



## CONSULTANT SERVICES AGREEMENT

Project No.: \_\_\_\_\_

Contract No.: \_\_\_\_\_

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2001, between the State of Wisconsin, by its Department of Administration, represented by its Division of Facilities Development, hereinafter Called "DFD", executing this Agreement, and \_\_\_\_\_

hereinafter called the "Consultant".

### WITNESSETH

**WHEREAS**, DFD proposes securing consulting services for a project described as follows:

**WHEREAS**, DFD deems it advisable to engage the services of a Consultant to furnish services in connection with this project, and

**WHEREAS**, DFD has authority as provided in Section 16.85 and 16.87 of the Wisconsin Statutes to engage such services, and

**WHEREAS**, the Consultant has signified his willingness to furnish services for DFD;

**NOW, THEREFORE**, in consideration of the premises and to their mutual and dependent agreements, the parties hereto agree as set forth in the following pages which are annexed hereto and made a part hereof (page \_\_\_\_ to \_\_\_\_ inclusive).

**IN WITNESS WHEREOF**, DFD and the Consultant have executed this Agreement as of the above date.

### STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION

\_\_\_\_\_  
Firm Name

By \_\_\_\_\_  
Date

Title \_\_\_\_\_

\_\_\_\_\_  
Federal Employer Identification Number (FEIN)

By \_\_\_\_\_  
Administrator, Div. of Facilities Development Date

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_  
In the presence of:

Approved: \_\_\_\_\_  
Governor of Wisconsin Date

- I. **GENERAL TERMS.** (a) The Consultant shall provide services for the project in accordance with the terms and conditions of this Agreement.
- (b) **Subletting or Assignment Agreement.** The Consultant shall not sublet or assign all or any part of the work under this Agreement to any sub-Consultant without prior written approval of DFD.
- (c) **Employment.** The Consultant agrees to disclose current contracts with state agencies, including any department, commission or board thereof and further agrees not to enter into such a contract during the life of this Agreement without the prior knowledge and approval of DFD. Further, the Consultant shall not engage the services of any person or persons so employed without the prior written approval of DFD.
- (d) **Nondiscrimination in Employment.** In connection with the performance of work under this Agreement, the Consultant agrees not to discriminate against any employe or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation 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 Consultant further agrees to take affirmative action to provide equal employment opportunities. If the Consultant has a work force of thirty or more employes, the Consultant must submit a written affirmative action plan acceptable under Wisconsin Statutes and Administrative Code to DFD for approval within fifteen working days after any Agreement of thirty thousand dollars or more is awarded. Technical assistance regarding the plan is available from the Wisconsin Office of Contract Compliance (608) 266-5462. The Consultant agrees to post in conspicuous places, available for employes and applicants for employment, a notice to be provided by DFD that sets forth the provisions of the State of Wisconsin non-discrimination clause. Failure to comply with the conditions of this clause may result in the Consultant being declared "ineligible", termination of the Agreement, or withholding of payment.
- (e) **Legal Relations.** The Consultant shall comply with and observe all federal and state laws and any local laws that may be applicable to the project. In carrying out any provisions of this Agreement or exercising any power or authority granted to the Consultant thereby, there shall be no personal liability upon DFD, it being understood that in such matters DFD acts as agent and representative of the State. The Consultant is not an agent of the State within the meaning of s. 893.82 or 895.46, Wis. Stats.
- (f) **Approvals or Inspections.** None of the approvals or inspections performed by DFD shall be construed or implied to relieve the Consultant from any duty or responsibility it has for its performance, unless DFD formally assumes such responsibility through a letter from DFD so stating that the responsibility has been assumed.
- (g) **Termination of Agreement.** This Agreement may be terminated by DFD without cause upon ten calendar days' written notice to the Consultant. In the event of termination, DFD will pay the Consultant for that portion of the work completed and accepted by DFD.
- (h) **Successors and Assigns.** DFD and the Consultant each bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.
- (i) **Claims.** The Consultant's project manager will meet with DFD's project manager to attempt to resolve claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof. Issues not settled are to be presented to the Administrator of DFD for review and resolution. If any claim remains unresolved after such review by the Administrator, the Consultant shall comply with the two-step claims resolution procedure set forth in s. 16.007 and 775.01, Wis. Stats. Work shall progress during the period of any dispute or claim. Unless specifically agreed between the parties, venue will be in Dane County, Wisconsin.
- (j) **Ownership of Documents.** Upon completion of the services provided for in this Agreement, or upon payment for services in the event of termination, all specifications, charts, sketches, drawings and other documents, whether finished or not, shall become the property of DFD. The Consultant shall not affix any copyright symbols to products resulting from this Agreement.
- (k) **Extra Services and Special Cases.** If DFD desires to have the Consultant perform work or render services in connection with this project, other than provided for by the expressed intent of this Agreement, this will be considered as Extra Work, subject to a change order, or extension to this Agreement, setting forth the nature and scope thereof and the compensation therefor as determined by mutual agreement between DFD and the Consultant. Work under such change order or extension shall not proceed unless and until so authorized by DFD.
- (l) **Payments.** The Consultant will be paid by DFD for the completed work or services rendered under this Agreement at the price set forth elsewhere in this Agreement, and for "Extra Work", if any, at the compensation therefor set forth in the approved orders covering such work. Such payment shall be full compensation for work performed or services rendered and for all labor, material, supplies, equipment, and incidentals necessary to complete the work. The Consultant may submit invoices to DFD on a monthly basis during the progress of the work for partial payment on account, for the work completed and accepted to date.
- (m) **Insurance.** The Consultant shall maintain worker's compensation insurance as required by Wisconsin statute, for all employees engaged in the work. The Consultant shall also maintain automobile and public liability and property damage insurance against any claim(s) that might occur in carrying out this Agreement. Minimum coverages for \$500,000 single limit liability, or \$250,000 bodily injury per person, and \$500,000 per occurrence and \$250,000 property damage.
- (n) **Special Notice.** If a state public official (section 19.42(8), Stats.) or an organization in which a state public official holds at least a 10% interest is a party to this Agreement, this Agreement is voidable by the State unless appropriate disclosure is made to the State of Wisconsin Ethics Board.
- (o) The A/E agrees to have available, use and maintain over the course of the project, an Internet connection to access and utilize the WisBuild™ DFD Information System.

*Sample for lump sum*

**II. Scope of Services:**

The Consultant is requested to complete a \_\_\_\_\_ in accordance with proposal for services dated \_\_\_\_\_, 1999 from the Consultant to DFD, attached and made a part of this Agreement.

**III. Consultant Compensation:**

For services as requested above, the Consultant shall be paid a lump sum fee of \$\_\_\_\_\_.

Expenses for \_\_\_\_\_ will be considered as reimbursable expenses.

All requests for payment must include proper backup material to substantiate the amount requested. Reimbursable expenses must be supported by copies of invoices, statements or other office records.

\*\*\*

*Sample for time and material*

**II. Scope of Services:**

The Consultant is requested to perform \_\_\_\_\_ in accordance with the Consultant Services Offer for the time period of July 1, 1999 to July 1, 2000, attached and made a part of this Agreement.

**III. Consultant Compensation:**

For services as requested above, the Consultant shall be paid on a time and material basis using the Consultant's standard schedule of charges. Total payment shall not exceed \$\_\_\_\_\_ without prior written agreement.

All requests for payment must include proper backup material to substantiate the amount requested. Fee amounts are to be itemized by employe or classification as applicable. Reimbursable expenses must be supported by copies of invoices, statements or other office records.

\*\*\*

*Sample for oversight*

**II. Procedural Conditions**

- A. This Agreement is for the use of DFD in obtaining construction observation services for selected projects as described below.
- B. Requests for services shall be in writing from DFD. The written request shall include available project information, the name of DFD's Project Manager and the project's identification number.
- C. The Consultant understands and agrees that he or she is an independent contractor and not an employe of the State including any department, commission or board thereof. The State will not make any deductions from the contractual payments for state or federal taxes or for FICA. The Consultant, as an independent contractor, agrees to take independent action to comply with all income tax and social security laws. The State will not provide liability protection, worker's compensation protection or any group health or life insurance. The Consultant assumes the responsibility of providing themselves with appropriate protection for these risks. The Consultant also understands and agrees that he or she will, on occasion, be working more than 40 hours per week providing services under this Agreement; but the Fair Labor Standards Act relating to overtime will not be applicable because the Consultant is an independent contractor rather than a State employe.
- D. The Consultant shall provide an insurance certificate indicating automobile and public liability and property damage coverage, counter-signed by an insurer licensed to do business in Wisconsin, covering the period of this Agreement.
- E. Each Request for Payment, submitted by the Consultant, shall include a breakdown of projects worked on during the period represented by the request, clearly identified by location, project name and number.

**III. Scope of Services**

- A. Consultant will provide observation and inspection services described herein to DFD. Communications with DFD, with the User Agency and with the Architect/Engineer will be coordinated with the Construction Coordinator. Project activities and documentation shall conform in general to DFD's operating policies and procedures.
- B. Consultant shall maintain and furnish to DFD all project permanent record files, such as site visit reports, project logs, correspondence, meeting minutes, shop drawings, transmittals, test results, progress reports, and all other documentation relating to Consultant's project activities.
- C. Consultant shall inform Contractor when work and/or material is not acceptable. Consultant shall refer questions on acceptability to the Construction Coordinator as appropriate, maintaining full documentation on each question, discussion and resolution.
- D. Consultant shall coordinate and observe all tests required by construction contract documents or by DFD operating practices, observing, recording and reporting relative details to the Construction Coordinator and Architect/Engineer.
- E. Consultant shall monitor construction schedules as established by the Contractor and shall attend scheduling meetings to report, and help resolve, any problems which may affect the project schedule, cost or specifications and plans. Consultant shall advise the Contractor, Architect/Engineer and Construction Coordinator of conditions that affect the project and shall recommend corrective action, as appropriate.

- F. Consultant shall bring promptly to the attention of the Construction Coordinator any failure of the Contractor to perform work in accordance with the contract documents, any perceived or apparent inadequacies or omissions in the contract documents, and any decisions or changes made or developed on the site.
- G. Consultant shall provide inspection and observation services on site during the time that construction is taking place as may be required to ensure the Construction Coordinator and the Architect/Engineer that the work is being done in accordance with the plans, specifications and related construction contract documents.
- H. Consultant shall issue daily site visit reports referencing work observed, inspected, or reviewed by specification section. Prepare and submit, on a biweekly basis, periodic project reports that describe progress, problems identified or resolved, actions taken or decisions made, and items still awaiting determination. Support report with detailed summary logs of requests for information and Contractor proposals and make reports of inspections and observations available to the Construction Coordinator.
- I. Consultant shall conduct or participate in periodic progress meetings, foremen meetings, or other periodic or special meetings to define progress, coordinate work and resolve problems. Hold preinstallation meetings for appropriate sections of the specifications.

#### **IV Consultant Compensation**

- A. For services provided under this Agreement and in accordance with parameters stated in the "Consultant Services Request for Proposal", copy attached and made a part of this Agreement, the Consultant shall be paid at a rate of \$\_. per hour with the total cost not-to-exceed \$\_. during the term of this Agreement. In addition, the Consultant shall be reimbursed for job related mileage in accordance with parameters stated in the "Consultant Services Request for Proposal". The total cost for mileage reimbursement shall not exceed \$\_. In addition, the Consultant shall be reimbursed for meals, lodging and miscellaneous expenses in accordance with parameters stated in the "Consultant Services Request for Proposal". The total cost for meals, lodging and miscellaneous expenses shall not exceed \$\_. The total cost for services, mileage, meals lodging and miscellaneous expenses shall not exceed \$\_. .
- B. Consultant may be asked to provide services not otherwise included in this Agreement. The scope and fees for such services will be negotiated with the Construction Quality Control Section Chief and written as a Change Order to this Agreement.
- C. Consultant shall submit monthly payment requests to the attention of DFD's Construction Coordinator, at the assigned Regional Field Office, for preliminary approval and transmission to the DFD Project Manager.
- D. Requests for payment shall be in accordance to Item II, D and all requests for payment must include proper backup material to substantiate the amount requested. Reimbursable expenses must be supported by copies of invoices, statements or other office records.

#### **V. Agreement Period**

- A. It is anticipated that the scope of services shall be for the period beginning upon approval of this Agreement and continuing through June 30, 200\_.

\*\*\*