces. Provide efficient concepts for shared conferencing, support areas and other common functions required to create an efficient program.
- Development of functional diagrams and workflow analysis to indicate optimal adjacencies by department and business function.
- Propose typical office component layouts and configurations to use in the programming analysis.
- Develop efficient space plan for shared common areas and support functions across all departments.
- Identify opportunities for improved technology systems to increase efficient use of spaces.
- Consult with the Owner to develop options for a centralized concept into a new facility, or a decentralized program concept utilizing existing facilities.
- Create conceptual blocking and stacking plans, and typical floor plan layouts with massing diagrams. For each concept.
- Test fit centralized concept on multiple sites, (no more than 2) to be provided by the owner after award.
- Provide sufficient building system descriptions in narrative form to support the Owner Representative's development of a comprehensive and comparative cost model for each concept.
- Identify existing FFE, IT, A/V systems that may be considered for re-use in a new or renovated facility.
- Identifying operational needs such as garages, EV charging infrastructure, and warehousing facilities.
- Incorporate previously completed staff survey results to discern needs versus wants for the new facility.
- Consider enhancements to improve the quality of life for the workforce.



### **Environmental Considerations:**

- Determine the best approach for achieving environmentally sustainable, carbon-neutral, electrified facilities in a cost-effective manner - this is a necessity goal for the organization.
- Evaluating the integration of Distributed Energy Resources (DERs) such as solar, battery storage, and geothermal HVAC systems.

### **Deliverables and Reporting:**

- Develop a comprehensive final report detailing findings and actionable strategies for all tasks noted above.

## **2. Instructions to Bidders**

Respondents shall carefully read the information contained in the following criteria and submit a complete response to all selection criteria. Incomplete Proposals will be considered non-responsive and rejected in their entirety.

### **Criteria 1: Respondent's Statement of Qualifications and Availability**

- Provide a statement of interest for the Project including a narrative describing the respondent's unique qualifications as they pertain to this particular Project.
- Include information regarding any special services, benefits, or key advantages to the owner if selected.
- Provide a statement on the availability and commitment of the respondent, its principal(s) and assigned professionals to undertake the Project.
- Provide a brief history of the respondent firm and each consultant proposed for the project.
- Provide a graphic representation of the project team, identifying each consultant and proposed business relationship with each.

### **Criteria 2: Business Organization**

- Provide the following information on your firm:
  - Legal name of proposing Company.
  - Branch Offices (name & location(s)) providing services to this project.
- Does any relationship exist by relative, business associate, capital funding agreement, or any other such kinship between your firm and any party to the Owner or officer or the same for any Consultant envisioned for this project? If so, please explain.



### **Criteria 3: Respondent's Qualifications for Professional Services.**

- List and describe no more than 5 recent projects, demonstrating the Respondent's experience for providing similar facility condition assessments, and corporate office master planning services on similar projects. The successful Respondent must be able to demonstrate recent and relevant experience.
- List the projects in order of priority, with the most relevant project listed first. Provide the following information for each project listed:
  - Project name and location
  - Summary of services provided
  - Square footage and approximate project costs.
  - Color images
  - Identify proposed team members who worked on these projects
  - Identify the relevance of project experience related to the requirements of this Project as stated above.
- References (for each project listed above, identify the following):
  - The Owner's name and representative who served as the day-to-day liaison during the design and construction phases of the project, including telephone number

### **Criteria 4: Project Team Members qualifications to provide professional services for the Project.**

- Provide resumes of the A/E team members that will be directly involved in the Project, including their experience with similar projects.
- Provide a project organization chart showing all key personnel and outlining the roles for each team member.

### **Criteria 5: Management Approach and Work Plan**

- Describe the specific work plan for the Project for all Architectural and Engineering responsibilities required under this Proposal. Include anticipated dates for specific deliverables and any critical dates when information or decisions by the Owner are required.
- Include a detailed schedule identifying the key tasks and deliverables identified in the scope of work.
- Discuss how your approach may be unique or more beneficial to the Owner than others.

### **Criteria 6: Efficient Workplace Design**

- Describe your experience with the incorporation of low voltage systems to improve the overall efficiency of the facility. Specifically, the coordination of Security Systems, Audio Visual, Telecommunications, Traffic Control, Sound Masking, Room Scheduling, Building Management Systems, and overall Facility Management Systems.



- Describe your experience with the coordination of open office designs for optimal space management and highlight how your experience may add value to the Owner. Provide examples specific to this project that may be incorporated.
- Describe the types of building metrics and any typical programming standards used to determine appropriate space planning for similar projects.
- Explain other methods your firm utilizes to maximize the overall efficient utilization of space and optimized operational workflow.
- Describe your experience with sustainable design and how you would implement such concepts into this master plan.

### **Criteria 7: Proposed Compensation Structure**

- a. Phase 1 Services:
  1. Provide, based on the proposed Work Plan, a lump sum cost proposal for all services.
  2. Provide a guaranteed maximum price for reimbursable expenses and provide a detailed budget for such costs.
  3. Discuss the specific conditions for which A/E may request additional compensation and the basis for such requests. Include proposed hourly billing rates for all categories of services should such compensation methods be used for additional work.
- b. Phase 2 Services:
  1. Understanding that there are multiple concepts that will come out of the Phase 1 Study, please provide a proposed range for the cost of AE services required for a complete project of the type indicated herein and describe how such fees may be negotiated upon further definition of the project requirements following completion of Phase 1 services and a more defined project. Describe in general terms fees related to New Construction vs. Renovation of existing facilities. This can not be guaranteed as additional work for the winning bidder. Due to TCLP policies an RFP will most likely be required for Phase 2.
- c. In addition to the written narrative above, Complete and return the following forms:
  1. Section C – Iran Economic Sanctions Act
  2. Section E – Submission Form-including cost of proposed services.
- d. Successful Bidder invoicing will be completed on a monthly basis based on the work completed to date.
- e. All invoices must show Traverse City Light & Power as the invoiced party.



### 3. Pre-Bid Meeting

A mandatory pre-bid meeting and facility walk-through will be held on **Thursday, July 11, 2024, at 11:00AM EST** at the TCLP offices located at 1131 Hastings Street, Traverse City, MI 49686.

### 4. Start Date & Project Timeline

All work on the study must begin by **September 16, 2024 and be ready for final TCLP board presentation by the end of April 2025**. TCLP requests that bidders provide an estimated project timeline within the bid submission.



## B. INSURANCE REQUIREMENTS

The Successful Bidder shall acquire and maintain commercial general liability insurance coverage, comprehensive automobile liability insurance coverage, and professional liability coverage. The limits and deductible applicable to them shall be as follows:

- a. Commercial General Liability insurance coverage with a \$1,000,000 minimum.
- b. Comprehensive Automobile Liability insurance coverage with a \$1,000,000 minimum.
- c. Professional Liability insurance coverage with a \$1,000,000 minimum.
- d. Workers Compensation The parties shall maintain suitable workers compensation insurance pursuant to Michigan law and Consultant shall provide a certificate of insurance or copy of state approval for self-insurance to TCLP upon execution of this Agreement.

The Successful Bidder agrees not to change and agrees to maintain such insurance throughout the period of performance of the Contract. The Successful Bidder will upon execution of the Contract provide a certificate of insurance to TCLP. Such certificate shall name TCLP as an additional insured.





**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 TCLP HQ Facilities Feasibility Study, 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: TCLP HQ Facilities Feasibility Study**

**DUE DATE: Wednesday, July 24, 2024, at 11:00AM 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 A) 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. Additional sheets may be used and submitted with bid.

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 after 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: Jake Hardy, Sustainability & Key Accounts Manager, Traverse City Light & Power, at [jhardy@tclp.org](mailto:jhardy@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				
<b>Bid Total:</b> \$ _____				

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

**Appendix A – Area Maps**

***1131 Hastings St***



**Approximate Square Footage**

- Building A – 13,000 ft<sup>2</sup> (approx. 3,000 of it is warehouse with fleet parking)
- Building B – 17,500 ft<sup>2</sup> (approx. 15,000 of it is warehouse with fleet parking)
- Building C – 6,500 ft<sup>2</sup> (all of it is warehouse)
- Building D - 4,500 ft<sup>2</sup> (approx. 3,000 of it is warehouse with fleet parking)
- Yard/Outdoor Storage – 88,000 ft<sup>2</sup>



# 130 Hall St



## Approximate Square Footage

Customer Service Center – 2,600 ft<sup>2</sup>

**TRAVERSE CITY LIGHT AND POWER DEPARTMENT  
CONSULTANT AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the TRAVERSE CITY LIGHT AND POWER DEPARTMENT, a Michigan municipal electric utility, whose address is 1131 Hastings St., Traverse City, Michigan, 49686, ("TCL&P"), and \_\_\_\_\_, Michigan (the "CONSULTANT");

WITNESSETH:

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

(The "Work")

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

THEREFORE, the parties mutually agree as follows:

1. Scope of Services. The Consultant shall provide services in accordance with and as set forth in Schedule "A", Scope of Services, attached hereto and incorporated herein by reference.
2. Compensation and Method of Payment. TCL&P shall pay to the Consultant and the Consultant agrees to accept as full compensation for services under this Agreement **[insert flat fee, estimate with attached rates, or not-to exceed figure with attached rates]** in accordance with Schedule "B", "Timetable for Activities and Schedule of Payments", attached hereto and incorporated herein by reference.
3. Period of Performance. The services to be rendered under this Agreement shall commence within five (5) working days of execution hereof. Performance shall be in accordance with the schedules attached hereto.
4. Independent Contractor. The relationship of the Consultant to TCL&P is that of an independent contractor and in accordance therewith, Consultant 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. The parties do not intend the services provided by Consultant to be a joint endeavor.



5. Consultant Responsibility. The Consultant shall perform the work in a good and workmanlike manner and assumes the risk in performing under this Agreement. Consultant shall be solely responsible and answerable in damages for all improper work, accidents or injuries to person or property.

6. Indemnity. Consultant shall defend, indemnify and save harmless TCL&P, its officers and employees, from and against any and all claims, liabilities, losses, damages, actual attorney's fees and settlement expenses for injury or death of any person and damage or loss of any property allegedly or actually resulting or arising out of any act, omission, or negligence of Consultant or its employees, agents or subcontractors, in connection with performing this Agreement, or the joint negligence of TCL&P and that of Consultant, Consultant's employees, agents or subcontractors. This indemnification agreement shall not be limited by reason of any insurance coverage.

7. Insurance. The Consultant shall acquire and maintain commercial general liability insurance coverage, comprehensive automobile liability insurance coverage, and professional liability coverage. The limits and deductible applicable to them shall be as follows:

- A. Commercial general liability insurance coverage with a \$1,000,000 minimum.
- B. Comprehensive Automobile Liability insurance coverage with a \$1,000,000 minimum.
- C. Professional liability insurance coverage with a \$1,000,000 minimum.

The Consultant agrees not to change and agrees to maintain such insurance throughout the period of performance of this Agreement. Consultant will upon execution of this Agreement provide a certificate of insurance to TCL&P. Such certificate shall name TCL&P as an additional insured.

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

9. Compliance with Regulations. The Consultant shall 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.

10. Standard of Conduct. Consultant shall render all services under this Agreement according to generally accepted professional practices for the intended use of the work or project.

11. Confidentiality. Consultant agrees that it, its employees, agents, and subcontractors, will not at any time, either directly or indirectly, communicate to any person, firm, corporation or

## ATTACHMENT A

public entity, in any manner whatever, any information concerning any matters affecting or relating to the business, records or other business data of TCL&P without the express written consent of the executive director of TCL&P. This promise of confidentiality is made without regard to whether any or all of the information would be deemed confidential, material or important. The parties stipulate that as between them, all information arising from Consultant's services are important, confidential, material and affect the successful conduct of the business of TCL&P and its goodwill. The parties are not bound by this clause where disclosure is required by law or court order.

12. TCL&P's Obligation. TCL&P shall provide Consultant with all information currently available to TCL&P upon request of the Consultant. The Executive Director shall designate a TCL&P employee to be TCL&P's representative for purposes of this Agreement.

13. Non-Discrimination. The parties agree 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 race, color, religion, national origin, age, sex, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity, or genetic makeup. Breach of this covenant may be regarded as a material breach of this Agreement.

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

15. Third Party Participation. The Consultant agrees that despite any subcontract entered into by the Consultant for execution of activities or provision of services related to the completion of this project, the Consultant shall be solely responsible for carrying out the project pursuant to this Agreement. The Consultant shall specify in any such subcontract that the subcontractor shall be bound by this Agreement and any other requirements applicable to the Consultant in the conduct of the project unless TCL&P and the Consultant agree to modification in a particular case. The Consultant shall not subcontract unless agreed upon in writing by TCL&P. It is hereby agreed to that \_\_\_\_\_ may act as a subcontractor to the Consultant.

16. Interest of Consultant. The Consultant 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 Consultant's services and duties hereunder. The Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed. Consultant further covenants that neither it nor any of its principals are in default to TCL&P.

## ATTACHMENT A

17. Covenant Against Contingent Fees. The Consultant 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 without 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.

18. Qualifications of the Consultant. The Consultant 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.

19. Notice. Whenever it is provided in this Agreement that a notice or other communication is to be given or directed to either party, the same shall be given or directed to the respective party at its address as specified in the Agreement, or at such other address as either party may, from time to time, designate by written notice to the other.

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

21. Termination.

A. For Fault. If TCL&P determines that the Consultant 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 Consultant 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 Consultant shall correct the violations referred to in the notice. If the Consultant 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 Consultant at time of termination may be adjusted to cover any additional costs occasioned TCL&P by reason of the termination. This provision for termination shall not limit or modify any other right to TCL&P to proceed against the Consultant at law or under the terms of this Agreement.

B. Not for Fault. Whenever TCL&P determines that termination of this Agreement in whole or in part is in the best interest of TCL&P or in the event that termination is required by any State or Federal agency, TCL&P may terminate this Agreement by written notice to the Consultant specifying the services terminated and the effective date of such termination. Upon termination, the Consultant shall be entitled to and TCL&P shall pay the costs actually incurred in compliance with

## ATTACHMENT A

this Agreement until the date of such termination plus any costs the Consultant incurs directly resulting from such termination.

22. Interpretation. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. This Agreement was drafted at the joint direction of the parties. 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 Consultant, or if a person of masculine or feminine gender joins in this Agreement on behalf of Consultant, such words shall be interpreted to be in the plural, masculine or feminine as the sense requires.

23. 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.

24. 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 Consultant recommend further work concerning the project, TCL&P is under no obligation to engage Consultant in such work.

25. Third Party Beneficiaries. The parties do not intend for there to be any third party beneficiaries to this agreement.

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

first above written.

WITNESS:

TRAVERSE CITY LIGHT AND POWER  
DEPARTMENT

\_\_\_\_\_

By: \_\_\_\_\_  
Tim Arends, Executive Director

CONSULTANT

\_\_\_\_\_

By: \_\_\_\_\_

The form of this agreement has been pre-approved by:

W. Peter Doren, Esq.  
Sondee, Racine & Doren, PLC  
Traverse City Light & Power General Counsel

**SCHEDULE A**

**SCOPE OF SERVICES**

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

SAMPLE

**SCHEDULE B**

**TIMETABLE FOR ACTIVITIES**

Contractor shall commence the Work within five (5) working days after execution of this Agreement. The schedule of activities shall follow the "Work Plan Schedule" attached as part of Schedule B, incorporated herein by reference.

Services shall be completed not later than X.

**SCHEDULE OF PAYMENTS**

Payments shall be made to the Consultant as follows: