

Res 544
Significant

CONTRACT COVERSHEET

NOTE: Shaded areas are for County Executive review.

DEPARTMENT Land & Water Resources	CONTRACT/ADDENDUM #: 12296																		
1. This contract, grant or addendum: <input checked="" type="checkbox"/> AWARDS <input type="checkbox"/> ACCEPTS	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Contract</td> <td style="width:34%;">Addendum</td> </tr> <tr> <td colspan="2" style="text-align:center;">If Addendum, please include original contract number</td> </tr> <tr> <td><input type="checkbox"/> POS</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Co Lesse</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Co Lessor</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Intergovernmental</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Purchase of Property</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Property Sale</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input checked="" type="checkbox"/> Other:</td> <td><input type="checkbox"/></td> </tr> </table>	Contract	Addendum	If Addendum, please include original contract number		<input type="checkbox"/> POS	<input type="checkbox"/>	<input type="checkbox"/> Co Lesse	<input type="checkbox"/>	<input type="checkbox"/> Co Lessor	<input type="checkbox"/>	<input type="checkbox"/> Intergovernmental	<input type="checkbox"/>	<input type="checkbox"/> Purchase of Property	<input type="checkbox"/>	<input type="checkbox"/> Property Sale	<input type="checkbox"/>	<input checked="" type="checkbox"/> Other:	<input type="checkbox"/>
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<input checked="" type="checkbox"/> Other:	<input type="checkbox"/>																		
2. This contract is discretionary <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO																			
3. Term of Contract or Addendum: From: 01/01/2015 To: end of project																			
4. Amount of Contract or Addendum \$150,000																			
5. Purpose: Provide assistance in the implementation of an Adaptive Management project.																			
6. Vendor or Funding Source: Madison Metropolitan Sewerage District																			
7. MUNIS Vendor Code: 4769																			
8. Bid/RFP Number:																			
9. If grant: Funds Positions? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Will require on-going or matching funds? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																			
10. Are funds included in the budget? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO																			
11. Account No. & Amount, Org. & Obj. LWRCONSV 82540 Amount \$ 150,000																			
Account No. & Amount, Org. & Obj. _____ Amount \$ _____																			
Account No. & Amount, Org. & Obj. _____ Amount \$ _____																			
12. Is a resolution needed: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "YES," please attach a copy of the Resolution. If Resolution has already been approved by the County Board, Resolution No. & date of adoption 2014 RES-544																			
13. Does Domestic Partner equal benefits requirement apply? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO																			
14. Director's Approval <i>Ken Coona</i>																			

CONTRACT REVIEW/APPROVALS

Initials	Ftnt	Date In	Date Out
<i>MG</i> Received	_____	<i>3-6-15</i>	_____
<i>gt</i> Controller	_____	_____	<i>3/6/15</i>
<i>gt</i> Corporation Counsel	_____	<i>3/9/15</i>	<i>3/9/15</i>
<i>gt</i> Risk Management	_____	<i>3/6/15</i>	<i>3/9/15</i>
<i>gt</i> ADA Coordinator	_____	<i>3/4/15</i>	<i>3/9/15</i>
<i>CO</i> Purchasing Agent	_____	<i>3/9/2015</i>	<i>3/9/2015</i>
_____ County Executive	_____	_____	_____

VENDOR

Vendor Name & Address
MMSD 1610 Moorland Rd. Madison, WI 53713
Contact Person David S. Taylor
Phone No. 608-222-1201
E-mail Address

Footnotes:

1. _____
2. _____

Return To: Name/Title: Janet Crary/Account Clerk II	Dept.: Land & Water Resources
Phone: 224-3757	Mail Address: 5201 Fen Oak Dr., #208
E-mail: crary@countyofdane.com	Madison, WI 53718

CERTIFICATION

The attached contract: (Check as many as apply)

- conforms to Dane County's standard Purchase of Services Agreement form in all respects
- conforms to Dane County's standard Purchase of Services Agreement form with modifications and is accompanied by a revision copy¹
- is a non-standard contract which has been reviewed or developed by corporation counsel which has not been changed since that review/development
- is a non-standard contract previously reviewed or developed by corporation counsel which has been changed since that review/development; it is accompanied by a revision copy¹
- is a non-standard contract not previously reviewed by corporation counsel; it is accompanied by a revision copy
- contains non-standard/indemnification language which has been reviewed or developed by risk management and which has not been changed since that review/development
- contains non-standard insurance/indemnification language which has been changed since review/development or which has not been previously seen by risk management; it is accompanied by a revision copy
- contains non-standard affirmative action/equal opportunity language which has been reviewed or developed by contract compliance and which has not been changed since that review/development
- contains non-standard affirmative action/equal opportunity language which has been changed since the earlier review/development by contract compliance or which has not been previously seen by contract compliance; it is accompanied by a revision copy¹

Date: 3-5-2015 Signed: Kevin Connors

Telephone Number: 224-3731 Print Name: Kevin Connors

MAJOR CONTRACTS REVIEW (DCO Sect. 25.20) This review applies only to contracts which both exceed \$100,000 in disbursements or receipts and which require county board review and approval.

EXECUTIVE SUMMARY (Attach additional pages, if needed).

1. **Department Head** Contract is in the best interest of the County.
Describe any deviations from the standard contracting process and any changes to the standard Purchase of Services Form Agreement.

Date: _____ Signature: _____

2. **Director of Administration** Contract is in the best interest of the County.
Comments:

Date: 3/10/15 Signature: [Signature]

3. **Corporation Counsel** Contract is in the best interest of the County.
Comments:

Date: 3/9/15 Signature: [Signature]

¹A revision copy is a copy of the contract which shows the changes from the standard contract or previously revised/developed contract by means of overstrikes (indicating deletions from the standard language) and underlining (showing additions to the standard language).

SERVICES AGREEMENT

This Services Agreement (the "Agreement") is made and entered into this ___ day of _____ 2014, by and between Madison Metropolitan Sewerage District (the "District") and Dane County, Wisconsin (the "County")."

RECITALS:

- A. District and County in collaboration with others are pursuing an approach to address reductions of phosphorus in the Yahara River Watershed through an Adaptive Management project.
- B. District, County, and others have been working on an adaptive management pilot project and are looking at the steps necessary to move towards full implementation of an Adaptive Management project.
- C. The County is able to provide assistance in the implementation of an Adaptive Management project and the District desires to obtain such assistance from the County.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other consideration, the receipt and sufficiency of which is hereby acknowledged, the District and the County agree as follows:

1. **Scope of Work.** County shall perform the services and provide the deliverables specified in the Scope of Work, Deliverables and Payment Schedules attached hereto and incorporated herein as Attachment A-1 (the "Work" or the "Services").
2. **Term of Agreement.** County shall commence the Work on _____ 20___, and shall perform and complete the Work as required by Attachment A-1. Time is of the essence in the performance and completion of the Work.
3. **Modification of the Agreement.** The term of this Agreement, the Services, and the Contract Price under this Agreement may be modified by the written agreement of the County and the District.
4. **Compensation.** District shall pay County at the times and in the amounts stated in Attachment A-1 (the "Contract Price").
5. **Performance.** County shall furnish all services, supplies, tools, and equipment to accomplish the Work in a professional manner. In performance of Services, County shall

exercise the degree of skill and care required by the highest level of accepted professional standards. County shall use existing, experienced, and qualified County employees to perform the Work.

County shall participate in meetings with District personnel, District's other consultants or contractors, representatives of governmental agencies as reasonably required by the District.

6. **Responsibility for Acts, Errors and Omissions.** Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense. In situations of joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of the parties to impose liability beyond that imposed by state statutes.
7. **Termination for Cause.** The County may terminate this Agreement upon 90 days written notice (the "90 day Termination Period") to the District if the District fails to deliver payments by the schedule required in this Agreement. The District may terminate this Agreement upon 90 days' written notice to County (the "90 Day Termination Period") upon the happening of the following events:
 - (a) County fails to deliver any reports, drawings, designs, key project deliverables, documents or other materials in final form reasonably acceptable to District by the schedule required by this Agreement.
 - (b) County fails to perform any services required by this Agreement in a timely and professional manner or fails to reasonably cooperate with District.

In the event that either party terminates this Agreement by giving the 90 day notice of termination, such termination shall be effective on the last day of the 90 Day Termination Period.

8. **Relationship of Parties.** County is an independent consultant. District has direction and control only as to the end result to be accomplished, and the County has direction and control over the means and method of accomplishing that end result.

County shall not subcontract or assign all or any portion of the Work without prior written approval of District. Notwithstanding the previous sentence, the District acknowledges and agrees that the County intends to contract with agricultural producers, other government agencies, and consultant(s) who may be hired to help with database and software development.

County shall comply with all federal, state, and local statutes, rules, regulations, and ordinances related to the County's performance of the Work.

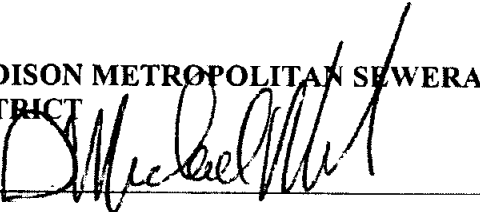
9. **Permits, Laws, Regulations, and Public Ordinances.** County will secure at its expense all required permits and licenses.
10. **Governing Law and Interpretation.** This Agreement shall be governed by laws of the State of Wisconsin. If any provision of this Agreement is held unenforceable, the remainder of these provisions shall be given effect to the maximum extent possible. The parties agree to reform this Agreement to replace any such invalid or unenforceable provisions that come as close as possible to the intention of the stricken provision.
11. **Nonwaiver.** Neither an extension of time for any reason beyond the date fixed herein for the completion of the Agreement or acceptance of any Work shall be deemed to be a waiver or abandonment of District's right to abrogate this Agreement or to enforce the provisions of this Agreement.
12. **Patent Guarantees.** County warrants its services covered by this Agreement will not infringe or contribute to the infringements of any patents, trademarks, or copyrights, either in the USA or foreign countries, excluding, however, any infringements solely related to concepts, designs, or ideas furnished in writing by District which, as between District and County, originated with District.
13. **Use of Documents.** Documents and plans created by County pursuant to this Agreement are for the benefit and use of District. Except for documents and plans subject to confidentiality requirements of federal funding programs, County shall provide to District complete copies of all final documents and plans, in paper and electronic form as requested by District.
14. **Complete Agreement.** This Agreement constitutes the complete and entire agreement between the parties and supersedes any previous communications, representations, or agreement, whether oral or written, with respect to the subject matter hereof.
15. **Captions.** The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.
16. **Giving Notice.** Whenever any provision of this Agreement requires the giving of written notice, it shall be deemed to have been validly given if delivered in person to or if delivered at or sent by registered or certified mail postage prepaid to David S. Taylor, Madison Metropolitan Sewerage District, 1610 Moorland Road, Madison, Wisconsin 53713.

17. **Miscellaneous.** This Agreement has been executed by an authorized representative of both parties.

**MADISON METROPOLITAN SEWERAGE
DISTRICT**

DANE COUNTY, WISCONSIN

By: _____



By: _____

Title: _____

CHIEF ENGINEER + DIRECTOR

Title: _____

Date: _____

3-5-15

Date: _____

Attachments:

Attachment A-1 – Scope of Work, Deliverables and Payment Schedule

ATTACHMENT A-1
SCOPE OF WORK, DELIVERABLES AND PAYMENT SCHEDULE

1. Scope of Work

This agreement covers the time period of January 1, 2015 through the start date of a full scale adaptive management project, or when the District notifies the county in writing of its determination that it will not pursue a full scale adaptive management project. Pursuant to this Agreement, the County will provide assistance to the District in several key areas to help position the District for a transition from the pilot project to a full scale adaptive management project. This assistance includes, but is not limited to the following work:

- a. Assessing and quantifying the phosphorus load reduction requirements for a full scale adaptive management project
- b. Evaluating the “practical” phosphorus reduction potential in the watershed and the ability to achieve the required phosphorus reductions
- c. Quantifying actual phosphorus reductions in the watershed for 2014 and 2015, and where necessary, projecting future phosphorus reductions
- d. Developing and maintaining a refined cost model for the full scale adaptive management project, which includes anticipated overall staffing requirements
- e. Developing an implementation plan to achieve the required phosphorus reductions required under a full scale adaptive management plan
- f. Developing a full scale adaptive management plan consistent with DNR guidance
- g. Conducting a needs assessment to support development of a system tracking, verifying and accounting for phosphorus reductions
- h. Developing and maintaining a streamlined electronic recordkeeping/reporting/monitoring system for phosphorus reduction verification purposes, as determined by the needs assessment
- i. Providing on-going technical, administrative and management support for various District outreach efforts to communities and other partners that are currently participating in the pilot project. This includes development of maps and other presentation materials, data analysis, participation in various outreach meetings, and other relevant support as requested by the District
- j. Providing miscellaneous project support as requested by the District

2. Key Project Deliverables for 2015

- a. Development and submittal to the District of a final 2014 annual report for the pilot project by March 1, 2015

- b. Development and submittal to the District of a 2015 work plan for the pilot project on or before February 28, 2015
- c. Submittal to the District of quarterly overall progress reports for the pilot project in 2015
- d. Substantial completion of an adaptive management cost model on or before February 28, 2015 with on-going support for the model through the end of 2015
- e. Tracking and quantification of actual phosphorus reductions in the entire Yahara watershed by stream reach for 2014 by March 1, 2015. Tracking and quantification will include both new and carryover pounds from previous engineering and management practices.
- f. Completion of an implementation plan to achieve the phosphorus reductions required for a full scale adaptive management project
 - i. Submittal to the District of a draft plan at an approximately 50% completion level on or before June 30, 2015
 - ii. Submittal to the District of a substantially completed plan on or before September 30, 2015
- g. Quarterly updates on progress related to meeting the project scope and key project deliverables

3. Scope of Work and Key Project Deliverables after 2015

There may be a need for a transition period between the end of the adaptive management pilot project (December 31, 2015) and startup of a full scale adaptive management project. Continued County assistance would be required during a transition period. In the event that a transition period is needed, detailed annual scopes and project deliverables for each transition year starting in 2016 will be determined through mutual agreement by the District and County by September 1st of the preceding year. For example, the detailed annual scope and project deliverables for 2016 would be identified by the District and County by September 1, 2015. Known project deliverables for 2016 as of the date of execution of this agreement include:

- a. Development and submittal to the District of the first draft of final pilot project report by February 28, 2016
- b. Tracking and quantification of actual phosphorus reductions in the Yahara watershed by stream reach for 2015 by March 1, 2016. Tracking and quantification will include both new and carryover pounds from previous engineering and management practices.
- c. Completion of the needs assessment portion of a new watershed information management database by April 1, 2016

4. Payment Schedule

- a. Payment for 2015 will equal \$150,000 and will be made in the following two installments:

Installment 1: \$75,000 upon written notification from the County that two new soil conservation positions have been hired. (The purpose of the hiring is to allow existing, experienced, and qualified County employees to perform the Work)

Installment 2: \$75,000 upon substantial completion of the implementation plan for the full scale adaptive management project

- b. If a transition period between the end of the adaptive management pilot project (December 31, 2015) and startup of a full scale adaptive management project is needed, the annual base payment in each transition year will equal \$200,000. In addition, if the \$150,000 annual funding provided to the County through Yahara WINS during the pilot project is no longer available or is only partially available in a transition year(s), the District will make an additional payment representing the difference between \$150,000 and the actual amount of funding provided to the County by Yahara WINS in a transition year(s). Annual payments in transition years will be made to the County in three equal installments with each installment tied to a key project deliverable determined through mutual agreement by the District and County by September 1st of the preceding year.

5. Phosphorus Reduction Goal

The phosphorus reduction goal for the entire Yahara Watershed for 2015 is 4,700 new pounds of phosphorus and 13,900 pounds of total phosphorus (new pounds plus carryover pounds). The phosphorus reduction goal for the Yahara Watershed in future years will be informed by the Yahara WINS cost model. New pounds and carryover pounds represent combined totals for all work conducted in the Yahara Watershed (i.e. the pilot project area and all remaining portions of the Yahara Watershed) by all entities functioning in a brokering role.