

MASTER CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN THE WISCONSIN DEPARTMENT OF TRANSPORTATION AND
_____ **(CONSULTANT) FOR**
(Project I.D. Number and Description of Services)
DOT FOS OBJECT CLASS CODE _____

This is a MASTER CONTRACT for professional Services between the Wisconsin Department of Transportation (DEPARTMENT) AND (CONSULTANT) for Services as authorized by approved WORK ORDERS for an amount not to exceed \$_____. No WORK ORDERS will be issued under this MASTER CONTRACT after (date).

The DEPARTMENT deems it advisable to engage CONSULTANT to provide certain Services and has authority to contract for these Services under sec. 84.01(13), Wis. Stats. The CONSULTANT represents it is in compliance with the laws and regulations relating to its profession and signifies its willingness to provide the desired Services.

The CONSULTANT Representative is _____, whose work address/telephone number is:

_____.

The DEPARTMENT Representative is _____, whose work address/telephone number is:

_____.

The parties agree to all of the provisions which are annexed and made a part of this MASTER CONTRACT consisting of _____ pages.

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 context of this MASTER CONTRACT clearly indicates an entirely different understanding of the parties.

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

For the CONSULTANT

By: _____

Title: _____

Date: _____

For the State of Wisconsin
Department of Transportation

By: _____

Contract Manager, Bureau of Financial Services

Date: _____

Approved

GOVERNOR, State of Wisconsin

Date: _____

STANDARD PROVISIONS

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I. DEFINITIONS

- A. "DEPARTMENT" means the Wisconsin Department of Transportation.
- B. "FHWA" means the Federal Highway Administration.
- C. "CONSULTANT" means the party engaged by the DEPARTMENT in this MASTER CONTRACT to provide Services for the benefit of the DEPARTMENT.
- D. "CONSULTANT Representative" means the person designated by the CONSULTANT to act as liaison between the CONSULTANT and the DEPARTMENT.
- E. "DEPARTMENT Representative" means the qualified full-time public employee of the DEPARTMENT in immediate charge of this MASTER CONTRACT with authority to reject defective materials, prohibit the use of inadequate or defective equipment and to suspend any work or Services that are improperly performed and in responsible charge of this MASTER CONTRACT to monitor CONSULTANT compliance with its terms and conditions.
- F. "MASTER CONTRACT" means this CONTRACT.
- G. "WORK ORDER" means the written document signed by the DEPARTMENT and the CONSULTANT that references this MASTER CONTRACT and identifies the specific 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 CONSULTANT by the DEPARTMENT.
- H. "PROJECT" means an activity which has been assigned an identifying number by the DEPARTMENT. "IMPROVEMENT PROJECT" means a specific section of highway proposed for improvement by the DEPARTMENT.
- I. "Services" means the engineering or other Services, labor, equipment, and materials furnished by CONSULTANT in accordance with this MASTER CONTRACT and its WORK ORDERS.
- J. "MANUAL" means the DEPARTMENT'S Facilities Development Manual and other manuals referenced therein.

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 CONSULTANT shall furnish all Services and labor necessary to conduct and complete the Services to accomplish this MASTER CONTRACT through its WORK ORDERS, and shall furnish all materials, equipment, supplies, and incidentals other than those designated in writing as to

be furnished by the DEPARTMENT, and check or test them prior to use for WORK ORDERS covered by this MASTER CONTRACT.

- (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 CONSULTANT 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 reasonably pass judgment on the features of the Services, 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 CONSULTANT upon which to proceed with further Services. The CONSULTANT shall make such changes, amendments, or revisions in the detail of the Services as may be required by the DEPARTMENT. The CONSULTANT is not relieved from the responsibility for continuing adherence to generally accepted standards of the profession by DEPARTMENT required changes in detail of the Services.
- (6) This MASTER CONTRACT serves as a permit under sec. 86.07 (2), Wis. Stats., for the CONSULTANT 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. CONSULTANT and any of its approved subcontractors are authorized representatives of the DEPARTMENT for purposes of the right of entry under sec. 84.01(10), Wis. Stats., 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 CONSULTANT

The CONSULTANT agrees to:

- (1) Attend conferences required to carry out the MASTER CONTRACT and its WORK ORDERS.
- (2) Designate a CONSULTANT Representative, with the duty and responsibility to act as liaison between the CONSULTANT and the DEPARTMENT Representative. The CONSULTANT Representative shall report to and be directly accountable to 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 work or Services required by WORK ORDERS issued under this MASTER CONTRACT in a timely manner.
- (5) Notify the DEPARTMENT Representative 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 CONSULTANT.
- (7) Perform CONSULTANT field operations in accordance with OSHA regulations and accepted safety practices.
- (8) Provide for CONSULTANT personnel transportation, supplies, materials and incidentals as are needed to accomplish the work or 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 recordkeeping books, and other documents and materials furnished by the DEPARTMENT. The CONSULTANT may be responsible for replacing lost documents or materials at a fair and reasonable price.

C. SERVICES TO BE PROVIDED BY THE DEPARTMENT

- (1) The DEPARTMENT agrees to make available to the CONSULTANT manuals, guides, written instructions and other information and data necessary to enable the CONSULTANT to perform the work or Services covered by WORK ORDERS issued under this MASTER CONTRACT to the same standards required of the DEPARTMENT's personnel.
- (2) The DEPARTMENT reserves the right to assign such DEPARTMENT personnel as may be needed to perform specialized duties or to augment the CONSULTANT's personnel. The cost of such DEPARTMENT personnel and Services may be reflected in a decrease in allowable compensation to the CONSULTANT if such assignment is required by the failure of the CONSULTANT 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 CONSULTANT to inform and advise property owners, local authorities, police, fire, and emergency Services affected by PROJECT activities covered by this MASTER CONTRACT. The CONSULTANT shall cooperate fully with the DEPARTMENT; and with local, state, and federal agencies, the general public, utilities, railroad companies, other consultants, and contractors when so directed by the DEPARTMENT. 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 CONSULTANT or the DEPARTMENT and coordinated with the DEPARTMENT Representative. 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 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 Attachment 1 to 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 CONSULTANT by the DEPARTMENT shall constitute authorization to proceed.
- (2) The DEPARTMENT will not be liable for payment of any work or Services performed or costs incurred by the CONSULTANT without a properly approved WORK ORDER.
- (3) The CONSULTANT shall complete the Services covered by WORK ORDERS issued under this MASTER CONTRACT within the time for completion specified on the WORK ORDER documents. The time for completion of Services covered by a WORK ORDER shall not be extended because of any delay attributable to the CONSULTANT but may be extended by the DEPARTMENT in the event of a delay attributable to the DEPARTMENT, or because of unavoidable delays caused by an act of God, war, governmental actions, or other conditions beyond the control of the CONSULTANT.
- (4) Services by the CONSULTANT shall proceed continuously and expeditiously through completion of each phase.
- (5) 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 CONSULTANT to make revisions or corrections in the Services as are necessary to correct errors or omissions made by the CONSULTANT in the Services, or for the purposes of having the CONSULTANT make revisions in the Services at the request of the DEPARTMENT as "Extra Services".
- (6) The MASTER CONTRACT will be considered completed when the CONSULTANT 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.

B. DELAYS AND EXTENSIONS

- (1) Delays in completing the Services within the time provided for completion as specified in the WORK ORDER documents, for reasons not attributable to the CONSULTANT, may constitute justification for additional compensation to the extent of documentable increases in allowable costs as a result thereof. Failure of the CONSULTANT to submit a formal written request for an extension of time

prior to the expiration of the MASTER CONTRACT time shall constitute a basis for denying any cost adjustments for reasons of delay.

- (2) 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 this MASTER CONTRACT by the other party.

C. TERMINATION OF CONTRACT

- (1) The DEPARTMENT reserves the right to terminate all or part of this MASTER CONTRACT or its WORK ORDERS at any time upon not less than ten days' written notice to the CONSULTANT.
- (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 CONSULTANT, the CONSULTANT shall be paid for the Services rendered, an amount bearing the same ratio to the total WORK ORDER amount as the amount of Services 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 CONSULTANT.
- (3) In the event the Services of the CONSULTANT are terminated by the DEPARTMENT for fault on the part of the CONSULTANT, the CONSULTANT 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 Services rendered and delivered will be determined by the DEPARTMENT.
- (4) In the event the CONSULTANT shall terminate this MASTER CONTRACT or any of its WORK ORDERS for cause, the CONSULTANT shall be paid as set forth in Section III.C.(2) above.
- (5) In the event of the death of any member or partner of the CONSULTANT'S firm, the surviving members shall complete the Services, unless otherwise mutually agreed upon by the DEPARTMENT and the survivors, in which case the CONSULTANT shall be paid as set forth in Section III.C.(2) above.

D. SUBLETTING OR ASSIGNMENT OF CONTRACT

- (1) The CONSULTANT shall not sublet or assign any part of this MASTER CONTRACT or its WORK ORDERS without the prior written approval of the DEPARTMENT.
- (2) When the CONSULTANT is authorized to sublet or assign a portion of the Services covered by WORK ORDERS issued under this MASTER CONTRACT, the CONSULTANT shall perform, with its own organization, Services amounting to at least one-half of the original WORK ORDER amount.
- (3) 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 CONSULTANT of any responsibility for the fulfillment of the Services.
- (4) When the CONSULTANT 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 scope as contemplated in the WORK ORDER and this MASTER CONTRACT and to the same standards and concept as if performed by the prime CONSULTANT.

- (5) 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 prime CONSULTANT or the 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 and signed by the CONSULTANT and the DEPARTMENT. Compensation in excess of WORK ORDER amounts will not be allowed unless authorized by an approved written WORK ORDER amendment. Compensation for all WORK ORDERS in excess of the total MASTER CONTRACT amount will not be allowed unless authorized by an approved written MASTER CONTRACT amendment. Compensation for costs incurred as a result of improper performance by the CONSULTANT will not be allowed.
- (2) Reimbursement for costs will be limited to those which are allowable under 48 CFR 1-31.2, Federal Acquisition Regulation, and by DEPARTMENT policy.
- (3) The CONSULTANT 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.
- (4) 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.
- (5) The CONSULTANT shall submit invoices, on the form or format similar to that specified in the MANUAL, not more often than once per month during the progress of the Services, for partial payment on account, for the authorized Services completed to date. The final invoice shall be submitted to the DEPARTMENT within three months of completion of Services under a WORK ORDER.
- (6) 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.
- (7) No payment shall be construed as DEPARTMENT acceptance of unsatisfactory or defective Services or improper materials. Final payment of any balance due the CONSULTANT 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.
- (8) The DEPARTMENT has the equitable right to set off against any sum due and payable to CONSULTANT under any WORK ORDERS issued under this MASTER CONTRACT, any amount the DEPARTMENT determines the CONSULTANT owes the DEPARTMENT, whether

arising under this MASTER CONTRACT or under any other CONTRACT or WORK ORDER or otherwise.

- (9) The CONSULTANT and any Subcontractors to the CONSULTANT 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.
- (10) Work or Services provided under this MASTER CONTRACT may be on numerous PROJECTS. Selection of PROJECTS will be made by the DEPARTMENT. For each PROJECT for which work or Services will be performed, the CONSULTANT 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, if possible, 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 CONSULTANT.
 - f) Profit or fixed fee calculated in accordance with the MANUAL.
 - g) Estimated cost of items the CONSULTANT is allowed to direct charge the DEPARTMENT as determined by DEPARTMENT audit.
 - h) The combined total estimated costs (d, e, g) and profit or fixed fee (f) shall be the maximum compensation allowed for the WORK ORDER.

B. SERVICE ORDERS, EXTRA SERVICE, OR DECREASED SERVICES

- (1) Written orders regarding the Services, including extra Services or decreased Services, may be given by the DEPARTMENT.
- (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 of its WORK ORDERS. The CONSULTANT must proceed with the Services as directed within the time limits specified.
- (3) If, in the CONSULTANT'S opinion, the orders would require the discarding or redoing of Services which were based upon earlier direction or approvals, the CONSULTANT must notify the DEPARTMENT in writing of its opinion if it desires extra compensation.

- (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 CONSULTANT'S opinion, orders involve Services not included in the terms or scope of Services of a WORK ORDER issued under this MASTER CONTRACT, the CONSULTANT must notify the DEPARTMENT in writing if the Consultant 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 CONSULTANT'S submittal, and if acceptable, approve an amendment to the WORK ORDER including appropriate time extensions when the DEPARTMENT determines they are warranted.
- (7) Should the DEPARTMENT determine to make a change 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. Compliance with standards and criteria as may be provided through revisions to the MANUAL and made subsequent to the execution of this MASTER CONTRACT shall be in accordance with Section IV.B. of these provisions.

B. REVISION OF SERVICES

- (1) The CONSULTANT shall make such revisions in the SERVICES 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 SERVICES revised, the CONSULTANT 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

Upon completion or termination of WORK ORDERS issued under this MASTER CONTRACT, all PROJECT documents shall be delivered to and become the property of the DEPARTMENT. These documents may be used without restriction by the DEPARTMENT for any public purpose. Any such use shall be without compensation or liability to the CONSULTANT.

D. CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bonafide employee working solely for the CONSULTANT, to solicit or secure this MASTER CONTRACT, and that he has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this MASTER CONTRACT. For breach or violation of this warranty the DEPARTMENT shall have the right to annul this MASTER CONTRACT 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 CONSULTANT, 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 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 by the DEPARTMENT, the FHWA, and the Comptroller General of the United States, and copies thereof shall be furnished if requested. If more than a nominal number of copies are requested the additional copies shall be furnished at the expense of the requesting agency.

F. LEGAL RELATIONS

- (1) The CONSULTANT 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 CONSULTANT'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 CONSULTANT shall be responsible for any and all damages to property or persons arising out of a negligent act, error and/or omission in the CONSULTANT's performance of the Services under this MASTER CONTRACT.
- (4) The CONSULTANT 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 CONSULTANT in connection with performance and completion of the Services covered by this MASTER CONTRACT.

G. NONDISCRIMINATION IN EMPLOYMENT

- (1) During the performance of this MASTER CONTRACT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows: In connection with the performance of Services under this MASTER CONTRACT, the CONSULTANT 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 sec. 51.01 (5), Wis. Stats., sexual

orientation as defined in sec. 111.32 (13m), Wis. Stats. 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 selecting for training including apprenticeship. Except with respect to sexual orientation, the CONSULTANT further agrees to take affirmative action to ensure equal employment opportunities. The CONSULTANT 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 statutory definition shall be used for the purpose of interpreting and administering this MASTER CONTRACT. "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for the mentally retarded, 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, 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 CONSULTANT for Services to be performed under a subcontract including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this MASTER CONTRACT and the REGULATIONS relative to nondiscrimination on grounds of sex, race, color or national origin.
- (6) The CONSULTANT 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 REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT 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 CONSULTANT'S noncompliance with the nondiscrimination provisions of this MASTER CONTRACT, the DEPARTMENT shall impose such MASTER CONTRACT sanctions as it may determine to be appropriate including, but not limited to:

- (a) Withholding of payments to the CONSULTANT under the MASTER CONTRACT until the CONSULTANT complies; or
 - (b) Cancellation, termination or suspension of the MASTER CONTRACT in whole or in part; or both.
- (8) The CONSULTANT will include the provisions for non- discrimination in every subcontract, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, order or instructions issued pursuant thereto. The CONSULTANT 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 CONSULTANT becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the DEPARTMENT to enter into such litigation to protect the interests of the state and, in addition, the CONSULTANT may request the FHWA to enter into such litigation to protect the interests of the United States.

H. EQUAL EMPLOYMENT OPPORTUNITY (ALL CONTRACTS EXCEEDING \$10,000)

During the performance of this MASTER CONTRACT, the CONSULTANT agrees as follows:

- (1) The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (2) The CONSULTANT will 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).
- (3) The CONSULTANT will furnish all information and reports required by Executive Order 11246 and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the DEPARTMENT, FHWA, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (4) The CONSULTANT will include the provisions of this Section entitled "Equal Employment Opportunity" in every subcontract in excess of \$10,000.

I. IMPLEMENTATION OF CLEAN AIR ACT AND CLEAN WATER ACT (ALL CONTRACTS EXCEEDING \$100,000)

- (1) The CONSULTANT stipulates that any facility to be utilized in the performance of this MASTER CONTRACT, unless such MASTER CONTRACT is exempt under the Clean Air Act, as amended (42 U.S.C. 7401 et seq., as amended including Pub. L. 101-549), and under the Clean Water Act, as amended (33 U.S.C. 1251 et seq., as amended, including Pub. L. 100-4), Executive Order 11738, and regulations in implementation thereof (40 CFR Part 15), is not listed, on the date of MASTER CONTRACT award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities Pursuant to 40 CFR 15.20.

- (2) The CONSULTANT agrees to comply with all the requirements of the Clean Air Act and the Clean Water Act and all regulations and guidelines listed thereunder related to CONSULTANT and Services, under this MASTER CONTRACT.
- (3) The CONSULTANT 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 CONSULTANT agrees to include or cause to be included the requirements of the preceding three paragraphs (1), (2), (3), in every nonexempt subcontract.

J. ERRORS AND OMISSIONS

- (1) The CONSULTANT shall be responsible for the accuracy of the Services performed by the CONSULTANT under the MASTER CONTRACT, and shall promptly make necessary revisions or corrections to its Services resulting from its negligent acts, its errors or its omissions without additional compensation.
- (2) The CONSULTANT shall give immediate attention to these revisions or corrections to prevent or minimize delay to the PROJECT.
- (3) The CONSULTANT shall be responsible to the DEPARTMENT for any losses to or costs to repair or remedy as a result of CONSULTANT's negligent acts, errors or omissions.

K. CONFLICT OF INTEREST

- (1) The CONSULTANT warrants it has no public or private interest, and shall not acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the Services under this MASTER CONTRACT.
- (2) The CONSULTANT shall not employ any person currently employed by the DEPARTMENT for any Services included under the provisions of the MASTER CONTRACT.

L. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

For purposes of this Section, "proposal" means this entire MASTER CONTRACT document when signed and submitted by CONSULTANT to the DEPARTMENT before execution by the Governor.

a. Instructions for Certification

- (1) By signing and submitting this proposal, the CONSULTANT is providing the certification set out in b. below.
- (2) The inability of CONSULTANT to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT shall provide immediate written notice to the DEPARTMENT if at any time the CONSULTANT learns that its certification was erroneous when submitted or has become erroneous by reason of changed 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 meanings 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 CONSULTANT 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 from participation in this covered transaction, unless authorized by the DEPARTMENT.
- (7) The CONSULTANT further agrees by submitting this proposal that it will include the provision titled "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 CONSULTANT 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 CONSULTANT may decide the method and frequency by which it determines the eligibility of its principals. Each CONSULTANT 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 CONSULTANT 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.(6), if a CONSULTANT 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 cause or default.

b. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

- (1) The CONSULTANT certifies to the best of its knowledge and belief, that it and its principals:
 - (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 of 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 governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in section V.M.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.
- (2) Where the CONSULTANT is unable to certify to any of the statements in this certification, such CONSULTANT shall attach an explanation to this proposal.

M. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS

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 CONSULTANT to the DEPARTMENT before approval by the Governor.

a. Instructions for Certification

- (1) By signing and submitting this proposal, the CONSULTANT 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 meanings 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 the 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 it 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.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 is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by an 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.

N. INSURANCE REQUIREMENTS

- (1) The CONSULTANT shall procure and maintain for the life of the MASTER CONTRACT the following types and amounts of insurance from an insurance company or companies authorized to do business in the State of Wisconsin.
 - a) Comprehensive General Liability Insurance -- not less than \$1,000,000 in combined single limits per occurrence.
 - b) Automobile Liability Insurance -- not less than \$300,000 in combined single limits per occurrence.
 - c) Worker's Compensation Insurance -- coverage satisfying the statutory provisions of Chapter 102, Wisconsin Statutes; not less than \$100,000 employer's liability.
- (2) A certification of insurance showing the CONSULTANT is covered by the above-required types and amounts of insurance, together with the effective and expiration dates of such insurance, shall be furnished to the DEPARTMENT prior to performance of any Services under this MASTER CONTRACT.
- (3) Alteration or cancellation by an insurance company or companies shall be brought to the attention of the DEPARTMENT at least ten (10) days prior to the effective date of such alteration or cancellation and may be cause for termination of this CONTRACT.
- (4) The CONSULTANT shall not alter or cancel the required coverage without the written approval of the DEPARTMENT.

O. CERTIFICATION REGARDING LOBBYING

CONSULTANT certifies that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, 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.
- (2) 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 federal contract, grant, loan, or cooperative agreement, the CONSULTANT shall complete and submit **standard form-LOLL, "Disclosure Form to Report Lobbying"** in accordance with its instructions.
- (3) The CONSULTANT 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.

- (4) 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 for each such failure.

P. PREVAILING WAGE RATES

CONSULTANT is advised that sec. 103.50, Wis. Stats., the Wisconsin prevailing wage rate law, does not apply to any laborers or mechanics in the employ of CONSULTANT because CONSULTANT'S Services under this MASTER CONTRACT are not based on bids as provided in sec. 84.06(2), Wis. Stats.

CONSULTANT is advised that the Federal government has independent authority to interpret the Davis-Bacon Act, 40 USC 276a. The Davis-Bacon Act may apply when the United States is a participating party to this MASTER CONTRACT for purposes of reimbursing the DEPARTMENT for portions of the expenditures made by the DEPARTMENT. It is the opinion of the DEPARTMENT that the Davis-Bacon does not apply to any laborers or mechanics in the employ of CONSULTANT because this MASTER CONTRACT is not advertised for the actual construction, alteration or repair of a public work and the function is not part of the construction contract.

VI. SPECIAL PROVISIONS -- Work Order forms are on the next 2 pages

Work Order For Master Contract Project I.D. ____-__-__

CONSULTANT:

Work Order Number (sequentially assigned) _____

WORK ORDER Project I.D.: _____

Highway, Termini, County: _____

SITE NAME: _____

SCOPE OF WORK

(Attach additional pages as necessary)

METHOD OF PAYMENT: (Lump sum, actual cost plus fixed fee, specific rate of compensation, cost per unit of work)

WORK COVERED BY THIS WORK ORDER SHALL BE COMPLETED BY: _____

1. DIRECT LABOR

Classification	Hourly Rate	No. of Hours	Total Cost

(Attach additional pages as necessary)

TOTAL DIRECT LABOR \$ _____ (1)

2. INDIRECT COSTS/OVERHEAD (Total Labor x Audited Overhead Rate

_____ % Approved for Current Use)

TOTAL INDIRECT COSTS \$ _____ (2)

SUBTOTAL LABOR + INDIRECT COSTS \$ _____ (3)

3. PROFIT/FIXED FEE (_____ % of estimated labor and indirect costs)

\$ _____ (4)



4. NON-LABOR DIRECT COSTS

DESCRIPTION	UNIT	NO. OF UNITS	UNIT COST	TOTAL COST

(Attach additional pages as necessary)

TOTAL NON-LABOR DIRECT COSTS \$ _____ (5)

5. SUBCONTRACTS

SUBCONSULTANT	COST	METHOD OF PAYMENT

(Attach additional pages as necessary. Attach copy of all subcontract proposals.)

TOTAL SUBCONTRACTS \$ _____ (6)

TOTAL UPPER LIMIT OF COMPENSATION FOR THIS WORK ORDER: \$ _____

(Direct Labor + Indirect Costs + Profit/Fixed Fee + Non-Labor Direct Costs + Subcontracts)

APPROVAL AND ACCEPTANCE: Approval and acceptance of this WORK ORDER including any attachments, shall incorporate this document as part of the CONTRACT between the CONSULTANT 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 CONSULTANT and the DEPARTMENT.

CONSULTANT: _____ Date: _____

(Print Name and Title)

APPROVED: _____ Date: _____

(Print Name and Title)