

MASTER SERVICES AGREEMENT

[Insert Project Name]

THIS Master SERVICES AGREEMENT ("Agreement") is by and between the Madison Metropolitan Sewerage District (the "District") and [Insert Consultant Name] ("Consultant") to be effective on _____ ("Effective Date"). The Consultant shall provide professional services for the District's Project ("Project"), which is generally described in Exhibit A, pursuant to individually negotiated Task Orders Exhibit F, as set forth in this Agreement.

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EXHIBITS (INCORPORATED IN AGREEMENT BY REFERENCE)

- A. PROJECT
- B. SCOPE OF SERVICES PROVIDED BY CONSULTANT
- C. PROJECT AMENDMENT WORK ORDER
- D. COMPENSATION AND FEE SCHEDULE
- E. MASTER SERVICE AGREEMENT (MSA) PROJECT SCHEDULE
- F. INDIVIDUAL TASK ORDER AGREEMENT

AGREEMENT

In consideration of the mutual covenants set forth in this Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the District and Consultant agree as follows:

1. SERVICES OF CONSULTANT

1.1 The professional services to be provided shall be those described in **Exhibit B**, attached hereto, and incorporated herein, which shall constitute the **"Scope of Services"** or **"Services"** for this Project. Services that are removed, reduced, exceeded or are in addition to the approved Scope of Services shall constitute amendments to the Scope of Services (**"Project Amendments"**). Services for Project Amendments shall be enumerated in a Project Amendment Work Order **Exhibit C** and shall require written pre-approval by the District. The Consultant warrants and represents itself as qualified and equipped to furnish all necessary labor, supervision, methods, equipment, and tools required to provide the Services. The Scope of Services shall be governed by and provided in full compliance with the terms and conditions of this Agreement. The District shall have the right to make any changes in the Scope of Services with the price being increased (subject to approval of additional expenditure, if required) or decreased accordingly, as agreed to by the parties hereto in writing as a Project Amendment Work Order **Exhibit C**. Changes to the Services shall be authorized only in writing, and no verbal order of any employee of the District or any other person will permit the Consultant to claim any additional compensation for the performance of the Services.

1.2 The cost for Services is specified in the schedule set forth in **Exhibit D attached hereto and incorporated herein.**

2. DISTRICT'S RESPONSIBILITIES

2.1 The District shall provide the Consultant with the criteria and information as to the District's requirements for the Project, including objectives and constraints, performance requirements, and any budgetary limitations, as part of the Scope of Services.

2.2 The District may furnish the Consultant reasonable information pertinent to the Project including relevant reports and data such as previous strategic plans, and existing conditions.

2.3 As reasonably requested by Consultant, the District shall furnish or otherwise make available additional project-related information and data as is reasonably required to enable Consultant to complete the Project.

2.4 The Consultant may reasonably rely upon the accuracy and completeness of all information furnished by the District. The Consultant may not rely on information furnished

by the District that Consultant knows or has reason to believe is not accurate. The Consultant shall immediately inform the District of any inaccurate or incomplete information.

3. **SCHEDULE FOR RENDERING SERVICES**

3.1 Consultant is authorized to begin services as of the Effective Date.

3.2 The specific periods of time for performing Services and/or specific dates by which Services are to be completed shall be as provided in Exhibit E attached hereto and incorporated herein (the "Schedule"), which Schedule is agreed to be reasonable and binding on the parties. The Schedule may be modified, but only for reasons set forth in this Agreement (see Sections 3.3 and 3.4), or by a written amendment to the Scope of Services executed by the District and Consultant.

3.3 If the District authorizes changes in the scope, extent, or character of the Project, then the time for completion of Consultant's services, and the rates and amounts of Consultant's compensation therefor, may be adjusted pursuant to a Project Work Order based on the fee schedule included in Exhibit D and executed by both parties.

3.4 If the Consultant is hindered, delayed or prevented from performing the Services as a result of any act or neglect of the District (or those for whom the District is responsible) or force majeure, the Schedule may be extended by the period of the resulting delay and the rates and amounts of Consultant's compensation may be adjusted as agreed to by the parties in writing. Force majeure includes, but is not limited to acts of God, wars, terrorism, strikes, labor walkouts, fires, natural disasters, or requirements of governmental agencies. If Consultant believes that an adjustment to the schedule is appropriate for reasons set forth in this Section, Consultant must advise the District in writing within one week of the event(s) giving rise to the need for the delay and/or change in the Schedule. Force majeure does not include: (a) shortages of supervisors, labor, or equipment; (b) delays by Consultant; (c) failure of Consultant to pay amounts due and owing under this Agreement; and (d) increased costs of the Services due to general economic or industry conditions.

4. **TERM OF AGREEMENT.** This Agreement shall commence on the Effective Date. This Agreement shall expire on the date set forth in Exhibit E unless terminated earlier or extended through an Amendment pursuant to the terms set forth in this Agreement.

5. **COMPENSATION, INVOICES AND PAYMENTS**

5.1 The District shall pay the Consultant for the Services properly performed or furnished pursuant to the terms and conditions of this Agreement and in conformance with any invoice dates specified in a Scope of Services or Schedule.

- 5.2 The Consultant may submit requests for periodic progress payments for Services rendered. Payments of undisputed invoiced amounts shall be due and owing by the District within sixty (60) calendar days after receipt of the Consultants' invoice for services. Consultant may impose an additional late payment charge computed at an annual rate of six percent (6%) simple interest for undisputed invoiced amounts not paid without the sixty (60) day calendar day period and additionally, the Consultant may, after giving fourteen (14) days written notice to the District, suspend services under this Agreement until the Consultant has been paid in full all undisputed amounts due for services, and late payment charges.
- 5.3 Consultant shall maintain a system of internal controls to ensure efficient and proper processing and application of funds used and received from the District related to this Project. Funds shall be applied by the Consultant for the purposes for which they have been paid by the District.
- 5.4 The District may, at any time, by written order, make changes to the Scope of Services or request a Project Amendment, which changes shall not become effective unless and until the District and Consultant execute a written amendment to this Agreement as described herein.
- 5.5 To request a change to the Scope of Services, the District shall issue a Project Amendment Work Order. The Project Work Order shall be executed by both parties to be effective.
- 5.6 If a change in scope causes an increase or decrease in the Consultant's fee or time required for performance, an adjustment may be made and set forth in a written amendment to this Agreement and signed by both parties. Consultant shall not provide services for which added payment is to be made without first obtaining written authorization from the District.

6. **CONSULTANT'S PERFORMANCE**

- 6.1 The standard of care for all professional and related services performed or furnished by the Consultant and Consultant's personnel under this Agreement will be the professional standard of care and practice defined as the practice ordinarily used by members of Consultant's profession practicing under similar circumstances at the same time and in the same locality on similar projects.
- 6.2 The Consultant shall furnish all services, supplies, tools, and equipment appropriate and necessary to accomplish the Services in a professional and expeditious manner consistent with the standard of care set forth in Section 6.1 above. The Consultant will prepare and submit regular reports to the District, as the District may require, during the performance of the Services as specified in a Scope of Services. Other reports not identified in the Scope of Services may be prepared and submitted to the District at the District's request and following the Amendment provisions pursuant to this Agreement.

- 6.3 Consultant shall be responsible for the technical accuracy of its services and its instruments of service resulting therefrom, and the District shall not be responsible for discovering deficiencies, if any, in them. Consultant shall correct known deficiencies in its instruments of service without additional compensation.
- 6.4 The Consultant will comply with applicable laws, regulations, and District-mandated standards in effect as of the Effective Date of this Agreement. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to the District's responsibilities or to Consultant's Scope of Services, times of performance, or compensation, which may be adjusted by a written agreement signed by both parties.
- 6.5 Consultant may employ sub-consultants to provide Services and to assist in the performance or furnishing of the Services, but only as follows:
(1) Consultant shall give the District prior written notice of its intent to employ sub-consultants; (2) the District shall have an opportunity to make reasonable, timely, and substantive written objections to the proposed sub-consultant (and if such objection is made, Consultant shall not engage the proposed sub-consultant); and, (3) Consultant shall ensure that any sub-consultant shall be subject to the confidentiality and all other provisions of this Agreement. The use of sub-consultants does not relieve Consultant from its responsibilities to the District for performance in accordance with this Agreement.
- 6.6 Consultant is not acting as a municipal advisor as defined by the Dodd-Frank Act. Consultant shall not provide advice or have any responsibility for municipal financial products or securities.
- 6.7 Consultant shall be responsible for Consultant and Consultant's own agents, employees, and sub-consultants and shall not be responsible for the acts or omissions of the District or District's agents, employees and sub-consultants who are furnishing or performing any work on the Project.
- 6.8 Consultant warrants that any associated physical items furnished in connection with providing the Services shall (i) be free from all latent and patent defects in materials and workmanship; (ii) be of good merchantable quality, fit and suitable for its intended purpose as specified in this Agreement; (iii) achieve all performance requirements specified in this Agreement; (iv) include only materials furnished or purchased by Consultant or its suppliers which are new, unused, and undamaged, unless otherwise expressly authorized by the District in writing; (v) be in full conformance with all the requirements of this Agreement; and (vi) be in compliance with all applicable laws.

7. **INSURANCE**

7.1 For the duration of the Project, the Consultant shall procure and maintain the following insurance coverage. The insurance required shall provide coverage for not less than the following amounts, and shall be greater where required by law:

(1)	Worker's Compensation	Statutory Limits
(2)	Commercial General Liability	
	Per Claim/Aggregate	\$1,000,000/\$2,000,000/
(3)	Automobile Liability	
	Combined Single Limit (CSL)	\$1,000,000
(4)	Cyber Liability/Privacy Liability	
	Per Claim	\$1,000,000
(5)	Professional Liability	
	Errors and Omissions. Per Claim	\$1,000,000

General liability insurance shall contain contractual liability coverage covering all liabilities assumed or created by virtue of this Agreement and specifically naming the District as being covered by the contractual liability coverage.

All policies of insurance required by this Agreement, except workers' compensation and professional liability, shall specifically name the District as an additional insured as evidenced by an additional-insured endorsement acceptable to the District. All policies shall be underwritten by insurer(s) with a minimum A.M. Best Ratings of A-VII. Each policy of insurance shall provide that it will not be canceled by the insurance company or the Consultant, except upon thirty (30) days' written notice to the District, such notice to be delivered by registered mail to the authorized representative who executes this Agreement. In addition, all insurance maintained by the Consultant, including any excess or umbrella policy(ies), shall be primary with respect to the interest of the District, with any other insurance maintained by the District being excess and not contributory with the Consultant's insurance. The certificates of insurance and endorsements shall be delivered to the District upon execution of this Agreement but in no event later than fifteen (15) days prior to commencement of the services. Certificates of insurance for new or renewed policies of insurance issued pursuant to this paragraph shall be provided to the District within fifteen

(15) days of their issuance.

The Consultant agrees that any dispute that arises between the Consultant and the insuring agent regarding coverage relating to Services performed under this Agreement shall solely be a dispute between the Consultant and the insuring agent or insurance company and should be resolved by the Consultant and the insuring agent or insurance company. The Consultant agrees that any dispute and associated costs, including reasonable attorneys' fees, regarding insurance coverage pursuant to the terms of this Agreement will be the sole responsibility of the Consultant. Any damage to property, personal injury, or other injury or damage for which Consultant is responsible to indemnify the District under the Agreement shall not be affected by the coverage or lack of coverage by any insurance obtained by Consultant, or by any coverage dispute between Consultant and its insurer.

8. **INDEMNIFICATION**

8.1 To the extent permitted by law, Consultant shall indemnify and hold harmless the District and its officers, insurers, directors, agents, and employees (collectively, the "Indemnified Parties" and individually, an "Indemnified Party") from and against claims, costs, losses, expenses and damages (including but not limited to all reasonable fees and charges of Consultants, architects, attorneys, and other professionals, and all court, mediation, or other dispute resolution costs) because of bodily injury, sickness, disease, or death, or injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by the Consultant's negligent or intentional acts or omissions.

8.2 In the event one or more of the Indemnified Parties is made a party to any suit or litigation because of injury or damage or alleged injury or damage to person, life, or property or injury or alleged injury resulting in the death of any person or persons arising out of or in connection with a Project, performance of this Agreement, or progress of the Services to be done hereunder, the Consultant shall defend such action on behalf of the Indemnified Party or Parties by counsel chosen by the applicable Indemnified Party or Parties being defended and shall pay all damages, costs, expenses, and reasonable attorneys' fees incurred in connection with such defense. If judgment shall be obtained or claim allowed in any of such proceedings against any of the Indemnified Parties or a settlement is reached, the Consultant shall pay and satisfy such judgment, claim, or settlement, except the portion thereof that shall be determined or mutually agreed to be caused by the negligence of one or more of the Indemnified Parties. In the event claims, losses, damages, or expenses are caused by the joint or concurrent fault of the Consultant and the District, they shall be borne by each party in proportion to their respective fault, as determined by a mediator or court of competent jurisdiction.

8.3 Additional Indemnity. Consultant also agrees to indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, forfeitures, penalties, and expenses including, but not limited to, reasonable attorneys' fees and court, mediation, or other dispute resolution costs arising out of or resulting from:

8.3.1 Claims growing out of lawful demands of any Consultant employee arising from or related to wages or benefits including, without limitation, all expenses and attorneys' fees incurred by any Indemnified Party in discharging any such demands, liens, or similar encumbrances.

8.3.2 Any breach by Consultant of this Agreement or any applicable laws including, without limitation, the Fair Labor Standards Act, ERISA, Wisconsin's Fair Employment Law, Wisconsin's wage and hour laws, and immigration laws; and any claim or action by any Consultant employees against the District alleging any violation by the District of any applicable laws including, without limitation, the Fair Labor Standards Act, ERISA, Wisconsin's Fair Employment Law, Wisconsin's wage and hour laws and immigration laws.

8.4 To the extent permitted by law and to the extent this section does not waive the protections provided to the District under Wis. Stat. § 893.80(3), the District shall indemnify and hold harmless the Consultant and its officers, directors, employees, agents and consultants from and against all claims, costs, losses, and damages (including but not limited to all reasonable fees and charges of Consultants, architects, attorneys, and other professionals, and all court, mediation, or other dispute resolution costs) provided that any such claims, costs, losses, or damages are attributable to bodily injury, sickness, disease, or death of, or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by the negligence of the District.

9. **TERMINATION**

9.1 This Master Service Agreement or an Individual Task Order may be terminated, in whole or in part, by either party if the other party fails to fulfill its obligations under this Agreement through no fault of the terminating party. However, no such termination will be effective unless the terminating party gives the other party (1) not less than ten (10) business days written notice of intent to terminate, and (2) an opportunity for a meeting with the terminating party to resolve the dispute before termination.

9.2 The District may immediately terminate this Agreement without penalty, in whole or in part, with written notice to Consultant, if funds are no longer available from anticipated sources of revenue. The District may also immediately terminate this Agreement without penalty for its convenience and with written notice to Consultant if the District elects not to further pursue the Project.

9.2.1 In addition, upon the occurrence of one or more of the following events, either party may, after giving the other party written notice, terminate this Agreement: If the other party commences a voluntary case under any chapter of the Bankruptcy Code as now or hereafter in effect or takes any equivalent or similar action by filing a petition or otherwise relating to bankruptcy, receivership, or insolvency.

9.2.2 If a petition is filed against the other party under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing or if a petition is filed seeking any such equivalent or similar relief against Contractor under any applicable laws in effect at the time relating to bankruptcy, receivership, or insolvency.

9.2.3 If the other party makes a general assignment for the benefit of creditors.

9.2.4 If the other party admits in writing an inability to pay its debts generally as they become due.

9.3 If this Agreement is terminated, the Consultant shall be paid for Services properly performed to the effective date of termination, including reimbursable expenses. In the event of termination, the District will receive electronic files of all Project Deliverables (defined below) within the Scope of Services or Project completed by the Consultant up to the date of termination. Electronic files shall be in a mutually agreed upon format that is usable by the District and shall be subject to Section 10 below.

10. **USE OF DOCUMENTS AND ELECTRONIC FILES**

10.1 Consultant may retain its documentation related to the Project, including work papers, documents, spreadsheets, and electronic data, provided that all such documentation remains confidential and is not disclosed to third parties except where disclosure is expressly required by law and subject to the confidentiality provisions of Section 11 below. The District acknowledges that Consultant may have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention. If required by law, regulation, or professional standards to make certain documentation available to Consultant's regulators, the District authorizes Consultant to do so but only after providing prior written notice of such disclosure to the District.

10.2 Notwithstanding the foregoing, Consultant shall provide the District with copies or originals of all work papers, documents, spreadsheets, and electronic data in a mutually agreed upon format that is usable by the District, spreadsheet financial models in a mutually agreed upon format that is usable by the District and any and all keys or passwords needed for the District to access same (collectively herein, "**Project Deliverables**"). It is expressly understood that the Project Deliverables are intended to be and shall remain the property of the District. Consultant shall provide the Project Deliverables to the District in a mutually agreed upon standard format (such as, for example, Excel) so that the District can use the Project Deliverables independently from the Consultant.

10.3 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests and/or procedures within sixty

(60) calendar days of receipt, after which the receiving party shall be deemed to have accepted the transferred data as transmitted. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.

- 10.4 Following Project closeout, the Consultant shall act in a manner that ensures and maintains confidentiality of information obtained during the course of the Project. Consultant's document retention policies shall ensure that Project Deliverables are retained for a minimum of seven (7) years from Project closeout. Upon the request of the District, Consultant shall certify to the District that all materials shall be destroyed and deleted in a manner that ensures confidentiality.

11. **CONFIDENTIALITY AND TRADE SECRETS**

- 11.1 As used in this Agreement, the term "Confidential Information" shall mean and include all information disclosed by the District to Consultant verbally, electronically, visually, or in written or other tangible form which is either identified as confidential or should be reasonably understood by Consultant to be confidential or proprietary, including but not limited to ideas, concepts, theories, designs, approaches, improvements, methods, techniques, procedures, processes, communications, financial information, business information, rate or economic data, trade secrets, hardware, software, IT security information, customer information, billing or collection information, account information, employee information, correspondence, memoranda, data, reports, forecasts, projections, customer lists, potential customer lists, business requirements, strategy or plans, or any discussions or negotiations which incorporate, include, or refer to Confidential Information described in this paragraph.

- 11.2 Consultant agrees for itself and its employees, agents, and sub-consultants to keep confidential and not to disclose to any person or entity the Confidential Information that the District provides to Consultant or to which Consultant gains access in the course of performing the Services, without the District's prior written consent, which consent may be granted, withheld, or conditioned in the District's sole discretion. The confidentiality obligations set forth in this section shall not apply to information and materials (i) that are or subsequently become publicly available without Consultant's breach of this confidentiality provision, (ii) that were known to Consultant prior to the District's disclosure to Consultant, (iii) that became known to Consultant from a source other than the District and other than by the breach of an obligation of confidentiality owed to the District, (iv) is independently developed by Consultant, or (v) is a public record required to be disclosed by the District pursuant to Subchapter II of Chapter 19 of the Wisconsin Statutes. Consultant shall notify the District prior to making any disclosure so that the District can dispute whether disclosure pursuant to (i) through (v) above is appropriate. Consultant shall indemnify, defend, and hold the District harmless from all damages, claims, losses, and costs (including attorneys' fees) related to or arising from Consultant's breach of these confidentiality provisions. The confidentiality obligations and indemnities contained in this

Agreement shall survive the expiration or termination of this Agreement.

- 11.3 All copies of all materials relating to the Services whether constituting Confidential Information or not, must be returned to the District upon completion of the Project. Regarding documents including Confidential Information, Consultant shall comply with Section 10.4 above. The Consultant may not publish, release, disclose, or disseminate to anyone other than the District employees the results of any Services performed or any information obtained from Services performed under this Agreement unless required to do so in accordance with litigation or applicable state law or unless the District grants written approval to publish, release, disclose, or disseminate such information. Materials which are reviewed by the Consultant in the course of this Agreement may contain trade secrets which are the property of the District, or which have been purchased or leased for use by the District. The Consultant may not reveal any trade secrets to any person in any form and may not use any such trade secrets itself for any purpose.
- 11.4 All Confidential Information in whatever form provided shall remain the property of the District. The Consultant agrees to take all necessary and appropriate actions to protect and maintain the confidentiality of the Confidential Information. The Consultant shall cooperate with the District in regard to disclosure of Confidential Information that may be required to respond to a public records request.
- 11.5 The Consultant agrees not to use the District's name, logo, or trademark or refer to the District in any advertising; promotion; announcement; marketing literature; or other type of publication, marketing effort, or advertisement, whether written or oral, without the express prior written approval of the District.
- 11.6 Consultant shall require personnel provided to the District to comply with the confidentiality provisions set forth in this Section 11. By signing this Agreement, Consultant certifies that its employees, agent, and sub-consultants shall each comply with this Section 11.

12. **COPYRIGHT AND PATENT GUARANTEES.**

- 12.1 The Consultant warrants its Services covered by this Agreement will not infringe or contribute directly or indirectly to the infringements of any patents, trademarks, inventions, or copyrights, either in the USA or foreign countries. Consultant (i) shall indemnify and hold the District harmless from and against any and all claims, liabilities, causes, damages, costs or expenses, including attorneys' fees of any kind involving any actual or alleged infringements (excluding, however, any infringements solely related to concepts, designs, or ideas furnished in writing by the District which, as between the District and the Consultant, originated with the District) or (ii) at the District's option, shall reimburse the District for all damages, costs, and expenses of any kind including reasonable attorneys' fees incurred by the District in defending any such suits or proceedings. In addition to the foregoing, Consultant shall save the District harmless against and shall pay all awards of damages assessed and all costs of suit adjudged against the District in such

suits or proceedings, provided the District gives Consultant reasonable notice in writing of the institution of any such suit or proceeding; permits Consultant to defend it; and gives Consultant all such information, assistance, and authority as shall be reasonably necessary to enable it to do so. In case any part of the Services is held in any such suit or proceeding to constitute infringement and its use is enjoined, Consultant shall, at the District's option, within a reasonable time either (i) secure for the District the perpetual right to continue the use of such part of the Work by procuring for the District a royalty-free license or such other permission as will enable Consultant to secure the suspension of any injunction, (ii) replace at Consultant 's own expense such part of the Services with an adequate noninfringing part, or (iii) modify it so that it becomes noninfringing.

13. **SUCCESSORS, ASSIGNS AND BENEFICIARIES**

- 13.1 The District and Consultant are hereby bound, as are their respective successors, employees, and representatives to the other party to this Agreement with respect to all covenants, terms, promises, and obligations contained herein.
- 13.2 Neither the District nor Consultant may assign, sublet, subcontract or transfer any rights or obligations under or interest (including, but without limitation, monies that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is required by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.
- 13.3 Unless expressly provided otherwise in this Agreement, nothing contained shall be construed to create, impose, or give rise to any duty owed by the District or Consultant to any third party, or other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken to this Agreement will be for the sole and exclusive benefit of the District and Consultant and not for the benefit of any other party.

14. **DISPUTE RESOLUTION**

- 14.1 The District and Consultant agree to negotiate all disputes between them in good faith for a period of 30 calendar days from the date of notice prior to invoking other provisions of the Agreement, or exercising their rights under law.

15. **MISCELLANEOUS PROVISIONS**

- 15.1 This Agreement is to be governed by the laws of the State of Wisconsin without regard to Wisconsin's or any other state's conflict of laws principles. The parties agree that any judicial action arising under this Agreement shall be brought exclusively in a Wisconsin court in Dane County, Wisconsin, with subject matter jurisdiction. The parties irrevocably consent to personal jurisdiction of the Dane County state courts for judicial actions arising under this

Agreement.

- 15.2 Any notice required under this Agreement will be in writing, addressed to the designated party at its address in the signature page and served personally, by email, by facsimile, by registered or certified mail (postage prepaid), or by a commercial courier service. All notices shall be effective upon the date of receipt.
- 15.3 All express representations, waivers, and indemnifications in this Agreement will survive its completion and/or termination.
- 15.4 Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the District and Consultant, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that expresses the intention of the stricken provision.
- 15.5 A party's non-enforcement of any provision shall not constitute a waiver of the provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- 15.6 To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of substantial completion of the Project, which is the point where the Project can be utilized for the purposes for which it was intended.
- 15.7 This Agreement and any executed task orders constitutes the entire agreement between the District and Consultant and supersedes all prior and/or oral understandings. This Agreement may only be amended by a mutually agreed and executed written instrument. Oral understandings are not binding.
- 15.8 Independent Contractor Status. Consultant is an independent contractor and not an employee of the District. Consultant's employees or contract personnel are not District's employees. The Consultant agrees not to replace any project personnel identified in their proposal without the approval of the District. Such approval shall not be unreasonably withheld. This Agreement does not create a partnership relationship. The Consultant does not have authority to enter into contracts or make purchases on District's behalf.
- 15.9 Facsimile and electronic signatures shall have the same effect as original signatures. Execution in counterparts shall have the same effect as execution in a single document.
- 15.10 With the execution of this Agreement, Consultant and the District shall designate specific individuals to act as Consultant's and District's representatives with respect to the services to be performed or furnished by Consultant and responsibilities of the District under this Agreement. Such an individual shall have authority to transmit instructions, receive

information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

- 15.11 Unfair Advantage. In order to ensure objective contractor performance and eliminate unfair competitive advantage, consultants that develop or draft specifications, requirements, or statements of work, **for invitations for bids** or requests for proposals must be excluded from competing for such procurements.
- 15.12 Price Reduction for Defective Cost or Pricing Data. The Consultant assures that the cost and pricing data submitted for evaluation with respect to negotiation of this Agreement or amendment is based on current, accurate, and complete data supported by its books and records. If the District determines that any price (including profit) negotiated in connection with this Agreement or any amendment was increased by any significant sums because the data provided was incomplete, inaccurate, or not current at the time of submission, then such price or cost or profit shall be reduced accordingly.
- 15.13 Business Permits, Certificates and Licenses. The Consultant will comply with all federal, state, and local laws and obtain all permits, certificates, or licenses required to provide the services required by this Agreement.
- 15.14 This Agreement is intended to secure Consultant's assistance and cooperation and shall operate to preclude Consultant from performing services for others during the term of this Agreement which would result in a conflict of interest with the contractual relationship represented by this Agreement. In the event that Consultant undertakes such services, Consultant shall promptly notify the District, and the District may, at its option, immediately terminate this Agreement. In the event an employee of Consultant undertakes such services, then Consultant shall immediately notify the District, and the District may direct that such employee be immediately removed from consulting work with the District.
- 15.15 Consultant shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to equal opportunity and nondiscrimination.
- 15.16 Consultant shall maintain accurate and detailed records, in accordance with generally accepted accounting principles consistently applied, of all expenditures or costs relating to any work performed under this Agreement. The District has the right to inspect, examine, and make copies of any or all books, accounts, records, and other writings of the Consultant relating to the performance or cost of any work done under this Agreement. Audit rights shall be extended to the District or to any representative designated by the District. Audits shall take place at times and locations mutually agreed upon by both parties within one (1) week after request by the District for the same. Costs incurred in undertaking the audit will be borne by the District, but costs incurred by the Consultant as a result of the District exercising its right to audit will be borne by the Consultant.
- 15.17 Consultant certifies that it will comply with all applicable federal, state, and local environmental laws and regulations.
- 15.18 Neither an extension of time for any reason beyond the date fixed herein for the completion of the Agreement or acceptance of any consulting work shall be deemed to be a waiver or abandonment of the District's right to abrogate this Agreement or to enforce the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

CONSULTANT:

****Insert Consultant Company Here****

By: _____

Name of signer

Title: **XXXXX**

Date Signed: _____

Address for giving notices:

INSERT ADDRESS HERE

Designated Representative:

FILL IN NAME

Phone Number: Direct:

Office: | **Mobile:**

Email Address:

Fill in email

DISTRICT:

Madison Metropolitan Sewerage District

By: _____

Name of Signer

Title: **XXXX**

Date Signed: _____

Address for giving notices:

1610 Moorland Road, Madison, WI 53713-3398

Designated Representative:

FILL IN NAME

Phone Number: 608.222.1201 x

Email Address:

Fill in Email

EXHIBIT A.
PROJECT

The Consultant shall provide professional services, outlined in Exhibit B, to support the Districts, Individual Task Order, [Insert Project Name], [Insert basic description including term and anticipated extensions, including other practical project information].

EXHIBIT B.

SCOPE OF SERVICES PROVIDED BY CONSULTANT

THE SCOPE OF SERVICES SHALL BE CONSISTENT WITH THIS EXHIBIT B OR OTHERWISE AGREED IN A WRITTEN AMENDMENT EXECUTED BY THE PARTIES. THE SCOPE OF SERVICES CANNOT BE CHANGED BY VERBAL AGREEMENT.

The Consultant shall perform or furnish [Insert Project Name] throughout all phases of the [describe process] pursuant to individually negotiated Task Orders EXHIBIT F, issued by the District to [Consultant Name]. The Consultant will not perform any additional services unless authorized by a Project Amendment or Task Order Amendment, EXHIBIT C.

Task orders for each specific scope of services will be developed as they arise. Scope of services will include the following as requested by the District:

1. [Insert bullet point list of services outlined in solicitation response]

[Insert additional clarifying terms from the solicitation or response]

EXHIBIT C.
PROJECT AMENDMENT WORK ORDER

All Project or Task Order Amendment require a written Project Amendment Work Order EXECUTED PRIOR TO COMMENCEMENT OF THE AMENDMENT that enumerates changes to the services to be provided, the schedule adjustment for the change in services, and a reasonable estimate of fees and costs (if any). Project or Task Order Amendments shall be provided in accordance with the terms and conditions of the Agreement.

A blank Project or Task Order Amendment Work Order is attached to this Exhibit C. The form may be used, modified, or supplemented as necessary to convey all required project amendment information.



PROJECT OR TASK ORDER AMENDMENT WORK ORDER

Project: **Real Property Acquisition Services**

Project Amendment Work Order No.: _____

Expand, reduce, or modify fields as required.

- A. Purpose and description of project amendment:

- B. Services added/subtracted as part of this amendment:

- C. Schedule adjustment required for this project amendment:

- D. Adjustment in fees/costs for this project amendment:

Additional Comments:

Provide attachments as necessary and list here:

- a)
- b)
- c)

Approved by:

Consultant's Authorized Representative

Date

District's Authorized Representative

Date

Effective Date of Amendment: _____

Exhibit D.
COMPENSATION AND FEE SCHEDULE

Compensation for Services described in Exhibit B shall be on an hourly rate basis plus expenses for a total estimated fee of [\$XXX,XXX]. Estimated term distribution of [\$XXX,XXX]. per year for on-call service and [\$XXX,XXX] for [insert description] individual task orders. A breakdown of the compensation is included on the following pages and is provided as an indication of Consultant's anticipated hours and fees for the services. However, the breakdown of actual hours, expenses, and total compensation for each individual task order may vary from that shown, so long as the total estimated fee indicated herein is not exceeded.

The fee schedule shall be as set forth herein. All hourly services shall be invoiced to Owner in 1/4 hourly increments. Descriptions of services provided, and time spent shall be described on the invoice.

Invoices submitted pursuant to this agreement must include the Not to exceed (NTE) MSA and task order cap(s), current & previously invoiced amount(s), current estimated incumbrance and available balances.

Master Service Agreement (NTE) Cap	[\$XXX,XXX].
Task Order #1 (NTE) Cap	\$0
Task Order #2 (NTE) Cap	\$0
Current and Previously Invoiced	\$0
Estimated Incumbrance	\$0
Task order #1 Available balance	\$0
Master Service Agreement Available Balance	[\$XXX,XXX].

Notice of Costs Approaching Individual Task Order Scope of work Not to Exceed (NTE) Cap: The Consultant will provide notice to the District in writing when 75% of the Cap has been incurred, whether invoiced to the District or not, or the contract amount will be insufficient to cover Consultant's time and expenses to complete the Scope of Work. This notice is for informational purposes. It does not confer any right to additional payment by the District. It does not change the Consultant's obligations under the Cap of this Agreement.

The Consultant's Hourly Rate Schedule for the services follows. This list includes employees of the Consultant and Consultant's sub-consultants that will be providing services for the Project as planned at the time of the Agreement. It may not include all support staff and it is understood that changes in staffing may occur as the result of unforeseen events. To that extent, employees not listed will be identified on invoices and will be billed at their standard billable hourly rates.

Billing rate schedule. Billing rates may be increased beginning January 1, 2025; however, the increase may not exceed the Consumer Price Index (CPI) for the Midwest Urban Region. [Insert reates]

CLASSIFICATION LABOR RATE

REIMBURSABLE EXPENSES

Exhibit E.

MASTER SERVICE AGREEMENT (MSA) PROJECT SCHEDULE

The Schedule for Individual Task Orders will be determined as they arise and described in Exhibit F.



Exhibit F.
INDIVIDUAL TASK ORDER AGREEMENT

THIS INDIVIDUAL TASK ORDER AGREEMENT ("**Agreement**") is by and between the Madison Metropolitan Sewerage District (the "**District**") and [insert Consultant Name] ("**Consultant**") to be effective on leave blank then fill in date when signed ("**Effective Date**"). The Consultant shall provide professional services for the District's Project ("**Project**"), which is generally described in **Exhibit A**, pursuant to individually negotiated Task Orders Exhibit F, as set forth in this Agreement.

The work being performed for this individual task order will be developed for each individual task order as they arise. A general summary of typical scope of services and the contracting terms and conditions are located in the Master Services Agreement – [insert contract title] , Exhibit B.

Project: [Project title]

Task order number _____

- A. Scope of Services
- B. The project schedule to perform the work: Start and End Date
- C. Fees
- D. Not to exceed task order cost cap

Total cost committed for the Master Service Agreement (MSA): \$XXX,XXX
Task 1: \$X,XXX
Task 2: \$X,XXX

Additional Comments:

Provide attachments as necessary and list here:

- a)
- b)
- c)

Approved by:

Consultant's Authorized Representative

Date

District's Authorized Representative

Date

Effective Date of Individual Task Order: _____