



REQUEST FOR PROPOSALS (RFP)

Department of Administration
County of Dane, Wisconsin

COUNTY AGENCY

Highway & Transportation Division

RFP NUMBER

117050

RFP TITLE

Professional Engineering Services for Construction of B-13-681

PURPOSE

The purpose of this document is to provide interested parties with information to enable them to prepare and submit a proposal for Professional Engineering Services for construction engineering services of B-13-681, Town of Dunkirk, Sections 27 & 34.

DEADLINE FOR
RFP SUBMISSIONS

**2:00 P.M. Central Time
April 13, 2017**

**LATE, FAXED, ELECTRONIC MAIL OR UNSIGNED PROPOSALS WILL
BE REJECTED**

SUBMIT RFP TO
THIS ADDRESS

DANE COUNTY PURCHASING DIVISION
ROOM 425 CITY- COUNTY BUILDING
210 MARTIN LUTHER KING JR BLVD
MADISON, WI 53703-3345

SPECIAL
INSTRUCTIONS

- ☐ **Label the lower left corner of your sealed submittal package with the RFP number.**
- ☐ **Place the Signature Affidavit as the first page of your proposal.**
- ☐ **Submit (1) original and (3) copies of your technical proposal.**
- ☐ **Submit (1) original and (1) copy of your cost proposal.**
- ☐ **Submit (1) complete electronic copy in Microsoft Word or PDF format saved on a Flash Drive.**

DIRECT ALL INQUIRES
TO

NAME Pete Patten

TITLE Purchasing Agent

PHONE # 608-267-3523

FAX # 608-266-4425

EMAIL patten.peter@countyofdane.com

WEB SITE www.danepurchasing.com

DATE RFP ISSUED: March 15, 2017

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1.0 GENERAL INFORMATION

1.1 Introduction

The purpose of this document is to provide interested parties with information to enable them to prepare and submit a proposal for Professional Construction Engineering Services for the construction of B-13-681, Town of Dunkirk, Sections 27 & 34. The existing structure is a 4-span steel thru girder bridge over the Yahara River which will be replaced with a 2-span concrete deck girder bridge. The bridge design, construction, and construction engineering services are funded 100% by Dane County.

Construction engineering services will follow procedures from the Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, the Wisconsin DOT Construction and Materials Manual and the Wisconsin DOT bridge manual.

The County intends to use the results of this process to award a contract(s) or issuance of purchase order(s) for the product(s) and or services(s) stated above.

The contract(s) resulting from this RFP will be administered by Dane County, Department of Public Works, Highway & Transportation - Highway Division.

The contract administrator will be Matt Rice, Highway Engineer for Dane County.

This Request for Proposal (RFP) is issued on behalf of Dane County by the Purchasing Division, which is the sole point of contact for the County during the procurement process.

Scope of Services

- 1.2** The Dane County construction letting for B-13-0681 was opened on February 7, 2017 and is in the process of being awarded to the low bidder. The tentative construction start date is June 12, 2017 and the completion date is September 1, 2017.

Construction engineering services will follow standard WisDOT construction procedures as outlined in the construction critical inspection guide available at the following link. <http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/default.aspx>

Section 5 Technical Requirements contains additional information related to construction engineering services.

Definitions

The following definitions are used throughout the RFP:

- 1.3 CONSULTANT:** means a firm submitting a proposal in response to this RFP. The consultant is an individual, partnership, joint venture, corporation or agency undertaking the performance of the SERVICES designated under the terms of the CONTRACT and acting directly or through a duly authorized representative.
- CONTRACTOR:** person, firm or corporation with whom COUNTY makes a contract to construct the project.
- COUNTY:** shall mean Dane County.
- DEPARTMENT:** shall mean Dane County Department of Public Works, Highway & Transportation - Highway Division utilizing the services described in this RFP.
- ENGINEER:** employee designated by the CONSULTANT to act as liaison between the CONSULTANT and the DEPARTMENT.
- FHWA:** Federal Highway Administration.
- MANUALS:** Wisconsin Department of Transportation (WisDOT) Construction and Materials Manual (CMM); Finals Process for Let Project Closeout; Facilities Development Manual (FDM); LRFD Bridge Manual (BM); and Standard Specifications for Highway and Structure Construction (Standard Specifications,) and materials referenced in those manuals.
- PROJECT:** specific section of highway proposed for improvement by the DEPARTMENT in this CONTRACT. Each PROJECT or other described activity has a unique project ID.
- PROJECT DOCUMENTS:** all materials, guides, written instructions, plans, documents, correspondence, forms, computer files, databases, electronic mail messages, work product or other information of any type created by the CONSULTANT for the DEPARTMENT under this CONTRACT.
- PROJECT MANAGER:** employee of the DEPARTMENT in immediate charge of this CONTRACT and designated to act as liaison between the DEPARTMENT and the CONSULTANT
- SERVICES:** engineering or other services, labor, equipment, and materials furnished by the CONSULTANT in accordance with this CONTRACT.
- WORK:** The furnishing of all labor, materials, equipment, and incidentals and the performing of all tasks needed to complete the project or a specific part of the project as specified in the CONTRACT, together with the fulfillment of all associated obligations and duties required under the CONTRACT.

1.4 Clarification of the Specifications

All inquiries concerning this RFP must be directed to the **person indicated on the cover page** of the RFP Document. (electronic mail is the preferred method)

Any questions concerning this RFP must be submitted in writing by mail, fax or e-mail on or before the stated date on the **Calendar of Events** (see Section 1.6)

Proposers are expected to raise any questions, exceptions, or additions they have concerning the RFP document at this point in the RFP process. If a proposer discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP, the proposer should immediately notify the contact person of such error and request modification or clarification of the RFP document.

Proposers are prohibited from communicating directly with any employee of Dane County, except as described herein. No County employee or representative other than those individuals listed as County contacts in this RFP is authorized to provide any information or respond to any question or inquiry concerning this RFP.

1.5 Addendums and/or Revisions

In the event that it becomes necessary to provide additional clarifying data or information, or to revise any part of this RFP, revisions/amendments and/or supplements will be posted on the Purchasing Division web site at www.danepurchasing.com

It shall be the responsibility of the proposers to regularly monitor the Purchasing Division web site for any such postings. Proposers must acknowledge the receipt / review of any addendum(s) at the bottom of the RFP Cover Page /Signature Affidavit.

Each proposal shall stipulate that it is predicated upon the terms and conditions of this RFP and any supplements or revisions thereof.

1.6 Calendar of Events

Listed below are specific and estimated dates and times of actions related to this RFP. The actions with specific dates must be completed as indicated unless otherwise changed by the County. In the event that the County finds it necessary to change any of the specific dates and times in the calendar of events listed below, it will do so by issuing an addendum to this RFP and posting such addendum on the Dane County web site at www.danepurchasing.com . There may or may not be a formal notification issued for changes in the estimated dates and times.

<u>DATE</u>	<u>EVENT</u>
March 15, 2017 -	RFP Issued
March 29, 2017 -	Last Day to Submit Written Questions (2:00 p.m. Central Time)
April 3, 2017 -	Addendums or Supplements to the RFP Posted on the Purchasing Division Web Site www.danepurchasing.com
April 13, 2017 -	Proposals Due from Vendors (2:00 p.m. Central Time)
April 20, 2017 -	Notification of intent to award sent to vendors
May 15, 2017 -	Contract Start Date

1.7 Contract Term and Funding

The contract shall be effective on the date indicated on the purchase order or the contract execution date and shall run until final completion of the services required to complete construction oversight and submittal of final project documentation.

1.8 Reasonable Accommodations

The County will provide reasonable accommodations, including the provision of informational material in an alternative format, for qualified individuals with disabilities upon request. If you need accommodations at a proposal opening/vendor conference, contact the Purchasing Division at (608) 266-4131 (voice) or 608/266-4941 (TTY)

2.0 PREPARING AND SUBMITTING A PROPOSAL

2.1 General Instructions

The evaluation and selection of a contractor and the contract will be based on the information submitted in the proposal plus references and any required on-site visits or oral interview presentations. Failure to respond to each of the requirements in the RFP may be the basis for rejecting a response.

Elaborate proposals (e.g. expensive artwork) beyond that sufficient to present a complete and effective proposal, are not necessary or desired.

2.2 Proprietary Information

All restrictions on the use of data contained within a proposal and all confidential information must be clearly stated on the attached "Designation of Confidential and Proprietary Information" form. Proprietary information submitted in a proposal, or in response to the RFP, will be handled in accordance with the applicable Wisconsin State Statute(s).

To the extent permitted by law, it is the intention of Dane County to withhold the contents of the proposal from public view until such times as competitive or bargaining reasons no longer require non-disclosure, in the opinion of

Dane County. At that time, all proposals will be available for review in accordance with the Wisconsin Open Records Law.

2.3 Incurring Costs

Dane County is not liable for any cost incurred by proposers in replying to this RFP.

2.4 Vendor Registration

All proposers wishing to submit a proposal must be a paid registered vendor with Dane County. Prior to the RFP opening, you can complete a registration form online by visiting our web site at www.danepurchasing.com, or you can obtain a Vendor Registration Form by calling 608.266.4131. Your completed Vendor Registration Form and Registration Fee must be received for your bid to be considered for an award.

2.5 Submittal Instructions

Proposals must be received in by the County Purchasing Division by the specified time stated on the cover page. All proposals must be time-stamped in by the Purchasing Division by the stated time. Proposals not so stamped will not be accepted. Proposals received in response to this solicitation will not be returned to the proposers.

All proposals must be packaged, sealed and show the following information on the outside of the package:

- ☐ Proposer's name and address
- ☐ Request for proposal title
- ☐ Request for proposal number
- ☐ Proposal due date

2.6 Required Copies

Proposers must submit **an original and the required number of copies** of all materials required for acceptance as instructed on the cover page of the RFP (Special Instructions).

All hard copies of the proposal must be on 8.5"x11" individually and securely bound. **In addition, proposers must submit one complete electronic copy in Microsoft Word or PDF format saved on a Flash Drive.**

2.7 Proposal Organization and Format

Proposals should be organized and presented in the order and by the number assigned in the RFP. Proposals must be organized with the following headings and subheadings. Each heading and subheading should be separated by tabs or otherwise clearly marked. The RFP sections which should be submitted or responded to are:

- Introduction (Section 4.1)
- Response to General Requirements
 - Organization Experience and Capabilities (Section 4.2)
 - Staff Qualifications and Capabilities (Section 4.3)
 - References (Section 4.4)
- Response to Technical Requirements (Section 5)
- Cost Proposal (Section 6)
- Required Forms (Section 8 Attachments)

Attachment A	Signature Affidavit
Attachment B	Vendor Registration Certification
Attachment C	Designation of Confidential and Proprietary Information
Attachment D	Fair Labor Practices Certification
Attachment E	Cost Proposal
- Appendices (Additional Information the proposer submits)

2.8 Multiple Proposals

Multiple proposals from a vendor will be permissible, however each proposal must conform fully to the requirements for proposal submission. Each such proposal must be separately submitted and labeled as Proposal #1, Proposal #2, etc.

2.9 Oral Presentations and Site Visits

Top ranked selected proposers may be required to make oral interview presentations and/or site visits to supplement their proposals, if requested by the County. The County will make every reasonable attempt to schedule each presentation at a time and location that is agreeable to the proposer. Failure of a proposer to conduct a presentation to the County on the date scheduled may result in rejection of the vendor's proposal.

3.0 PROPOSAL SELECTION AND AWARD PROCESS

3.1 Preliminary Evaluation

The proposals will first be reviewed to determine if requirements in Section 2 and Section 4 are met. Failure to meet mandatory requirements will result in the proposal being rejected. In the event that all vendors do not meet one or more of the mandatory requirements, the County reserves the right to continue the evaluation of the proposals and to select the proposal which most closely meets the requirements specified in this RFP.

3.2 Proposal Scoring

Accepted proposals will be reviewed by an evaluation team and scored against the stated criteria. This scoring will determine the ranking of vendors based upon their written proposals. If the team determines that it is in the best interest of the County to require oral presentations, the highest-ranking vendors will be invited to make such presentations. Those vendors

that participate in the interview process will then be scored, and the final ranking will be made based upon those scores.

3.3 Right to Reject Proposals and Negotiate Contract Terms

The County reserves the right to reject any and all proposals and to negotiate the terms of the contract, including the award amount, with the selected proposer prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring proposer, the County may negotiate a contract with the next highest scoring proposer.

Please review the sample contract language closely prior to submitting a response to this RFP. The sample contract language is at the end of this RFP document.

3.4 Evaluation Criteria

The proposals will be scored using the following criteria:

Description	%
Organization Experience and Capabilities (Section 4.2)	30%
Staff Qualifications and Capabilities(Section 4.3)	30%
References (Section 4.4)	20%
Cost (Section 6)	20%
Total	100%

3.5 Award and Final Offers

The award will be granted in one of two ways. The award may be granted to the highest scoring responsive and responsible proposer. Alternatively, the highest scoring proposer or proposers may be requested to submit final and best offers. If final and best offers are requested, they will be evaluated against the stated criteria, scored and ranked. The award will then be granted to the highest scoring proposer.

3.6 Notification of Intent to Award

As a courtesy, the County may send a notification of award memo to responding vendors at the time of the award.

4.0 GENERAL PROPOSAL REQUIREMENTS

4.1 Introduction

Provide an overview/history of the firm.

4.2 Organization Experience and Capabilities

- A. Describe the firm's experience and capabilities in providing similar services to those required. Be specific and identify projects, dates, and results.
- B. Description of techniques to be used in approaching the project.

- C. Identify from what location your firm or consultants will provide services to the COUNTY.
- D. State clearly any limitations you wish to include in the Agreement and advise of any conditions that you may have.

4.3 Staff Qualifications and Capabilities

- A. Provide resumes describing the educational and work experiences for each of the key staff who would be assigned to the project.
- B. Describe the availability of assigned personnel to provide service in an efficient and timely manner.
- C. List any other consultants who may perform services as a sub consultant under this contract and describe their area of expertise.

4.4 Proposer References

Proposers must include in their RFPs a list of organizations, including points of contact (name, address, and telephone number), which can be used as references for work performed in the area of service required. Selected organizations may be contacted to determine the quality of work performed and personnel assigned to the project. The results of the references will be provided to the evaluation team and used in scoring the written proposals.

4.5 Mandatory Requirements

The following general requirements are mandatory and must be complied with.

- A. Consultant must be included on the WisDOT list of eligible consultants for bridge construction.
- B. Engineer must be certified by WisDOT for the type and kind of materials testing required for bridge construction.

5.0 TECHNICAL REQUIREMENTS

5.1 Consultant Duties

- A. Perform field operations in accordance with Occupational Safety and Health Administration (OSHA) regulations and accepted professional practice.
- B. Perform project management in cooperation with the COUNTY, CONTRACTOR, WisDOT and WDNR.
- C. Perform surveying as required for construction engineering services.
- D. Perform Public Involvement to include maintaining a log of public and agency involvement activities.
- E. Assist the DEPARTMENT in answering all questions received from the general public.
- F. Schedule and conduct meetings and conferences as required. Meetings include a pre-construction conference, weekly progress meetings and a final project closeout meeting.

- G. Assist the COUNTY with resolution of discrepancies in the contract documents.
- H. Prepare Request for Information (RFI) responses and contract change orders.
- I. Provide an ENGINEER, along with supplemental personnel to assist on an as-needed basis for major concrete pours and surveying, with efforts directed toward determining for the COUNTY that the completed project will meet requirements of the contract documents.
- J. Maintain daily project inspection diaries/records to document work progress, materials certifications, materials tests and pay item quantities.
- K. Prepare erosion control review in accordance with WisDNR permit requirements.
- L. Prepare Roadway and Structure Drawings/as-built plans based on construction revisions to the contract documents in accordance with the Wisconsin Department of Transportation Construction and Materials Manual.
- M. Collect materials certifications from CONTRACTOR in accordance with the Wisconsin Department of Transportation Construction and Materials Manual. Review and recommend approval of CONTRACTOR-submitted materials and certifications. Final approval will be by the PROJECT MANAGER.
- N. Review CONTRACTOR's shop drawing submittals and advise COUNTY on any discrepancies with contract documents. WisDOT Bureau of Structures will certify girders.
- O. Prepare WisDOT Pile Driving Data form, DT1924, and WisDOT Piling Record Form, DT1315.
- P. Review and recommend approval of contract pay quantities submitted by the contractor. Final approval will be by the PROJECT MANAGER.
- Q. Perform Quality Assurance testing for all materials as per the WisDOT specifications. Conduct testing in-house or hire a sub-consultant to provide these services.
- R. Submit final project documentation by December 1, 2017. Finals documents to include project diaries, project correspondence, materials testing and certification records, quantity measurements and pay estimates.

5.2 Materials Testing

Materials Lab Testing services are required for Aggregate Gradation and Concrete cylinder breaks. HMA Density & Mix Testing is waived under this contract. Testing frequency shall be as specified in the MANUALS.

6.0 COST PROPOSAL

6.1 General Instructions on Submitting Cost Proposals

Proposers must submit an original and the required number of copies of the cost proposal as instructed on the **cover page of the RFP** (Special Instructions).

Cost proposal should be submitted in a separate envelope labeled **Cost Proposal** with the written proposal. (Refer to Cost Proposal Form)

The proposal will be scored using a standard quantitative calculation where the most cost criteria points will be awarded to the proposal with the lowest cost. For evaluation purposes, the cost proposals will be based on a project with the following number of hours for each position (this is not a specific project but just a base formula that will be used for scoring). Actual project hours will be finalized during contract negotiations. The cost proposal should indicate any additional costs or expenses the consultant anticipates will need to be included in the final contract document.

NOTE: Position titles may vary between companies. If there is not a position title at your company that exactly matches a position title listed on the cost proposal, please write in the closest job title in the Equivalent Position Title field on the Cost Proposal. There will also be space available to include additional position titles.

The cost proposal should be compiled based on the hours and per test cost listed in the table below which are based on anticipated construction contract length and an assumed $\frac{3}{4}$ time project staffing requirement (12 weeks x 40 hours x 0.75). Additional support staff hours are included for the deck pour and surveying.

Engineer	360 hours
Support Staff	30 hours
Daily Travel Expenses	60 Days
Materials Lab Testing*:	
Aggregate Gradation	Per Test
Concrete cylinder breaks	Per Test
HMA Density & Mix Testing	Waived

*Materials field testing for slump, air or other properties will be performed by project staff and these tasks are considered incidental to project staff time. Testing frequency shall be as specified in the MANUALS.

Note: Mileage expense should be calculated using the closest distance to the CONSULTANT's nearest office or the ENGINEER's home.

6.2 Format for Submitting Cost Proposals

See Attachment E.

6.3 Fixed Price Period

All prices, costs, and conditions outlined in the proposal shall remain fixed and valid for acceptance for 60 days starting on the due date for proposals.

7.0 SPECIAL CONTRACT TERMS AND CONDITIONS

7.1 Living Wage Requirement

All employees working on this project are covered by the Dane County

Living Wage Ordinance Section 25.015 .See Section 27.0 Standard Terms and Conditions. The minimum living wage rate for 2017 is \$12.50. For future years it will be: \$13.00 for 2018, \$13.50 for 2019, \$14.00 for 2020, \$14.50 for 2021 and \$15.00 for 2022. After 2022, the living wage will increase annually according to the increase in the Consumer Price Index. The successful Proposer will be required to sign a Living Wage Certification upon completion of the contract. Details are available on the Dane County Purchasing Division web site.

7.2 Domestic Partner Equal Benefits Requirement

The Consultant [or grant beneficiary] agrees to provide the same economic benefits to all of its employees with domestic partners as it does to employees with spouses, or the cash equivalent if such a benefit cannot reasonably be provided. The Consultant [or grant beneficiary] agrees to make available for County inspection the Consultant's payroll records relating to employees providing services on or under this contract or subcontract [or grant]. If any payroll records of a Consultant [or grant beneficiary] contain any false, misleading or fraudulent information, or if a Consultant [or grant beneficiary] fails to comply with the provisions of s. 25.016, D. C. Ords., the contract compliance officer may withhold payments on the contract; terminate, cancel or suspend the contract in whole or in part; or, after a due process hearing, deny the Consultant the right to participate in bidding on future County contracts for a period of one year after the first violation is found and for a period of three years after a second or subsequent violation is found.

7.3 Local Purchasing Ordinance

Under County ordinances, a Local Vendor is defined as a supplier or provider of equipment, materials, supplies or services that has an established place of business within the County of Dane. An established place of business means a physical office, plant or other facility. A post office box address does not qualify a vendor as a Local Vendor.

County ordinance provides that a local vendor automatically receive five points toward the evaluation score and vendors located within the counties adjacent to Dane County (Columbia, Dodge, Green, Iowa, Jefferson, Rock, Sauk) automatically receive two points toward the evaluation score.

Dane County Sustainability Principles

7.4 On October 18, 2012, the Dane County Board of Supervisors adopted Resolution 103, 2012-2013 establishing the following sustainability principles for the county:

- Reduce and eventually eliminate Dane County government's contribution to fossil fuel dependence and to wasteful use of scarce metals and minerals;
- Reduce and eventually eliminate Dane County government's

- contribution to dependence upon persistent chemicals and wasteful use of synthetic substances;
 - Reduce and eventually eliminate Dane County government's contribution to encroachment upon nature and harm to life-sustaining ecosystems (e.g., land, water, wildlife, forest, soil, ecosystems); and
- Reduce and eventually eliminate Dane County government's contribution to conditions that undermine people's ability to meet their basic human needs.

8.0 REQUIRED FORMS

The following forms must be completed and submitted with the proposal in accordance with the instructions given in Section 2.0. Blank forms are attached.

Attachment A – Signature Affidavit

Attachment B – Vendor Registration Certification

Attachment C – Designation of Confidential & Proprietary Information

Attachment D – Fair Labor Practices Certification

Attachment E – Cost Proposal

RFP COVER PAGE SIGNATURE AFFIDAVIT	
NAME OF FIRM:	
STREET ADDRESS:	
CITY, STATE, ZIP:	
CONTACT PERSON:	
PHONE #:	
EMAIL ADDRESS:	
FAX #:	
LOCAL VENDOR – Are you claiming a local vendor purchasing preference under DCO 25.11(8) based on your physical address listed above? <input type="checkbox"/> No <input type="checkbox"/> Yes – check preference that applies.	
We are claiming a preference as a Dane County business. <input type="checkbox"/> Dane County	
We are claiming a preference as a business located in a county adjacent to Dane County. <input type="checkbox"/> Columbia County <input type="checkbox"/> Dodge County <input type="checkbox"/> Green County <input type="checkbox"/> Rock County <input type="checkbox"/> Iowa County <input type="checkbox"/> Jefferson County <input type="checkbox"/> Sauk County	

In signing this proposal, we also certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other proposer, competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the opening of proposals to any other proposer or competitor; that the above statement is accurate under penalty of perjury.

The undersigned, submitting this proposal hereby agrees with all the terms, conditions, and specifications required by the County in this Request for Proposal, and declares that the attached proposal and pricing are in conformity therewith.

Signature

Title

Name (type or print)

Date

☐ **Addendums** -This firm hereby acknowledges receipt / review of the following addendum(s) (If any)

Addendum #_____ Addendum #_____ Addendum #_____ Addendum #_____

VENDOR REGISTRATION CERTIFICATION

Per Dane County Ordinance, Section 62.15, "Any person desiring to bid on any county contract must register with the purchasing manager and pay an annual registration fee of \$20."

Your completed Vendor Registration Form and Registration Fee must be received for your bid to be considered for an award. Your bid/proposal may not be evaluated for failure to comply with this provision.

Complete a registration form online by visiting our web site at www.danepurchasing.com. You will prompted to create a username and a password and you will receive a confirmation message, than log back in and complete the registration. Once your registration is complete you will receive a second confirmation. Retain your user name and password for ease of re-registration in future years.

Payment may be made via credit card on-line or by check in the mail or in person at the Purchasing Division office. If paying by check make check payable to Dane County Treasurer and indicate your federal identification number (FIN) on the subject line.

CERTIFICATION

The undersigned, for and on behalf of the **PROPOSER, BIDDER OR APPLICANT** named herein, certifies as follows:

- ☐ This firm is a paid, registered vendor with Dane County in accordance with the bid terms and conditions.

Vendor Number # _____

Paid until _____

Date Signed: _____

Officer or Authorized Agent

Business Name

DESIGNATION OF CONFIDENTIAL AND PROPRIETARY INFORMATION		
<small>The attached material submitted in response to this Proposal includes proprietary and confidential information which qualifies as a trade secret, as provided in Sect 19.36(5), Wisconsin State Statutes, or is otherwise material that can be kept confidential under the Wisconsin Open Records law. As such, we ask that certain pages, as indicated below, of this proposal response be treated as confidential material and not be released without our written approval. Attach additional sheets if needed.</small>		
Section	Page Number	Topic

Check mark : _____ This firm is not designating any information as proprietary and confidential which qualifies as trade secret.

Prices always become public information when proposals are opened, and therefore cannot be designated as confidential.

Other information cannot be kept confidential unless it is a trade secret. Trade secret is defined in Sect. 134(80)(1)(c) Wis. State Statutes, as follows: "Trade secret" means information, including a formula, pattern, compilation, program, device, method technique or process to which all of the following apply:

1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.
2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

In the event the Designation of Confidentiality of this information is challenged, the undersigned hereby agrees to provide legal counsel or other necessary assistance to defend the Designation of Confidentiality.

Failure to include this form in the proposal response may mean that all information provided as part of the proposal response will be open to examination or copying. The County considers other markings of confidential in the proposal document to be insufficient. The undersigned agree to hold the County harmless for any damages arising out of the release of any material unless they are specifically identified above.

Signature

Title

Name (type or print

Date

FAIR LABOR PRACTICES CERTIFICATION
Dane County Ordinance 25.11(28)

The undersigned, for and on behalf of the PROPOSER, BIDDER OR APPLICANT named herein, certifies as follows:

1. That he or she is an officer or duly authorized agent of the above-referenced PROPOSER, BIDDER OR APPLICANT, which has submitted a proposal, bid or application for a contract with the county of Dane.

That PROPOSER, BIDDER OR APPLICANT has: (Check One)

_____ not been found by the National Labor Relations Board ("NLRB") or the Wisconsin Employment Relations Commission ("WERC") to have violated any statute or regulation regarding labor standards or relations in the seven years prior to the date this Certification is signed.

_____ been found by the National Labor Relations Board ("NLRB") or the Wisconsin Employment Relations Commission ("WERC") to have violated any statute or regulation regarding labor standards or relations in the seven years prior to the date this Certification is signed

Date Signed: _____

Officer or Authorized Agent

Business Name

NOTE: You can find information regarding the violations described above at:
www.nlr.gov and <http://werc.wi.gov>.

For Reference Dane County Ord. 28.11 (28) is as follows:

(28) BIDDER RESPONSIBILITY. (a) Any bid, application or proposal for any contract with the county, including public works contracts regulated under chapter 40, shall include a certification indicating whether the bidder has been found by the National Labor Relations Board (NLRB) or the Wisconsin Employment Relations Committee (WERC) to have violated any statute or regulation regarding labor standards or relations within the last seven years. The purchasing manager shall investigate any such finding and make a recommendation to the committee, which shall determine whether the conduct resulting in the finding affects the bidder's responsibility to perform the contract.

If you indicated that you have been found by the NLRB or WERC to have such a violation, you must include a copy of any relevant information regarding such violation with your proposal, bid or application.

COST PROPOSAL

If your company does not have an exact position title listed below, please write the closest equivalent position title in the Equivalent Position Title field. Additional position titles can be listed in the blank fields below Clerical Staff.

Position Title	Hours	Cost Per Hour	Total Cost
Engineer	360	\$	\$
Support Staff (List title and hours below, total 30 hours)			
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
TOTAL COST			\$

Materials Testing and any additional cost such as travel related expenses, equipment, etc.				
ITEM	Quantity	Unit of Measure	Unit Cost	Total Cost
Cylinder Breaks	1	Each	\$	\$
Aggregate Testing	1	Each	\$	\$
Daily Mileage		Miles	\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$

PURCHASE OF SERVICES AGREEMENT EXAMPLE

THIS AGREEMENT, made and entered into by and between the County of Dane (hereafter, "COUNTY") and _____ (hereafter, "CONSULTANT"), shall be effective as of the date it is fully executed on behalf of each party.

WITNESSETH:

WHEREAS COUNTY, whose address is c/o Dane County Highway & Transportation Department, 2302 Fish Hatchery Road, Madison, Wisconsin 53713, desires to enter an agreement with CONSULTANT for the purpose of Construction Management for the Construction of B-13-0681 located in the Town of Dunkirk Sections 27 & 34; and

WHEREAS CONSULTANT, whose address is _____ is able and willing to enter into such an agreement;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party, COUNTY and CONSULTANT do agree as follows:

- I. TERM. The term of this Agreement shall commence as of _____, 2017 and shall end as of _____, 2017, unless otherwise agreed to in writing by the parties or as set forth below.
- II. SERVICES TO BE PROVIDED.
 - A. During the term of this Agreement CONSULTANT shall provide the services described in the Scope of Services and Technical Requirement of RFP 117050, attached hereto. In the event COUNTY requests additional services, such services shall be provided by CONSULTANT at the rates set forth in the Schedule of Hourly Rates attached hereto as Schedule B [*Note to proposer: This Schedule B will reflect the Schedule of Hourly Rates provided by proposer under RFP No. 117050*].
 - B. CONSULTANT shall secure at CONSULTANT's own expense all personnel necessary to carry out its obligations under this Agreement. Such personnel shall not be deemed to be employees of COUNTY or to have any direct contractual relationship with COUNTY.
- III. PAYMENTS. COUNTY shall make payments for CONSULTANT'S performance under this Agreement based on the performed and approved services under this contract.

- IV. ASSIGNMENT AND TRANSFER: CONSULTANT shall not assign or transfer any interest or obligation under this Agreement without the prior written consent of COUNTY unless otherwise provided herein.
- V. TERMINATION.
- A. Failure of CONSULTANT to fulfill any of its obligations under this Agreement in a timely manner, or violation by CONSULTANT of any of the terms of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving written notice to CONSULTANT specifying a date of termination not less than 30 days after the date said notice is delivered to CONSULTANT.
- B. The following shall constitute grounds for immediate termination:
1. CONSULTANT's violation of or failure to comply with directives of the PROJECT MANAGER or any federal, state, or local law, regulation, ordinance or rule.
 2. CONSULTANT's failure to obtain and maintain licenses or certifications as required by law, regulation, ordinance or rule for the performance of the services called for hereunder.
 3. CONSULTANT's inability to perform the work called for herein.
- C. Failure of the Dane County Board of Supervisors or, if applicable, the State or Federal Governments, to appropriate sufficient funds to carry out COUNTY's obligations hereunder shall result in automatic termination of this Agreement as of the date funds are no longer available.
- D. In the event this Agreement is terminated prior to its expiration all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by CONSULTANT under this Agreement shall, at the option of COUNTY, become the property of COUNTY, and CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work completed in the preparation or provision of such documents, services, papers, data, products or the like. Notwithstanding the above, CONSULTANT shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by CONSULTANT, and COUNTY may withhold any payments to CONSULTANT for the purpose of set-off.
- VI. DELIVERY OF NOTICES AND OTHER COMMUNICATIONS. Notices, bills, invoices, reports and other communications between the parties hereto shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a

party changing its address to notify the other party of such change in writing within a reasonable time.

VII. INSURANCE AND INDEMNIFICATION.

- A. General Indemnification. CONSULTANT is and shall be deemed to be an independent contractor exclusively responsible for its own acts or omissions. CONSULTANT shall indemnify, hold harmless and defend the Department, COUNTY, COUNTY's agents, representatives, appointees and employees from and against all claims for losses, costs, attorney fees, expenses and damages arising out of, resulting from or relating to any loss of or damage to any property or business or any injury to or death of any person, where such loss, damage, injury, or death actually or allegedly arises, whether directly or indirectly, wholly or in part, from (i) any action or omission of CONSULTANT, CONSULTANT's employees, agents, contractors, suppliers or invitees while on Department property; or (ii) the exercise of the rights granted herein by CONSULTANT, CONSULTANT's employees, agents, contractors, suppliers or invitees. CONSULTANT's obligation of indemnification, as set forth herein, shall not apply to damages or liability resulting from the acts or omissions of COUNTY. The obligations of CONSULTANT under this paragraph shall survive the expiration or termination of this Agreement.
- B. Environmental Protection and Indemnification. CONSULTANT, at its own expense, shall ensure that CONSULTANT and CONSULTANT's employees, agents, contractors, suppliers or invitees comply with all present and hereafter enacted or amended Environmental Laws affecting CONSULTANT's activities on the Department. As used in this Agreement, "Environmental Laws" shall mean all laws, rules, regulations, regulatory agency guidance provisions and policies, ordinances, applicable court decisions, and Department guidance documents, directives, policies (whether enacted by any local, state or federal governmental authority, or reasonably issued by the Department Director) now in effect or hereafter enacted or issued that deal with the regulation or protection of the environment (including, but not limited to, air, water, soil and subsurface elements), or with the generation, handling, storage, disposal or use of chemicals or substances that could be detrimental to health, public welfare, or the environment. CONSULTANT shall indemnify, defend and hold COUNTY harmless from and against any and all liability, loss, damage, expense, penalties and costs (including legal fees and all costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work) arising from or related to any proceeding, claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all proceedings, claims or actions brought or asserted by any party or governmental authority of any kind, alleging or arising in connection with (i) contamination of, or adverse effects on the environment (whether known, alleged,

potential, or threatened), or (ii) alleged or potential violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are brought as a result of any activity or operation of CONSULTANT, CONSULTANT's employees, agents, contractors, suppliers or invitees conducted on Department property, or under authority of this Agreement. CONSULTANT's obligations and liabilities under this subsection shall continue so long as COUNTY may bear any liability or responsibility under Environmental Laws for any activities conducted by CONSULTANT, CONSULTANT's employees, agents, contractors, suppliers or invitees on Department property, or under authority of this Agreement. COUNTY's right to indemnification hereunder shall not be in limitation or exclusion of any other rights and remedies provided by law. CONSULTANT shall promptly notify COUNTY of any action or condition that is contrary to any provision of this section.

- C. Insurance Requirements. CONSULTANT shall, by the commencement date of this lease, obtain Commercial General Liability Insurance, including automobile, property damage, and environmental impairment (pollution) liability endorsements, with coverage of at least \$1,000,000, combined single limits. Notwithstanding the foregoing, CONSULTANT may satisfy the coverage requirements set forth herein through separate policies, each providing coverage of at least \$1,000,000, combined single limits. The insurance required hereunder shall be primary and provide coverage for CONSULTANT's obligations of indemnity as set forth in subsections A and B above. All insurers providing the insurance required herein shall be authorized to do business in the State of Wisconsin and approved by COUNTY. All policies shall name COUNTY as an additional insured. CONSULTANT shall, prior to commencing activities at the Department, provide COUNTY with a certificate or certificates of insurance evidencing the insurance coverage required under this Agreement. Each insurance policy obtained hereunder shall contain a provision that CONSULTANT's insurer shall send to COUNTY written notice of cancellation or any material change in said policy at least 10 days in advance of the effective date thereof. Further, if insurance is underwritten on a claims-made basis, the retroactive date shall be prior to or coincide with the commencement date of this agreement and the certificate of insurance provided therefore shall state that coverage is claims-made and indicate the retroactive date. CONSULTANT shall maintain all insurance coverage required hereunder for the duration of this Agreement and for one year following the termination or expiration hereof
- D. Subcontractor Insurance. In the event of any subcontract of work under this Agreement, CONSULTANT shall furnish evidence that each subcontractor has in force and effect insurance policies providing coverage identical to that required of CONSULTANT hereunder.

- E. Waiver of Insurance Requirements. COUNTY, acting at its sole option and through its Risk Manager, may waive any and all insurance requirements contained in this Agreement, such waiver to be in writing only. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's liability exposure under this Agreement.
- VIII. NO WAIVER BY PAYMENT OR ACCEPTANCE. The making of any payment or acceptance of any labor or materials provided under this Agreement shall not constitute or be construed as a waiver by COUNTY of any breach of the terms of this Agreement or a waiver of any default of CONSULTANT. The making of any payment or acceptance of any labor or materials by COUNTY while CONSULTANT is in default or breach hereunder shall not impair or prejudice the right of COUNTY to recover damages under all remedies available for such default or breach.
- IX. NON-DISCRIMINATION. CONSULTANT shall not in any manner associated with the employment of personnel or the provision of the services called for under this Agreement discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record, conviction record, political beliefs, or military participation including membership in the national guard or any other reserve component of federal or state military forces. CONSULTANT shall comply with all requirements imposed by or pursuant to Title 49 Code of Federal Regulations Part 21 and the Americans with Disabilities Act, as said regulations may be amended. CONSULTANT shall post in conspicuous places, available to CONSULTANT's employees and applicants for employment, notices setting forth the provisions of this Agreement as it relates to affirmative action and non-discrimination. The exceptions and special cases relating to discrimination enumerated in sections 111.33 through 111.365 of the Wisconsin Statutes shall be applicable to the provisions of this section
- X. CIVIL RIGHTS COMPLIANCE.
- A. If CONSULTANT has 20 or more employees and is being paid \$20,000 or more per calendar year through contracts with COUNTY, CONSULTANT shall submit to COUNTY a current Civil Rights Compliance (CRC) Plan meeting the requirements of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981, and the Americans with Disabilities Act of 1990. CONSULTANT shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances, and shall provide COUNTY with a copy of its discrimination complaint form. Failure to provide the submittals required under

this subsection within ten days of the effective date of this Agreement shall be a material breach and grounds for termination of the Agreement. If a plan required under this subsection has been received and approved by COUNTY during the year prior to the effective date of this Agreement, submission of an update for such plan shall be sufficient hereunder. If CONSULTANT has less than 20 employees, but is being paid \$20,000 or more per calendar year through contracts with COUNTY, it may be required by COUNTY to submit a CRC Action Plan to correct any problems discovered as the result of complaint investigation or CRC monitoring. If CONSULTANT submits a CRC or AA Plan to the Wisconsin Department of Workforce Development, or a division thereof, or to the Wisconsin Department of Health and Family Services, or a division thereof, that is applicable to the services provided under this Agreement, a verification of acceptance by the State of the plan(s) is sufficient to satisfy the plan submission requirements under this subsection.

- B. CONSULTANT shall comply with COUNTY's civil rights policies and procedures, including those applicable to civil rights monitoring and the examination of records and files maintained by CONSULTANT that may relate to affirmative action and non-discrimination. CONSULTANT shall cooperate with COUNTY in developing, implementing and monitoring corrective action in the event CONSULTANT is not in compliance with COUNTY's civil rights policies and procedures. Sections 19.50 through 19.72 of the Dane County Code of Ordinances are incorporated into this Agreement as if fully set forth herein.
- C. CONSULTANT shall post its discrimination complaint procedure and the name of its Equal Opportunity Coordinator in conspicuous places available to its employees, recipients of its services, and applicants for employment. The complaint process shall be in compliance with COUNTY's policies and procedures and made available in languages and formats understandable to CONSULTANT's clients, customers and employees.
- D. CONSULTANT shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.

XI. LIVING WAGE.

- A. If this Agreement is a service contract as defined in section 25.015 of the Dane County Code of Ordinances, CONSULTANT shall pay all of its employees providing services under this Agreement, whether full-time or part-time, no less than the living wage established pursuant to the Dane County Code of Ordinances. Upon request, CONSULTANT shall make available for inspection CONSULTANT's payroll records relating to workers providing services under this Agreement.

- B. If CONSULTANT'S payroll records contain any false, misleading or fraudulent information, or if CONSULTANT fails to comply with section 25.015 of the Dane County Code of Ordinances, COUNTY may withhold payments, suspend or terminate this Agreement and may suspend CONSULTANT from participating in bidding on future COUNTY contracts.
- C. Prior to final payment under this Agreement, CONSULTANT shall submit to COUNTY a certification stating that it has complied with the living wage requirements established under section 25.015 of the Dane County Code of Ordinances.
- D. CONSULTANT shall display COUNTY's current living wage poster in a prominent place where it can be easily seen and read by persons employed by CONSULTANT.
- E. CONSULTANT shall ensure that any subcontractors it may use in performance hereunder comply with the provisions of this section.

XII. DOMESTIC PARTNER EQUAL BENEFITS. If this Agreement is a service contract within the meaning of section 25.016 (2) of the Dane County code of Ordinances, CONSULTANT is subject to the provisions of this section and shall provide the same economic benefits to its employees with domestic partners, as that term is used in the Dane County Code of Ordinances, as it does to employees with spouses, or the cash equivalent if any such benefit cannot reasonably be provided. CONSULTANT agrees to make available for COUNTY inspection CONSULTANT's payroll records relating to employees providing services under this Agreement. If CONSULTANT's payroll records contain any false, misleading or fraudulent information, or if CONSULTANT fails to comply with the provisions of section 25.016 of the Dane County Code of Ordinances, COUNTY may withhold payments, terminate, cancel or suspend this Agreement in whole or in part; or deny CONSULTANT the right to participate in bidding on future COUNTY contracts. Final payment under this Agreement shall not be made until CONSULTANT certifies to COUNTY, on a form provided by COUNTY, that it has complied with the requirements of section 25.016 of the Dane County Code of Ordinances during the term of the Agreement.

XIII. COMPLIANCE WITH FAIR LABOR STANDARDS.

- A. Reporting of Adverse Findings. During the term of this Agreement CONSULTANT shall report to COUNTY's Contract Compliance Officer any allegations filed with, or findings made by the National Labor Relations Board or Wisconsin Employment Relations Commission asserting or finding that CONSULTANT has violated a statute or regulation regarding labor standards or relations. The

foregoing report shall be provided COUNTY within 10 days of the filing of the allegations or, if the allegations were not filed during the term of this Agreement, within 10 days of the issuance of the findings regarding the allegations. If, after an investigation of the allegations or a review of the findings, COUNTY's Contract Compliance Officer determines that CONSULTANT breached its obligations under this Agreement and recommends termination or suspension of this Agreement, COUNTY may take the recommended action after the determination becomes final under the following appeal procedures.

B. Appeal Process. CONSULTANT may appeal an adverse determination made by COUNTY's Contract Compliance Officer under this section pursuant to the procedures set forth in section 25.015(11)(c) through (e) of the Dane County Code of Ordinances.

C. Notice Requirement. CONSULTANT shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and local laws and regulations addressing retaliation or collective bargaining."

XIV. SUBCONTRACTORS. Services performed under this Agreement may be performed pursuant to subcontract only with COUNTY's the prior written approval. *[If applicable, there will be listed here pre-approved subcontractors as proposed and services being provided by each subcontractor, including lab and testing services]*

XV. FEDERAL LAW PROVISIONS. The provisions in this section are included in this Agreement as prescribed by federal law.

A. General Civil Rights Provisions. CONSULTANT shall comply with pertinent statutes, executive orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision binds CONSULTANT and any sub tier contractors from the contract solicitation period through the termination of this Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

B. Compliance with Nondiscrimination Requirements. During the performance of this Agreement, CONSULTANT, its assignees, and successors in interest (in this section hereinafter collectively referred to as CONSULTANT) agrees as follows:

(1) Compliance with Regulations: CONSULTANT will comply with the acts and authorities compiled in the Title VI List of Pertinent Nondiscrimination Acts and Authorities, attached hereto as Schedule D and fully incorporated herein, as they may be amended from time to time *[Note to proposer:*

Schedule D is attached to this Example Purchase of Services Agreement].

- (2) Non-discrimination: CONSULTANT, with regard to the work performed by it under the terms of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including those involved in the procurement of materials, consulting, and the leasing of equipment. CONSULTANT will not participate directly or indirectly in discrimination prohibited by the Nondiscrimination Acts and Authorities listed in attached Schedule D, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by CONSULTANT for work authorized under this Agreement to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by CONSULTANT of the obligations of CONSULTANT and its subcontractors under this Agreement and the Nondiscrimination Acts and Authorities listed in Schedule D.
- (4) Information and Reports: CONSULTANT will provide all information and reports required by the Nondiscrimination Acts and Authorities listed in Schedule D, including all regulations, instructions and directives adopted or 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 County or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and regulations, instructions and directives adopted or issued pursuant thereto. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish the information, CONSULTANT will so certify to the County or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event CONSULTANT fails to comply with the non-discrimination provisions of this Agreement, the County will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to CONSULTANT under the Agreement until CONSULTANT complies; and
 - b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

(6) **Incorporation of These Provisions:** CONSULTANT will include the provisions of this paragraph and the preceding paragraphs (1) through (5) in every subcontract under this Agreement, including subcontracts for the procurements of materials and leases of equipment, unless exempt under the Nondiscrimination Acts and Authorities listed in Schedule D and the regulations, instructions and directives adopted or issued pursuant thereto. CONSULTANT will take action with respect to any subcontract, lease or procurement as the County or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if CONSULTANT becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, CONSULTANT may request the County to enter into any litigation to protect the interests of the County. In addition, CONSULTANT may request the United States to enter into the litigation to protect the interests of the United States.

C. Provisions of 29 CFR part 201. This Agreement does, and any contracts and subcontracts entered into under authority of this Agreement shall, incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if provided in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. CONSULTANT has full responsibility to monitor compliance with 29 CFR part 201. CONSULTANT must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

D. Requirements of 29 CFR Part 1910. This Agreement does, and any contracts and subcontracts entered into under authority of this Agreement shall, incorporate by reference the requirements of 29 CFR Part 1910, the Occupational Safety and Health Act of 1970, with the same force and effect as if given in full text. CONSULTANT and any subcontractors performing work under this Agreement shall provide a work environment that is free from recognized hazards that may cause death or serious physical harm to an employee. CONSULTANT shall comply with, and monitor the compliance of its subcontractors with, the Occupational Safety and Health Act of 1970, and shall address any claims or disputes that pertain to such Act directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

XVI. MISCELLANEOUS.

A. Authority To Do Business and Compliance With Laws. CONSULTANT warrants that it has complied with all requirements to do business in the State of Wisconsin and that the person executing this Agreement on its behalf is authorized to do so. Performance hereunder shall be in compliance with

directives issued by the Department Director, and all applicable federal, state, and local laws and regulations.

- B. Controlling Law and Venue. In the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.
- C. Limitation Of Agreement. This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- D. Amendment. This Agreement, including any attachments, constitutes the entire agreement between the parties and supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. This Agreement may be modified or amended only in writing executed by the duly authorized representatives of the parties hereto, such representative on the part of COUNTY being the Highway Commissioner.
- E. Counterparts and Copies. The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument. A photocopy, facsimile, or electronic copy of this Agreement shall have the same effect for all purposes as an original.

IN WITNESS WHEREOF, COUNTY and CONSULTANT, by their respective authorized agents, have executed this Agreement on the dates indicated below.

FOR CONSULTANT:

Date Signed: _____

FOR COUNTY:

Date Signed: _____

Date Signed: _____

STANDARD TERMS AND CONDITIONS

(Request For Bids/Proposals/Contracts)

Dane County Purchasing Division

Rev. 11/13

1.0 **APPLICABILITY:** The terms and conditions set forth in this document apply to Requests for Proposals (RFP), Bids and all other transactions whereby the County of Dane acquires goods or services, or both.

1.1 **ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract, including any purchase order, awarded as a result of this request. Special requirements of a resulting contract may also apply. Said written contract with referenced parts and attachments shall constitute the entire agreement, and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the County. Unless otherwise stated in the agreement, these standard terms conditions supersede any other terms and/or conditions applicable to this agreement.

1.2 **DEFINITIONS:** As used herein, "vendor" includes a provider of goods or services, or both, who is responding to an RFP or a bid, and "bid" includes a response to either an RFP or a bid.

2.0 **SPECIFICATIONS:** The specifications herein are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability or performance level, or any combination thereof, desired. When alternates are proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. Dane County shall be the sole judge of equivalency. Vendors are cautioned to avoid proposing alternates to the specifications that may result in rejection of their bid.

3.0 **DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from terms, conditions, or specifications shall be described fully on the vendor's letterhead, signed, and attached to the bid. In the absence of such statement, the bid shall be accepted as in strict compliance with all terms, conditions, and specifications and vendor shall be held liable for injury resulting from any deviation.

4.0 **QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. No pre-owned, obsolete, discontinued or defective materials may be used.

5.0 **QUANTITIES:** The quantities shown herein are based on estimated needs. The County reserves the right to increase or decrease quantities to meet actual needs.

6.0 **DELIVERY:** Deliveries shall be FOB destination freight prepaid and included unless otherwise specified. County will reject shipments sent C.O.D. or freight collect.

7.0 **PRICING:** Unit prices shown on the bid shall be the price per unit of sale as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid evaluation and contract administration.

7.1 Prices established in continuing agreements and term contracts may be lowered due to market conditions, but prices shall not be subject to increase for the term specified in the award. Vendor shall submit proposed increases to the contracting department thirty (30) calendar days before the proposed effective date of the price increase. Proposed increases shall be limited to fully documented cost increases to the vendor that are demonstrated to be industry wide. Price increases may not be granted unless they are expressed in bid documents and contracts or agreements.

7.2 Submission of a bid constitutes bidder's certification that no financial or personal relationship exists between the bidder and any county official or employee except as specially set forth in writing attached to and made a part of the bid. The successful bidder shall disclose any such relationship which develops during the term of the contract.

8.0 **ACCEPTANCE-REJECTION:** Dane County reserves the right to accept or reject any or all bids, to waive any technicality in any bid submitted and to accept any part of a bid as deemed to be in the best interests of the County. Submission of a proposal or a bid constitutes the making of an offer to contract and gives the County an option valid for 60 days after the date of submission to the County.

8.1 Bids **MUST** be dated and time stamped by the Dane County Purchasing Division Office on or before the date and time that the bid is due. Bids deposited or time stamped in another office will be rejected. Actual receipt in the office of the purchasing division is necessary; timely deposit in the mail system is not sufficient. **THERE WILL BE NO EXCEPTIONS TO THIS POLICY.**

9.0 **METHOD OF AWARD:** Award shall be made to the lowest responsible responsive vendor conforming to specifications, terms, and conditions, or to the most advantageous bid submitted to the County on a quality versus price basis.

10.0 **ORDERING/ACCEPTANCE:** Written notice of award to a vendor in the form of a purchase order or other document, mailed or delivered to the address shown on the bid will be considered sufficient notice of acceptance of bid. A formal contract containing all provisions of the contract signed by both parties shall be used when required by the Dane County Purchasing Division.

11.0 **PAYMENT TERMS AND INVOICING:** Unless otherwise agreed, Dane County will pay properly submitted vendor

invoices within thirty (30) days of receipt of goods and services. Payment will not be made until goods or services are delivered, installed (if required), and accepted as specified. Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order.

11.1 NO WAIVER OF DEFAULT: In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by County of any breach of the covenants of the Agreement or a waiver of any default of the successful vendor, and the making of any such payment or acceptance of any such service or product by County while any such default or breach shall exist shall in no way impair or prejudice the right of County with respect to recovery of damages or other remedy as a result of such breach or default.

12.0 TAXES: The County and its departments are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below. The State of Wisconsin Department of Revenue has issued tax exempt number ES41279 to Dane County.

12.1 The County is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. The County is exempt from Wisconsin sales or use tax on these purchases. The County may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Vendors performing construction activities are required to pay state use tax on the cost of materials.

13.0 GUARANTEED DELIVERY: Failure of the vendor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the vendor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include administrative costs.

14.0 APPLICABLE LAW AND VENUE: This contract shall be governed under the laws of the State of Wisconsin, and venue for any legal action between the parties shall be in Dane County Circuit Court. The vendor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct.

15.0 ASSIGNMENT: No right or duty in whole or in part of the vendor under this contract may be assigned or delegated without the prior written consent of Dane County.

16.0 NONDISCRIMINATION/AFFIRMATIVE ACTION: During the term of this Agreement the vendor agrees, in accordance with sec. 111.321, Wis. Stats., and Chapter 19 of the Dane County Code of Ordinances, not to discriminate against any person, whether an applicant or recipient of services, an employee or applicant for employment, on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military

participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs. The vendor shall provide a harassment-free work environment. These provisions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, including apprenticeships, rates of pay or other forms of compensation.

16.1 Vendors who have twenty (20) or more employees and a contract of twenty thousand dollars (\$20,000) or more must submit a written affirmative action plan to the County's Contract Compliance Officer within fifteen (15) working days of the effective date of the contract. The County may elect to accept a copy of the current affirmative action plan filed with and approved by a federal, state or local government unit.

16.2 The vendor agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this Agreement as they relate to affirmative action and nondiscrimination.

16.3 Failure to comply with these Terms and Conditions may result in the vendor being debarred, termination of the contract and/or withholding of payment.

16.4 The vendor agrees to furnish all information and reports required by Dane County's Contract Compliance Officer as the same relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine compliance with Chapter 19, D.C. Ords. and the provisions of this Agreement.

16.5 *Americans with Disabilities Act*: The vendor agrees to the requirements of the ADA, providing for physical and programmatic access to service delivery and treatment in all programs and activities.

17.0 PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT: The vendor guarantees goods sold to the County were manufactured or produced in accordance with applicable federal labor laws, and that the sale or use of the articles described herein do not infringe any patent, copyright or trademark. The vendor covenants that it will, at its own expense, defend every suit which shall be brought against the County (provided that such vendor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent, copyright or trademark by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.

18.0 SAFETY REQUIREMENTS: All materials, equipment, and supplies provided to the County must fully comply with all safety requirements as set forth by the Wisconsin Department of Commerce and all applicable OSHA Standards.

18.1 MATERIAL SAFETY DATA SHEET: If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29 CFR 1910.1200, provide one (1) copy of the Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).

19.0 WARRANTY: Unless specifically expressed otherwise in writing, goods and equipment purchased as a result of this request shall be warranted against defects by the vendor for one (1) year from date of receipt. An equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the vendor. The time limitation in this paragraph does not apply to the warranty provided in paragraph 27.0.

20.0 INDEMNIFICATION & INSURANCE.

20.1. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.

20.2. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's subrogation rights in all such matters that may arise that are covered by PROVIDER's insurance. Neither these requirements nor the COUNTY's review or acceptance of PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement. The County expressly reserves the right to require higher or lower insurance limits where County deems necessary.

20.2.1. Commercial General Liability. PROVIDER agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall list DANE COUNTY as an Additional Insured.

20.2.2. Commercial/Business Automobile Liability. PROVIDER agrees to maintain Commercial/Business Automobile Liability insurance at a limit of not less than \$1,000,000 Each Occurrence. PROVIDER further agrees

coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event PROVIDER does not own automobiles, PROVIDER agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

20.2.3. Environmental Impairment (Pollution) Liability. PROVIDER agrees to maintain Environmental Impairment (Pollution) Liability insurance at a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, and environmental cleanup costs caused by pollution conditions, both sudden and non-sudden. This requirement can be satisfied by either a separate environmental liability policy or through a modification to the Commercial General Liability policy. Evidence of either must be provided.

20.2.4. Workers' Compensation. PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.

20.2.5. Umbrella or Excess Liability. PROVIDER may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.

20.3. Upon execution of this Agreement, PROVIDER shall furnish COUNTY with a Certificate of Insurance listing COUNTY as an additional insured and, upon request, certified copies of the required insurance policies. If PROVIDER's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement, the Certificate of Insurance shall state that professional malpractice or errors and omissions coverage, if the services being provided are professional services coverage is Claims-Made and indicate the Retroactive Date, PROVIDER shall maintain coverage for the duration of this Agreement and for six (6) years following the completion of this Agreement. PROVIDER shall furnish COUNTY, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that PROVIDER shall furnish the COUNTY with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either PROVIDER or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by PROVIDER. In the event any action, suit or other proceeding is brought against COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to PROVIDER and shall cooperate with PROVIDER's attorneys in the defense of the action, suit or other proceeding. PROVIDER shall furnish evidence of adequate Worker's Compensation Insurance. In case of any sublet of work under this Agreement, PROVIDER shall furnish evidence that each and every subcontractor has in force and effect insurance

policies providing coverage identical to that required of PROVIDER. In case of any sublet of work under this Agreement, PROVIDER shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of PROVIDER.

20.4. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

21.0 CANCELLATION: County reserves the right to terminate any Agreement due to non-appropriation of funds or failure of performance by the vendor. This paragraph shall not relieve County of its responsibility to pay for services or goods provided or furnished to County prior to the effective date of termination.

22.0 PUBLIC RECORDS ACCESS: It is the intention of the County to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid openings are public unless otherwise specified. Records are not available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Bid results may be obtained by visiting the Dane County Purchasing Office Monday – Friday, between 8:00 a.m. and 4:00 p.m. Prior appointment is advisable.

22.1 PROPRIETARY INFORMATION: If the vendor asserts any of its books and records of its business practices and other matters collectively constitute a trade secret as that term is defined in s. 134.90(1)(c), Wis. Stats., County will not release such records to the public without first notifying the vendor of the request for the records and affording the vendor an opportunity to challenge in a court of competent jurisdiction the requester's right to access such records. The entire burden of maintaining and defending the trade secret designation shall be upon the vendor. The vendor acknowledges and agrees that if the vendor shall fail, in a timely manner, to initiate legal action to defend the trade secret designation or be unsuccessful in its defense of that designation, County shall be obligated to and will release the records.

22.2 Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which vendor believes qualifies as a trade secret, as provided in section 19.36(5), Wis. Stats., must be identified on a designation of Confidential and Proprietary Information form. Pricing will not be held confidential after award of contract.

22.3 Data contained in a bid, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations shall be the property of the County.

23.0 RECYCLED MATERIALS: Dane County is required to purchase products incorporating recycled materials whenever technically and economically feasible. Vendors are encouraged to bid products with recycled content which meet specifications.

24.0 PROMOTIONAL ADVERTISING: Reference to or use of Dane County, any of its departments or sub-units, or any county official or employee for commercial promotion is prohibited.

25.0 ANTITRUST ASSIGNMENT: The vendor and the County of Dane recognize that in actual economic practice, overcharges resulting from antitrust violation are in fact usually borne by the Purchaser. Therefore, the successful vendor hereby assigns to the County of Dane any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.

26.0 RECORDKEEPING AND RECORD RETENTION-PUBLIC WORKS CONTRACTS: The successful bidder on a public works contract shall comply with the State of Wisconsin prevailing wage scale and shall establish and maintain adequate payroll records for all labor utilized as well as records for expenditures relating to all subcontracts, materialmen and suppliers. All records must be kept in accordance with generally accepted accounting procedures. The County shall have the right to audit, review, examine, copy, and transcribe any such records or documents. The vendor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.

26.1 RECORDKEEPING AND RECORD RETENTION-COST REIMBURSEMENT CONTRACTS: Where payment to the vendor is based on the vendor's costs, vendor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. The County contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the vendor. The vendor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.

27.0 LIVING WAGE REQUIREMENT: The vendor shall, where appropriate, comply with the County's Living Wage requirements as set forth in section 25.015, Dane County Ordinances.

27.01 In the event its payroll records contain any false, misleading or fraudulent information, or if the vendor fails to comply with the provisions of s. 25.015, D.C. Ords., the County may withhold payments on the contract, terminate, cancel or suspend the contract in whole or in part, or, after a due process hearing, deny the vendor the right to participate in bidding on future County contracts for a period of one (1) year after the first violation is found and for a period of three (3) years after a second violation is found.

27.02 Bidders are exempt from the requirement of this section if:

- The maximum value of services to be provided is less than \$5,000;
- The bid involves only the sale of goods to the County;
- The bid is for professional services;
- The bid is for a public works contract where wages are regulated under s. 62.293, Wis. Stats.;
- The bidder is a school district, a municipality, or other unit of government;
- The service to be provided is residential services at an established per bed rate;
- The bidder's employees are persons with disabilities working in employment programs and the successful bidder holds a current sub-minimum wage certificate issued by the U.S. Department of Labor or where such a certificate could be issued but for the fact that the employer is paying a wage higher than the minimum wage;
- The bidder is an individual providing services to a family member; or
- The bidder's employees are student interns.

27.03 COMPLIANCE WITH FAIR LABOR STANDARDS. During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations Commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations within the seven years prior to entering this Agreement. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

27.04 PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in sec. 25.015(11)(c) through (e).

27.05 PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."