

MASTER CONTRACT
BETWEEN THE WISCONSIN DEPARTMENT OF TRANSPORTATION
AND THE CITY OF MILWAUKEE (MUNICIPALITY)
FOR LOCAL DESIGN ENGINEERING SERVICES
(Master Contract I.D. Number 0695-96-05)
FOS Object Code 5525

This is a MASTER CONTRACT for Local Design Engineering Services between the Wisconsin Department of Transportation (DEPARTMENT) AND the City of Milwaukee (MUNICIPALITY) for Services as authorized by approved WORK ORDERS for an amount not to exceed \$8,600,000.00. No WORK ORDERS will be issued under this MASTER CONTRACT after December 31, 2012. The MASTER CONTRACT may be renewed to cover subsequent periods at agreed upon amounts through a contract amendment.

The DEPARTMENT deems it advisable to engage the MUNICIPALITY to provide certain Services and has authority to contract for these Services under Wis. Stat. ss. 84.01(13) and 66.0301. The MUNICIPALITY represents it is in compliance with the laws and regulations relating to the services and signifies its willingness to provide the Services.

The MUNICIPALITY Representative is Mr. Jeffrey S. Polenske, P.E., whose work address/e-mail address/telephone number is: 841 North Broadway, Room 701, Milwaukee, WI 53202, Jeffery.Polenske@milwaukee.gov, (414) 286-2400

The DEPARTMENT Representative is Mr. Jason Roselle, whose work address/e-mail address/telephone number is: 141 North West Barstow Street, Waukesha, WI 53187, Jason.Roselle@dot.wi.gov, (262) 548-8800.

The parties agree to all of the provisions that are annexed and made a part of this MASTER CONTRACT, consisting of 16 pages. This MASTER CONTRACT shall be effective when signed by both parties. All previous agreements or understandings between the parties regarding this master agreement are superseded. All previous and future project agreements between the parties are independent of this MASTER CONTRACT and subject to the provisions of those individual agreements.

When any WORK ORDER is federally funded, if the total WORK ORDER of a subcontract amount exceeds \$400,000.00, the MUNICIPALITY shall subcontract a minimum of 20 percent of the total amount to one or more certified Disadvantaged Business Enterprise (DBE) firms. A listing of such firms is maintained by the DEPARTMENT.


This MASTER CONTRACT also incorporates the State of Wisconsin Department of Transportation Facilities Development Manual and all other Manuals referenced therein, unless this MASTER CONTRACT expressly excludes a provision thereof or the MASTER CONTRACT clearly indicates different understanding of the parties.

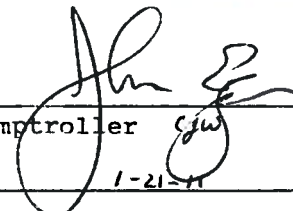
For administrative procedural efficiency the parties may develop a Memorandum of Understanding. However, this MASTER CONTRACT controls and supersedes any provision of any Memorandum of Understanding as it exists or may be amended from time to time.

Nothing in this MASTER CONTRACT accords any third party beneficiary rights whatsoever to any non-party that may be enforced by any non-party.

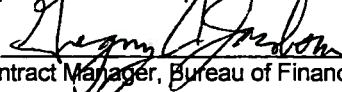
The following individuals, by their signatures hereto, acknowledge that they are authorized to enter into this MASTER CONTRACT on behalf of the Department and the Municipality.

For the MUNICIPALITY

By: 
Title: Commissioner of Public Works
Date: 1-18-11

By: 
Title: Comptroller
Date: 1-21-11

For the State of Wisconsin
Department of Transportation

By: 
Contract Manager, Bureau of Financial Services
Date: 2-11-11

Approved SCOTT WALKER
GOVERNOR, State of Wisconsin
Date: 2/10/11

LOCAL GOVERNMENT DESIGN ENGINEERING MASTER CONTRACT
STANDARD PROVISIONS

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I. DEFINITIONS

- A. "DEPARTMENT" means the Wisconsin Department of Transportation.
- B. "DEPARTMENT Representative" means the qualified full-time public employee of the DEPARTMENT in immediate charge of this MASTER CONTRACT.
- C. "FHWA" means the Federal Highway Administration.
- D. "MANUAL" means the DEPARTMENT'S Facilities Development Manual and other manuals referenced therein.
- E. "MASTER CONTRACT" means this CONTRACT.
- F. "MUNICIPALITY" means city, village, town, or county engaged by the DEPARTMENT to provide Services.
- G. "MUNICIPALITY Representative" means the person designated by the MUNICIPALITY to act as liaison between the MUNICIPALITY and the DEPARTMENT.
- H. "PROJECT" means a specific section of highway proposed for improvement.
- I. "Services" means the engineering, labor, materials, equipment, and incidentals furnished by MUNICIPALITY in accordance with this MASTER CONTRACT and its WORK ORDERS.
- J. "WORK ORDER" means the written document signed by the DEPARTMENT and the MUNICIPALITY that references this MASTER CONTRACT and identifies the Services to be performed for a specific PROJECT under the terms of this MASTER CONTRACT. It includes the amount and method of compensation to be paid the MUNICIPALITY by the DEPARTMENT.
- K. "WORK ORDER AMOUNT" means the total compensation due under a WORK ORDER.

II. SCOPE OF SERVICES

A. GENERAL

1. The Services under this MASTER CONTRACT shall consist of performing to the satisfaction of the DEPARTMENT all those phases or portions of the Services necessary or incidental to accomplish the MASTER CONTRACT through its WORK ORDERS consistent with applicable professional standards and requirements contained in the MANUAL.
2. The MUNICIPALITY shall furnish all services and labor necessary to conduct and complete the WORK ORDERS issued under this MASTER CONTRACT, and shall furnish all materials, equipment, supplies, and incidentals other than those designated in writing as to be furnished by the DEPARTMENT.
3. The Services shall comply with all applicable state and federal laws and regulations.
4. The FHWA may participate in all conferences and reviews.
5. The MUNICIPALITY shall, from time to time during the progress of the Services, confer with the DEPARTMENT and shall prepare and present such information, studies, or other data as may be pertinent and necessary or as may be requested by the DEPARTMENT to enable it to evaluate the Services performed, or to carry out or proceed with related phases of the PROJECT not covered by a WORK ORDER under this MASTER CONTRACT, or which may be necessary to enable the DEPARTMENT to furnish information to the MUNICIPALITY upon which to proceed with further Services. The MUNICIPALITY shall make such changes, amendments, or revisions in the detail of the Services as required.
6. This MASTER CONTRACT serves as a permit under Wis. Stat. s. 86.07(2) for the MUNICIPALITY and any of its approved subcontractors to carry out the Services hereunder on highway property under the jurisdiction of the DEPARTMENT, unless a separate permit is specifically required by the DEPARTMENT Representative. MUNICIPALITY and any of its subcontractors are authorized representatives of the DEPARTMENT for purposes of the right of entry under Wis. Stat. s. 84.01(10) to enter private lands to make surveys or inspections or otherwise to carry out the Services required by this MASTER CONTRACT.

7. Compliance with all of the foregoing shall be within the purview of this MASTER CONTRACT and shall not constitute a basis for additional or extra compensation.

B. SERVICES TO BE PERFORMED BY THE MUNICIPALITY

The MUNICIPALITY agrees to:

1. Attend conferences required to carry out the MASTER CONTRACT and its WORK ORDERS.
2. Designate a MUNICIPALITY Representative, with the duty and responsibility to act as liaison between the MUNICIPALITY and the DEPARTMENT Representative.
3. Become familiar with the standard practices of the DEPARTMENT.
4. Assign a sufficient number of technically qualified and experienced personnel to perform the Services required by WORK ORDERS issued under this MASTER CONTRACT.
5. Notify the DEPARTMENT immediately of any unanticipated PROJECT conditions.
6. Withdraw any personnel or halt any Services no longer required, at the request of the DEPARTMENT, or within a reasonable time after the lack of need becomes apparent to the MUNICIPALITY.
7. Perform MUNICIPALITY field operations in accordance with OSHA regulations and accepted safety practices.
8. Provide for MUNICIPALITY personnel, transportation, supplies, materials and incidentals as are needed to accomplish the Services required by WORK ORDERS issued under this MASTER CONTRACT.
9. Prepare and submit such periodic, intermediate and final reports and records as may be required by the DEPARTMENT and as are applicable to the PROJECTS for which work or Services are being performed.
10. Return, upon completion or termination of the MASTER CONTRACT and/or its WORK ORDERS, all manuals, guides, written instructions, unused forms and record keeping books, and other documents and materials furnished by the DEPARTMENT. The MUNICIPALITY may be responsible for replacing lost documents or materials at a fair and reasonable price.

C. SERVICES TO BE PERFORMED BY THE DEPARTMENT

1. The DEPARTMENT agrees to make available to the MUNICIPALITY manuals, guides, written instructions and other information and data necessary to enable the MUNICIPALITY to perform the Services covered by WORK ORDERS issued under this MASTER CONTRACT.
2. The DEPARTMENT reserves the right to assign such DEPARTMENT personnel or retain other consultants as may be needed to perform specialized duties or to augment the MUNICIPALITY's personnel. The cost of using DEPARTMENT personnel and services or retaining other consultants may be reflected in a decrease in allowable compensation to the MUNICIPALITY if such assignment is required by the failure of the MUNICIPALITY to provide a sufficient, properly-qualified and experienced work force, as determined by the DEPARTMENT.

D. AGENCY COORDINATION, PUBLIC RELATIONS, AND COOPERATION

Efforts shall be made by the MUNICIPALITY to inform and advise property owners, local authorities, police, fire, and emergency agencies affected by PROJECT activities covered by this MASTER CONTRACT. The MUNICIPALITY shall cooperate fully with the DEPARTMENT; and with local, state, and federal agencies, the general public, utilities, railroad companies, other consultants, and contractors. Cooperation may include attendance at conferences.

E. MEETINGS AND CONFERENCES

Conferences, as may be necessary for the discussion and review of the Services under this MASTER CONTRACT and any of its WORK ORDERS, may be scheduled at the request of the MUNICIPALITY or the DEPARTMENT and coordinated with the DEPARTMENT. These conferences may include field review of PROJECTS. Conferences are in addition to those meetings necessary for close coordination during day-to-day progress of provision of the Services.

III. PROSECUTION AND PROGRESS

A. GENERAL

1. Services under this MASTER CONTRACT shall commence with an approved WORK ORDER. The required WORK ORDER format is shown in Sections VI and VII of this MASTER CONTRACT. Each WORK ORDER will incorporate all of the terms and conditions of this MASTER CONTRACT. A completely and properly executed WORK ORDER issued to the MUNICIPALITY by the DEPARTMENT shall constitute authorization to proceed.
2. The DEPARTMENT will not be liable for payment of any Services performed or costs incurred by the MUNICIPALITY without a properly approved WORK ORDER.
3. Services by the MUNICIPALITY shall proceed continuously and expeditiously through completion of each phase.
4. Unless one or more WORK ORDERS or the MASTER CONTRACT in its entirety has been terminated prior to the completion of the Services, the MASTER CONTRACT shall not be considered terminated upon completion and acceptance of the Services, or upon final payment therefore, but shall be considered to be in full force and effect for the purposes of requiring the MUNICIPALITY to make revisions or corrections in the Services as are necessary to correct errors or omissions made by the MUNICIPALITY in the Services, or for the purposes of having the MUNICIPALITY make revisions in the Services at the request of the DEPARTMENT as "Extra Services".
5. The MASTER CONTRACT will be considered completed when the MUNICIPALITY is released by written notice from the DEPARTMENT or if more than three (3) years have elapsed following final payment and acceptance of the Services by the DEPARTMENT.
6. Progress reports documenting the extent of completed Services for each WORK ORDER shall be prepared by the MUNICIPALITY and submitted to the DEPARTMENT not less than quarterly according to the MANUAL. Progress reports submitted with each invoice under Section IV.A.7 of these provisions serve to fulfill this requirement.

B. DELAYS AND EXTENSIONS

Delays in completing the Services within the time provided for completion as specified in the WORK ORDER documents, for reasons not attributable to the MUNICIPALITY, may constitute justification for additional compensation to the extent of documentable increases in allowable costs as a result thereof. Failure of the MUNICIPALITY to submit a formal written request for an extension of time prior to the expiration of a WORK ORDER or the MASTER CONTRACT time shall constitute a basis for denying any cost adjustments for reasons of delay.

Delays grossly affecting the completion of the Services within the time specified for completion, attributable to or caused by one of the parties hereto, shall be considered as cause for the termination of a WORK ORDER or this MASTER CONTRACT by the other party.

C. TERMINATION OF CONTRACT

1. Either the DEPARTMENT or the MUNICIPALITY may terminate all or part of this MASTER CONTRACT or its WORK ORDERS at any time upon not less than ten days' written notice.

2. In the event the MASTER CONTRACT or number of or portions of its WORK ORDERS are terminated by the DEPARTMENT without fault on the part of the MUNICIPALITY, the MUNICIPALITY shall be paid for the Services rendered, an amount bearing the same ratio to the total WORK ORDER amount as the amount of Service completed or partially completed and delivered to the DEPARTMENT bears to the total amount of Services provided for, as determined by mutual agreement between the DEPARTMENT and the MUNICIPALITY.
3. In the event the Services of the MUNICIPALITY are terminated by the DEPARTMENT for fault on the part of the MUNICIPALITY, the MUNICIPALITY shall be paid the reasonable value of the Services rendered and delivered to the DEPARTMENT up to the time of termination. The value of the work performed and Services rendered and delivered will be determined by the DEPARTMENT.

D. SUBCONTRACTS

1. The MUNICIPALITY shall not subcontract more than \$50,000 per WORK ORDER and no more than 25% of the total aggregate amount of the WORK ORDER (with amendments) without prior written approval of the DEPARTMENT.
2. Selection of subconsultants must be in accordance with Procedure 8-5-20 of the Facilities Development Manual.
3. Consultant contracts other than those permitted under III. D. 1. above should be executed by the DEPARTMENT as 3-party contracts.
4. Consent to assign, sublet or otherwise dispose of any portion of the MASTER CONTRACT or its WORK ORDERS shall not be construed to relieve the MUNICIPALITY of any responsibility for the fulfillment of the Services.
5. When the MUNICIPALITY subcontracts for the performance of a portion or any phase of the Services covered by a WORK ORDER under this MASTER CONTRACT, the subcontract shall provide for the performance of such Services to the full extent as contemplated in the WORK ORDER and this MASTER CONTRACT and to the same standards as if performed by the MUNICIPALITY.
6. No subletting, subcontracting or assignment of any portion of the Services shall state, imply, intend or be construed to limit the legal liability of either the MUNICIPALITY or a subcontractor.

IV. BASIS OF PAYMENT

A. GENERAL

1. An obligation of the DEPARTMENT under this MASTER CONTRACT will not exist until a WORK ORDER is approved in accordance with Section III.A.2. and signed by the MUNICIPALITY and the DEPARTMENT. Compensation in excess of WORK ORDER amounts will not be allowed unless authorized by an approved written WORK ORDER amendment.
2. Aggregate compensation for all WORK ORDERS may not exceed the total MASTER CONTRACT amount. Compensation in excess of the total MASTER CONTRACT amount will not be allowed unless authorized by a written amendment to this MASTER CONTRACT that has been approved by the Governor.
3. Compensation for costs incurred as a result of improper performance by the MUNICIPALITY will not be allowed.
4. Reimbursement for costs will be limited to those which are allowable under 2 CFR Part 225, OMB Circular A-87, 48 CFR 31.107 and Subpart 31.6, Federal Acquisition Regulation, and by DEPARTMENT policy.
5. The MUNICIPALITY will be paid by the DEPARTMENT for the completed and approved Services rendered under WORK ORDERS issued under this MASTER CONTRACT on the basis and at the price set forth in the WORK ORDER documents. Such payment shall be full compensation for Services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the Services.
6. If compensation is to be made on more than one basis, the payment to be made shall be the aggregate sum of the amounts determined on the several bases.

7. The MUNICIPALITY shall submit invoices, on the form or format similar to that specified in the MANUAL, not more than once per month during the progress of the Services, for partial payment on account, for the authorized Services completed to date. Progress reports identified in III.A.6. shall be submitted with each invoice. The final invoice shall be submitted to the DEPARTMENT within three months of completion of Services under a WORK ORDER.
8. A separate invoice shall be submitted for each individual WORK ORDER, and if a WORK ORDER includes more than one PROJECT, for each individual PROJECT.
9. No payment shall be construed as DEPARTMENT acceptance of unsatisfactory or defective Services or improper materials. Final payment of any balance due the MUNICIPALITY will be made promptly upon its verification by the DEPARTMENT, upon completion of the Services under the respective WORK ORDER and its acceptance by the DEPARTMENT, and upon receipt of documents required to be returned or to be furnished.
10. The DEPARTMENT has the equitable and contractual right to set off against any sum due and payable to MUNICIPALITY under any WORK ORDERS issued under this MASTER CONTRACT, any amount the DEPARTMENT determines the MUNICIPALITY owes the DEPARTMENT, whether arising under this MASTER CONTRACT or under any other CONTRACT or WORK ORDER or otherwise.
11. The MUNICIPALITY and any subcontractors to the MUNICIPALITY shall maintain all documents and evidence pertaining to costs incurred under this MASTER CONTRACT for inspection by the DEPARTMENT and FHWA during normal business hours in their respective offices for a period of three years following the final MASTER CONTRACT payment.
12. Work or Services provided under this MASTER CONTRACT may be performed on more than one PROJECT. Selection of PROJECTS will be made by the DEPARTMENT. For each PROJECT for which work or Services will be performed, the MUNICIPALITY will prepare a WORK ORDER proposal which includes the following.
 - (a) The DEPARTMENT's PROJECT number identifying the description and location of the work or Services to be performed.
 - (b) A detailed Scope of Services.
 - (c) An estimate of the number of hours by PROJECT task and employee classification.
 - (d) A schedule of labor rates by employee classification and total estimated direct labor by classification.
 - (e) Total estimated indirect costs based on the DEPARTMENT's audited and approved indirect cost rate for the MUNICIPALITY.
 - (f) Estimated cost of items the MUNICIPALITY is allowed to direct charge the DEPARTMENT as determined by DEPARTMENT audit.
 - (g) The combined total estimated costs (d, e, f) shall be the maximum compensation allowed for the WORK ORDER.
13. The MUNICIPALITY may be subject to the single audit standards as described in the OMB Circular A-133.

B. SERVICE ORDERS, EXTRA SERVICES, OR DECREASED SERVICES

1. Any orders regarding the Services, including Extra Services or Decreased Services, not within the scope of a WORK ORDER issued under this MASTER CONTRACT must be approved by the DEPARTMENT in writing.
2. Orders that do not change the Scope of Services in the MASTER CONTRACT or one or more of its WORK ORDERS, but may increase or decrease the quantity of labor or materials or expense of the Services, shall not annul or void this MASTER CONTRACT or any WORK ORDER. The MUNICIPALITY must proceed with the Services as directed within the time limits specified in the WORK ORDER schedule or as adjusted by written agreement of the parties.
3. If, in the MUNICIPALITY's opinion, the orders would require the discarding or redoing of Services which were

based upon earlier direction or approvals, the MUNICIPALITY must notify the DEPARTMENT in writing of its opinion if it desires extra compensation in accordance with section IV.B.5.

4. Any orders given by the DEPARTMENT which would involve services not within the Scope of Services of a WORK ORDER issued under this MASTER CONTRACT will require a written order for "Extra Services".
5. If, in the MUNICIPALITY's opinion, orders involve services not included in the terms or Scope of Services of a WORK ORDER issued under this MASTER CONTRACT, the MUNICIPALITY must notify the DEPARTMENT in writing if the MUNICIPALITY desires that extra compensation or additional time be allowed. Such notification shall include the justification for the claim for extra compensation and the amount of additional fee requested.
6. The DEPARTMENT will review the MUNICIPALITY's submittal and, if acceptable, approve a change order as an amendment to this CONTRACT or any WORK ORDER. Services under a change order shall not proceed until so authorized by the DEPARTMENT by written CONTRACT or WORK ORDER amendment. Such change orders shall include appropriate time extensions when the DEPARTMENT determines they are warranted.
7. Should the DEPARTMENT determine to make a change in a PROJECT location from that covered by the information furnished by it to the MUNICIPALITY, or to make a change in the basic design from that set forth in the approved Design Study Report, and that would necessitate substantial revision of previously completed and accepted Services, such substantial revisions may be considered as "Extra Services."

V. MISCELLANEOUS PROVISIONS

A. PROFESSIONAL STANDARDS

Completion of the Services shall be accomplished in accordance with the current standards and criteria as contained in the MANUAL and shall be consistent with generally accepted professional practice.

B. REVISION OF SERVICES

1. The MUNICIPALITY shall make such revisions in the plans, documents or other materials which have been completed, approved, and accepted by the DEPARTMENT as are necessary to correct errors or omissions, when required to do so by the DEPARTMENT, without compensation therefor from the DEPARTMENT.
2. Should the DEPARTMENT find it desirable for its own purposes to have previously satisfactorily completed and accepted plans, documents or other materials revised, the MUNICIPALITY shall make such revisions as directed by the DEPARTMENT. These services shall be considered as "Extra Services" and will be paid for as such.

C. OWNERSHIP OF DOCUMENTS

1. All materials, guides, written instructions, plans, documents, correspondence, forms, computer files, database, electronic mail messages, work product or other information of any type ("PROJECT DOCUMENTS"), created by MUNICIPALITY under this contract are works created for hire and are the property of the DEPARTMENT. All PROJECT DOCUMENTS provided to MUNICIPALITY by the DEPARTMENT or by any third party which pertains to this contract are property of the DEPARTMENT.
2. Upon demand by the DEPARTMENT, all PROJECT DOCUMENTS shall be delivered to the DEPARTMENT within 10 business days. Failure to timely provide any PROJECT DOCUMENTS upon demand shall be cause for termination of this contract and other actions as determined by the DEPARTMENT.
3. Upon completion or termination of WORK ORDERS issued under this MASTER CONTRACT, all PROJECT DOCUMENTS shall be delivered to the DEPARTMENT. PROJECT DOCUMENTS may be used without restriction by the DEPARTMENT for any purpose. Any such use shall be without compensation or liability to the MUNICIPALITY. The DEPARTMENT has all rights to copyright or otherwise protect the PROJECT DOCUMENTS which are the property of the DEPARTMENT.

D. CONTINGENT FEES

1. The MUNICIPALITY warrants that it has not employed or retained any company or person, other than a *bona fide* employee working solely for the MUNICIPALITY, to secure this MASTER CONTRACT and its WORK ORDERS, and that it has not paid or agreed to pay any company or person, other than a *bona fide* employee working solely for the MUNICIPALITY, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this MASTER CONTRACT and its WORK ORDERS.
2. For breach or violation of the terms of this section, the DEPARTMENT shall have the right to terminate this MASTER CONTRACT and any WORK ORDERS without liability, or in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

E. ACCESS TO RECORDS

The MUNICIPALITY, as well as its subcontractors, if any, agree to maintain all books, documents, papers, accounting records and other evidence pertaining to this MASTER CONTRACT and to make such materials and all PROJECT DOCUMENTS available at their respective offices at all reasonable times during the MASTER CONTRACT period and for three years from the date of final payment under the MASTER CONTRACT, for inspection and use by the DEPARTMENT in compliance with 49 CFR 18.42.

F. LEGAL RELATIONS

1. The MUNICIPALITY shall become familiar with, and shall at all times comply with and observe all federal, state, and local laws, ordinances, and regulations which in any manner affect the Services or MUNICIPALITY'S conduct.
2. In carrying out the provisions of this MASTER CONTRACT, or in exercising any power or authority granted to the DEPARTMENT or FHWA thereby, there shall be no personal liability upon the authorized representatives of the DEPARTMENT and FHWA, it being understood that in such matters they act as agents and representatives of these agencies.
3. The MUNICIPALITY shall be responsible for any and all damages to property or persons arising out of a negligent act, error and/or omission in the MUNICIPALITY'S performance of the Services under this MASTER CONTRACT and its WORK ORDERS.
4. The MUNICIPALITY shall indemnify and save harmless the DEPARTMENT and the FHWA and all of their officers, agents, and employees on account of any damages to persons or property resulting from negligence of the MUNICIPALITY in connection with performance and completion of the Services covered by this MASTER CONTRACT and its WORK ORDERS.

G. NONDISCRIMINATION IN EMPLOYMENT

1. During the performance of his MASTER CONTRACT and WORK ORDERS, the MUNICIPALITY, for itself, its assignees and successors in interest agrees as follows: In connection with the performance of work and Services under this MASTER CONTRACT and any WORK ORDERS, the MUNICIPALITY agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Wis. Stat. s. 51.01(5), sexual orientation as defined in Wis. Stat. s. 111.32(13m), or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Except with respect to sexual orientation, the MUNICIPALITY further agrees to take affirmative action to ensure equal employment opportunities. The MUNICIPALITY agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the DEPARTMENT setting forth the provisions of the nondiscrimination clause.
2. The following definition shall also be used for the purpose of interpreting and administering this MASTER CONTRACT and any WORK ORDERS. "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for individuals with mental retardation, which disability has originated before the individual has attained 18 years of age, has continued or can be expected to continue

indefinitely and constitutes a substantial handicap to the afflicted individual.

3. The MUNICIPALITY will comply with the regulations of the State of Wisconsin and the DEPARTMENT relative to nondiscrimination in federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the REGULATION), which are herein incorporated by reference and made a part of this MASTER CONTRACT.
4. The MUNICIPALITY with regard to the Services performed by it after award and prior to completion of the Services, will not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The MUNICIPALITY will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATION, including employment practices when the MASTER CONTRACT covers a program set forth in Appendix B of the REGULATIONS.
5. In all solicitations either by competitive bidding or negotiation made by the MUNICIPALITY for services to be performed under a subcontract including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the MUNICIPALITY of the MUNICIPALITY's obligations under this MASTER CONTRACT and any WORK ORDER and the REGULATIONS relative to nondiscrimination on grounds of sex, race, color or national origin.
6. The MUNICIPALITY will provide all information and reports required by the REGULATIONS, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the DEPARTMENT to be pertinent to ascertain compliance with such REGULATION, orders and instructions. Where any information required of a MUNICIPALITY is in the exclusive possession of another who fails or refuses to furnish this information, the MUNICIPALITY shall so certify to the DEPARTMENT and shall set forth what efforts it has made to obtain the information.
7. In the event of the MUNICIPALITY's noncompliance with the nondiscrimination provisions of this MASTER CONTRACT or any WORK ORDER, the DEPARTMENT shall impose such sanctions as it may determine to be appropriate including, but not limited to:
 - (a) Withholding of payments to the MUNICIPALITY under the MASTER CONTRACT and WORK ORDERS until the MUNICIPALITY complies; or
 - (b) Cancellation, termination or suspension of the MASTER CONTRACT or any WORK ORDER in whole or in part; or both.
8. The MUNICIPALITY will include the provisions for nondiscrimination in every subcontract, including procurements of materials and leases of equipment, unless exempt by the REGULATION, order or instructions issued pursuant thereto. The MUNICIPALITY will take such action with respect to any subcontract or procurement as the DEPARTMENT may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a MUNICIPALITY becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the MUNICIPALITY may request the DEPARTMENT to enter into such litigation to protect the interests of the State and, in addition, the MUNICIPALITY may request the FHWA to enter into such litigation to protect the interests of the United States.

H. FEDERAL REQUIREMENTS FOR DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM ON SUBCONTRACTS

1. Disadvantaged Businesses (DBE) as defined in 49 CFR Part 26 and federal law shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the DBE requirements of 49 CFR Part 26 and federal law apply to SUBCONTRACTS on any WORK ORDER under this CONTRACT only if the WORK ORDER PROJECT is federally funded.
2. When any WORK ORDER is federally funded and federal law in effect at the time the WORK ORDER is executed authorizes and requires it, the MUNICIPALITY agrees to ensure that Disadvantaged Businesses as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of any subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard the MUNICIPALITY shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Businesses have the maximum opportunity to compete for and perform subcontracts. The MUNICIPALITY shall not discriminate on the basis of race, color, national origin, or sex in the award and

performance of contracts. Failure to carry out the requirements of this provision shall constitute a breach of contract and may result in termination of this CONTRACT or the WORK ORDER by the DEPARTMENT or other such remedy as the DEPARTMENT deems appropriate.

3. When any WORK ORDER is federally funded, the MUNICIPALITY shall identify, by name, the DBEs intended to satisfy this provision, the items of services involved, and the dollar amounts of such items of services.
4. When any WORK ORDER is federally funded, the MUNICIPALITY shall maintain records and document its performance under paragraphs H.1 to H.3.

I. EQUAL EMPLOYMENT OPPORTUNITY (All Contracts Exceeding \$10,000)

1. During the performance of this MASTER CONTRACT, the MUNICIPALITY agrees as follows:
 - (a) The MUNICIPALITY shall, in all solicitations or advertisements for employees placed by or on behalf of the MUNICIPALITY, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or sexual orientation.
 - (b) The MUNICIPALITY shall comply with all provisions of Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
 - (c) The MUNICIPALITY shall furnish all information and reports required by Executive Order 11246 and by rules, regulations and orders of the U.S. Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the DEPARTMENT, FHWA, and the U.S. Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - (d) The MUNICIPALITY shall include the provisions of this Section entitled "Equal Employment Opportunity" in every subcontract in excess of \$10,000.

J. IMPLEMENTATION OF CLEAN AIR ACT AND CLEAN WATER ACT (All Contracts Exceeding \$100,000)

1. No facility may be utilized in the performance of this MASTER CONTRACT or any WORK ORDER, if it is listed, on the date of MASTER CONTRACT award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities unless the MASTER CONTRACT and WORK ORDER are exempt under the Clean Air Act, or under the Clean Water Act, and until the EPA eliminates the name of such facility or facilities from the listing.
2. The MUNICIPALITY agrees to comply with all the requirements of the Clean Air Act and the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. The MUNICIPALITY shall promptly notify the DEPARTMENT and the U.S. EPA Assistant Administrator for Enforcement of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for this MASTER CONTRACT is under consideration to be listed on the EPA List of Violating Facilities.
4. The MUNICIPALITY agrees to include or cause to be included the requirements of the preceding three paragraphs 1, 2, 3, in every nonexempt subcontract.

K. ERRORS AND OMISSIONS

1. The MUNICIPALITY shall be responsible for the accuracy of the Services performed by the MUNICIPALITY under the MASTER CONTRACT and all WORK ORDERS, and shall promptly make necessary revisions or corrections to its Services resulting from its negligent acts, its errors or its omissions.
2. The MUNICIPALITY shall give immediate attention to these revisions or corrections to prevent or minimize delay to the PROJECT.
3. The DEPARTMENT may recover those additional costs incurred by the DEPARTMENT and FHWA as the result of errors and/or omissions determined to be the responsibility of MUNICIPALITY.

Each MUNICIPALITY error and the facts about the error will be reviewed by the DEPARTMENT to establish responsibility for additional costs incurred as a result of a particular MUNICIPALITY error in accordance with the

MANUAL.

4. When the DEPARTMENT pursues reimbursement, the MUNICIPALITY will be notified of the decision and options for repayment. The DEPARTMENT's options listed in priority order are:
 - (a) Repayment in full.
 - (b) Deductions from other payments due and payable to the MUNICIPALITY by equitable or contractual right of set off.
 - (c) Legal action by the DEPARTMENT to collect the costs.
 - (d) Any combination of the above.

L. CONFLICT OF INTEREST

1. The MUNICIPALITY warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the Services under this MASTER CONTRACT, and that neither it nor any of its affiliates will acquire directly or indirectly any such interest.
2. The MUNICIPALITY warrants that it will not employ for any Services included under the provisions of this MASTER CONTRACT any person who is employed by the DEPARTMENT at the time of execution or during the life of this contract without prior written approval from the DEPARTMENT.
3. The MUNICIPALITY warrants that it will immediately notify the DEPARTMENT if any actual or potential conflict of interest arises or becomes known to the MUNICIPALITY. Upon receipt of such notification, a DEPARTMENTAL review and written approval is required for the MUNICIPALITY to continue to perform work under this MASTER CONTRACT.

M. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS

1. For purposes of this section, "proposal" means this entire MASTER CONTRACT document when signed and submitted by MUNICIPALITY to the DEPARTMENT before execution by the Governor.
 - (a) Instructions for Certification
 - (1) By signing and submitting this proposal, the MUNICIPALITY is providing the certification set out in section V.M.1.(b).
 - (2) The inability of MUNICIPALITY to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The MUNICIPALITY shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the DEPARTMENT's determination whether to enter into this transaction. However, failure of the MUNICIPALITY to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
 - (3) The certification in this clause is a material representation of fact upon which reliance was placed when the DEPARTMENT determined to enter into this transaction. If it is later determined that the MUNICIPALITY knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the DEPARTMENT may terminate this transaction for cause or default.
 - (4) The MUNICIPALITY shall provide immediate written notice to the DEPARTMENT if at any time the MUNICIPALITY learns that its certification was erroneous when submitted or has become erroneous by reason of change circumstances.

- (5) The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this provision, have the means set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the DEPARTMENT for assistance in obtaining a copy of those regulations.
- (6) The MUNICIPALITY agrees (by submitting this proposal that, should this MASTER CONTRACT be entered into), it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded for participation in this covered transaction, unless authorized by the DEPARTMENT.
- (7) The MUNICIPALITY further agrees by submitting this proposal that it will include the provision title "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction", section V.N., without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) The MUNICIPALITY may rely upon a certification of a prospective subcontractor/materials supplier that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A MUNICIPALITY may decide the method and frequency by which it determines the eligibility of its project staff. Each MUNICIPALITY may, but is not required to, check the DEPARTMENT Disapproval List (Telephone # 608/266-1631).
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this provision. The knowledge and information of a MUNICIPALITY is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized by the DEPARTMENT under section V.M.1.(a)(6), if a MUNICIPALITY in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the DEPARTMENT may terminate this transaction for causes or default.
- (b) Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions
- (1) The MUNICIPALITY certifies to the best of its knowledge and belief, that it and its project staff:
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses enumerated in section V.M.1.(b)(1)b. above; and
 - d. Have not within a three-year period preceding this proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
 - e. Where the MUNICIPALITY is unable to certify to any of the statements in this certification, such MUNICIPALITY shall attach an explanation to this proposal.

N. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—
LOWER TIER COVERED TRANSACTIONS

1. This certification applies to subcontractors, material suppliers, vendors and other lower tier participants. For purposes of this section, "proposal" means this entire MASTER CONTRACT document when signed and submitted by MUNICIPALITY to the DEPARTMENT before approval by the Governor.

(a) Instructions for Certification

- (1) By signing and submitting this proposal, the MUNICIPALITY is certifying that the prospective lower tier participant is providing the certification set out below.
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participants knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the DEPARTMENT may pursue available remedies, including suspension or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this provision, have the means set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. The person to which this proposal is submitted can assist in obtaining a copy of those regulations.
- (5) The prospective lower tier participant agrees by submitting this proposal that, should be proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DEPARTMENT.
- (6) The prospective lower tier participant further agrees by submitting this proposal that it will include this provision titled "certification Regarding Debarment, Suspension, Ineligibility and Voluntary exclusion—Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (7) The participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the DEPARTMENT Disapproval List.
- (8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this provision. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under section V.N.1.(a)(5) above, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the DEPARTMENT may pursue available remedies, including suspension or debarment.

(b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by a federal department or agency.

- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

O. INSURANCE REQUIREMENTS

1. The City of Milwaukee is permissibly self-insured.
 - (a) The City of Milwaukee is a municipal body corporate that self-funds for liability under § 893.80 and 895.46(1) of the Wisconsin Statutes, and automobile liability under Statute §345.05. The City of Milwaukee is also permissibly self-insured under Wisconsin Statutes § 102.28(2)(b) for Workers' Compensation. The protection is applicable to officers, employees and agents while acting within the scope of their employment or agency.
 - (b) Retentions and other costs of risk, including contractual obligations, are financed under appropriation and fund accounting principles applicable to government operations. As a tax-levying public body with statutory bonding authority, a government has financial resources not available to private insurers who may lack the financial capacity of a government and can be dissolved.

P. CERTIFICATION REGARDING LOBBYING

1. The MUNICIPALITY certifies that:
 - (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the MUNICIPALITY, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this MASTER contract, the MUNICIPALITY shall complete and submit standard form-LOLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - (c) The MUNICIPALITY shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
 - (d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a \$100,000 fine for each such failure.

VI. WORK ORDER FOR LOCAL DESIGN ENGINEERING MASTER CONTRACT: _____

MUNICIPALITY: _____

For (Name of Roads, Highways, Counties, Project IDs)

DOT FOS OBJECT CODE _____

MASTER CONTRACT PROJECT ID _____

WORK ORDER NUMBER _____

WORK ORDER PROJECT I.D.: _____

Highway, Termini, County: _____

SITE NAME: _____

SCOPE OF WORK

(Attach additional pages as necessary)

ESTIMATED COMPLETION DATE: _____

Required Attachments (per Memorandum of Understanding and MASTER CONTRACT):

1. Project Manager and key staff identification and qualifications
2. Detailed cost estimate per WisDOT Facilities Development Manual (FDM), Chapter 8
3. Preliminary project schedule

Summary of Cost Estimate:

Direct Labor: \$ _____
 Indirect Costs: \$ _____
 Non-Labor Direct Costs: \$ _____
 Subcontract Costs: \$ _____

TOTAL COST NOT TO EXCEED: \$ _____

APPROVAL AND ACCEPTANCE: Approval and acceptance of this WORK ORDER including any attachments, shall incorporate this document as part of the MASTER CONTRACT between the MUNICIPALITY and the DEPARTMENT. All work and Services defined in this WORK ORDER shall be performed in accordance with the terms and conditions of the MASTER CONTRACT between the MUNICIPALITY and the DEPARTMENT.

MUNICIPALITY: _____ Date: _____

(Print Name and Title)

APPROVED: _____ Date: _____

(Print Name and Title)

VII. WORK ORDER AMENDMENT TO LOCAL DESIGN ENGINEERING MASTER CONTRACT PROJECT I.D.

AMENDMENT NO. _____ TO THE WORK ORDER NUMBER _____
BETWEEN
THE WISCONSIN DEPARTMENT OF TRANSPORTATION
AND
_____ (Municipality)

PROJECT _____
(project description)
_____ COUNTY

The work order made and entered into by and between the Wisconsin Department of Transportation and
_____, dated (/ /20) is hereby amended as set forth on the following pages.
(Municipality)

In witness whereof, the parties hereto have caused this amendment to be executed and approved on the date signed by their authorized officers or representatives.

Municipality

By: _____
(name/title)

Date: _____

Wisconsin Department of Transportation

By: _____
(name/title)

Date: _____