

[Insert Contract Title]

THIS CONTRACT is entered into by and between the State of Wisconsin, Department of Natural Resources (the Department) and [Insert Contractor's Name] (the Contractor) for the purpose of [Describe purpose of contract in terms of services, products, etc., to be obtained or results to be accomplished.]

FOR AND IN CONSIDERATION of the terms and conditions contained in this contract, the above-named parties agree:

1. PERIOD OF AGREEMENT: This contract shall commence upon its signing by both parties and continue until [Insert ending date], during which period all performance as described in this contract shall be fully completed to the satisfaction of the Department.
2. CANCELLATION. The Department reserves the right to cancel this contract in whole or in part, without penalty, due to nonappropriation of funds or for failure of the Contractor to comply with terms, conditions, or specifications of this contract.
3. ENTIRE CONTRACT; AMENDMENTS. This contract, together with the specifications in the bid request (if any) and referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this contract are hereby superseded. Any contractual revisions including cost adjustments and time extensions may be made only by a written amendment to this contract, signed by both parties prior to the ending date of this contract.
4. ASSIGNMENT. Neither this contract nor any right or duty in whole or in part by the Contractor under this contract may be assigned, delegated or subcontracted without the written consent of the Department. If upon the written consent of the Department this contract or any right or duty in whole or in part is assigned, the Assignee(s) shall expressly agree to assume and perform all relevant obligations expressed under the terms of this contract and be bound by the terms and conditions of this contract. Assignment in whole or in part of this contract does not absolve the Contractor of any liability or obligation expressed and agreed to hereunder.
5. DESCRIPTION OF WORK OR PRODUCTS. The Contractor agrees to provide the following to the satisfaction of the Department:  
  
[Describe in detail the goods or services to be provided; include schedules or deadlines and any reports that will be due.]
6. PAYMENT. The Contractor, for providing performance satisfactory to the Department, shall receive the following consideration:
  - a) [Amount] upon acceptance (delivery) of [Item].
  - b) [Amount] upon acceptance (delivery) of [Item].

(Final) payment of a maximum of \$[Amount] will be made upon receipt and acceptance of [final deliverable] by [date required].

Billings by the Contractor shall be made on a [monthly; quarterly, etc.] basis for review and acceptance:

[Set out name and mailing address of Department contract manager.]

**[OR, IF REIMBURSEMENT:]**

The Department agrees to reimburse the Contractor for actual net costs incurred in the following budgeted expenditures categories:

|    | <u>Category</u>  | <u>Cost</u>           |
|----|--|-----------------------|
|    | <b>[Describe the budget categories and amounts and include total costs.]</b> |                       |
| c) | <b>[Insert category]</b>   | <b>[Insert cost]</b>  |
| d) | <b>[Insert category]</b>   | <b>[Insert cost]</b>  |
|    | Total  | <b>[Insert total]</b> |

Final payment of a maximum of \$**[amount]** will be made upon receipt and acceptance of **[final deliverable]** by **[date required]** and a detailed summary by category of expenditures incurred.

Billings by the Contractor shall be made on a **[monthly; quarterly, etc.]** basis for review and acceptance:

**[Set out name and mailing address of Department contract manager.]**

7. RECORDS, ACCESS. The Contractor shall, for a period of three (3) years after completion and acceptance by the Department, maintain books, records, documents and other evidence directly pertinent to performance on work under this contract in accordance with generally accepted accounting principles and practices. The Contractor shall also maintain the financial information and data used in the preparation or support of the cost submission in effect on the date of execution of this contract and a copy of the cost summary submitted to the Department. The Department, **[Name of federal funding agency]**, **[its][their]** agents and **[its][their]** duly-authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit and copying. The Contractor shall provide proper facilities for such access and inspection. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such dispute, performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such dispute, appeal, litigation, claim or exception.
8. INDEPENDENT CONTRACTOR. The Contractor is an Independent Contractor for all purposes and is not an employee or agent of the Department.

**[OR, DEPENDING ON THE NATURE OF THE AGREEMENT:]**

The Department agrees that the Contractor shall have sole control of the method, hours worked, and time and manner of any performance under this contract other than as specifically provided herein. The Department reserves the right only to inspect the job site or premises for the purpose of insuring that the performance is progressing or has been completed in compliance with the contract. The Department takes no responsibility for supervision or direction of the performance of the contract to be performed by the Contractor or the Contractor's employees or agents. The Department further agrees that it will exercise no control over the selection and dismissal of the Contractor's employees or agents.

9. INDEMNIFICATION. The Contractor agrees to save, keep harmless, defend and indemnify the State of Wisconsin, Department of Natural Resources and all its officers, employees and agents, against any and all liability, claims and costs of whatever kind and nature, for injury to or death of

any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this contract or omissions of Contractor's employees, agents or representatives.

**[OR, FOR CONTRACTS BETWEEN STATE AGENCIES:]**

Each party agrees that, as related to this interagency contract, any loss or expense (including costs and attorney fees) by reason of liability imposed by law, will be charged to the agency responsible for the officer, employee or agent whose activity caused the loss or expense.

10. **INSURANCE RESPONSIBILITY:** The contractor performing services for the State of Wisconsin shall:
  - a) Maintain worker's compensation insurance for all employees engaged in the work.
  - b) Maintain commercial liability and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned, and hired vehicles that are used in carrying out the contract. Minimum coverage shall be one million (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.
  - c) Provide an insurance certificate indicating this coverage, counter-signed by an insurer licensed to do business in Wisconsin, covering the period of the agreement/contract. The insurance certificate is required to be presented prior to issuance of the purchase order or before commencement of the contract.
  - d) The state reserves the right to require higher or lower limits where warranted.
  
11. **NONDISCRIMINATION.** In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in section 51.01(5), Wis. Stats., sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Contractor further agrees to take affirmative action to ensure equal employment opportunities. The Contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause. Failure to comply with the conditions of this clause may result in the Contractor being declared an "ineligible" contractor, termination of the contract, or withholding of payment.
  
12. **AFFIRMATIVE ACTION.** If this contract is for an amount of fifty thousand dollars (\$50,000) or more the Contractor agrees to submit a written affirmative action plan to the Department within 15 business days after the contract commences if an acceptable plan is not already on file with the State of Wisconsin. (Contractors with an annual work force of fewer than fifty (50) employees are exempted from this requirement.) Failure to comply with the conditions of this clause may result in the Contractor being declared an "ineligible" contractor, termination of the contract, or withholding of payment.

13. **GUARANTEED DELIVERY.** Failure of the Contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the Contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the Department's administrative costs.
14. **APPLICABLE LAW.** This contract shall be governed by the laws of the State of Wisconsin. The Contractor shall at all times comply with all federal, state and local laws, ordinances and regulations in effect during the period of this contract.
15. **ANTITRUST ASSIGNMENT.** The Contractor and the Department recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the Department. Therefore, the Contractor hereby assigns to the Department any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.
16. **PAYMENT TERMS AND INVOICING.** Payment shall be considered timely if the payment is mailed, delivered, or transferred by the later of the following:
  - a) The date specified on a properly completed invoice for the amount specified in the order or contract, or
  - b) Within thirty (30) days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract or within thirty (30) days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later if the Department does not notify the sender of receipt of an improperly completed invoice within ten (10) working days after it receives the invoice of the reason it is improperly completed.
17. **TAXES.** The Department is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of all federal tax and Wisconsin sales or use tax on its purchases. The State of Wisconsin, Department of Natural Resources has a tax exempt number of 040690. The Department may be subject to other states' taxes on its purchases in that state depending on the laws and of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.
18. **TAX DELINQUENCY.** Contractors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
19. **[OPTIONAL] PERFORMANCE BOND.** The Contractor has deposited cash or provided a performance bond in the amount of \$[amount] to assure the complete performance of this contract. The Contractor agrees that upon breach of any term or condition of this contract, as determined by the Department, such cash or bond shall be forfeited to the Department as liquidated damages unless the Department determines and chooses to seek actual damages. The Contractor further agrees that such cash or bond shall not be returned unless and until the Department determines the contract has been fully completed.
20. **[OPTIONAL] LIABILITY.** The work to be performed under this contract is to be performed entirely at Contractor's risk. Contractor hereby assumes all liability with all work and all services to be provided by the Contractor under this contract.
21. **[OPTIONAL] PATENT INFRINGEMENT.** The Contractor selling to the Department the articles described herein guarantees the articles were manufactured or produced in accordance with the applicable federal labor laws and that the sale or use of the articles described herein will not infringe any United States patent. The Contractor covenants that it will at its own expense defend

every suit which may be brought against the State of Wisconsin (provided that the Contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.

22. [OPTIONAL] COPYRIGHT OWNERSHIP. The Contractor agrees that the Department shall be the copyright owner of the works produced under this contract.

[Note: If possible, the Department should negotiate ownership of the copyright.]

or

The Contractor shall be the copyright owner of the works produced under this contract. The Contractor shall, by separate licensing agreement, grant to the Department a royalty-free, non-exclusive, irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Department purposes, the works produced under this contract. All reproduction of the works shall bear the Contractor's copyright notice.

[Note: Contact the Bureau of Legal Services for preparation of a licensing agreement, and for any questions concerning copyright ownership.]

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

Date \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

CONTRACTOR

Date \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

INITIALS  
DOC NAME