

**- REQUEST FOR PROPOSALS -**

**FINANCIAL ADVISORY SERVICES**

**Milwaukee County, Wisconsin  
Department of Administrative Services  
February 28, 2011**

**Proposals Due by Friday March 25<sup>th</sup> at 11 a.m. Central Standard Time**  
**to:**

**Mr. John Ruggini  
c/o Milwaukee County Clerk's Office  
Courthouse, Room 105  
901 North Ninth Street  
Milwaukee, WI 53233**

**Please Label Proposals with Firm's Name and Address  
and "Proposal for Financial Advisory Services"**

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## A. INTRODUCTION

The Milwaukee County Department of Administrative Services is seeking proposals for financial advisory services. The Department anticipates entering into a three-year professional services agreement for 2011 through 2013 for services related to the issuance of general obligation corporate purpose bonds and general airport revenue bonds (GARBs). Milwaukee County may select more than one financial advisory firm.

## B. DESCRIPTION OF MILWAUKEE COUNTY

Milwaukee County serves as a population, economic and financial center of the state of Wisconsin. Milwaukee County is located in southeastern Wisconsin on the Lake Michigan shoreline. The County covers an area of approximately 242 square miles and consists of ten cities and nine villages. The City of Milwaukee, which acts as the County seat, contains approximately 64 percent of the County's population and 46 percent of its taxable property value. Milwaukee County's 2009 population estimate is 959,521.

One of Milwaukee County's strengths is a diversifying economic system. Although the County remains a major manufacturing center, other sectors of the economy have become increasingly important. The finance, insurance and real estate trade, electrical, electronic machines and equipment sectors have shown growth over recent years. Milwaukee also ranks as one of the nation's leading centers for advertising, printing, publishing and graphic arts and is home to one of the country's major breweries. Milwaukee has also become one of the nation's centers for financial transaction processing. In addition, the County leads the nation in the production of industrial controls, x-ray apparatuses, steel foundries and mining machinery.

A County Executive and a 19-member Board of Supervisors govern Milwaukee County. The County Executive and the County Supervisors are elected to nonpartisan four-year terms. The County Board determines County policy and directs the activities of County government by the adoption of ordinances and resolutions, under authority vested in it by State Statutes. On November 2, 2010 County Executive Scott Walker was elected Governor of the State of Wisconsin. Also, Supervisor Elizabeth Coggins was elected to the Wisconsin State Assembly and Supervisor Chris Larson was elected to the Wisconsin State Senate. Marvin Pratt has been appointed Interim County Executive. An election will be held April 5, 2011 to fill the vacancies at County Executive and the two County Board Supervisory Districts.

The County Board and County Executive monitor all anticipated borrowing plans of the County on a continuing basis. In 1994, Milwaukee County revised existing policies and established new policies that directly and indirectly affected its borrowing practices. Some of the changes included the development of guidelines for maximum debt burdens, modifications to the procedures for accepting competitive bids and the maximum length of maturity. Wisconsin Statutes limit the County's direct general obligation borrowing to an amount equivalent to five percent of the equalized valuation for taxable property. At December 31, 2010, the County had \$885.6 million of general obligation debt compared to a debt limit of \$2.3 billion, or a debt as a percent of the limit of 38.8 percent. The equalized value of property was \$63.4 billion as of that same date.

Milwaukee County has maintained its ratings from Fitch Ratings, Moody's Investors Service and Standard & Poor's Corporation on general obligation bond issues.

| Fitch Ratings | Moody's Investors Service | Standard & Poor's |
|---------------|---------------------------|-------------------|
| AA+           | Aa2                       | AA                |

### Airport System

The County owns and operates General Mitchell International Airport ("GMIA" or "Airport") and Lawrence J. Timmerman Airport ("Timmerman Airport"), which together comprise the Milwaukee County Airport System (the "Airport System"). The Airport System is a division within the County's Department of Transportation and Public Works and is accounted for as an enterprise fund in the County's financial statements.

GMIA is located on approximately 2,200 acres approximately six miles south of downtown Milwaukee. The airfield at GMIA contains two paved runways and three instrument approaches. The terminal complex consists of a main terminal building and three concourses with 48 gates. GMIA also contains a six-level parking structure for automobile parking and rental car operations.

GMIA accounts for approximately 94% of the revenues of the Airport System. GMIA is the busiest airport in the State of

Wisconsin, with approximately 3.9 million enplanements in 2009. GMIA was the 48th busiest airport in the United States in 2006 based on passenger activity.

Lawrence J. Timmerman Airport is located in the northwest quadrant of the County. This 420-acre general aviation facility serves business and privately owned aircraft.

### **C. THE DEPARTMENT OF ADMINISTRATIVE SERVICES**

The Director, Department of Administrative Services is one of the five cabinet officers of the County Executive and functions under State Statute, as Chief Administrative and Chief Financial Officer. The Fiscal Affairs Division, under the supervision of the Fiscal and Budget Administrator, operates under the Director of DAS. In addition to providing technical assistance to the County Executive in preparation of the budget, the Fiscal Affairs Division prepares all financial reports, including the Comprehensive Annual Financial Report (CAFR) and budget information. This Division is also responsible for all matters relating to the issuance of County debt.

The Capital Budget section, under the direction of the Fiscal and Budget Administrator of the Fiscal Affairs Division, manages day-to-day responsibility for the issuance and administration of County debt. The staff of this section works closely with the financial advisor to accomplish the services sought in this RFP. Currently, the Capital Budget staff is responsible for preparing each Official Statement and arranging for its printing and distribution.

For competitive bond sales, bids from investors are opened by a special committee comprised of the County Treasurer, Fiscal and Budget Administrator and a County Board staff member designated by the Finance and Audit Committee Chairperson. The County Board Finance and Audit Committee then review a bid recommendation prior to final action by the full County Board and County Executive. The Capital Finance Manager works with the investment bankers and financial advisor for negotiated bond sales. The Fiscal and Budget Administrator prepares a recommendation with review by the Financial Advisor, for approval by the County Executive and County Board of Supervisors.

#### **Budgeting**

Milwaukee County has an executive budget process for the preparation of the annual operating and capital budgets. The Fiscal Affairs Division of the Department of Administrative Services provides the technical assistance required by the County Executive to review budget requests submitted by County departments and agencies. The Fiscal Affairs Division compiles these requests, along with principal and interest requirements, capital improvements, contingency requirements and the required tax levy. It reviews areas where changes may be considered and transmits its findings to the County Executive. The County Executive holds a public hearing with respect to the requests, meets with departments and submits a recommended budget to the County Board on or before October 1st of each year.

Subsequent to the receipt of the budget by the County Board, the County Board's Finance and Audit Committee reviews the County Executive's budget at public meetings. On the Monday following its regularly scheduled meeting on the first Thursday in November, the County Board acts on the amendments and recommendations submitted by the Finance and Audit Committee, as well as amendments submitted by individual Board members. It adopts a final budget, subject to any vetoes by the County Executive, and levies taxes based upon equalized property values. The County continues to develop an inventory of all County capital assets in order to execute appropriate replacement or reconstruction schedules for the County's infrastructure. This information assists County departments with the County's five-year capital improvements program, which is updated annually as part of the regular budget process.

#### **Capital Budget Process**

Each year Milwaukee County prepares a five-year capital improvements plan in conjunction with the adoption of its annual capital improvements budget. The plan is reviewed and updated during the annual budget process to determine out-year capital needs thereby enabling the County to efficiently manage its resources as part of its strategic plan. By following the goals of the strategic plan as it relates to its capital program as well as the implementation of cost containment strategies to reduce fiscal constraints on the operating side, the County expects to maintain balanced financial operations and manageable debt levels.

Historically, Milwaukee County has sold two general obligation bond issues each year to finance corporate purpose and

airport projects. Corporate purpose issues have financed improvements to the County's mass transit, highway, parks and general government facilities. A general obligation airport issue, subject to the alternative minimum tax, has typically been issued to make improvements to Timmerman Field and General Mitchell International Airport. More recently, however, financing for airport projects has been achieved through General Airport Revenue Bonds (GARBs) or other revenue sources. The County issued GARBs for the first time in 2000 to finance its Airport parking structure. The size of the bond issue was approximately \$84 million. In 2003 and 2004, the County issued \$7.1 million and \$37.4 million in GARBs to complete the financing for the parking structure and to finance various improvements at the Airport. The design and construction for the expansion of the C Concourse represented approximately \$30 million of the \$37.4 million bond issue.

In order to take advantage of the Build America Bonds (BAB's) provided by the American Recovery and Reinvestment Act (ARRA) the County approved an accelerated financing program by doubling the bond issuances in 2009 and 2010. To stabilize the impact on the operating budget for the potential increase in debt service costs for the years 2009 and 2010, the County Board agreed not to issue any bonds in the years 2011 and 2012. The Capital Improvements Program for the years 2011 and 2012 will consist of projects financed from revenue sources other than bond proceeds. The 2011 Capital Improvements Budget did include one bond financed project in the amount of \$5,008,380.

The County's 2010 Adopted Capital Improvements Budget totaled \$103,372,632 and includes general obligation bonding authority of \$87,792,448 for corporate purpose projects and \$21,580,184 in general airport revenue bonds.

The 2009 – 2013 Capital Improvements Plan totals \$669,941,553 of which \$358,255,334 would be financed by a combination of general obligation bonds for corporate purpose projects and general airport revenue bonds for airport projects. The balance would be financed with federal, state and local reimbursement, as well as other miscellaneous revenue sources.

### **Financing Categories**

The County budgets for its capital improvement projects within four categories – Transportation and Public Works; Parks, Recreation and Culture; Health and Human Services and General Government. The category with the largest projected budget over the five-year period is Transportation and Public Works. This category includes Highway projects such as major reconstruction of County trunk highways and bridges, Airport projects such as runway reconstruction, Transit projects such as new and replacement buses and Environmental projects such as environmental remediation and monitoring of waste sites.

The next largest category is Parks, Recreation and Culture. This area includes projects such as new play equipment, parkway road improvements, new park development, Zoo building improvements as well as renovations to Zoo and Museum exhibits.

The category of General Government is third in capital spending and includes the Courthouse Complex, House of Correction and Other Agencies. The Other Agencies area typically funds improvements to the County's technical infrastructure and vehicle acquisition.

The category of Health and Human Services comprises the smallest share of the overall capital budget. This category involves improvements to buildings and structures for the Department of Health and Human Services (DDHS), DHHS-Behavioral Health Division and County Grounds.

### **D. DEBT MANAGEMENT POLICIES**

On July 21, 1994, the County Board of Supervisors adopted several debt management and capital financing policies or goals. These policies included a requirement that the Capital Budget include a summary of the impact that borrowing proposals contained in the budget would have on various measures of debt affordability. The policies also established limitations on capital improvement borrowing by requiring an increase in project pay-as-you-go cash financing.

In June 2003, the County Board issued \$100,025,000 in general obligation refunding bonds to advance refund various maturities from the 1994 through 2002 corporate purpose bond issues. The refunding increased the County's overall outstanding debt service by \$48.7 million. In order to minimize the impact of this refunding on the County's debt service, the County Board also adopted a change in the County's debt management goals restricting future borrowing. In

effect, this policy limits 2005-2007 borrowing to an increase of no more than \$1 million over the previous year's corporate purpose bond amount. In addition, the corporate purpose bond amount for 2008 would be set at a not-to-exceed amount of \$30 million, and future not-to-exceed amounts would increase by 3 percent over the previous year's bond amount. Based on the County's accelerated bonding program that occurred in 2009 and 2010 there would be no bond sales in 2011 and 2012.

The following section contains a summary of selected debt affordability indicators.

1. Tax supported debt service costs shall not exceed actual sales and use tax revenues.
2. Cash financing for capital improvements shall provide for a minimum of 20 percent of County financed project costs. [This goal will be implemented over a ten-year period by increasing minimum cash financing by 2.0 percent annually beginning with the 1995 budget.]
3. Direct debt shall not exceed 1.5 percent of equalized property value.
4. Financing terms shall not exceed 16 years.
5. Average principal maturities shall not exceed 10 years.
6. Net present value savings for proposed advance refundings should total a minimum of 3 percent to 5 percent of refunded principal.
7. Direct debt per capita shall not exceed \$500.
8. Bond insurance will be used when it provides a net economic benefit.
9. County corporate purpose bond issue increases will be limited to a principal amount of no more than \$1 million over the principal amount of the previous year's corporate purpose bond issue.
10. Corporate purpose bond issues for 2008 and forward would be limited to a principal amount of \$30 million plus three percent per year for inflation.

## **E. NON-DISCRIMINATION REQUIREMENTS**

In accordance with Section 56.17 of the General Ordinances of Milwaukee County, the proposer must agree not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, sex or handicap, which shall include, but not be limited to: recruitment or recruitment advertisement; employment; upgrading, demotion or transfer; lay-off or selection for training, including apprenticeship. The Proposer will be required to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the County setting forth the provisions of the nondiscrimination clause. A violation of this provision shall be sufficient cause for the County to terminate the agreement without liability for the uncompleted portion or for any services purchased or paid for by the Proposer for use in completing the agreement.

## **F. SCOPE OF SERVICES REQUESTED**

The Financial Advisor will be required to perform the following duties:

1. Make recommendations to the Department of Administrative Services on the structuring of proposed financings including amortization, term, discount, call features, etc; discuss various alternatives and recommend the best alternative considering the County's current outstanding debt and requested five-year capital program; make recommendations to enhance bond administration, improve information disclosure, reduce issuance costs and review industry trends that may affect tax exempt debt issuance.
2. Assist in the preparation of the Official Statement, the Official Terms of Offering and other documents as required by County staff; identify and perform tasks which are within the specialized competence of the financial advisor; review and comment on draft copies of the preliminary and final Official Statements and make preparations for the printing and distribution of the official statement.
3. Work with the County's legal counsel and capital finance team in recommending size, structure, specific terms and conditions of a debt issue; assist County officials in evaluating alternative financing proposals from a legal perspective, as requested.
4. Advise County with respect to "undertaking" regarding primary and secondary market disclosure.
5. Assist County staff in rating agency presentations or investor meetings related to a particular financing. Recommend debt management strategies that will assure retention of favorable credit ratings and improvement in ratings when possible; assist in the County's presentation to the credit rating agencies, including traveling to meet with credit agencies, if necessary.
6. Act as an agent of the County to accept electronic, telephone and written bids for competitive financings.
7. Supervise the printing of the bonds or notes and coordinate the bidding for a registrar/fiscal agent or make arrangements for book entry securities.
8. Assist County staff on negotiations with bond insurers and/or letter of credit providers.
9. Assess bond market conditions at time of sale of bonds; provide information on other major national, state and local debt issuances that may coincide or compete with County sales; provide input on the calendar of County bond sales.
10. Provide input on how to market the bonds to retail and institutional investors.
11. Participate in bond document review sessions. Evaluate, verify and recommend the best bid based on true interest costs for the bids submitted to the special bid opening committee on the bond sale date and be available to answer any questions raised by the Finance and Audit Committee, County Board or County officials concerning the sale.
12. Analyze any proposals for new products as they pertain to a particular financing.

13. Prepare a comparative post sale analysis of similar financing transactions and maintain separate accounting and billing for each financing transaction.
14. Participate in due diligence meetings.
15. Perform other services as may be requested by the County.

#### **G. WARRANTY OF FINANCIAL INDEPENDENCE**

The County's financial advisor must agree that it will act as an independent financial advisor to the County with respect to the County's financing program. The financial advisor shall not act as an underwriter of securities or obligations, which provide any or all of the capital financing requirements for any County project. This requirement is not intended to prohibit the financial advisor from underwriting secondary market transactions. The financial advisor should not act as a financial benefactor to any County services other than financial advisor.

#### **H. PROPOSAL FORMAT**

Completed proposals should include the following proposal elements:

- Table of Contents
- Profile of Organization and Summary of Experience and Qualifications
- Experience with Issuance of Airport Revenue Bonds
- Disadvantaged Business Enterprises (DBEs)
- Hypothetical Debt Financings
- Cost Proposal Summary (in a separate, sealed envelope)

##### Table of Contents

The table of contents of the proposal should include a clear and complete identification of the materials submitted by section and page number.

##### Profile of Organization and Summary of Experience and Qualifications

A profile of the respondent firm is requested for general background information. The description of the proposer's qualifications will be used in the evaluation of each financial advisory proposal. Please include the following information:

1. Describe your firm's relevant experience, organizational structure and size. Describe the firm's scope of operation and areas of concentration.
2. Discuss the location of the office from which the work is to be performed and indicate the number of professional staff employed at that office. Include a description of the range of activities performed at that office.
3. Indicate the names, locations, telephone numbers, fax numbers and email addresses of the individuals who will be primarily responsible for providing the requested service. Please provide resumes describing their background and relevant experience. In addition, provide names and brief resumes of associates who will assist the primary advisors. Discuss how work is allocated between principal advisors and associates. Describe the firm's procedure for providing continuing uninterrupted service if staffing changes occur or if the requested scope of services is significantly increased.
4. Describe your firm's ideas on how Milwaukee County should approach its financings, including the structure of the offering, credit-rating strategy and investor-marketing strategy.
5. List your firm's available resources to assist in bond pricing.
6. Include the level and types of insurance carried, including the deductible amount, to cover errors and

omissions, improper judgments or negligence. In addition, identify any finder's fees, fee splitting or other contractual arrangement of your firm that could present a real or perceived conflict of interest, as well as any pending investigation of your firm, enforcement or other disciplinary actions taken within the past three years by the Securities and Exchange Commission or other regulatory bodies.

7. List current on-going relationships with governmental units located within Milwaukee County. Include the name of a contact person for each organization.
8. List current on-going relationships with governmental units having populations of 500,000 or above. Include the name of a contact person for each organization.
9. Describe any current financial advisory work directly involving Milwaukee County in cases where your firm represents non-county participants in the transaction.
10. Proposals should include the name, title, address and telephone number of at least three (3) officials of financial institutions or other municipal finance industry professionals who may be contacted as references.

#### Experience with Issuance of Airport Revenue Bonds

1. Discuss your firm's advisory experience in the issuance of airport revenue bonds. Please list three or more financings in which your firm has participated. Describe your firm's role in the financings.

#### Disadvantaged Business Enterprises (DBEs)

The successful proposer shall comply with the applicable requirements of Milwaukee County Ordinance 42 and 49 CFR parts 26 and 23 in the award and administration of DOT assisted or Milwaukee County funded contracts. In accordance with this provision, the successful proposer shall ensure that DBEs have the maximum opportunity to participate in this project/contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate. This project has a contract goal of 17 percent.

Proposer must submit the required forms included in attachment "A" with the response.

#### Hypothetical Debt Financings

Please develop a recommended financing strategy and associated costs for the following debt financings:

Scenario 1: The County plans to issue \$25 million in general obligation bonds, structured over a 15-year term, to finance its 2012 capital program.

Scenario 2: The County plans to issue \$30 million in General Airport Revenue Bonds (GARBS), structured over a 25-year term, to finance its 2012 Airport capital program. The GARBS are backed by passenger facility charge revenues.

Scenario 3: The County has entered into a private/public partnership. On behalf of a private organization, the County will serve as a conduit in issuing \$25 million in general obligation bonds, structured over a 20-year term. As part of the issue, the County will receive a portion of the revenues collected by the private entity as a result of the new enterprise.

#### Cost Proposal Summary

The County's current practice is to pay financial advisory fees on an hourly basis, however, proposers may choose to structure fees on a per financing basis. Itemized estimates of charges for reimbursable expenses such as travel expenses, which would be in addition to hourly charges or transaction based fees, must be identified separately. Fee information must be sufficiently detailed to allow evaluators to calculate the overall cost to the County given the hypothetical debt financings described above. The scope of services identified in this request for proposal requires the financial advisor to contract for the printing and distribution of the official statement. For the purpose of evaluating financial advisory proposals, it will be assumed that expenses related to official statement printing and distribution will be the same for each

proposer. Therefore, these expenses should be excluded from estimates of reimbursable expenses.

The County may choose to pay for financial advisory services on an hourly basis for special projects or for extraordinary financings. Please indicate the hourly rates that would be charged for staff assigned to provide services to Milwaukee County for each year of the proposed agreement.

200X Hour and Rates

| Classification<br>or Position          | Name  | Estimated<br>Hours | Rate per<br>Hour | 200X<br>Expense |
|--|-------|--------------------|------------------|-----------------|
| _____                                  | _____ | _____              | _____            | _____           |
| _____                                  | _____ | _____              | _____            | _____           |
| _____                                  | _____ | _____              | _____            | _____           |
| _____                                  | _____ | _____              | _____            | _____           |
| Total 200X Labor Costs:                |       |                    |                  | _____           |
| Estimate of 200X Reimbursable Expenses |       |                    |                  | _____           |
| Total 200X Expenses                    |       |                    |                  | _____           |

**The Cost Proposal must be submitted in a separate, sealed envelope.**

## I. EVALUATION OF PROPOSALS

Proposals will be evaluated by a review panel appointed by the Director, Department of Administrative Services. Finalists are expected to be selected by a screening committee and may be invited for oral interviews. The evaluation criteria used shall be weighted as follows:

|   | <b>Point Range</b> |
|---|--------------------|
| • Responsiveness to the Request for Proposal  | 0-10 points        |
| • Proposer's Approach to Providing Requested Services   | 0-10 points        |
| • Proposal Cost   | 0-25 points        |
| • Experience and Qualifications of Principal Advisor and Advisory Firm and Reference Evaluation | 0-55 points        |

**Total Points: 100 points**

## J. TERMS AND CONDITIONS

The County has the right to reject any and all proposals; to disqualify any proposals not meeting the Request for Proposal due dates; to disqualify any proposals not following Request for Proposal communication procedures; and to disqualify any proposals not responsive to the criteria specified for evaluation. The County has the right to take into consideration the abstract and the formal content of the proposal. The County will not be liable for any costs incurred by proposers prior to the issuance of an agreement nor will pre-agreement costs be authorized to any firm. The County reserves the right to request clarification of submitted information and to request additional information from applicants.

Prior to making a final decision, the County reserves the right to negotiate with the recommended firm(s) any terms and conditions which may be different from those originally proposed or required by this RFP.

The County will not be liable for any costs incurred by proposers in the preparation or production of the proposal nor will pre-agreement costs be authorized to any proposer. All proposals and materials submitted in conjunction with the proposals will become the property of the County.

All contracts will be reviewed and approved, in writing, by the County's Risk Manager for financial responsibility and liability management, including appropriate insurance provisions and modification in indemnity agreements.

Attachment 6 to this RFP is a copy of the Standard Professional Services Agreement. It is expected that all proposers agree and accept the terms and conditions therein, subject to minor modifications. Any objections or exceptions must be identified and resolved prior to the Proposal due date.

If there is a discrepancy between this RFP and the contract, the language of the contract will rule.

## K. CONTENTS OF PROPOSAL

All attachments, additional pages, addenda or explanation supplied by the vendor in the submission package will be considered as part of the RFP response. The material will be evaluated as part of the vendor's response to the RFP and will eventually be incorporated as part of the terms and conditions of the successful proposer's contract with Milwaukee County.

## L. MILWAUKEE COUNTY CONTACT PERSON

Questions about request for proposal requirements should be directed to Pamela Bryant, Capital Finance Manager at (414) 278-4396.

**M. CHANGES IN REQUEST FOR PROPOSAL**

If it becomes necessary to revise any part of this RFP or otherwise provide additional information to potential bidders, an addendum will be furnished to all firms that have received copies of the original RFP.

**N. PROPOSAL PROCESS TIMELINE AND DUE DATE**

Ten (10) sealed copies of the proposal for financial advisor services and ten (10) copies of the cost proposal (in a separate sealed envelope) must be received in the Office of the County Clerk, Room 105, Courthouse, 901 N. 9<sup>th</sup> Street, Milwaukee, Wisconsin, 53233, no later than 11 a.m. Central Time on Friday March 25<sup>th</sup>. The envelopes should be clearly marked on the outside as follows:

**OFFICIAL NOTICE NO. 6621  
PROPOSAL FOR FINANCIAL ADVISOR SERVICES**

Proposals shall be addressed to:

Mr. John Ruggini  
c/o Milwaukee County Clerk’s Office  
Courthouse, Room 105  
901 North Ninth Street  
Milwaukee, Wisconsin 53233

A review panel comprised of County administrators will evaluate proposals. Interviews may be held with selective firms. The anticipated schedule of events is shown below:

| <b>Action</b>                                  | <b>Date</b>            |
|--|------------------------|
| Request for Proposal Issued                    | February 28, 2011      |
| Proposals Due to County Clerk                  | March 25, 2011         |
| Proposals Reviewed                             | April 11, 2011         |
| Preliminary Interviews with selected firms(s)* | April 13, 2011         |
| Final Interviews with selected firm(s)*        | April 14, 2011         |
| Final Selection Decision by Panel              | Week of April 18, 2011 |
| Approval by Finance and Audit Committee        | May 19, 2011           |
| Approval by County Board                       | May 26, 2011           |

\*Interviews may be held but only at the sole discretion of the Count

## ATTACHMENT A

### DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

1. The successful contractor/service provider shall comply with CFR 49 Part 23 and 26 and Chapter 42 of the Milwaukee County Ordinances, which requires Good Faith Efforts (GFE) to achieve participation of certified Disadvantaged Business Enterprise (DBE\*) firms on all USDOT and Milwaukee County funded contracts with a DBE goal. In accordance with this Milwaukee County policy and USDOT requirements, the contractor/service provider shall ensure that DBEs have an opportunity to participate in this contract.

#### **During Solicitation Process**

2. The Community Business Development Partners (CBDP) Office of Milwaukee County will make the determination that a contractor/service provider has made a good faith effort (GFE) to achieve the established DBE participation goal by doing either of the following:
  - a. Show evidence that it has met the DBE participation goal by submitting a complete Commitment to Subcontract with DBE Firms (DBD-014 form) with their proposal; or
  - b. Documents that it made good faith efforts to meet the DBE participation goal, even though it did not succeed in achieving it. In this case, the contractor/service provider must submit the Certificate of Good Faith Efforts (DBD-001 form) and all relevant documentation with their proposal.
3. Contractors/service providers should note that for the purpose of determining compliance with DBE requirements, only DBEs that have been certified by the State of Wisconsin Unified Certification Program (UCP) prior to the proposal due date may be listed on the Commitment to Subcontract with DBE Firms form and counted towards the DBE requirements. If you need assistance related to certified DBE firms, contact the CBDP Office at (414) 278-4747.
4. The efforts employed by the contractor/service provider should be those that one could reasonably expect to be taken if the contractor/service provider were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE participation contract goal. (49 CFR §26.53 and Appendix A to 49 CFR Part 26, which provides guidance regarding GFE).
5. In the event the CBDP Office determines that the contractor/service provider has failed to meet the GFE requirements, the contractor/service provider is entitled to appeal this determination. The provisions of 49 CFR §26.53(d) apply to such an appeal. A request for

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\* The term "DBE" means small business concerns known as Disadvantaged Business Enterprise (DBE) firms owned at least 51% by socially and economically disadvantaged individuals, and certified by the State of Wisconsin UCP under CFR 49 Part 26.

administrative reconsideration must be sent within three (3) calendar days of receiving written notice of the failure to meet the GFE requirement. The request should be sent to:

CBDP Office  
City Campus, Room 830  
2711 West Wells Street  
Milwaukee, WI 53208

6. Contractor/service provider must submit with its proposal, the Subcontractor/Supplier Information Sheet (DBD-002 form); a complete Commitment to Subcontract with DBE Firms (DBD-014 form); or if the contractor/service provider is not able to meet the DBE goal, a complete Certificate of Good Faith Efforts (DBD-001 form) and all relevant documentation.
7. When evaluating a contractor/service provider's proposed DBE commitment (**DBD-014 form**), Milwaukee County reserves the right to request any documentation from both the contractor/service provider and the listed DBE subcontractors. If the information requested is not submitted by the contractor within the time specified for such submission, Milwaukee County may determine the contractor/service provider to be non-responsive and thereby remove them from further consideration for contract award.

#### **Following Contract Award**

8. The contractor/service provider shall prepare and submit accurate and timely forms and reports on DBE utilization after contract award. These shall include, but not be limited to DBE Utilization Reports, and other forms as directed. Failure to submit forms and reports as prescribed herein, may result in delay of payments, or other sanctions deemed appropriate by the County, including those listed under Section (9), below.
9. When evaluating the performance of this contract after contract execution, Milwaukee County reserves the right to conduct compliance reviews and request, both from the contractor/service provider and DBE subcontractor(s), documentation that would indicate level of compliance. If the contractor/service provider is not in compliance with the specifications, the County will notify the contractor/service provider in writing of the corrective action that will bring the contractor/service provider into compliance. If the contractor/service provider fails or refuses to take corrective action as directed, Milwaukee County may take one or more of the actions listed below:
  - a. Terminate or cancel the contract, in whole or in part.
  - b. Remove the contractor/service provider from the list of qualified consultant/service providers and refuse to accept future proposals for a period not to exceed three (3) years.
  - c. Impose other appropriate sanctions, including withholding any retainage or other contract payments due which are sufficient to cover the unmet portion of the DBE contract commitment, where the failure to meet the DBE contract commitment is the result of a finding by the CBDP Office of consultant/service provider's bad faith.

- d. If the contractor/service provider has completed its contract, and the DBE contract commitment was not met due to an absence of good faith on the part of the contractor/service provider as determined under 49 CFR Part 26, the parties agree that the proper measure of damages for such non-compliance shall be the dollar amount of the unmet portion of the DBE contract commitment. The County may in such case retain any unpaid contract amounts and retainage otherwise due the contractor/service provider, up to the amount of the unmet DBE contract commitment. If insufficient funds remain in the contract account to compensate the County up to that amount, Milwaukee County may bring suit to recover damages up to the amount of the unmet commitment, including interest at the rate of 12% annually, plus the County's costs, expenses and actual attorney's fees incurred in the collection action.
10. **DBE Contract Goal:** Contractor/service provider shall utilize DBE firms to a minimum of the specified DBE contract goal. The DBE participation goal relative to contract award shall be based upon the approved Milwaukee County Commitment to Subcontract with DBE Firms (DBD-014 form). Contractor/service providers receiving additional work on the contract in the form of addendum, etc. shall be expected to increase DBE participation proportionally.
11. Contractor/service provider shall be credited for expenditures to DBE firms toward the requirements, if all of the identified scope of work has a commercially useful function in the actual work of the contract and is performed directly by the listed certified DBE firm. The Director of the CBDP Office through the application of 49 CFR §26.55(c) will be responsible for the determination and evaluation of whether or not the firm is performing a commercially useful function on this project.
12. Contractor/service provider is required to notify the CBDP office if their DBE subcontractors will further subcontract out work on this project. Credit will be given based on actual participation by DBE firms.
13. Listing a DBE on the Commitment to Subcontract with DBE Firms Form shall constitute a written representation and commitment that the contractor/service provider has communicated and negotiated directly with the DBE firm(s) listed, and that it will use the listed firm(s). If awarded the contract, the contractor/service provider will enter into a subcontract agreement with the DBE firm(s) listed on the Commitment to Subcontract with DBE Firms form for the work and price set forth thereon. This agreement must be submitted to the CBDP Office within seven (7) days from the Notice to Proceed.
14. Contractor/service provider must maintain DBE participation and performance logs. If the DBE firm(s) cannot perform, or if the contractor/service provider has a problem in meeting the DBE goal, or any other problem relative to the DBE goal requirement, the contractor shall immediately contact the CBDP Office at (414) 278-5248. If needed, contractor must submit a written request for substitution, including the reason for the request and the log. Approval must be obtained prior to making substitutions. Any difference in the cost occasioned by such substitution shall be borne by the contractor.

15. DBE Utilization Reports/Payment Request After Contract Award. DBE Utilization Reports (**DBD-016 form**) must be submitted with payment request by the contractor/service provider after contract award. These reports must cover the period from the start of the project to the end of the period covered by the payment request being submitted or the period since the last payment request. The reports must be submitted even if no DBE activity took place during the period being reported. The County Project Manager/Administrator will reject payment request that are not in compliance with this section.
16. Final Payment Verification. The contractor/service provider must submit the "DBE Subcontractor Payment Certification" form (**DBD-018 form**) and the final DBE Utilization Report along with their Final Payment Request. The County Project Manager/Administrator will not process the Final Payment Request if these reports are not submitted.
17. Milwaukee County reserves the right to waive any of these specifications when it is in the best interest of the County and with the concurrence of the CBDP Office.







MILWAUKEE COUNTY  
COMMUNITY BUSINESS DEVELOPMENT PARTNERS (CBDP) OFFICE

**CERTIFICATE OF GOOD FAITH EFFORTS**

The intent of this certification is to document the good faith efforts implemented by the contract bidder/respondent in soliciting and utilizing DBE firms to meet DBE participation requirements. This certificate will assist Milwaukee County in determining whether the contract bidder/respondent has implemented comprehensive good faith efforts.

Failure to implement "good faith" efforts to the satisfaction of Milwaukee County could result in the rejection of the proposal.

I, \_\_\_\_\_, do hereby acknowledge that I am the \_\_\_\_\_ of \_\_\_\_\_, who has been identified as a bidder/respondent on the following Milwaukee County Project:

| Project No. | Project Title | Total Contract Amount | DBE Percentage |         |
|-------------|---------------|-----------------------|----------------|---------|
|             |               |                       | Goal           | Pledged |
|             |               |                       |                |         |

Provide a brief summary on why you believe your firm is unable to meet the DBE participation goals on this project (Attach additional pages if necessary.)

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I hereby certify that I have utilized comprehensive "good faith" efforts to solicit and utilize DBE firms to meet the DBE participation requirements of this contract proposal, as demonstrated by my responses to the following questions:

**A. Identifying Subcontract Work Items**

Bidder/respondent are encouraged to select portions of work to be subcontracted in a manner which will increase the likelihood of meeting DBE goals. In selecting work to be subcontracted, bidder/respondent will consider, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation.

1. Which portion(s) or section(s) of the contract proposal, in terms of the nature of work, were selected to be subcontracted to DBE firms (or broken down into economically feasible units to facilitate DBE participation)?

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**B. Notifying DBE Firms of Contracting Opportunities**

2. In the table below, indicate which firms received written notification of work items to be subcontracted. In the appropriate space, also indicate when firms received subsequent telephone solicitations. Please attach additional page(s) so that all companies contacted are listed. (Attach photocopies of all written solicitations to DBE firms to this certificate.)

| Company Contacted | Date of Written Notification | DBE (Yes/No) | Date of Follow-up Telephone Call |
|-------------------|------------------------------|--------------|----------------------------------|
|                   |                              |              |                                  |
|                   |                              |              |                                  |
|                   |                              |              |                                  |
|                   |                              |              |                                  |
|                   |                              |              |                                  |
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|                   |                              |              |                                  |
|                   |                              |              |                                  |
|                   |                              |              |                                  |
|                   |                              |              |                                  |

3. Identify publications in which announcements or notifications were placed and published, if any. (Attach copies of proof of each announcement or notification.)

| Published Announcement/Publication (please describe) | Date |
|--|------|
|  |      |
|  |      |
|  |      |
|  |      |
|  |      |

4. Identify DBE associations or organizations that received written notifications, including dates of all notifications. Provide name of person and date of follow-up call. If no follow-up calls made, explain why not. (Attach copies of letters sent as proof of notification.)

| DBE Association/Organization | Date of Notification | Contact Person | Date of Follow-Up Call |
|------------------------------|----------------------|----------------|------------------------|
|                              |                      |                |                        |
|                              |                      |                |                        |
|                              |                      |                |                        |
|                              |                      |                |                        |

5. Were the services of the Milwaukee County's Community Business Development Partners (CBDP) Office used to assist in the recruitment of DBE firms?

Yes \_\_\_\_\_ No \_\_\_\_\_

Contact was made by:      telephone \_\_\_\_\_ written correspondence \_\_\_\_\_

Date contacted: \_\_\_\_\_ Person Contacted: \_\_\_\_\_

**C. Providing DBEs With Assistance**

6. Explain any efforts undertaken to provide DBE firms with adequate information about project scope of work and requirements of the contract:

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7. Describe any efforts undertaken to assist interested DBE firms in obtaining lines of credit or insurance required by Milwaukee County or the contractor:

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8. Describe any other efforts initiated to provide special assistance to DBE firms interested in participating in the project.

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**D. Soliciting Proposal/Quotes From Interested DBE Firms**

Bidder/respondent must solicit proposal/quotes in good faith with interested DBE firms. Quotes, proposals, and bids from interested DBE firms must not be rejected by contractors without sound justification.

9. Indicate in the table below which DBE firms submitted quotes on the contract proposal. Also, provide a brief explanation of why any of these DBE project quotes were rejected. Please attach additional pages(s) if necessary.

| Name/Address/Contact Person of DBE Firm | Work Quoted and Explanation for Rejecting Quotes |
|---|--|
|   |  |
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10. Other comments you want Milwaukee County to consider:

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**NOTE:** The information requested as set forth above is the minimum information required by Milwaukee County's Community Business Development Partners (CBDP) Office and CBDP may request the Contractor to submit information on certain other actions taken to secure DBE participation in an effort to meet the goals.

AFFIDAVIT

STATE OF WISCONSIN )

) ss

COUNTY OF \_\_\_\_\_ )

The undersigned, having been first duly sworn, says that the information given in the above certificate is true and correct to the best of his/her knowledge and belief.

Signed: \_\_\_\_\_

Authorized Representative

Subscribed and sworn to before me:

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, 20 \_\_\_\_.

**MILWAUKEE COUNTY COMMUNITY BUSINESS DEVELOPMENT PARTNERS**  
**GUIDANCE CONCERNING GOOD FAITH EFFORTS**

When Milwaukee County establishes a DBE contract goal a bidder/proposer must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder/proposer can meet this requirement in either of two ways. First, the bidder/proposer can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder/proposer can document adequate good faith efforts. This means that the bidder/proposer must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

In any situation in which Milwaukee County has established a contract goal, part 26 requires you to use the good faith effort mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder/proposer that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder/proposer has made. The efforts employed by the bidder/proposer should be those that one could reasonably expect a bidder/proposer to take if the bidder/proposer were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

The following is a list of types of actions, which Milwaukee County will consider as part of the bidder/proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases:

1. Soliciting through all reasonable and available means (e. g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder/proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder/proposer must determine with certainty the DBEs are interested by taking appropriate steps to follow up initial solicitations.
2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

3. Soliciting through all reasonable and available means (e. g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder/proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder/proposer must determine with certainty the DBEs are interested by taking appropriate steps to follow up initial solicitations.
4. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
5. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
6. Negotiating in good faith with interested DBEs.
  - a. It is the consultant/service provider's responsibility to make a portion of the work available to DBE subcontractors and to select those portions of the work consistent with the available DBE subcontractors, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
  - b. A consultant/service provider using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder/proposer's failure to meet the contract DBE goal, as long as reasonable. Also, the ability or desire of a consultant/service provider to do the work of a contract with its own organization does not relieve it of the responsibility to make good faith efforts. Prime consultants/service providers contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
7. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

8. Making efforts to assist interested DBEs in obtaining lines of credit or insurance as required by the recipient or contractor.
9. Making efforts to assist interested DBEs in obtaining necessary resources or related assistance or services.
10. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

In determining whether a consultant/service provider has made good faith efforts, Milwaukee County may take into account the performance of other bidders/proposers in meeting the contract. For example, when the apparent successful consultant/service provider fails to meet the contract goal, but others meet it, Milwaukee County may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful consultant/service provider could have met the goal. If the apparent successful bidder/proposer fails to meet the goal, but meets or exceeds the average DBE participation obtained by other consultants/service providers, Milwaukee County may view this, in conjunction with other factors, as evidence of the apparent successful bidder/proposer having made good faith efforts.

DISADVANTAGED BUSINESS ENTERPRISE  
"DBE" UTILIZATION REPORT\*

NAME OF FIRM \_\_\_\_\_ TELEPHONE NO. ( ) \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ (ZIP CODE) \_\_\_\_\_

PROJECT TITLE \_\_\_\_\_ PROJECT # \_\_\_\_\_

TOTAL CONTRACT \$ AMT \_\_\_\_\_ TOTAL CONTRACT PAYMENT YTD \$ \_\_\_\_\_ CONTRACT % COMPLETE \_\_\_\_\_

TOTAL DBE CONTRACT \$ AMT \_\_\_\_\_ TOTAL DBE PAYMENT YTD \$ \_\_\_\_\_ DBE % COMPLETE \_\_\_\_\_\*\*

COUNTY PROJECT/CONTACT PERSON \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

REPORT FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_ 200 \_\_\_\_\_ FINAL REPORT: ( ) Yes ( ) No

List Disadvantaged Business Enterprise firms utilized in connection with the above Project, either as subcontractor or suppliers in the last period.

| NAME OF DBE FIRM | SUB-CONTRACT \$ AMOUNT | WORK/SERVICE PERFORMED | AMT. OF PAYMENTS THIS PERIOD | AMT. OF PAYMENTS TO DATE | REMAINING BALANCE |
|------------------|------------------------|------------------------|------------------------------|--------------------------|-------------------|
|                  |                        |                        |                              |                          |                   |
|                  |                        |                        |                              |                          |                   |
|                  |                        |                        |                              |                          |                   |
|                  |                        |                        |                              |                          |                   |
|                  |                        |                        |                              |                          |                   |

Report Prepared by: \_\_\_\_\_ Approved by: \_\_\_\_\_  
(Name & Title)

**MILWAUKEE COUNTY  
COMMUNITY BUSINESS DEVELOPMENT PARTNERS OFFICE  
DBE PAYMENT CERTIFICATION**

**“DBE” PAYMENT CERTIFICATION**

**This form must be attached to the final Certificate for Payment Request by Primary Contractor/Consultants.**

County Department Issuing Contract/Project \_\_\_\_\_

Contract/Project Title \_\_\_\_\_

**DBE Firm:** \_\_\_\_\_

**Project No.** \_\_\_\_\_ **Project Name:** \_\_\_\_\_

**\*SECTION (A) DBE FIRM COMPLETES IF FINAL PAYMENT HAS BEEN RECEIVED**

I hereby certify that our firm received \$ \_\_\_\_\_ total payment for subcontract work on the above referenced Milwaukee County project or contract.

Date \_\_\_\_\_, 200\_\_

**\*SECTION (B) BOTH PRIME CONTRACTOR AND DBE FIRM COMPLETE IF FULL PAYMENT HAS NOT BEEN MADE TO DBE FIRM AND A BALANCE REMAINS TO BE PAID.**

I hereby certify that our firm has paid to date a total of \$ \_\_\_\_\_ and will pay the balance of \$ \_\_\_\_\_ to \_\_\_\_\_ upon receipt of payment from Milwaukee County for subcontract work on the above referenced project.

Date \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
(Prime Consultant/Contractor's Signature) (Print Name & Title)

\_\_\_\_\_  
(DBE Subconsultant/Subcontractor Signature) (Print Name & Title)

## **Instruction for locating State of Wisconsin Certified DBEs**

### **DBE Vendor Listing:**

1. Go to [www.county.milwaukee.gov](http://www.county.milwaukee.gov)
2. In the search box, type "certified vendor list"
3. Choose certified vendor list link
4. Select the WisDot certification program directory of certified DBEs
5. You will be directed to the WisDOT UCP directory of State wide DBEs

**If you have any questions regarding the directory, please contact the CDBP office at (414) 278-4747**

**ATTACHMENT B**  
**STANDARD PROFESSIONAL SERVICES AGREEMENT**

**STANDARD PROFESSIONAL SERVICES AGREEMENT**

This Contract between Milwaukee County, a Wisconsin municipal body corporate (hereinafter called "County"), represented by (name, title and organization unit) and \_\_\_\_\_ (hereinafter called "Contractor") is entered into on \_\_\_\_\_, 20\_\_.

1. SCOPE OF SERVICES

(Format A to be used when a proposal and/or request for proposal specifies the tasks to be performed.)

Contractor shall specifically perform all of the tasks and achieve the objectives set forth in its proposal, dated \_\_\_\_, 20\_\_, which is attached hereto as Exhibit \_\_\_\_ and incorporated herein by reference, and the County Request for Proposal, dated \_\_\_\_\_, 20\_\_, which is attached hereto as Exhibit \_\_\_\_ and also incorporated herein by reference. If there is a variance between the Contractor's proposal and the County's request for proposal, the latter shall be controlling, unless otherwise provided for in writing.

(Format B to be used when Contract will specify tasks to be performed.)

Contractor shall specifically perform all of the tasks set forth in Project Scope, attached hereto as Exhibit \_\_\_\_\_.

2. STAFFING

(Particularly important when the services of specific employees are essential to perform the tasks being contracted for.)

Contractor's employees listed below are to be assigned to the project and work the approximate hours listed below:

|    | <u>Name</u> | <u>Position</u> | <u>Est. Hours</u> | <u>Billing Rate</u> |
|----|-------------|-----------------|-------------------|---------------------|
| 1. |             |                 |                   |                     |
| 2. |             |                 |                   |                     |
| 3. |             |                 |                   |                     |
| 4. |             |                 |                   |                     |

Contractor shall not replace [List name(s) and position(s)] without the prior approval of the County. If the successor to said [List name(s) and position(s)] cannot be mutually agreed upon, the County shall have the right to terminate this Contract upon thirty (30) days' notice. Any replacement of other listed personnel shall be by persons of equal qualifications, which shall be attested to by Contractor. The [List name(s) and position(s)] shall be required to give this contractual obligation top priority.

Contractor shall provide, at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be the employees of, or have any other contractual relationship with, the County. (If clerical support is to be provided by County, indicate from what source and estimated number of person hours, if possible, as well as restriction of time of day, if any).

3. OFFICE SPACE AND OTHER SUPPORT TO BE PROVIDED BY COUNTY (optional)

County hereby agrees to make available, without charge to Contractor, office space and (list other items such as office furniture, office equipment and photocopying) needed by Contractor for the performance of its services agreed to within this Contract.

4. DATES OF PERFORMANCE

Contractor shall begin work within \_\_\_\_\_ days after execution of this Contract, which work shall be completed on or before \_\_\_\_\_, 20 \_\_\_\_.

5. COMPENSATION

Contractor shall be compensated for work performed on an hourly basis at the billing rates listed in section 2 of this Contract. Any out-of-pocket expenses shall not exceed \$ \_\_\_\_\_. The total compensation to Contractor for services performed under the Contract shall not exceed \$ \_\_\_\_\_ unless agreed to by County in writing. State Prompt Pay Law, Section 66.285, does not apply to this Contract. As a matter of practice, the County attempts to pay all invoices in 30 days. If no disputes arise, and the invoice has not been paid 60 days after it was received by the County, the contractor may file a claim for \_\_\_\_\_% (annual rate) on amounts not paid after the 60th day. \_\_\_\_\_ percent (%) of each billing will be retained by County, and paid upon Contractor's satisfactory completion of all terms of the Contract.

6. BILLING

Contractor shall provide County with monthly billings, which shall include, but not be limited to, the following:

- A. Name of employee
- B. Dates and hours worked
- C. General task performed
- D. Detail of out-of-pocket expenses, indicating their purpose such as telephone, travel, hotel, graphic reproduction, postage, etc., for these expenditures provided for in the Contract.

7. REPORTS (Optional)

Contractor shall provide written progress reports to County on a (weekly, biweekly, monthly, quarterly basis). At the completion of the Contract, Contractor shall provide (number) copies of the final report. This Contract provides for Contractor to make (number) oral presentations concerning the final report at times selected by County.

8. OWNERSHIP OF DATA

Upon completion of the work or upon termination of the Contract, it is understood that all completed or partially completed data, drawings, records, computations, survey information, and all other material that Contractor has collected or prepared in carrying out this Contract shall be provided to and become the exclusive property of the County. Therefore, any reports, information and data, given to or prepared or assembled by Contractor under this Contract shall not be made available to any individual or organization by Contractor without the prior written approval of County.

No reports or documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor.

9. AUDIT AND INSPECTION OF RECORDS

Contractor shall permit the authorized representatives of County, after reasonable notice, to inspect and audit all data and records of Contractor related to carrying out this Contract for a period up to three years after completion of the Contract. The prime consultant must obtain prior written Milwaukee County approval for all subconsultants and/or associates to be used in performing its contractual obligations. There must be a written contractual agreement between the prime consultant and its County approved subconsultant and/or associates which binds the subconsultant to the same audit contract terms and conditions as the prime consultant.

10. AFFIRMATIVE ACTION

The contractor assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Contractor assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Contractor assures that it will require that its covered suborganizations provide assurances to the Contractor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as recreated by 14 CFR Part 152, Subpart E, to the same effect.

11. DISADVANTAGED BUSINESS ENTERPRISE

Each prime consultant/service provider shall utilize DBE firms to a minimum of 17% of the total contract. DBE participation requirement relative to contract award shall be based upon the approved Milwaukee County DBE Utilization Plan (DBD-014PS form). Consultants/service providers receiving additional work on the contract in the form of change orders, addendum, etc. shall be expected to increase DBE participation proportionally.

In keeping with County Ordinance intent, consultant/service providers should use good faith efforts to achieve the amount of DBE participation in this proposal. A 17 percent goal has been established for applicable sections of this contract as described. Consultant/Service Providers should include and will be evaluated on their philosophy and approach to including DBE participation as a part of the scope of services, as well as, the level and nature of DBE involvement.

12. NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAMS

In the performance of work under this Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex, or handicap, which 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 apprenticeships. Contractor will post in conspicuous places, available for employees and applicants for employment, notices to be provided by County, setting forth the provisions of the non-discriminatory clause.

Contractor agrees to strive to implement the principles of equal employment opportunity through an effective Affirmative Action program, and has so indicated on the certificate attached hereto as Exhibit A and made a part of this Contract. The program shall have as its objective to increase the utilization of women, minorities and persons with disabilities, and other protected groups, at all levels of employment, in all divisions of Contractor's work force, where these groups may have been previously under-utilized and under-represented. Contractor also agrees that in the event of any dispute as to compliance with the aforestated requirements, it shall be its responsibility to show that it has met all such requirements.

When a violation of the non-discrimination, equal opportunity or Affirmative Action provisions of this section has been determined by County, Contractor shall immediately be informed of the violation and directed to take all action necessary to halt the violation, as well as such action as may be necessary to correct, if possible, any injustice to any person adversely affected by the violation, and immediately take steps to prevent further violations.

If, after notice of a violation to Contractor, further violations of this section are committed during the term of the Contract, County may terminate the Contract without liability for the uncompleted portion or any

materials or services purchased or paid for by the Contractor for use in completing the Contract, or it may permit Contractor to complete the Contract, but, in either event, Contractor shall be ineligible to bid on any future contracts let by County.

13. INDEMNITY

The Consultant agrees to the fullest extent permitted by law, to indemnify, defend and hold harmless, the COUNTY, and its agents, officers and employees, from and against all loss or expense including costs and attorney's fees by reason of liability for damages including suits at law or in equity, caused by any wrongful, intentional, or negligent act or omission of the Consultant, or its (their) agents which may arise out of or are connected with the activities covered by this agreement.

14. INSURANCE

Contractor understands and agrees that financial responsibility for claims or damages to any person, or to Contractor's employees and agents, shall rest with the Contractor. Contractor may effect and maintain any insurance coverage, including, but not limited to, Worker's Compensation, Employers Liability and General, Contractual, Professional and Automobile Liability, to support such financial obligations. The indemnification obligation, however, shall not be reduced in any way by existence or non-existence, limitation, amount or type of damages, compensation or benefits payable under Worker's Compensation laws or other insurance provisions.

Evidence of Worker's Compensation and General and Automobile Liability insurance shall be given the County by a certificate naming the County as an additional insured on general and automobile coverages and affording a thirty (30) day written notice of cancellation, non-renewal, or known material change for the duration of this Contract.

The Consultant shall purchase and maintain policies of insurance and proof of financial responsibility to cover costs as may arise from claims of tort, statutes, and benefits under Workers' Compensation laws, as respects damage to persons or property and third parties in such coverages and amounts as required and approved by the County Director of Risk Management and Insurance. Acceptable proof of such coverages shall be furnished to the Director of Risk Management and Insurance prior to services commenced under this agreement.

The Consultant shall provide evidence of the following coverages and minimum amounts.

| <b>Type of Coverage</b>                               | <b>Minimum Limits</b>         |
|---|-------------------------------|
| <b>Wisconsin Workers' Compensation</b>                | Statutory                     |
| <b>Employer's Liability</b>                           | \$100,000/\$500,000/\$100,000 |
| <b>Commercial Or Comprehensive General Liability</b>  |                               |
| General Aggregate                                     | \$1,000,000 Per Occurrence    |
| Bodily Injury & Property Damage                       | \$1,000,000 Aggregate         |
| Personal Injury                                       | \$1,000,000 Per Person        |
| Contractual Liability                                 | \$1,000,000 Per Occurrence    |
| Fire Legal Liability                                  | \$50,000 Per Occurrence       |
| <b>Professional Liability</b>                         |                               |
| Errors & Omissions                                    | \$1,000,000 Per Occurrence    |
| Refer to paragraph A2 below for additional conditions |                               |
| <b>Automobile Liability</b>                           |                               |

|   |  |
|---|--|
| Bodily Injury & Property<br>Damage<br>All Autos-Owned, non-owned<br>and/or hired<br>Uninsured Motorists | \$1,000,000 Per Accident<br><br><br><br><br>Per Wisconsin Requirements |
|---|--|

**MILWAUKEE COUNTY, AS ITS INTERESTS MAY APPEAR, SHALL BE NAMED AS AN ADDITIONAL INSURED FOR GENERAL, AUTOMOBILE, GARAGE KEEPERS LEGAL AND ENVIRONMENTAL IMPAIRMENT LIABILITY, AS RESPECTS THE SERVICES PROVIDED IN THIS AGREEMENT. DISCLOSURE MUST BE MADE OF ANY NON STANDARD OR RESTRICTIVE ADDITIONAL INSURED ENDORSEMENT, AND ANY USE OF NON STANDARD OR RESTRICTIVE ADDITIONAL INSURED ENDORSEMENT WILL NOT BE ACCEPTABLE, A THIRTY (30) DAY WRITTEN NOTICE OF CANCELLATION, NON-RENEWAL, OR MATERIAL CHANGE SHALL BE AFFORDED TO THE COUNTY.**

The insurance specified above shall be placed with an AA+ rated carrier per Best's Rating Guide approved to do business in the State of Wisconsin. Any deviations or waiver of required coverages or minimums shall be submitted in writing and approved by the County Director of Risk Management and Insurance as a condition of this agreement. Waivers may be granted when surplus lines and specialty carriers are used.

A Certificate of Insurance shall be submitted for review to the COUNTY for each successive period of coverage for the duration of this agreement.

**A.1. Compliance with Governmental Requirements**

The Consultant shall evidence satisfactory compliance for Unemployment Compensation and Social Security reporting as required by Federal and State laws.

**A.2. Professional Liability - Additional Provisions**

The Consultant agrees to provide additional information on their professional liability coverages as respects policy type, i.e., errors & omissions for consultants, architects, and/or engineers, etc.; applicable retention levels; coverage form, i.e., claims-made, occurrence; discovery clause conditions, and effective retroactive and expiration dates, to the County Director of Risk Management and Insurance as may be requested to obtain approval of coverages as respects this section.

It is understood and agreed that coverages which apply to the services inherent in this agreement will be extended for two (2) years after completion of all work contemplated in this project if coverage is written on a claims-made basis.

The Consultant shall certify and make available loss information from any Insurer as to any claims filed or pending against any and all professional liability coverages in effect for the past five (5) years, if requested.

The Consultant shall certify to inform the Owner of any claims filed for errors and omissions that may be covered under professional coverages pursuant to the work within ten (10) days of notice of the occurrence or claim filing, whichever is sooner.

Deviations and waivers may be requested in writing based on market conditions to the County Director of Risk Management and Insurance. Approval shall be given in writing of any acceptable deviation or waiver to the Consultant prior to the Consultant effecting any change in conditions as contained in this section. Waivers shall not be unduly withheld nor denied without consultation with the Consultant.

It is understood and agreed that the Consultant will obtain information on the professional liability coverages of all sub-consultants and/or sub-contractors in the same form as specified above for review of the Owner.

NOTE: Professional liability will be required for Architectural and Engineering design and supervision. If the principal consulting firm is not eligible for this coverage, the principal consulting firm shall disclose the sub-consultant who will perform the Architectural and Engineering design work and evidence the existence of professional liability coverages for such sub-consultants as respects this section.

For Medical-Dental, Clinical, HMO, etc., please contact the Director of Risk Management for insurance requirements.

15. TERMINATION BY CONTRACTOR

Contractor may, at its option, terminate this Contract upon the failure of the County to pay any amount which may become due hereunder for a period of forty-five (45) days following submission of appropriate billing and supporting documentation. Upon said termination, Contractor shall be paid the compensation due for all services rendered through the date of termination including any retainage.

16. TERMINATION BY COUNTY FOR VIOLATIONS BY CONTRACTOR

If Contractor fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, County shall thereupon have the right to terminate it by giving thirty (30) days' written notice of termination of contract, specifying the alleged violations and effective date of termination. It shall not be terminated if, upon receipt of the notice, Contractor promptly cures the alleged violation prior to the end of the thirty (30) day period. In the event of termination, the County will only be liable for services rendered through the date of termination and not for the uncompleted portion, or for any materials or services purchased or paid for by Contractor for use in completing the Contract.

17. UNRESTRICTED RIGHT OF TERMINATION BY COUNTY

County further reserves the right to terminate this Contract at any time for any reason by giving Contractor thirty (30) days' written notice by Certified Mail of such termination. In the event of said termination, Contractor shall reduce its activities hereunder as mutually agreed to, upon receipt of said notice. Upon said termination, Contractor shall be paid for all services rendered through the date of termination. This section also applies should the Milwaukee County Board of Supervisors fail to appropriate additional monies required for the completion of the Contract.

18. INDEPENDENT CONTRACTOR

Nothing contained in this Contract shall constitute or be construed to create a partnership or joint venture between County or its successors or assigns and Contractor or its successors or assigns. In entering into this Contract, and in acting in compliance herewith, Contractor is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder.

19. SUBCONTRACTS

Assignment of any portion of the work by subcontract must have the prior written approval of County.

20. ASSIGNMENT LIMITATION

This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other.

21. PROHIBITED PRACTICES

A. Contractor, during the period of this Agreement, shall not hire, retain or utilize for compensation any member, officer, or employee of County, or any person who, to the knowledge of Contractor, has a conflict of interest.

B. Contractor hereby attests that it is familiar with Milwaukee County's Code of Ethics which states, in part, "No person may offer to give to any County officer or employee or his immediate family, and no County officer, or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced thereby."

22. NOTICES

Notices to County provided for in this Contract shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed to (name and address), and notices to Contractor shall be sufficient if sent by Certified or Registered mail, postage prepaid, to (name and address), or to such other respective addresses as the parties may designate to each other in writing from time to time.

23. MISCELLANEOUS

This Agreement shall be interpreted and enforced under the laws and jurisdiction of the State of Wisconsin. This Agreement constitutes the entire understanding between the parties and is not subject to amendment unless agreed upon in writing by both parties hereto. Contractor acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal laws, rules, regulations and orders.

24. AUTHORIZATION.

The County has executed this Contract pursuant to action taken by its Board of Supervisors on \_\_\_\_\_, Resolution File No. \_\_\_\_\_.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day, month and year first above written.

WITNESS: MILWAUKEE COUNTY

\_\_\_\_\_

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

WITNESS: CONTRACTOR

\_\_\_\_\_

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

Approved as to appropriate use  
of a professional service contract,  
form and independent contractor  
status by Corporation Counsel.

Reviewed by County's Risk Manager:

\_\_\_\_\_  
By Corporation Counsel                      Date

\_\_\_\_\_  
By Risk Manager                                      Date

Approved with regards to County Ordinance  
Chapter 42

\_\_\_\_\_  
By Office of Community Business Development Partners (CBDP)

Date

