

Dane County Contract Cover Sheet

Revised 01/2022

RES 233
Significant

Dept./Division	Dane County Dept. of Administration-Public Works Engineering Division		
Vendor Name	KL Engineering, Inc.	MUNIS #	4223
Brief Contract Title/Description	Award of Professional Services Agreement with KL Engineering, Inc. for the Construction Administration-Lower Yahara River Trail-Ph. 2		
Contract Term	Jan. 2023-12/31/24		
Contract Amount	\$216,500.00		

Contract # Admin will assign	14887
Type of Contract	
<input checked="" type="checkbox"/>	Dane County Contract
<input type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	County Lessee
<input type="checkbox"/>	County Lessor
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input type="checkbox"/>	Grant
<input type="checkbox"/>	Other

Department Contact Information		Vendor Contact Information	
Name	Ryan Shore	Name	Christopher Ehlert
Phone #	608-445-0109	Phone #	715-829-1266
Email	shore@countyofdane.com	Email	cehlert@klengineering.com
Purchasing Officer	Pete Patten		

Purchasing Authority	<input type="checkbox"/> \$11,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$11,000 – \$40,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input checked="" type="checkbox"/> Over \$40,000 (\$25,000 Public Works) (Formal RFB/RFP required)	RFB/RFP # 322018
	<input type="checkbox"/> Bid Waiver – \$40,000 or under (\$25,000 or under Public Works)	
	<input type="checkbox"/> Bid Waiver – Over \$40,000 (N/A to Public Works)	
	<input type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	



MUNIS Req.	Req # 2536	Org: CPLWRESC	Obj: 57780	Proj:	\$ 216,500.00
	Year 2022	Org:	Obj:	Proj:	
		Org:	Obj:	Proj:	

Budget Amendment	
<input type="checkbox"/>	A Budget Amendment has been requested via a Funds Transfer or Resolution. Upon addendum approval and budget amendment completion, the department shall update the requisition in MUNIS accordingly.

Resolution Required if contract exceeds \$100,000 (\$40,000 PW)	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works)	
	<input checked="" type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.	Res # 233
	<input checked="" type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.	Year 2022

CONTRACT MODIFICATIONS – Standard Terms and Conditions		
<input checked="" type="checkbox"/> No modifications.	<input type="checkbox"/> Modifications and reviewed by:	<input type="checkbox"/> Non-standard Contract

APPROVAL	
Dept. Head / Authorized Designee	
Draper, Todd	Digitally signed by Draper, Todd Date: 2022.11.03 09:32:59 -05'00'

APPROVAL – Contracts Exceeding \$100,000	
Director of Administration	Corporation Counsel
	

APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached			
DOA:	Date In: 11/3/22	Date Out: _____	<input checked="" type="checkbox"/> Controller, Purchasing, Corp Counsel, Risk Management

Goldade, Michelle

From: Goldade, Michelle
Sent: Friday, November 4, 2022 11:50 AM
To: Hicklin, Charles; Rogan, Megan; Gault, David; Lowndes, Daniel
Cc: Stavn, Stephanie; Oby, Joe
Subject: Contract #14887
Attachments: 14887.pdf

Tracking:	Recipient	Read	Response
	Hicklin, Charles		
	Rogan, Megan	Read: 11/4/2022 11:52 AM	Approve: 11/4/2022 11:52 AM
	Gault, David	Read: 11/4/2022 11:54 AM	Approve: 11/4/2022 11:54 AM
	Lowndes, Daniel		
	Stavn, Stephanie	Read: 11/7/2022 10:51 AM	
	Oby, Joe		

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14887

Department: Public Works

Vendor: KL Engineering

Contract Description: Professional Services Agreement for Construction Administration – Lower Yahara Trail-Ph 2 (Res 233)

Contract Term: 1/1/23 – 12/31/24

Contract Amount: \$216,500.00

Thanks!

Michelle Goldade

Administrative Manager

Dane County Department of Administration

Room 425, City-County Building

210 Martin Luther King, Jr. Boulevard

Madison, WI 53703

PH: 608/266-4941

Fax: 608/266-4425

TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

Goldade, Michelle

From: Hicklin, Charles
Sent: Friday, November 4, 2022 1:59 PM
To: Goldade, Michelle
Subject: Approve: Contract #14887

Goldade, Michelle

From: Lowndes, Daniel
Sent: Friday, November 4, 2022 3:11 PM
To: Goldade, Michelle
Subject: Approve: Contract #14887

1
2
3 **2022 RES-233**

4 AWARD OF AGREEMENT FOR CONSTRUCTION ADMINISTRATION AT LOWER YAHARA
5 RIVER TRAIL-PH. 2

6 The Department of Administration-Public Works Engineering Division reports the receipt of
7 proposals for Construction Administration at Lower Yahara River Trail, Ph. 2, Pleasant Springs,
8 WI-Public Works Proposal No. 322018.

9
10 A complete tabulation is on file at the Department of Public Works Office.

11
12 An Agreement has been negotiated with:

13
14 KL Engineering, Inc.
15 5400 King James Way
16 Madison, WI 53719

17
18 Total: \$216,500.00

19
20 The Public Works staff finds the amount to be reasonable and recommends the Agreement be
21 awarded to KL Engineering, Inc.

22
23 There are sufficient funds available for this project. The term of the borrowing used to support
24 this project will be 10 years.

25
26 **NOW, THEREFORE, BE IT RESOLVED** that an Agreement be awarded to KL Engineering, Inc.
27 in the amount of \$216,500.00; and

28
29 **BE IT FURTHER RESOLVED** that the County Executive and the County Clerk be authorized
30 and directed to sign the Agreement; and

31
32 **BE IT FINALLY RESOLVED** that the Department of Administration-Public Works Engineering
33 Division be directed to ensure complete performance of the Agreement.

COUNTY OF DANE
PROFESSIONAL SERVICES AGREEMENT
SIGNATURE PAGE

Date: 10/31/22
Project No.: 322018
Agreement No.: 14887

THIS AGREEMENT is between the County of Dane, by its Department of Administration, hereinafter referred to as “COUNTY”, and KL Engineering, Inc., 5400 King James Way, Madison, WI 53719, hereinafter called the “A/E”.

WITNESSETH

WHEREAS, COUNTY proposes securing engineering services for a project described as follows:

Construction Administration – Lower Yahara River Trail, Ph. 2

WHEREAS, COUNTY deems it advisable to engage the services of the A/E to furnish professional services in connection with this project, and

WHEREAS, COUNTY has authority to engage such services, and

WHEREAS, the A/E represents that it is in compliance with the applicable Wisconsin Statutes relating to the registration of architects and professional engineers and designers, and has agreed to furnish professional services for COUNTY,

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

IN WITNESS WHEREOF, COUNTY and the A/E have executed this Agreement as of the above date.

KL Engineering, Inc.

COUNTY OF DANE

Christopher Ehlert

Digitally signed by Christopher Ehlert
DN: C=US, E=cehlert@klengineering.com,
CN=Christopher Ehlert
Date: 2022.10.31 07:18:07-05'00'

Signature

Date

Joseph T. Parisi, County Executive

Date

Christopher Ehlert

Printed Name

Scott McDonell, County Clerk

Date

Director - Construction Services

Title

391708153

Federal Employer Identification Number (FEIN)

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not each party made such reproduction in the regular course of business. This term does not apply to the service of notices under this Agreement.

COUNTY OF DANE
PROFESSIONAL SERVICES AGREEMENT
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1. ARTICLE 1: SCOPE OF AGREEMENT

- 1.A. This Agreement between COUNTY and the person or firm, duly licensed under the laws and in accordance with the regulations of the State of Wisconsin, hereinafter referred to as the “A/E” shall be governed by the following Terms and Conditions.
- 1.B. The A/E shall provide technical and professional services under this Agreement. The Terms and Conditions of this Agreement shall apply to modifications made to this Agreement and shall apply to both the services rendered in the creation of the design and to the additional services called for in carrying out the design.
- 1.C. The A/E shall serve as the professional technical advisor and consultant to COUNTY in matters arising out of or incidental to the performance of this Agreement and in that capacity, the A/E shall not have a contractual duty or responsibility to any other person or party or individual regarding the services under this Agreement, except as that duty may arise under the laws of the State of Wisconsin. The A/E is not an agent of the COUNTY within the meaning of s. 893.80 or 895.46, Wis. Stats.
- 1.D. Professional services performed or furnished under this Agreement shall be based on the care and skill ordinarily used by members of the profession involved, who practice under the authority of and who are governed by the license issued under the Wisconsin Statutes and the Wisconsin Administrative Code. The standard of care for architectural and engineering services under this Agreement shall include designing buildings, structures and / or related infrastructural systems that comply with all applicable building and safety codes.
- 1.E. By accepting this Agreement, the A/E represents possession of the necessary skill and other qualifications to perform work under this Agreement and is familiar with the practices in the locality where such services and work shall be performed.
- 1.F. The A/E shall review and become familiar with the current Division 00 & 01 requirements utilized by COUNTY in construction contracts and shall provide services and work, consistent with such requirements, so that the Contractor’s schedule is not negatively impacted.
- 1.G. The A/E shall be professionally responsible for work performed under this Agreement. Upon written approval of COUNTY, the A/E may subcontract work to an approved consultant under this Agreement, to the specific extent authorized by COUNTY. The authorization to subcontract shall not relieve the A/E of professional or contractual responsibility for any work performed or delivered under this Agreement. The authorization to subcontract shall not be construed to create any contractual relationship between COUNTY and such consultant.
- 1.H. Subcontracts for services under this Agreement shall provide that work performed under such subcontract, shall be subject to provisions of this Agreement and shall also provide that any professional duty or responsibility pertaining thereto shall be accomplished to the benefit of COUNTY. Upon request, an electronic copy of each such subcontract for which COUNTY approval is granted shall be furnished to COUNTY.
- 1.I. The A/E may substitute consultants or professional staff under this Agreement only to the specific extent authorized by COUNTY in writing.
- 1.J. In the performance of this Agreement, the A/E shall become familiar with and perform such services in accordance with the specifications set forth in the Request for Proposals document. The COUNTY reserves the right to update County Master Specifications Division 00 and Division 01 at any time, including after the signing date of this Agreement.

The A/E shall use and conform to the most current County Master Specifications Division 00 and Division 01 available at the time of Final Review Documents and the A/E shall not be eligible for a change order based upon alterations to said County Master Specifications Division 00 and Division 01 occurring after the date of Agreement signing.

2. ARTICLE 2: SCOPE OF THE SERVICES TO BE PROVIDED

2.A. General:

2.A.1) Services are to be provided by the A/E in each of the following phases:

Construction Phase

2.A.2) An assigned COUNTY Public Works Project Manager will be the A/E's contact in securing COUNTY direction and for arranging the necessary meetings with COUNTY or other County Departments and obtaining the approvals required by COUNTY.

2.A.3) The term "written" or "in writing" may be either electronic or hard copy documentation, unless otherwise stated or directed by COUNTY.

2.B. Study Phase: NOT USED

2.C. Schematic Design Phase: NOT USED

2.D. Design Development Phase: NOT USED

2.E. Construction Documents Phase: NOT USED

2.F. Bidding Phase: NOT USED

2.G. Construction Phase:

2.G.1) An assigned COUNTY Project Manager will be responsible for arranging and conducting construction-related meetings as required and act as the point of contact for the construction contractors. A COUNTY approved A/E representative shall attend, take notes, publish and distribute COUNTY approved minutes of job meetings.

2.G.2) After the award of the construction contract(s), the A/E shall become an on-site technical and professional advisor to COUNTY. In this capacity the A/E will have continuous access to the site. The A/E, through COUNTY's Project Representative, will have access to data in the construction contractor(s) files or offices pertaining to the quality or time requirements of the construction contract(s), in the same mode, manner and extent that such data would be available to COUNTY.

2.G.2) a. The A/E shall provide a full-time, on-site representative who shall be qualified in construction administration and subject to the approval of COUNTY. The A/E shall keep COUNTY informed of the progress and quality of the work based on on-site observations and shall endeavor to protect COUNTY against defects and deficiencies in the work.

2.G.3) Immediately following the pre-construction meeting and prior to the start of construction, the A/E shall review the proposed schedule for submittals from the construction contractor(s). The A/E shall assess the timing feasibility of such

submittals relative to the construction schedule and review needed, and advise COUNTY in writing accordingly.

- 2.G.3) a. The A/E shall be responsible for the professional review and approval or rejection of shop drawings, samples and other submittals from the construction contractor(s) to determine conformance with the specific portions of the Construction Documents under which the submittal was made. Deviation from the Construction Documents as noted by the contractor on submittals or otherwise observed by the A/E shall be brought to the attention of COUNTY's Project Representative and concurrence received from COUNTY before any approval is given to a contractor. Review of the submittals which have priority status as determined by COUNTY's Project Representative, must be completed within five (5) business days of receipt. Review of other submittals shall be completed within ten (10) business days of receipt, or in accordance with the submittal schedule prepared by the General Contractor and as approved by COUNTY and A/E at the start of construction. The A/E is responsible for submittal activity conducted by its consultants in the same manner as if such review were made by the A/E.
- 2.G.3) b. The A/E shall also review the results of all testing conducted during or after construction and report to COUNTY whether these results meet the design intent and the requirements of the Construction Documents.
- 2.G.4) The A/E's site representative shall observe the construction process to evaluate the adequacy and completeness of the construction contractor(s) compliance with the Construction Documents, and shall immediately report any noncompliance to the COUNTY Project Manager in writing.
 - 2.G.4) a. The A/E shall provide on-site field verification of Contractor staked survey elevations and layout of proposed improvements.
 - 2.G.4) b. The A/E shall monitor WDNR and Dane County permit compliance through project completion. Provide all required permit documentation.
 - 2.G.4) c. The A/E shall conduct all necessary field verification, topographical surveying, and materials sampling in order to certify that all stormwater management practices and conveyances meet the design specifications of approved plans.
 - 2.G.4) d. The A/E shall be responsible for the coordination and performance of on-site services performed by consultants employed by the A/E and shall review reports and other data submitted by such consultants. The A/E and each consultant engaged under Article 1.G. The A/E shall provide in each consultant agreement, a requirement for consultant visits to the site and a schedule for such visits for professional evaluation of the work monitored by each consultant and a reporting system to inform COUNTY. Site visits shall coincide with crucial times of the construction for the specialty area involved.
 - 2.G.4) e. Following construction site visits, the A/E shall make routine, written status reports detailing observations and activities on the project, at such intervals as is elsewhere herein established and in a format approved by COUNTY. The A/E shall submit the reports within three (3) business days of the site visit by the A/E's representative. Reporting requirements for

full-time, on-site representation shall be established by each Agreement for such professional services.

- 2.G.4) f. The A/E's site representative will receive copies of reports submitted by the General Contractor and shall provide site observation to evaluate the reports. Discovered construction variances shall immediately be reported to COUNTY.
- 2.G.4) g. If it becomes necessary during construction, to interpret, construe, clarify or to otherwise determine the reasonable meaning, application or implementation of the Construction Documents, the A/E acting in good faith, based upon the facts made known to it at the time, shall recommend to COUNTY in writing, a reasonable course of conduct in connection with the issues involved. Such recommendation(s) may be considered for further contractual action by COUNTY.
- 2.G.4) h. Should the A/E become aware that the work of any contractor or subcontractor in place or underway does not conform to the work or quality required by the Construction Documents, the COUNTY Project Manager shall be immediately notified in writing. It is appropriate for the A/E to also immediately advise the contractors of substantial deficiencies, and that notification of these deficiencies will be made to COUNTY. The A/E shall furnish such data as necessary to inform COUNTY of the degree of the noncompliance with the Construction Documents, the cause thereof, the impact on schedule and cost, if known, and a recommended course of conduct. COUNTY shall be solely responsible for implementation of the A/E's recommendation. This assumption of responsibility by COUNTY shall not relieve the A/E or its consultants for negligence in the discovery of the condition, which was or should have been discovered.
- 2.G.4) i. If the A/E considers suspension of construction work appropriate, the A/E shall notify COUNTY in writing and state the reasons, which, in the professional opinion of the A/E, justify such action.
- 2.G.5) Necessary professional services or construction required to repair or overcome problems caused by errors, omissions, ambiguities or changes not authorized by COUNTY in the preparation of the documents or design shall be the responsibility of the A/E or its consultants, without additional cost to COUNTY.
- 2.G.6) The A/E shall review requests for information (RFIs) and shall respond within five (5) business days.
- 2.G.7) The A/E shall develop and issue appropriate construction bulletins (CBs) at the direction of the COUNTY Project Manager. The A/E shall then evaluate the CB proposals received from the construction contractors and provide COUNTY with a written recommendation regarding the appropriateness of the proposals. The evaluation and recommendation shall be completed within five (5) business days of receipt, or in accordance with another schedule approved by COUNTY. The evaluation shall consider the necessity for such change, the reasonableness of the proposed change, and an analysis of the cost proposed for effecting the change.
- 2.G.8) The A/E shall assist in the preparation of applications for energy incentive programs, when applicable.

2.G.9) Upon contractor's written notification and the COUNTY Project Manager's confirmation that Substantial Completion has taken place, the A/E shall observe the construction and provide a written punchlist to the COUNTY Project Manager. The COUNTY Project Manager will schedule the punchlist inspection in conjunction with the User and contractors involved. The punchlist shall contain items found not to be complete, in need of correction, replacement or otherwise not in accordance with the Construction Documents. As part of the Substantial Completion verification, the A/E shall perform or witness and document installation and operation meet the intent of the design. The A/E shall forward the results and provide written recommendations for corrective measures where systems do not meet the intent of the design. The A/E shall prepare and distribute the Certificate of Substantial Completion when appropriate.

2.G.10) COUNTY will provide a set of Construction Documents to General Contractor on which daily records of changes and deviations shall be recorded. At completion of the project, General Contractor will submit its marked-up as-built documents to the A/E who shall, based on these marked up as-built documents, revise the original documents, including the electronic files, showing changes in the work made during the construction process to produce a set of Record Documents. Electronic documents shall be in a format and on a medium required by COUNTY. This work shall be completed and submitted to COUNTY within thirty (30) calendar days of receipt of the last marked up prints. The consequences of addenda, change orders and other circumstances known by the A/E to have caused change shall be included in the production of the Record Documents. The marked-up as-built documents shall be turned over to the COUNTY at the same time as the Record Documents.

2.G.10) a. Record Documents deliverables shall be:

- (1) Original unbound, hard copy of Drawings and Project Manual in full size, paper format;
- (2) Two, (2,) hard, bound copies of Drawings and Project Manual; and
- (3) Electronic version of all documents delivered on a USB flash drive or compact disk:
 - (a) Drawings (.dwg files) in AutoCAD 2019 (or earlier version):
 1. Each drawing sheet shall be complete with x-refs or base plan sheets included and attached;
 2. All external data from non-AutoCAD programs (e.g., Excel or Word) shall be included and attached; and
 3. Include copy of Plot Style Table (ctb file) used to print drawings.
 - (b) Drawings in Adobe Acrobat 2020 (or earlier version; minimize pdf file size by converting files from AutoCAD or other programs);
 - (c) Project Manual in Word 2016 (or earlier version); and
 - (d) Project Manual in Adobe Acrobat 2020 (or earlier version; minimize pdf file size by converting files from Word or other programs, rather than scanning printouts).

2.G.11) It is not intended by this Agreement to impose upon the A/E the duty of a guarantor of the construction contractor(s). It is, however, the intent of the Agreement to impose upon the A/E the duty of the faithful fulfillment, in accordance with the standard of care ordinary to the profession, of the performance of the duties specifically enumerated herein and for the close monitoring of the work of its consultants as if the work were performed by the A/E. As such, this shall not

preclude the entitlement to COUNTY of reasonable expectation that systems as designed by the A/E or their consultants will operate as anticipated by COUNTY upon faithful completion of construction.

2.H. Commissioning Phase: NOT USED

3. ARTICLE 3: COUNTY'S RESPONSIBILITIES

- 3.A. COUNTY will determine the project scope for which the professional design services are required and will fully cooperate in achieving completion of that work.
- 3.B. COUNTY will establish an internal operating procedure for timely and proper performance of any COUNTY duty required to fulfill the needs of the project.
- 3.C. COUNTY will provide available information regarding the requirements for the project, which set forth COUNTY's objectives for program, schedule and overall budget. COUNTY will make available to the A/E data known to COUNTY or requested by the A/E, which may be needed for the fulfillment of the professional responsibility of the A/E. This data may include, but is not limited to, prints of existing buildings or record drawings and COUNTY standards and guides. Such documents will be the most recent and accurate available. The use of any such data by the A/E shall be without contractual or legal significance unless otherwise established elsewhere in this Agreement. However, providing of documents by COUNTY shall not relieve the A/E from the responsibility for conducting a field survey to verify existing conditions as specified herein.
- 3.D. COUNTY will communicate to the A/E the format of the documents required to be submitted.
- 3.E. COUNTY will examine documents submitted by the A/E and will render decisions regarding them promptly, to avoid unreasonable delay in the progress and sequence of the A/E's work. COUNTY will coordinate review comments from the User agency and COUNTY staff prior to issuance to the A/E.
- 3.F. COUNTY will distribute Construction Documents and any necessary addenda to prospective bidders, and conduct the bid opening for the project.
- 3.G. COUNTY will prepare and process the Agreements between COUNTY and A/E, and between COUNTY and construction contractor(s).
- 3.H. Unless otherwise specified in this Agreement, COUNTY will arrange for services of a testing laboratory to furnish structural, chemical, mechanical and other laboratory tests, inspections and reports as required by law or deemed necessary by COUNTY.

4. ARTICLE 4: COMPENSATION

- 4.A. A/E fees for basic services will be compensated by COUNTY in accordance with the Terms and Conditions of this Agreement as follows:
 - 4.A.1) COUNTY will pay the A/E a lump sum fee of \$216,500.00.
- 4.B. The A/E's Compensation for Additional Services, as described in Article 4.D., will be computed as follows:
 - 4.B.1) Principals' time at a fixed rate of \$175.00 per hour, unless separate amounts are provided for each Principal. For the purposes of this Agreement, the Principals are:

Ryan Schanhofer, President
Christopher Ehlert, Director

4.B.2) Other design staff shall be billed at these fixed rates:

Senior engineer: \$145.00 per hour

Junior engineer: \$105.00 per hour

Drafting: \$100.00 per hour

Clerical: \$80.00 per hour

4.B.3) Employee's time shall be computed using the employee's basic hourly salary and include overhead costs for clerical support and mandatory and customary benefits such as statutory employee benefits, insurance, sick leave, holidays and vacations, pensions and similar benefits for persons in consultation, research and design in producing drawings, specifications and other documents pertaining to the project and for services during construction at the site.

4.C. Reimbursable Expenses:

4.C.1) Reimbursable Expenses are actual, incidental expenses incurred by the A/E, its employees or consultants, in the interest of the project and are not included in overhead costs for the Fees for Basic Services (4.A.) and Additional Services (4.D.). Reimbursable Expenses shall be incurred or contracted for only with PRIOR written approval from COUNTY. Such approval shall be based on a written proposal delineating the nature of the services, the time involved, the estimated cost thereof, and the individuals or firms involved. Payment Requests from consultants and construction contractors providing these Reimbursable Expenses shall be reviewed by the A/E to check the accuracy of and entitlement to the sums requested. There are no markups allowed for Reimbursable Expenses. Reimbursable Expenses may include, but are not limited to, the following incidental expenses:

4.C.1) a. Expense of reproduction of drawings and specifications, excluding the review sets required in Article 2.

4.C.1) b. Expense of a site survey when needed.

4.C.1) c. Expense of a geotechnical investigation and soils & material testing when required.

4.C.1) d. Expense of State and / or City review fees when required.

4.C.2) Expenses not eligible for reimbursement shall include, but are not limited to, indirect project overhead costs associated with the Fees for Basic Services (4.A.) and Additional Services (4.D.) such as mileage, travel, lodging, replication of drawings for the design development meetings and subsequent design meetings, preliminary and final review document printing, handling and postage, cost of correspondence transmittals, telephone expenses, and CAD / electronic graphic services. Such expenses shall be included as part of the Lump Sum fee.

4.D. Additional Services:

4.D.1) The following services are in addition to but are not covered in Article 4.A. These services may be identified as part of the A/E's fee proposal and included with the lump sum fee as such. Compensation for these additional services or other services must be requested by the A/E, and subsequently approved by COUNTY prior to proceeding with the work. If the additional services are requested after the Agreement has been issued, such authorization shall be based on a written proposal delineating the nature of the services, the time involved, the estimated cost thereof, the effect on the project schedule and the individuals or firms involved. When authorized, an Agreement Change Order will be used to modify the A/E's Agreement.

4.D.1) a. Obtaining or participating in third party Value Engineering / Enhancement of the project when directed by COUNTY.

4.D.1) b. Providing services other than corrective design work and record documents, after final payment to the construction contractor(s).

4.D.1) c. Providing services as expert witness in connection with any public hearings, arbitration proceeding, or the proceedings of a court of record except when the A/E is party thereto.

4.D.1) d. Participation in post-project evaluations.

4.E. Payments to the A/E:

4.E.1) Payments of the A/E's lump sum fee will be made monthly, in proportion to services performed as confirmed by COUNTY, to increase the compensation to the following percentages of the lump sum fee at the completion of each phase of the work.

Construction Phase	100%
--------------------	------

4.E.2) No more than ninety percent (90%) of the A/E's lump sum fee shall be paid out prior to substantial completion of the project. When COUNTY confirms that development of punch lists, review of Operating & Maintenance Manuals, submittal of record documents, has been satisfactorily completed by the A/E, COUNTY will determine how and when the remaining lump sum fee is disbursed.

4.E.3) Payments for COUNTY-approved Reimbursable Expenses as defined in Article 4.C. and Additional Services of the A/E as defined in Article 4.D., will be made monthly upon request.

4.E.4) An A/E whose work is found deficient or fails to conform to the requirements set forth in the Agreement, is not entitled to further payments, until corrected to the satisfaction of COUNTY.

4.E.4) a. Payments to the A/E may be withheld for damages sustained by COUNTY due to error, omission, unauthorized changes or negligence on the part of the A/E. COUNTY will notify the A/E in writing of the alleged, specific damages and amounts involved, on a timely basis.

4.E.5) Payments to the A/E will not be withheld due to disputes between construction contractor(s) and COUNTY.

4.E.6) If the project is suspended for more than three (3) months in whole or in part, the A/E will be paid fees for services performed prior to receipt of written notice from

COUNTY of the suspension, together with Reimbursable Expenses then due and reasonable expenses resulting from this suspension, as approved by COUNTY. If the project is resumed after being suspended for more than three (3) months, the A/E's compensation will be subject to renegotiation.

5. ARTICLE 5: ACCOUNTING RECORDS

- 5.A. Records of the A/E's direct personnel, consultants, and reimbursable expenses pertaining to the project shall be kept in accordance with Generally Accepted Accounting Principles (GAAP) and shall be available to COUNTY or an authorized representative throughout the term of this Agreement and for at least three (3) years after final payment to the A/E.

6. ARTICLE 6: TERMINATION OF AGREEMENT

- 6.A. This Agreement may be terminated by COUNTY without cause upon ten (10) calendar days written notice to the A/E. In the event of termination, the A/E will be paid fees for services performed to termination date, reimbursable expenses then due, and termination expenses as approved by COUNTY. Work performed prior to the date of termination shall be in accordance with the terms and conditions of this Agreement. Upon termination, the results of such work shall immediately be turned over to the COUNTY Project Manager and is a condition precedent to further payment by COUNTY.
- 6.B. In the event the Agreement between the A/E and any consultant on this project is terminated, the results of work by that consultant shall immediately be turned over to the A/E.

7. ARTICLE 7: OWNERSHIP OF DOCUMENTS

- 7.A. All drawings and specifications, renderings, models, scale details, approved copies of shop drawings and other such documents prepared by the A/E or any consultant pursuant to this Agreement shall become the property of COUNTY on completion and acceptance of any of the A/E's work, or upon termination of the Agreement, and shall be delivered to COUNTY upon request.
- 7.B. Documents prepared under this Agreement may be used by COUNTY for informational purposes without additional compensation to the A/E.
- 7.C. Specifications and isolated, detail drawings inherent to the engineering design of the project, whether provided by the COUNTY or generated by the A/E, shall be available for future use by the parties to this Agreement and other parties, each at their own risk.

8. ARTICLE 8: LIABILITY- HOLD HARMLESS AND INDEMNIFICATION

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

9. ARTICLE 9: PROFESSIONAL LIABILITY INSURANCE

9.A. The A/E and its consultants retained under the terms of this Agreement shall procure and maintain a professional liability insurance policy with at least \$1,000,000 in coverage that provides for payment of the insured's liability for errors, omissions or negligent acts arising out of the performance of the professional services required under this Agreement. The A/E shall provide up-to-date, accurate professional liability information on the A/E's Data Record, including amount of insurance, deductible, carrier and expiration date of coverage. Upon request by COUNTY, the A/E shall furnish COUNTY with a Certificate of Insurance showing the type, amount, deductible, effective date and date of expiration of such policy. Such certificate shall also contain substantially the following statement: "The insurance covered by this certificate shall not be canceled, the coverage changed or reduced by endorsement, by the insurance company, except after thirty (30) calendar days written notice has been received by COUNTY." The A/E shall not cancel or materially alter this coverage without prior written approval by COUNTY. The A/E shall be responsible for consultants maintaining professional liability insurance during the life of their Agreement.

10. ARTICLE 10: OTHER INSURANCE

10.A. The A/E and its consultants retained under terms of this Agreement shall:

10.A.1) Maintain Worker's Compensation Insurance:

10.A.1) a. Procure and maintain Worker's Compensation Insurance as required by State of Wisconsin Statutes for all of the A/E's and consultant's employees engaged in work associated with the project under this Agreement.

10.A.1) b. Maintain Employer's Liability Insurance with a policy limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Insurance may be met by a combination of primary and excess coverage.

10.A.2) Procure and maintain during the life of this Agreement, and until one year after the completion of this Agreement, Commercial General Liability Insurance, including Products and Completed Operations for all claims that might occur in carrying out the Agreement. Minimum coverage shall be \$1,000,000 per occurrence, \$1,000,000 general aggregate, combined single limit for bodily injury, personal injury, and property damage. Such coverage shall be of the "occurrence" type form and shall include the employees of the A/E as insureds.

10.A.3) Procure and maintain Commercial Automobile Liability Insurance for all owned, non-owned, and hired vehicles that are used in carrying out the Agreement. Minimum coverage shall be \$1,000,000 per occurrence combined single limit for bodily injury and property damage. Insurance may be met by a combination of primary and excess coverage.

10.A.4) Provide an insurance certificate indicating the above Commercial Liability Insurance and property damage coverage, countersigned by an insurer licensed to do business in Wisconsin, covering and maintained for the period of the Agreement. Upon request by COUNTY, the insurance certificate is to be presented on or before execution of the Agreement.

11. ARTICLE 11: MISCELLANEOUS PROVISIONS

11.A. A/E warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so.

- 11.B. Legal Relations. The A/E shall comply with and observe federal and state laws and regulations and local zoning ordinances applicable to this project and in effect on the date of this Agreement.
- 11.C. Approvals or Inspections. None of the approvals or inspections performed by COUNTY shall be construed or implied to relieve the A/E from any duty or responsibility it has for its professional performance, unless COUNTY formally assumes such responsibility in writing from COUNTY so stating that the responsibility has been assumed.
- 11.D. Successors, Subrogees and Assigns. COUNTY and A/E each bind themselves, their partners, successors, subrogees, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, subrogees, assigns and legal representatives of such other party with respect to covenants of this Agreement.
- 11.E. Claims. The A/E's project manager will meet with COUNTY's Project Manager to attempt to resolve claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof. Issues not settled are to be presented in writing to the COUNTY Director of Public Works for review and resolution. The decision of the Director of Public Works shall be final. Work shall progress during the period of any dispute or claim. Unless specifically agreed between the parties, venue will be in Dane County, Wisconsin.
- 11.F. Amendment of Agreement. This Agreement may be amended in writing by both COUNTY and A/E.
- 11.G. It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.
- 11.H. This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- 11.I. The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

12. ARTICLE 12: NONDISCRIMINATION IN EMPLOYMENT

- 12.A. During the term of this Agreement, A/E agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). A/E agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases and exceptions shall be permitted only to the extent allowable in state or federal law.

12.B. Civil Rights Compliance:

- 12.B.1) If A/E has twenty (20) or more employees and receives \$20,000 in annual contracts with COUNTY, the A/E shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. A/E shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of Chapter 19 of the Dane County Code of Ordinances. A/E shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous calendar year, a plan update is acceptable. The plan may cover a two-year period. If A/E has less than twenty (20) employees, but receives more than \$20,000 from the COUNTY in annual contracts, it may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If A/E submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of A/E's Plan is sufficient.
- 12.B.2) A/E agrees to comply with the COUNTY's civil rights compliance policies and procedures. A/E agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the A/E. A/E agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. A/E further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- 12.B.3) A/E shall post the Equal Opportunity Policy, the name of A/E's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. A/E shall supply to COUNTY's Contract Compliance Specialist upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- 12.B.4) A/E shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Specialist when such announcements are issued.

Attachment A

In addition to the project scope and work tasks outlined in the Draft Professional Services Agreement and in Addendum 1, additional assumptions made for the Cost Proposal are as follows:

Survey

- Includes verifying Contractor field staking and notes
- Assumes Contractor will provide as-built survey information

Meetings

- Includes organizing and leading the preconstruction and weekly meetings
- County staff will organize and invite meeting attendees

Construction Documents

- Daily records will be saved on OneNote (electronic format) and County staff will be provided access
- Field records will be uploaded and saved on KL Engineering's Sharepoint site and County staff will be provided access
- Project records will be available online and can be saved and/or downloaded at anytime and can also be saved to a USB device if requested
- Project staff will maintain a living as-built plan noting any field revisions, however, assumes the contractor will complete the official copy to be saved and retained by County staff

Construction Administration

- Inspection costs based on 1 inspector (40 hours per week for 30 weeks)
- Assumes as-builts will be completed by the contractor, if desired
- Assumes Dane County will review and process pay applications from the Contractor
- Assumes Dane County will provide any funding source breakdowns prior to the start of construction
- Assumes project staff will review material submittals for contract compliance and Dane County will specify any specific items they would like to review and/or provide final approval, prior to the start of construction
- Assumes project staff will generate any contract change orders and that Dane County will review and process
- Assumes inspection staff will be on-site to oversee all critical operations
- Assumes no weekend nor night work will be required
- Assumes County staff will be present during the single, final walk through to ensure owner, contractor, and project staff are able to compile any remaining work
- Assumes County staff will monitor and follow up with the contractor concerning any warranty work

Field Evaluations & Material Testing

- No effort is assumed to sample and test the existing soils
- Material sampling and testing includes density testing, concrete sampling & testing, and aggregate gradation tests