

LOCAL GOVERNMENT ENGINEERING CONTRACT  
STANDARD PROVISIONS

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## I. DEFINITIONS

- A. "DEPARTMENT" means the Wisconsin Department of Transportation.
- B. "FHWA" means the Federal Highway Administration.
- C. "MUNICIPALITY" means city, village, town, or county engaged by the DEPARTMENT to provide Services.
- D. "DEPARTMENT Representative" means the qualified public employee of the DEPARTMENT in immediate charge of this CONTRACT.
- E. "CONTRACT" means this CONTRACT.
- F. "PROJECT" means a specific section of highway proposed for improvement.
- G. "Services" means the engineering, labor, materials, equipment, and incidentals furnished by MUNICIPALITY in accordance with this CONTRACT.
- H. "MANUAL" means the DEPARTMENT'S Facilities Development Manual and other manuals referenced therein.

## II. SCOPE OF SERVICES

### A. GENERAL

1. The Services under this 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 CONTRACT consistent with applicable professional standards and requirements contained in the MANUAL.
2. The MUNICIPALITY 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 under this 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 CONTRACT serves as a permit under sec. 86.07 (2), Wis. Stats., 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 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 CONTRACT.

#### B. SERVICES TO BE PERFORMED BY THE MUNICIPALITY

The MUNICIPALITY agrees to:

1. Attend conferences required to carry out the CONTRACT.
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 under this CONTRACT.
5. Notify the DEPARTMENT immediately of any unanticipated PROJECT conditions.
6. Perform MUNICIPALITY field operations in accordance with OSHA regulations and accepted safety practices.
7. Provide for MUNICIPALITY personnel, transportation, supplies, materials and incidentals as are needed to accomplish the Services required under this CONTRACT.
8. 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.

9. Return, upon completion or termination of the CONTRACT 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 PROVIDED BY THE DEPARTMENT

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 required under this CONTRACT.

#### 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 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 CONTRACT 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 CONTRACT shall commence upon written order from the DEPARTMENT to the MUNICIPALITY which will 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 written order.
3. The 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.

#### B. TERMINATION OF CONTRACT

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

#### C. SUBCONTRACTS

1. The MUNICIPALITY shall not sublet more than 25% of the total aggregate amount of the CONTRACT (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. C. 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 CONTRACT 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 under this CONTRACT, the subcontract shall provide for the performance of such Services to the full extent as contemplated in this 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

1. An obligation of the DEPARTMENT under this CONTRACT will not exist until approved and signed by the MUNICIPALITY and the DEPARTMENT. Compensation in excess of the total CONTRACT amount will not be allowed unless authorized by an approved written CONTRACT amendment.
2. Reimbursement for costs shall be limited to those which are allowable under 48 CFR 1-31 and by DEPARTMENT policy.

3. The MUNICIPALITY will be reimbursed by the DEPARTMENT for the completed and approved Services rendered under this CONTRACT on the basis and at the price set forth in the cover sheet of this CONTRACT. Such payment shall be full compensation for Services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the Services.
4. The MUNICIPALITY shall submit invoices not more often than once per month during the progress of the Services for payment for the authorized Services completed to date.
5. 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 verification by the DEPARTMENT, of completion of the Services under the CONTRACT, acceptance by the DEPARTMENT, and upon receipt of documents required to be returned or to be furnished.
6. The MUNICIPALITY and any Subcontractors to the MUNICIPALITY shall maintain all documents and evidence pertaining to costs incurred under this 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 CONTRACT payment.

## 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. ACCESS TO DOCUMENTS AND 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 CONTRACT and to make such materials and all project documents available at their respective offices at all reasonable times during the CONTRACT period and for three years from the date of final payment under the CONTRACT, for inspection and use by the DEPARTMENT in compliance with 49 CFR 18.42.

### C. 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 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 CONTRACT.
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 CONTRACT.

#### D. NONDISCRIMINATION IN EMPLOYMENT

1. In connection with the performance of Services under this CONTRACT, the MUNICIPALITY, for itself, its assignees, and successors in interest, agrees not to discriminate against any employee or applicant 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 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 this nondiscrimination clause.
2. The MUNICIPALITY, for itself, its assignees, and successors in interest, agrees to comply with the following "Acts" and "Regulations," respectively, relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this CONTRACT; including but not limited to:
  - Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race,

- color, national origin); 49 CFR Part 21; and 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
  - Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
  - Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
  - The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
  - Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123 ), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
  - The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
  - Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
  - The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
  - Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
  - Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
  - Title IX of the Education Amendments of 1972, as amended,

which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

3. The MUNICIPALITY with regard to the Services performed by it after award and prior to completion of this CONTRACT, will not discriminate on the grounds of 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 directly or indirectly in the discrimination prohibited by the Acts and Regulations, including employment practices when the CONTRACT covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
4. 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 leases of equipment, each potential subcontractor or supplier will be notified by the MUNICIPALITY of the MUNICIPALITY'S obligations under this CONTRACT and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
5. The MUNICIPALITY will provide all information and reports required by the Acts, the Regulations, and directives 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 or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a MUNICIPALITY is in the exclusive possession of another who fails or refuses to furnish the information, the MUNICIPALITY will so certify to the DEPARTMENT or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
6. In the event of the MUNICIPALITY'S noncompliance with the Nondiscrimination provisions of this CONTRACT, the DEPARTMENT will impose such CONTRACT sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding payments to the MUNICIPALITY under the CONTRACT until the MUNICIPALITY complies; and/or
  - Cancelling, terminating, or suspending the CONTRACT, in whole or in part.
7. The MUNICIPALITY will include the provisions of paragraphs one through seven of this Section V.D. entitled "Nondiscrimination in Employment" in every subcontract, including procurements of materials and leases of equipment, unless exempt under Wisconsin law or by the Acts, Regulations, and directives issued pursuant thereto. The MUNICIPALITY will take action with respect to any subcontract or procurement as the DEPARTMENT or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the

MUNICIPALITY becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the MUNICIPALITY may request the DEPARTMENT to enter into any litigation to protect the interests of the State. In addition, the MUNICIPALITY may request the United States to enter into the litigation to protect the interests of the United States.

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

During the performance of this CONTRACT, the MUNICIPALITY, for itself, its assignees, and successors in interest, agrees as follows:

1. The MUNICIPALITY will, 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, sexual orientation, gender identity, or national origin.
2. The MUNICIPALITY 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 MUNICIPALITY will furnish all information and reports required by Executive Order 11246 and by rules, regulations, and orders of the United States Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the DEPARTMENT, FHWA, and the United States Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
4. The MUNICIPALITY will include the provisions of this Section entitled "Equal Employment Opportunity" in every subcontract in excess of \$10,000.

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

1. The MUNICIPALITY stipulates that any facility to be utilized in the performance of this CONTRACT, unless such 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 CONTRACT award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities Pursuant to 40 CFR 15.20.
2. The MUNICIPALITY 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 the MUNICIPALITY and Services, under this CONTRACT.

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 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.

#### G. ERRORS AND OMISSIONS

1. The MUNICIPALITY shall be responsible for the accuracy of the Services performed by the MUNICIPALITY under the CONTRACT, 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.

#### H. CONFLICT OF INTEREST

The MUNICIPALITY shall not employ any person currently employed by the DEPARTMENT for any services included under the provisions of this CONTRACT.

#### I. CERTIFICATION REGARDING LOBBYING

The MUNICIPALITY certifies that:

1. 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.
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 CONTRACT, the MUNICIPALITY shall complete and submit **standard form-LOLL, "Disclosure Form to Report Lobbying"** in accordance with its instructions.