

CR 43219 ✓

**PROFESSIONAL SERVICE CONTRACT
AXE & ECKLUND, P.C.**

AGREEMENT is made this 23rd day of November, 2010, by the COUNTY OF WASHTENAW, a municipal corporation, with offices located in the County Administration Building, 220 North Main Street, Ann Arbor, Michigan ("County") Axe & Ecklund, P.C. located at 21 Kercheval Avenue, Suite 355, Grosse Pointe Farms, MI 48236 ("Consultant").

In consideration of the promises below, the parties mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES

The County retains the Consultant to advise the County, its Elected Officials and legal entities as Bond Counsel and to act in such capacity for the County as established in RFP # 6524. The Consultant is one of a vendor pool established by the County and work will be assigned on an as-needed basis at the sole discretion of the County, its Elected Officials, or legal entities.

The Consultant agrees to perform the necessary services required as stated in Consultant's Response to Request for Proposal for County Bond Counsel Advisor, RFP # 6524 which is incorporated by reference.

The Consultant shall be responsible to the County Board of Commissioners, the Washtenaw County Building Authority, certain County committees/boards, and/or legal entities where appropriate. For the purpose of specific projects, the Consultant shall be responsible to the appropriate elected official or legal entity. The Consultant shall confer as necessary and cooperate with the County Administrator, County Treasurer, Water Resources Commissioner, Director of Public Works, Building Authority and other designated County Officials, Committees/Boards or legal entities as required to assure that the work proceeds in a mutually satisfactory manner.

The Consultant shall work closely with the County Corporation Counsel, Finance Director, and County Treasurer and keep those offices advised of all proceedings.

ARTICLE II - COMPENSATION

The County agrees to compensate the consultant for services performed under this contract at the rates stated in Consultant's response to RFP #6524 for various types of services resulting in the actual issuance of bonds, notes or other obligations, provided however, that when Consultant's affiliated corporation also acts as financial advisor on a project, it will reduce its Consultant fee by 15%.

ARTICLE III - REPORTING OF CONSULTANT

Section 1 - The Consultant is to report to County Administrator and/or designee and will cooperate and confer with him/her as necessary to insure satisfactory work progress.

Section 2 - All reports, estimates, memoranda and documents submitted by the Consultant must be dated and bear the Consultant's name.

Section 3 - All reports made in connection with these services are subject to review and final approval by the County Administrator.

Section 4 - The County may review and inspect the Consultant's activities during the term of this contract.

Section 5 - When applicable, the Consultant will submit a final, written report to the County Administrator.

Section 6 - After reasonable notice to the Consultant, the County may review any of the Consultant's internal records, reports, or insurance policies.

ARTICLE IV - TERM

This contract begins on May 1, 2010 and ends on April 30, 2015 with a mutual option to extend the contract for additional one year periods.

ARTICLE V- PERSONNEL

Section 1 - The Consultant will provide the required services and will not subcontract or assign the services without the County's written approval.

Section 2 - The Consultant will not hire any County employee for any of the required services without the County's written approval.

Section 3 - The parties agree that the Consultant is neither an employee nor an agent of the County for any purpose.

Section 4 - The parties agree that all work done under this contract shall be completed in the United States and that none of the work will be partially or fully completed by either an offshore subcontractor or offshore business interest either owned or affiliated with the contractor. For purposes of this contract, the term, "offshore" refers to any area outside the contiguous United States, Alaska or Hawaii.

ARTICLE VI - INDEMNIFICATION AGREEMENT

The Consultant will protect, defend and indemnify Washtenaw County, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the Consultant's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of Washtenaw County in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of Consultant, any sub-Consultant, or any employee, agent or representative of the Consultant or any sub-Consultant.

ARTICLE VII- INSURANCE REQUIREMENTS

The Consultant will maintain at its own expense during the term of this Contract, the following insurance:

1. Workers' Compensation Insurance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000 each accident for any employee.
2. Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage. The County shall be added as "additional insured" on general liability policy with respect to the services provided under this contract.
3. Automobile Liability Insurance covering all owned, hired and nonowned vehicles with Personal Protection Insurance and Property Protection Insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage.

4. Professional Liability coverage with a minimum limit of \$1,000,000 each occurrence. The County shall be added as "additional insured" on Professional liability policy with respect to the services provided under this contract. The additional insured provision does not apply to contracts with Architects, Architectural firms, Engineers or Engineering firms.

Insurance companies, named insureds and policy forms may be subject to the approval of the Washtenaw County Administrator, if requested by the County Administrator. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions which reduce coverage provided to Washtenaw County. Consultant shall be responsible to Washtenaw County or insurance companies insuring Washtenaw County for all costs resulting from both financially unsound insurance companies selected by Consultant and their inadequate insurance coverage. Consultant shall furnish the Washtenaw County Administrator with satisfactory certificates of insurance or a certified copy of the policy, if requested by the County Administrator.

No payments will be made to the Consultant until the current certificates of insurance have been received and approved by the Administrator. If the insurance as evidenced by the certificates furnished by the Consultant expires or is canceled during the term of the contract, services and related payments will be suspended. Consultant shall furnish the County Administrator's Office with certification of insurance evidencing such coverage and endorsements at least ten (10) working days prior to commencement of services under this contract. Certificates shall be addressed to the Washtenaw County c/o: County Administrator & CR# 48219, P. O. Box 8645, Ann Arbor, MI, 48107, and shall provide for 30 day written notice to the Certificate holder of cancellation of coverage.

ARTICLE VIII - COMPLIANCE WITH LAWS AND REGULATIONS

The Consultant will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.

ARTICLE IX - INTEREST OF CONSULTANT AND COUNTY

The Consultant promises that it has no interest which would conflict with the performance of services required by this contract. The Consultant also promises that, in the performance of this contract, no officer, agent, employee of the County of Washtenaw, or member of its governing bodies, may participate in any decision relating to this contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph does not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 and/or Section 30 of Act No. 156 of Public Acts of 1851, as amended by Act No. 51 of the Public Acts of 1978, whichever is applicable.

ARTICLE X - CONTINGENT FEES

The Consultant promises that it has not employed or retained any company or person, other than bona fide employees working solely for the Consultant, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach of this promise, the County may cancel this contract without liability or, at its discretion, deduct the full amount of the fee, commission, percentage, brokerage fee, gift or contingent fee from the compensation due the Consultant.

ARTICLE XI - EQUAL EMPLOYMENT OPPORTUNITY

The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

The Consultant will take affirmative action to eliminate discrimination based on sex, race, or a handicap in the hiring of applicant and the treatment of employees. Affirmative action will include, but not be limited to: Employment; upgrading, demotion or transfer; recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship.

The Consultant agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the Consultant, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief.

ARTICLE XII - LIVING WAGE

The parties understand that the County has enacted a Living Wage Ordinance that requires covered vendors who execute a service or professional service contract with the County to pay their employees under that contract, a minimum of either \$10.88 per hour with benefits or \$12.76 per hour without benefits. Contractor agrees to comply with this Ordinance in paying its employees. Contractor understands and agrees that an adjustment of the living wage amounts, based upon the Health and Human Services poverty guidelines, will be made on or before April 30, 2011 and annually thereafter which amount shall be automatically incorporated into this contract. County agrees to give Contractor thirty (30) days written notice of such change. Contractor agrees to post a notice containing the County's Living Wage requirements at a location at its place of business accessed by its employees

ARTICLE XIII - ASSIGNS AND SUCCESSORS

This contract is binding on the County and the Consultant, their successors and assigns. Neither the County nor the Consultant will assign or transfer its interest in this contract without the written consent of the other.

ARTICLE XIV - TERMINATION OF CONTRACT

Section 1 - Termination without cause. Either party may terminate the contract by giving thirty (30) days written notice to the other party.

ARTICLE XV - EQUAL ACCESS

The Consultant shall provide the services set forth in paragraph I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical handicap, or age.

ARTICLE XVI - OWNERSHIP OF DOCUMENTS AND PUBLICATION

All documents developed as a result of this contract will be freely available to the public. None may be copyrighted by the Consultant. During the performance of the services, the Consultant will be responsible for any loss of or damage to the documents while they are in its possession and must restore the loss or damage at its expense. Any use of the information and results of this contract by the Consultant must reference the project sponsorship by the County. Any publication of the information or results must be co-authored by the County.

ARTICLE XVII - PAYROLL TAXES

The Consultant is responsible for all applicable state and federal social security benefits and unemployment taxes and agrees to indemnify and protect the County against such liability

ARTICLE XVIII - PRACTICE AND ETHICS

The parties will conform to the code of ethics of their respective national professional associations.

ARTICLE XIX - CHANGES IN SCOPE OR SCHEDULE OR SERVICES

Changes mutually agreed upon by the County and the Consultant, will be incorporated into this contract by written amendments signed by both parties.

ARTICLE XX - CHOICE OF LAW AND FORUM

This contract is to be interpreted by the laws of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Washtenaw County, Michigan.

ARTICLE XXI - EXTENT OF CONTRACT

This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

ATTESTED TO:

By: Lawrence Kestenbaum 12/1/10
Lawrence Kestenbaum (DATE)
County Clerk/Register

WASHTENAW COUNTY

By: Verna J. McDaniel 11-23-10
Verna J. McDaniel (DATE)
County Administrator

APPROVED AS TO CONTENT:

By: Edward Goldman
Edward Goldman, Building Authority

CONSULTANT

By: Axe & Ecklund
Axe & Ecklund, P.C. (DATE)

By: Catherine McClary 11-9-10
Catherine McClary, Treasurer

By: Janis Bobrin
Janis Bobrin, Drain Commissioner

APPROVED AS TO FORM:

By: Curtis N. Hedger 11-2-10
Curtis N. Hedger (DATE)
Office of Corporation Counsel



RISK MANAGEMENT

220 North Main, P.O. Box 8645
Ann Arbor, Michigan 48107-8645
www.ewashtenaw.org

INSURANCE WAIVER

RE: CONTRACT WITH Axe & Ecklund, PC

DEPT: Corporation Counsel FROM Curtis N. Hedger

DATE: 11/1/2010

INS: AUTOMOBILE LIABILITY LIMITS ONLY
 GENERAL LIABILITY(ALL) LIMITS ONLY ADD'L INSURED
 PROFESSIONAL LIABILITY ALL LIMITS ONLY XXX ADD'L INSURED
 WORKER'S COMPENSATION

A waiver of the insurance requirements has been requested and is approved for the term of the contract, but not to exceed three (3) years. The specific waivers are as follows:

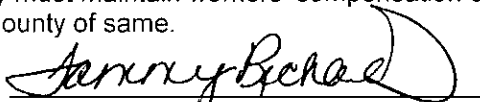
After reviewing the scope of services, it has been determined that the automobile liability insurance requirement is waived as referenced below.

 AUTOMOBILE LIABILITY
 AUTOMOBILE LIABILITY LIMITS

There is always some potential for a claim, however, for this particular contract, it does not seem likely given the scope of services being performed by this vendor. Therefore, I am waiving the insurance indicated below for this particular contract only.

 GENERAL LIABILITY
 GENERAL LIABILITY LIMITS ONLY
 GENERAL LIABILITY ADDITIONAL INSURED
 PROFESSIONAL LIABILITY
 PROFESSIONAL LIABILITY LIMITS
XXXX PROFESSIONAL LIABILITY ADDITIONAL INSURED

 WORKER'S COMPENSATION: This vendor is a sole proprietor and does not have any employees; and therefore, does not maintain any workers' compensation insurance. For this particular contract only, and pursuant to the reasons stated above, I am waiving the workers' compensation insurance. If at any time the vendor would hire employees in execution of this contract, they must maintain workers' compensation coverage in conformance with the County's requirements and inform the County of same.


Tammy Richards, Risk Management

WASHTENAW COUNTY

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PURCHASING