



FULL SERVICE CONSTRUCTION ENGINEERING MASTER CONTRACT

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 \$_____ (MASTER CONTRACT AMOUNT). 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 Master Contract Representative (“Consultant MC Representative”)is _____, whose work address and telephone number are: _____.

The DEPARTMENT Master Contract Representative (“Department MC Representative”) is _____, whose work address and telephone number are: _____.

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 Standard Specifications for Highway and Structure Constructions and Materials Manual, Facilities Development Manual and all other Manuals referenced therein in their entirety , 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 FOR A FULL SERVICE CONSTRUCTION MASTER CONTRACT

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I. DEFINITIONS

- A. "DEPARTMENT" means the Wisconsin Department of Transportation.
- B. "FHWA" means the United States Department of Transportation 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. "Inspector" means the authorized representative of the CONSULTANT who has the duties and responsibilities of "inspector" as used in State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, and State of Wisconsin Department of Transportation Construction and Materials Manual.
- E. "Contractor" means the individual, partnership, joint venturers, corporation or agency undertaking the performance of the work designated under the terms of a construction contract identified in an Authorization as stated in the first pages of this CONTRACT.
- F. "MASTER CONTRACT" or "CONTRACT" means this contract.
- G. "PROJECT" means an undertaking to improve, repair, replace or construct a specific section of a highway or highway structure, together with all appurtenances and construction to be performed thereon by the Contractor(s) in related construction contracts executed by the DEPARTMENT. Each project is assigned a PROJECT NUMBER by the department.
- H. "Services" means engineering or other services, labor, equipment, and materials furnished by CONSULTANT in accordance with this MASTER CONTRACT and WORK ORDERS issued pursuant to this MASTER CONTRACT.
- I. "Manual" means the publications of data and information produced by the DEPARTMENT for the instruction of its employees and furnished in bound or collected form to CONSULTANT.
- J. "Special Provisions" means the special directions or requirements peculiar to a PROJECT and not otherwise thoroughly or satisfactorily detailed or presented in the Specifications, and which are contained in the construction contract.
- K. "Specifications" means the Standard Specifications for Highway and Structure Construction of the Wisconsin Department of Transportation, 1996 Edition with updates as incorporated in the construction contract.
- L. "Work" means all labor, materials, equipment and other incidentals necessary or convenient to the successful completion of the PROJECT, or a particular part of the PROJECT, furnished by the Contractor, or its subcontractors or suppliers.
- M. "WORK ORDER" means a written document completed in accordance with Chapter 8 of the Department's Facilities Development Manual that is signed by the DEPARTMENT and the CONSULTANT that identifies 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.

N. 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 complete the WORK ORDERS issued under this MASTER CONTRACT in a manner consistent with applicable professional standards and requirements contained in the MANUAL.
2. Every WORK ORDER shall:
 - a) Be completed in accordance with Chapter 8 of the Department's Facilities Development Manual.
 - b) Be signed by the DEPARTMENT and the CONSULTANT
 - c) Identify specific Services to be performed for a specific PROJECT under the terms of this MASTER CONTRACT.
 - d) State the amount and method of compensation to be paid the CONSULTANT by the DEPARTMENT.
 - e) Specify a DEPARTMENT Work Order ("WO") Representative.
 - f) Specify a CONSULTANT Work Order ("WO") Representative.
 - g) Specify whether the CONSULTANT or the DEPARTMENT shall assume the duties of PROJECT ENGINEER for the project under which services shall be rendered under the WORK ORDER.
3. The CONSULTANT 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.
4. CONSULTANT shall check or test all equipment, supplies and incidentals used in completing work under this CONTRACT prior to use for WORK ORDERS. CONSULTANT guarantees that all of its computerized systems are "year 2000 compliant." Computerized systems are considered "year 2000 compliant" if the hardware, software, firmware, or services derived therefrom is: (a) capable of handling date information for before, during and after the year 2000, including, but not limited to, handling data input, generating reports and providing data output, performing calculations on dates or portions of dates; and (b) functions accurately, in accordance with specifications and without interruption, before, during and after the year 2000.
5. The CONSULTANT's principal contact with the DEPARTMENT shall be through the DEPARTMENT MC Representative.
6. The Services shall comply with all applicable state and federal laws and regulations.
7. The FHWA may participate in all conferences and reviews.

8. 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 the DEPARTMENT 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.
9. 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. 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 or any WORK ORDER.
10. 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.
11. Any amendment to this MASTER CONTRACT must be approved by the Governor of the State of Wisconsin.

B. CONTROL AND AUTHORITY

1. The DEPARTMENT is primarily responsible to FHWA for management and construction to insure work is performed in accord with approved plans, specifications and estimates.
2. The DEPARTMENT MC Representative will be designated by the District Project Development Group Manager Engineer. The DEPARTMENT MC Representative is identified on the first pages of this CONTRACT. The Department MC Representative shall have the following qualifications, duties and responsibilities:
 - a) The Department MC Representative shall be a Department employee.
 - b) The Department MC Representative may monitor consultant compliance with the terms, conditions and specifications of this Master Contract and any Work Order issued under it.
 - c) The Department MC Representative may inspect and evaluate consultant's processes and administration.
 - d) The Department MC Representative has authority to reject defective materials and prohibit the use of inadequate or defective equipment.
3. The Department WO Representative will be designated by the Department MC Representative on each Work Order issued under this Master Contract. The Department WO Representative shall have the following qualifications, duties and responsibilities:

- a) Shall be a department employee.
 - b) Have authority to reject defective materials and prohibit the use of inadequate or defective equipment.
 - c) Have authority to suspend any work being improperly performed.
 - d) Shall be involved in any decisions on changes.
 - e) May inspect and evaluate consultant's processes and administration.
 - f) May assume the responsibilities of the Consultant WO Representative if the Consultant WO Representative is not present at the project work site.
4. Project Engineering duties shall be performed by the department unless the Work Order specifies that CONSULTANT is to serve as Project Engineer.
- a) If a Work Order provides that the CONSULTANT shall serve as the Project Engineer for a project, The CONSULTANT WO Representative shall have the following qualifications, duties and responsibilities:
 - (1) Shall be a qualified employee or officer of CONSULTANT.
 - (2) Shall serve as field supervisor of all CONSULTANT personnel and services performed under this CONTRACT,
 - (3) Shall act as liaison between the CONSULTANT and DEPARTMENT Employees .
 - (4) Shall be in responsible charge, and in direct control, of all engineering services performed under this CONTRACT and each WORK ORDER.
 - (5) Shall have the Authority of the Engineer and of the Project Engineer as set forth in sections 105.1 and 105.7 of the Manual, including responsibility for the following:
 - (a) To decide all questions that arise as to the quality and acceptability of materials furnished, work performed, rate of progress of the work, interpretation of the plans and specifications, acceptable fulfillment of the contract, compensation, and disputes and mutual rights between contractors under the specifications.
 - (b) To suspend the work on a project whole or in part for the contractor's failure to correct conditions unsafe for project personnel or the general public, for the contractor's failure to carry out provisions of the contract or for the contractor's failure to carry out orders of the Department MC Representative or the Consultant WO Representative.
 - (c) To determine the amount of work performed and materials provided by contractors on any project covered by this Master Contract and a Work Order and to estimate those quantities prior to contractor receiving any payment from the Department.
 - (d) To have immediate charge of the engineering details of any project covered under this Master Contract and a Work Order.
 - (e) Is responsible for the field administration of the project.
 - (f) Has authority to reject defective material and to suspend any work being improperly performed.
 - (6) Act as Project Engineer as provided in the Specifications.
 - (7) Keep a Project Engineer's Diary, daily diaries, logs and records consistent with DEPARTMENT practice as are needed for a record of the Contractor's progress.
 - (8) Shall designate the Inspector for the PROJECT.
 - b) If a Work Order provides that the DEPARTMENT shall serve as the Project Engineer for a project, The CONSULTANT WO Representative shall:

- (1) Serve as field supervisor of all CONSULTANT personnel and services performed under the WORK ORDER
 - (2) Shall report to and be directly accountable to DEPARTMENT WO Representative.
 - (3) 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.
 - (4) Review Contractor submittal of records and reports required by the DEPARTMENT Representative as applicable to the PROJECT.
5. Any orders issued by the DEPARTMENT MC or WO Representatives will be transmitted through the CONSULTANT WO Representative to the Contractor.
 6. In the event of a controversy the CONSULTANT WO Representative shall first confer with the DEPARTMENT WO Representative and then transmit the agreed course of action to the Contractor. In the event the CONSULTANT WO Representative and DEPARTMENT WO Representatives cannot agree, the DEPARTMENT WO Representative will promptly contact the District Chief Construction Engineer of the DEPARTMENT or his or her delegate who will determine the necessary course of action. The determination will then be transmitted to the Contractor through the CONSULTANT WO Representative. The DEPARTMENT reserves the unilateral right to assign or augment personnel, or terminate the CONTRACT, as stated in Sections II.D.(2) and III.C.(1).

C. SERVICES TO BE PERFORMED BY THE CONSULTANT

1. The CONSULTANT agrees to do the following with respect to each Work Order:
 - a) Attend conferences required to carry out the MASTER CONTRACT and its WORK ORDERS.
 - b) Designate a CONSULTANT WO Representative, with the duty and responsibility to act as liaison between the CONSULTANT and the DEPARTMENT Representatives. The CONSULTANT WO Representative shall report to and be directly accountable to the DEPARTMENT Representatives.
 - c) Become familiar with the standard practices of the DEPARTMENT, the construction plans and contract(s) for the PROJECT, and the Contractor's proposed schedule of operations prior to beginning field Services under this CONTRACT.
 - d) 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.
 - e) Notify the DEPARTMENT WO Representative immediately of any unanticipated PROJECT conditions.
 - f) 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.

- g) Perform CONSULTANT field operations in accordance with OSHA regulations and accepted safety practices.
 - h) 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.
 - i) Perform construction surveys and staking, and provide measurements as specified in the WORK ORDER.
 - j) Act as Inspector as provided in the Specifications, Special Provisions, and State of Wisconsin Department of Transportation Construction and Materials Manual.
 - k) Sample or test, or both, materials to be incorporated in the work, and effectively recommend rejection of Contractor's work and materials not meeting the Specifications, Special Provisions, or State of Wisconsin Department of Transportation Construction and Materials Manual.
 - l) Make certain that test report records or certificates of compliance have been received, prior to the incorporation of materials in the work, for materials tested off the PROJECT site.
 - m) Keep daily diaries, logs and records consistent with DEPARTMENT practice as are needed for a record of the Contractor's progress including Project Engineer's diary and Inspectors' diaries.
 - n) Measure and compute quantities of all materials incorporated in the work and items of work completed, and maintain an item record account.
 - o) Collect, properly label or identify, and deliver to the DEPARTMENT all original diaries, logs, notebooks, accounts, records, reports and other documents prepared by the CONSULTANT in the performance of the CONTRACT and each WORK ORDER, and upon completion or termination of the CONTRACT and WORK ORDERS .
 - p) Return, upon completion or termination of this CONTRACT and WORK ORDERS, all Specifications, Manuals, guides, written instructions, construction contracts and plans, unused forms and record keeping 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. See also Section V.C. of this CONTRACT.
2. The CONSULTANT agrees to do the following with respect to each Work Order which provides that CONSULTANT shall serve as Project Engineer:
- a) Act as Project Engineer as provided in the Specifications.
 - b) Prepare and submit, such periodic, intermediate and final reports and records as may be required by the DEPARTMENT and as are applicable to the PROJECT, which may include:
 - (1) Weekly progress reports
 - (2) Weekly statement of working days

- (3) Notice of change in construction status
 - (4) Report of field inspection of material
 - (5) Test report record
 - (6) Contractor pay estimates
 - (7) Pile driving data
 - (8) Piling record
 - (9) Final certification of materials
 - (10) Explanation of quantity variation
 - (11) Statement of contract time
 - (12) Intermediate and final estimates
 - (13) Contractor evaluation form
 - (14) Other records and reports as required for the individual PROJECT by the DEPARTMENT Representatives.
- c) Review Contractor submittals of records and reports required by the DEPARTMENT as applicable to the PROJECT which may include:
- (1) Weekly payroll
 - (2) Statement of wage compliance
 - (3) Requests for partial and final payment
 - (4) Other reports and records as required for the individual PROJECT by the DEPARTMENT Representatives.
- d) Prepare and submit a brief written critique for each individual PROJECT plan.
- e) Provide, in the field office, a laptop or stand-up personal computer with minimum specifications as written in the Special Provisions for use of the CONSULTANT WO Representative in performing the Services required under the Work Order and this MASTER CONTRACT with respect to said computer:
- (1) The CONSULTANT shall have all CONSULTANT supplied software as required by the Special Provisions installed and functioning before delivering the computer to the DEPARTMENT District Office. The computer will have no programs running resident in memory that will interfere with DEPARTMENT applications.
 - (2) The CONSULTANT will deliver the computer to the DEPARTMENT District Office for loading of the DEPARTMENT supplied software and pick up computer once notified. The DEPARTMENT District Office reserves the right to reject, at any time, any computer that proves to be incompatible with the DEPARTMENT supplied software.
 - (3) The DEPARTMENT will provide for the duration of the PROJECT software mandatory to the processing of engineering estimates and contract change orders.
 - (4) The CONSULTANT agrees to indemnify the DEPARTMENT against any unauthorized use of or copying of the DEPARTMENT supplied software by employees or other representatives of the CONSULTANT.
 - (5) The CONSULTANT further agrees to return each copy of the DEPARTMENT's supplied software to the DEPARTMENT at the end of this CONTRACT.

- (6) The CONSULTANT shall certify that there has not been unauthorized use of the software while in the custody of the CONSULTANT.
- f) Prepare and deliver one copy of the "as-built" or "record" plan to the DEPARTMENT as defined in the State of Wisconsin Department of Transportation Construction and Materials Manual.
- g) Prepare and submit a certificate of completion to the DEPARTMENT upon completion of the CONTRACT and WORK ORDERS. See III.A.9.
- h) Certify to the DEPARTMENT that the work performed by Contractor under the administration of the CONSULTANT pursuant to the Work Order has been completed in substantial conformance to the plans and specifications for that project. This certification shall be made in addition to any certification made under section III. A. 9 of this contract.

D. SERVICES TO BE PROVIDED BY THE DEPARTMENT

- 1. The DEPARTMENT agrees to:
 - a) Make available to the CONSULTANT copies of the construction contracts and plans, shop drawings, plan revisions, Specifications, 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.
 - b) Provide for the use of the CONSULTANT a supply of the blank diaries, logs, record keeping books and reporting forms necessary for the CONSULTANT to perform the Services under this MASTER CONTRACT and WORK ORDERS to the same standards required of the DEPARTMENT'S personnel.
 - c) Provide space in the field office and field laboratory furnished by the Contractor under the terms of the construction contract, for the occupancy and use of the CONSULTANT until completion of the construction work.
 - d) Provide for laboratory testing of materials requiring off-site testing facilities, and authorize CONSULTANT to obtain test reports or certificates of compliance for such testing.
 - e) Perform soil borings and subsurface explorations.
 - f) Designate a DEPARTMENT WO Representative with the duties and responsibilities set forth in this master contract and the WORK ORDERS.
 - g) Provide, through the DEPARTMENT WO Representative, such assistance and guidance to the CONSULTANT as may be reasonably necessary to perform and complete the CONTRACT and each WORK ORDER in conformance with standard construction engineering practices of the DEPARTMENT.
- 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 CONSULTANT'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 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.

E. 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.

F. 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 Representatives. 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. All of the terms and conditions of this MASTER CONTRACT are hereby incorporated into each WORK ORDER issued under this MASTER CONTRACT. A completely and properly executed WORK ORDER issued to the CONSULTANT by the DEPARTMENT shall constitute authorization to commence work.
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. Any WORK ORDER which would result in the aggregate compensation for WORK ORDERS under the MASTER CONTRACT exceeding the MASTER CONTRACT AMOUNT must be approved by the Governor.
3. The CONSULTANT shall complete the Services covered by WORK ORDERS issued under this MASTER CONTRACT within no later than three (3) months after completion of PROJECT construction, or termination of Contractor(s)' responsibility as defined in the Specifications, unless a different time is specified in the WORK ORDER. 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. Services under each WORK ORDER shall commence with attendance at an Operation Planning Conference by the CONSULTANT and the DEPARTMENT. Attendees shall include the CONSULTANT WO Representative and the DEPARTMENT WO Representative and such other persons as may be designated by each party to the WORK ORDER. The DEPARTMENT will notify the CONSULTANT of the location, date and time and will make necessary arrangements for the conference. Topics for discussion shall include scope of the Contractor's construction operations and anticipated schedule, required staffing by the CONSULTANT, lines of communication and authority, equipment needs, standard practices of the DEPARTMENT, and related subjects.
6. The CONSULTANT WO Representative shall attend the pre-construction conference held between the DEPARTMENT, the Contractor and involved utilities and agencies.
7. The CONSULTANT shall complete the Services under this MASTER CONTRACT and WORK ORDERS within the time for completion specified. Time shall not be extended because of any unwarranted or avoidable delay attributable to the CONSULTANT, but may be extended by the DEPARTMENT in the event of a delay attributable to the Contractor, DEPARTMENT or its authorized representatives, or because of unavoidable delay caused by an act of God, act of war, act of government or other conditions beyond the control of the CONSULTANT, including "unavoidable delays" as defined in the Specifications.
8. The CONSULTANT shall notify the DEPARTMENT in writing when it has determined the Services under this MASTER CONTRACT and WORK ORDERS are completed.
9. Upon completion of the MASTER CONTRACT or WORK ORDER, the CONSULTANT shall file a certification of completion with the DEPARTMENT. The certificate shall certify that the obligations of the CONSULTANT under this MASTER CONTRACT or WORK ORDER are complete and, if the Work Order provides that CONSULTANT shall serve as Project Engineer, shall further certify that the work performed under the administration of the CONSULTANT pursuant to this MASTER CONTRACT or WORK ORDER has been completed in substantial conformance to the plans and specifications.
10. Unless the MASTER CONTRACT or WORK ORDER has been terminated prior to the completion of the Services, as provided in Section III. C., the MASTER CONTRACT or WORK ORDER shall not be considered fulfilled 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 in the Services made by the CONSULTANT, or for the purposes of having the CONSULTANT make revisions in the Services as extra Services at the request of the DEPARTMENT.
11. Should the DEPARTMENT deem it necessary for the CONSULTANT to render additional services for review of contract items, conditions, claims or litigation matters after completion of the MASTER CONTRACT or WORK ORDER, the CONSULTANT agrees to cooperate and render the requested services. These services shall be paid for as extra services in the amount and manner mutually agreed upon by the DEPARTMENT and the CONSULTANT as a MASTER CONTRACT or WORK ORDER amendment. In the event the parties are unable to agree upon appropriate compensation for such extra services, the DEPARTMENT may have its employees or another contractor perform those services.

12. A close-out conference shall be held upon completion of this MASTER CONTRACT and its WORK ORDERS to evaluate the performance of the CONSULTANT. Attendees shall include the CONSULTANT WO Representative and DEPARTMENT WO Representative, and such other persons as may be designated by each party to the MASTER CONTRACT and its WORK ORDERS. The DEPARTMENT will notify the CONSULTANT of the location, date and time and will make necessary arrangements for the conference. The evaluation shall consider the quality and adequacy of the CONSULTANT's Services, extent of corrections, ability to meet schedules, cooperation, substantiation of costs, documentation of claims and related subjects. The evaluation shall become a permanent part of the CONSULTANT's record kept by the DEPARTMENT.
13. 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 a WORK ORDER or 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 a WORK ORDER or 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 any 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. In the event the DEPARTMENT and CONSULTANT cannot agree on the proportion of work completed or partially completed and delivered, the appeals process set forth in Chapter 8 of the FACILITIES DEVELOPMENT MANUAL shall be used to determine the proportion.
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 in accordance with Section III.A.2. 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.
2. Aggregate compensation from 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 CONSULTANT will not be allowed.

4. Reimbursement for costs will be limited to those which are allowable under 48 CFR 1-31.2, Federal Acquisition Regulation, and by DEPARTMENT policy.
5. 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.
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 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. Progress reports documenting the extent of completed Services in the relevant WORK ORDER. 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 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.
10. 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 STATE OF WISCONSIN, whether arising under this MASTER CONTRACT or under any other CONTRACT or WORK ORDER or otherwise.
11. 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.
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 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 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 not to exceed 10% of the WORK ORDER amount 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. 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 CONSULTANT 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 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 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 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 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. If the DEPARTMENT orders a decrease in CONSULTANT Services, as provided in Section II.D.2 of the MASTER CONTRACT, the cost of the DEPARTMENT personnel and services will be shown in the order and the order will also direct an appropriate pro rata reduction, in the fixed fee and other Work Order amounts

V. MISCELLANEOUS PROVISIONS

A. CONSTRUCTION ENGINEERING STANDARDS

Completion of the Services shall be accomplished in accordance with the current standard practices of the DEPARTMENT as contained in the Specifications, Special Provisions, Manuals, guides and written instructions of the DEPARTMENT and shall be consistent with generally accepted professional practice..

B. REVISION OF SPECIFICATIONS AND PLANS

1. The DEPARTMENT may, by written notice and without invalidating this MASTER CONTRACT, require changes in the Specifications, construction contract plans or Special Provisions resulting in the revision or abandonment of Services already performed by the CONSULTANT or resulting in Services by the CONSULTANT not contemplated in the MASTER CONTRACT and for which full compensation is not provided in the MASTER CONTRACT
2. Claims by the CONSULTANT for compensation for Services resulting from these revisions shall be submitted and processed in accordance with Section IV.B.

C. OWNERSHIP OF DOCUMENTS

All materials, guides, written instructions, plans, documents, correspondence, forms, computer files, databases, electronic mail messages, work product or other information of any type ("PROJECT DOCUMENTS"), created by consultant under this contract are works created for hire and are the property of the DEPARTMENT. All PROJECT DOCUMENTS provided to consultant by the DEPARTMENT or by any third party which pertains to this contract are property of the DEPARTMENT.

Upon demand by the department, all PROJECT DOCUMENTS shall be delivered to the department within 10 days. Failure to timely provide any PROJECT DOCUMENTS upon demand shall be cause for termination of this contract.

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 CONSULTANT. All right to copyright or otherwise protect the PROJECT DOCUMENTS is the property of the DEPARTMENT.

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.

The CONSULTANT agrees that it will not employ or retain any company or person, other than a bonafide employee working solely for the CONSULTANT, to solicit or secure any WORK ORDER under this MASTER CONTRACT, and that it will not pay or agree 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 a WORK ORDER under this MASTER CONTRACT.

For breach or violation of the terms of this section, the DEPARTMENT shall have the right to annul 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 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 all WORK ORDERS, except those returned to the Department, 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 or audit by the DEPARTMENT, the FHWA, or the Comptroller General of the United States. Copies of such records 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 WORK ORDERS, 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 or any WORK ORDER.
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 or any WORK ORDER.

G. NONDISCRIMINATION IN EMPLOYMENT

1. During the performance of this MASTER CONTRACT and WORK ORDERS, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows: In connection with the performance of Services under this MASTER CONTRACT and any WORK ORDERS, 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 and any WORK ORDERS. "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 "REGULATIONS"), 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 any WORK ORDER 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 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 CONSULTANT under the MASTER CONTRACT and WORK ORDERS until the CONSULTANT complies; or
 - b) Cancellation, termination or suspension of the MASTER CONTRACT or any WORK ORDER 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. FEDERAL REQUIREMENTS FOR DISADVANTAGED BUSINESS PROGRAM

1. Disadvantaged Businesses (DB) as defined in 49 CFR Part 23 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 DB requirements of 49 CFR Part 23 and Federal law apply to 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 CONSULTANT agrees to ensure that Disadvantaged Businesses as defined in 49 CFR Part 23 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 CONSULTANT shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that Disadvantaged Businesses have the maximum opportunity to compete for and perform subcontracts. The CONSULTANT 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 CONSULTANT shall maintain records and document its performance under paragraphs H. 1. to H. 2.

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

If the MASTER CONTRACT AMOUNT exceeds \$10,000:

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.

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

If the MASTER CONTRACT AMOUNT exceeds \$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 Pursuant to 40 CFR 15.20, unless the MASTER CONTRACT and WORK ORDER are 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).
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.

K. ERRORS AND OMISSIONS

1. The CONSULTANT shall be responsible for the accuracy of the Services performed by the CONSULTANT 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 without additional compensation.
2. The CONSULTANT shall give immediate attention to these revisions or corrections to prevent or minimize delay to any 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.

L. 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 Services under this MASTER CONTRACT. Nor shall CONSULTANT acquire directly or indirectly any interest that would conflict in any manner with the performance of the services on any WORK ORDER.
2. The CONSULTANT shall not employ any person currently employed by the DEPARTMENT for any Services included under the provisions of the MASTER CONTRACT or any WORK ORDER.

M. 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.

1. Instructions for Certification
 - a) By signing and submitting this proposal, the CONSULTANT is providing the certification set out in section V.M.2.
 - b) 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.
 - c) 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.

- d) 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.
 - e) 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.
 - f) 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.
 - g) 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.
 - h) 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).
 - i) 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.
 - j) Except for transactions authorized by the DEPARTMENT under section V.N.1.f), 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.
2. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions
- a) The CONSULTANT certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (2) 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;

- (3) 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.2.a)(2) above; and
 - (4) 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.
- b) Where the CONSULTANT is unable to certify to any of the statements in this certification, such CONSULTANT shall attach an explanation to this proposal.

N. 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.

1. Instructions for Certification

- a) By signing and submitting this proposal, the CONSULTANT is certifying that the prospective lower tier participant is providing the certification set out below.
- b) 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.
- c) 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.
- d) 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.
- e) 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.

- f) 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.
 - g) 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.
 - h) 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.
 - i) Except for transactions authorized under section V.N.1.e) 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.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions
- a) 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.
 - b) 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 CONSULTANT shall maintain the following types and limits of commercial insurance in force until such time as all work under or incidentals to the contract have been completed.

Type of Insurance	Minimum Limits required *
(a) Commercial General Liability Insurance; shall be endorsed to include completed operations and blanket contractual liability coverage.	\$1 Million Combined Single Limits per Occurrence, may be subject to an Annual Aggregate Limit of not less than \$2 Million.

(b) Worker’s Compensation and Employer’s Liability Insurance

Worker’s Compensation: Statutory Limits
 Employer’s Liability:
 Bodily Injury by Accident
 -\$100,000 Each Accident
 Bodily Injury by Disease
 -\$500,000 Each Accident
 -\$100,000 Each Employee

(c) Commercial Automobile Liability Insurance; shall cover all CONSULTANT owned, non-owned and hired vehicles used in carrying out the contract.

\$1 Million - Combined Single Limits per occurrence

(d) Architect’s and Engineers Errors and Omissions Insurance **

\$1 Million - Each Claim, may be subject to an Annual Aggregate Limit of \$1 Million

** These requirements may be satisfied either through primary insurance coverage or through excess/umbrella insurance policies.*

*** This insurance requirement applies only to engineering services and is waived for non-engineering services. Engineering services are defined as project management, construction management and inspection, feasibility studies, preliminary engineering, design engineering, surveying, mapping and architectural related services.*

2. An Insurance Certificate, (or Certificates) showing the CONSULTANT is covered by the above required types and amounts of insurance shall be furnished to the DEPARTMENT prior to the performance of any services under this CONTRACT.
3. A 60 day notice of cancellation or change in coverage will be required. All coverage shall be placed with insurance companies licensed to do business in the State of Wisconsin with an A.M. Best rating of A - or better. The DEPARTMENT reserves the right to require other coverage and limits as described in the special provisions of this CONTRACT.
4. The above insurance requirements shall apply with equal force whether the work under this CONTRACT is performed by the CONSULTANT, a subcontractor of the CONSULTANT, or by any entity employed directly or indirectly by either party.
5. Any exceptions to the above insurance requirements requires approval from the Statewide Consulting Engineer. The approval must be reflected in the special provisions of the CONTRACT.

P. 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 civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Q. DEPARTMENTAL PROCEDURES FOR HANDLING ERRORS AS DESCRIBED IN SECTION V.K.

1. The DEPARTMENT may recover those additional costs incurred by the DEPARTMENT and FHWA as the result of errors determined to be the responsibility of CONSULTANT as described in Section V.K.

Each CONSULTANT 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 CONSULTANT error in accordance with Chapter 8 of the FACILITIES DEVELOPMENT MANUAL.

2. When the DEPARTMENT pursues reimbursement, the CONSULTANT 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 CONSULTANT by equitable right of set off.
 - c) Legal action by the DEPARTMENT to collect the costs, if the CONSULTANT has no other agreements with the DEPARTMENT or no payments due and payable, and refuses repayment in full.
 - d) Any combination of the above.

R. 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. FULL SERVICE CONSTRUCTION WORK ORDER

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

Project Engineer Duties to be Performed by (Choose One) DEPARTMENT CONSULTANT

CONSULTANT _____

MASTER CONTRACT PROJECT ID _____ - _____ - _____

WORK ORDER NUMBER _____

The DEPARTMENT proposes a transportation improvement PROJECT described as follows:

ALL SERVICES

The CONSULTANT services will be performed for the DEPARTMENT's Division of Districts, _____ office located in _____, WI and will be completed by/within _____. Compensation for all Services provided by the CONSULTANT under terms of the WORK ORDER shall be:

- (1) Actual costs to the CONSULTANT up to \$_____, plus a fixed fee of \$_____, up to a maximum combined amount of \$_____.
- (2) A lump sum of \$_____.

Compensation in excess of the total WORK ORDER amount of \$_____ shall not be allowed unless approved by a written WORK ORDER amendment. Compensation for costs incurred as a result of improper performance by the CONSULTANT will not be allowed.

The CONSULTANT WO representative is _____, whose work address and telephone number are _____. (Identify representative for each PROJECT if applicable.)

The DEPARTMENT WORK ORDER (WO) representative is _____, whose work address and telephone number are _____. (Identify representative for each PROJECT if applicable.)

If this Work Order indicates that CONSULTANT is to serve as Project Engineer, Consultant designates the following individual as Inspector: _____, whose telephone number and address are:_____.

[Additional Special Provisions for specific services are to be included on this page. For example:

COMPUTER SERVICES See Standard Provisions II.C.21-23.

SURVEY SERVICES

MATERIAL TESTING SERVICES

TRAFFIC CONTROL SERVICES

INSPECTION SERVICES

STAFFING SERVICES

The intent is to include only unique or extraordinary additional specific service variables on this page.]

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 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.

For the CONSULTANT

For the State of Wisconsin
Department of Transportation

By: _____

By: _____

Contract Manager, Bureau of Financial Services

Title: _____

Date: _____

Date: _____