

REQUEST FOR QUALIFICATIONS
FOR
MILWAUKEE STREETCAR PROJECT
FINAL DESIGN SERVICES

Issued by:

City of Milwaukee
Department of Public Works
Infrastructure Services Division
Date: October 15th, 2012



Proposals must be submitted
No later than 4:00 PM CDT
November 9th, 2012

LATE SUBMITTALS WILL BE REJECTED

(This document contains 53 pages)

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Overview

The purpose of the Milwaukee Streetcar Project is to implement a starter streetcar system with modern vehicle technology that circulates people around downtown, links downtown destinations, activity centers and neighborhoods and supports planned development. Currently the city lacks a high-quality transit system that meets these needs. The initial 2.1 mile system shall connect the Milwaukee Intermodal Station and the dense housing on the lower East Side providing service to many residential, commercial, employment, parking, and hotel destinations. Extensions totaling 1.5 miles in length have been proposed and shall be pursued as funding becomes available. **Exhibit C** is the draft Environmental Assessment for the project that identifies the proposed alignment and provides additional project background. The Environmental Assessment is available at:

<http://www.themilwaukeeestreetcar.com/pdf/Milwaukee-Streetcar-Environmental-Assessment.pdf>

The project is currently completed through Alternatives Analysis phase, the NEPA environmental documentation phase and the preliminary engineering phase (30% design). **Exhibit D** is the 30% design plans and is available at www.themilwaukeeestreetcar.com/30percentdesign.

In June 2012 the City of Milwaukee Department of Public Works (DPW) engaged the services of an Owners Representative (OR) via an RFQ process to assist them to manage and administer the entire project from 30% preliminary engineering phase through system testing, start up and project closeout. This project will be delivered via the traditional design bid build method.

Part of the OR's scope of services is to assist DPW with the procurement of the streetcars. Currently DPW and their OR are verifying if there are any potential vehicles which might be available to secure through exist options with other municipalities. On a parallel path the OR is in the process of drafting an RFQ for vehicle procurement to send out for industry review. DPW intends on finalizing the vehicle procurement method before the end of 2012. Please see **Exhibit F** for the Draft Vehicle Procurement RFP.

The City of Milwaukee Department of Public Works (DPW) is seeking a Final Design Consultant to:

- a) provide design support services and assist the City of Milwaukee's Owner's Representative in providing project management ; and
- b) complete the design from the current 30% documents (**Exhibit D**) through final design per the detailed scope of services (**Exhibit A**); and
- c) perform design coordination of the public and private utility relocations; and
- d) provide bid support and design support services during construction and
- e) provide public outreach and community relations services

The successful Final Design Consultant will provide these services under the direction of the Commissioner of Public Works, City Engineer and the OR. This Final Design contract will be awarded based on the most qualified respondent and the professional services contract between the successful Final Design Consultant and the City of Milwaukee will be negotiated on an "actual costs plus fixed fee not to exceed basis" using pre agreed hourly rates.

Anticipated Project Schedule

Final Design Award	Dec 2012
Final Design	Dec 2012-Dec2013
Vehicle Procurement RFP Issued or options Secured	TBD
Construction	
Utility Relocation	Sept 2013 – Aug 2014
Maintenance Facility Construction	Mar 2014 – April 2015
Guideway Construction	April 2014 – Feb2016
System Testing / Start-Up	Feb 2016 – April 2016
Initial Systems Operation	April 2016

For more schedule information please see **Exhibit B**.

Project Budget

The current budget allocated to this project is \$64.6 M. Project costs, including City utility relocation costs, preliminary engineering costs, final design costs, other soft costs, vehicle costs, maintenance facility construction costs, guideway construction costs, platform costs, overhead contact system costs, etc. shall not exceed the budget limit.

Federal Requirements

The Milwaukee Streetcar project is primarily funded with federal grant funding administered by the Federal Transit Administration. As such, all work, including work under the Final Designer's contract, is subject to federal requirements as may be updated during the course of the project. Relevant federal requirements are generally identified in the following regulations, FTA circulars, and guidance and are available at <http://www.fta.dot.gov/>.

Regulations

- Project Management Oversight, 49 C.F.R. Part 633
- Major Capital Investment Projects, 49 C.F.R. Part 611
- Joint FTA/FHWA regulations, Metropolitan Planning, 23 C.F.R. Part 450
- Joint FTA/FHWA regulations, Environmental Impact and Related Procedures, 23 C.F.R. Part 771
- U.S. DOT regulation, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, 49 C.F.R. Part 24

FTA Circulars

- C4220.1F, Third Party Contracting Guidance
- C5010.1D, Grant Management Guidelines
- FTA Master Agreement
- C5800/1, Safety and Security Management Plan
- Best Practices Procurement Manual

Guidance

- Guidance for Transit Financial Plans, June 2000
- Reporting Instructions for the Section 5309 New Starts Criteria
- Interim Guidance on Design-Build
- Quality Assurance and Quality Control Guidelines
- Project and Construction Management Guidelines, 2009 Update
- Value Engineering Process Overview, January 1998
- TCRP G-08 - A Guidebook for the Evaluation of Project Delivery Methods

However, these documents may not be inclusive of all federal requirements. The Final Designer shall be responsible to assure compliance with all federal requirements during project implementation. A listing of federal requirements applicable to Final Designs scope of services is attached as **Exhibit E**.

Scope of Services

The scope of services to be provided by the Final Designer for this project is attached as **Exhibit A**.

Consultant's Organization

The control and supervision of all aspects of this project shall be under the direction of a project manager who has sufficient experience in this type of work to oversee and manage the project. The project manager shall be assigned to this project until all work has been completed or until the owner agrees in writing that he/she may be replaced or removed.

A competent team of staff, adequate in number and experience to perform the scope of work herein described, shall be assigned to this project to accomplish the work within the stated time schedule.

Submission Requirements

Prospective consultants shall submit the following information assuming that the project will start in the last quarter of 2012. These requirements must be submitted in the order listed below to simplify the review of proposals:

1. Cover Letter. Cover letter should state commitment of key personnel identified in the proposal to meet the schedule as developed by the project team. Identify a summary of the key points regarding the team's qualifications to complete final design of a streetcar system. Provide a statement that your team does not present a conflict of interest to the City on this project. Identify the individual who will be the City's point of contact for any future correspondence. (2 pages maximum). Provide acknowledgement of addenda.
2. Experience and Qualifications (1 page description from the prime consultant and an additional one page description from each sub consultant) related to final design services for similar scale and scope of project. In addition, as an Appendix, provide no more than 5 projects relevant to the design of this project for the prime consultant and no more than 3 projects for each subconsultant. Identify staff that worked on the project that will be involved in the Milwaukee Streetcar project. Also identify a reference for each project with contact name, e-mail and telephone number.
3. Project Understanding, Approach, and Schedule. The project understanding, approach, and schedule should incorporate procurement of long lead time items as necessary and identify innovative techniques to address opportunities to expedite the final design process and schedule. Provide a detailed design schedule identifying how your project understanding and approach will conform or adjust the Master Project Schedule. (10 pages maximum excluding detailed schedule).
4. Team Organization - Project Manager and Key Personnel Credentials. Describe the Project Manager and key personnel credentials and experience related to the final design scope of services for projects of similar scale and scope. Demonstrate the technical and resource capacity to complete the services within the milestone schedule proposed for executing the work. Include:
 - a. Identify how you propose your project manager will work with DPW and their OR and what tools will be utilized to inform the City on progress of work and budget.
 - b. Availability of the project team and resources to complete the project on the proposed schedule.

- c. Proposers should provide a project team organizational chart along with details (short biography) on the experience of each staff person that will be working on the contract that is awarded.
 - d. Detailed resume of key team members and their relative experience. Include the detailed resumes in the Appendix.
 - e. Detailed resume of key members of sub-consultants and their relative experience. Include the detailed resumes in the Appendix.
 - f. Describe your working relationship with any sub-consultants assigned to this project.
5. Work Plan and Deliverables. Provide the proposed work plan and related deliverables for the final design scope of services. Identify any suggested additional scope of service items outside of those detailed in **Exhibit A**. Identify all key assumptions. (No page limit)
 6. The Disadvantaged Business Enterprise (DBE) participation goal for Final Design services is 17 percent. Indicate in your proposal how your firm intends to meet this requirement. Only firms certified by the Wisconsin Department of Transportation Disadvantaged Business Enterprise program are eligible to satisfy the DBE goal.
 7. Certificate of insurance coverage (see **Exhibit G** for insurance requirements) Provide in Appendix.
 8. Affidavit of Compliance – Disclosure of participation in or profits derived from slavery. Please see the attached form, **Exhibit H**. Complete the form and return it as part of your RFQ submission, as an Appendix, and send an additional copy to the address listed on the form.

Evaluation Criteria

The criteria listed below will be used to evaluate submittals and select a consultant to serve as the Owner's Representative during the implementation of the Milwaukee Streetcar Project:

- | | |
|--|------------|
| 1. Experience and Qualifications | 20% |
| 2. Team Organization - Project Understanding, Approach, and Schedule | 20% |
| 3. Project Manager and Key Personnel Credentials | 20% |
| 4. Work Plan and Deliverables | 30% |
| 5. DBE participation approach | 10% |

Based on evaluation of the submittals received by the Consultant Selection Committee, a ranking shall be established. If necessary, selected firms/teams will be invited to make an oral presentation and/or be interviewed to aid the Consultant Selection Committee in making final selections. DPW reserves the right to make the final selection in a manner that best serves DPW's interests.

Please ensure you have reviewed and fully understand the exhibits before responding to this RFQ.

General Conditions

RFQ timeline

- RFQ advertised

Oct 15, 2012

- | | |
|---|--------------------|
| • Request for Clarifications due | Oct 24, 2012 |
| • Response to Requests for Clarification posted | Oct 31, 2012 |
| • Proposals due | Nov 9, 2012 |
| • Interviews (if necessary) Week of | Nov 19, 2012 |
| • Contract Award | Dec 2012 |

- 1) Any and all inquiries, suggestions or requests concerning interpretation, clarification or additional information pertaining to this RFQ shall be made in writing or by e-mail **by 4:00 PM CDT, October 24, 2012** to:

Jeffrey S. Polenske, PE
 City Engineer
 Infrastructure Services Division
 Department of Public Works
 841 N Broadway, Room 701
 Milwaukee, WI 53202
 Jeffrey.Polenske@milwaukee.gov

Proposers may be disqualified if any unsolicited contact related to this RFQ is made with an employee or representative of the City other than the City Engineer during the RFQ process.

A response to all inquiries shall be prepared as one document and posted at http://www.mpw.net/services/bid_notice?178-2011. This response by the City of Milwaukee DPW will be the only official method whereby interpretations, clarification or additional information can be given.

- 2) The City of Milwaukee DPW reserves the right to accept or reject any or all proposals and to waive irregularities and technicalities which in its opinion would best serve the interests of the City. The City of Milwaukee DPW reserves the right to make investigations and inquiries as it deems necessary to determine the ability and qualifications of any submitting firm or team to perform the work or services requested. Award of the Final Designers contract is contingent on the issuance of FTA funding approval.
- 3) The City of Milwaukee DPW will begin contract negotiations with the firm or team it has selected as the best firm or team for the project. Should negotiations fail to reach the contracting stage, the City reserves the rights to terminate negotiations with this firm and may, at its discretion, begin negotiations with the second most qualified firm or team. This process may continue until a contract is negotiated and signed.
- 4) The DBE goal for the project is 17%. Only those firms that have been certified by the WISDOT's Disadvantaged Business Programs Office are eligible to satisfy the DBE goal.
- 5) The consultant shall comply with all applicable laws and regulations during the conduct of the contract. This includes any and all requirements to conduct business in the City of Milwaukee and State of Wisconsin. By submitting this proposal, the consultant is confirming that they are in compliance with these requirements.
- 6) The City of Milwaukee DPW shall not be liable for any costs incurred by firms/teams responding to this RFP, or any costs incurred in connection with any discussions, correspondence or negotiation sessions.
- 7) Insurance
 Any professional services contract entered into with consultants selected under this RFQ shall require the consultant to carry the necessary liability insurance during the terms of this contract or any extension thereof. A Certificate of Insurance shall be provided to the City as evidence

thereof naming the City of Milwaukee, its officers, agents and employees as an additional insured for public liability and property damage, and providing for a thirty (30) day notice to the City prior to termination or cancellation of the policy. The City reserves the right to require review and approval of the actual policy of insurance before it executes this agreement. The minimum limits of insurance required by the city are set forth in **Exhibit G** attached hereto.

8) Indemnification and Defense of Suits

Any professional services contract entered into with consultants selected under this RFQ shall require the consultant to defend, indemnify, and hold harmless the City of Milwaukee, its officers, agents and employees. In case any action in court, claim, or proceeding before an administrative agency is brought against the City or any of its officers, agents, or employees for the failure, omission, or neglect of the consultant, in whole or in part, to perform any of the covenants, acts, matters, or things by this agreement undertaken or for injury or damage caused by the negligence of the consultant, its officers, agents and employees, the consultant shall defend, indemnify, and save harmless the City and its officers, agents, and employees from all losses, damages, costs, expenses, judgments, or decrees arising out of such action. Provided however, that in no event shall consultant's total liability for loss (indemnity or defense) exceed consultant's prorata share of all fault causing any injury or loss. The City shall tender the defense of any claim or action at law or in equity to the consultant or the consultant's insurer, and upon such tender, it shall be the duty of the consultant or the consultant's insurer to defend such claim or action without cost or expense to the City or its officers, agents, or employees. The consultant shall be solely responsible for the conduct and performance of the services required under the professional services contract and for the results therefrom. This clause is not intended to have the consultant be responsible for the negligent errors or acts of the City, its officers, agents and employees or anyone else of whom they are responsible.

9) Records, Audits and Confidentiality

Any professional services contract entered into with consultants selected under this RFQ shall require the consultant to establish and maintain an original project file incorporating all project materials for future reference by the City. The consultant shall provide copies of all data, calculations, and reports, as may be requested by the OR or Commissioner of Public Works. All materials produced under the contract are to become and/or remain the property of the City of Milwaukee. The City may utilize such material in any manner or purpose, as it desires without the further permission, approval or compensation to the consultant. The consultant may not use or publish any materials produced under the contract without the written permission of the Commissioner.

The consultant shall maintain books; records, documents and other evidence directly pertinent to performance of the professional services contract in accordance with accepted applicable, professional practices. The City, or any of its duly authorized representatives, shall have access to such books, records, documents, papers, or any records of the consultant which are directly pertinent to this agreement, for the purpose of making audits, examinations, excerpts and transcriptions.

The City and the consultant shall comply with the *Public Records Law of Wisconsin* and the consultant will assist the City in conforming to the law. Except as otherwise authorized, those records shall be maintained for a period of seven (7) years after receipt of the final payment under the professional services contract.

All data and information pertaining to this RFQ shall be treated by the Proposer and its agents as confidential. The Proposer and its agents shall not disclose or communicate the aforesaid matters to a third party or use them in advertising, publicity, propaganda, and/or in another job or jobs, unless written consent is obtained from the City.

All material submitted pursuant to this RFQ shall become the property of the City of Milwaukee. Submittals shall be kept confidential and will not be released until the consultant selection process is complete with the exception of the Consultant Selection Committee.

10) Non Discrimination and Equal Employment

Any professional services contract entered into with consultants selected under this RFQ shall require the consultant to agree to not willfully refuse to employ, to discharge, or to discriminate any person otherwise qualified because of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status; to discriminate for the same reason in regard to tenure, terms or conditions of employment not to deny promotion or increase in compensation solely for these reasons; not to adopt or enforce any rule or employment policy which discriminates between employees on account of race, color, religion, sex, creed, age, disability, national origin or ancestry, lawful source of income, marital status, or familial status; not to seek such information as to any employee as a condition of employment; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status.

11) Subcontracting / Project Teams

Consulting firms responding to this RFQ may identify subconsultants in order to appropriately fulfill all aspects of the scope of services and DBE/EBE participation goals as outlined in this document. A prime consultant that enters into a professional services contract under this RFQ shall be responsible for all services performed under the contract by subconsultants.

Unless identified in the response to this RFQ, none of the services to be performed under professional service contracts shall be subcontracted without the prior written approval of the City. If any services are subcontracted, the performance of such services shall be specified by the professional services contract and shall be subject to each provisions contained therein.

12) E-Verify Compliance

The Consultant warrants that it complies with all Federal Immigration laws and regulations that relate to its employees with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the E-Verify system established by the Department of Homeland Security. The Consultant warrants (by submitting this RFQ) that it is in compliance with the Act in relation to all employees performing work in the United States and do not knowingly employ persons in violation of United States immigration laws, and: by the date of performance of services under this contract, the consultant and all subconsultants have implemented the E-Verify program for all employees who will perform work on this project. For information on E-Verify, please refer to the following website: <http://www.uscis.gov/>

13) Bid Protest Procedure

Protests must be filled and processed according to the Bid Protest Procedure. Please refer to Exhibit J.

Submittal Information

This RFQ is issued by the City of Milwaukee Department of Public Works. The City Engineer is the sole point of contact for the City of Milwaukee during the selection process.

Your proposal is to be submitted no later than 4:00 P.M. on **November 9th, 2012**. All proposals will be reviewed by an Evaluation Committee to be established by the City. The committee will recommend a successful proposer to the Commissioner and a contract will be executed by the parties.

Submit Ten (10) copies of the proposal to the attention of Mr. Jeffrey Polenske PE, City Engineer.

Proposals should be delivered to:

Jeffrey S. Polenske, PE
City Engineer
Infrastructure Services Division
Department of Public Works
841 N Broadway, Room 701
Milwaukee, WI 53202

Exhibit List

Exhibit A – Final Designers Scope of Services
(attached)

Exhibit B – Owners Master Project Schedule
(attached)

Exhibit C – Milwaukee Streetcar Environmental Analysis
(<http://www.themilwaukeeestreetcar.com/pdf/Milwaukee-Streetcar-Environmental-Assessment.pdf>)

Exhibit D – 30% Design Plans
(www.themilwaukeeestreetcar.com/30percentdesign)

Exhibit E – Federal Requirements
(attached and at <http://www.fta.dot.gov/>)

Exhibit F – Draft Streetcar Vehicle Procurement RFP
(www.themilwaukeeestreetcar.com/30percentdesign)

Exhibit G – Insurance Requirements
(attached)

Exhibit H – Anti-Slavery Affidavit
(attached)

Exhibit I – Form of Agreement
(attached)

Exhibit J – Bid Protest Procedure
(attached)

**MILWAUKEE STREETCAR
Request for Qualifications for Final Design
Exhibit A
SCOPE OF SERVICES**

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- 3.7 Capital Cost Estimate

4.0 Task: Bid Support Services

5.0 Task: Design Support During Construction

6.0 Task: Public Outreach and Community Relations

1.0 Task: Project Management

1.1 Administration

- Perform administration of the contract such as work assignments, subconsultant coordination, invoices, and monthly progress reports. Include in this documentation an update on use of Disadvantaged Business Enterprise (DBE) firms as required.
- Within the monthly progress reports, outline the work progress, significant issues needing resolution, and a financial report of your project fees.

1.2 Project Coordination

- Provide direction and overall supervision to the design team including its staff and subconsultants.
- Provide project manager along with designated project representatives for the design team.
- Oversee the allocation and delegation of all authorized work in accordance with the established work plan.
- Manage project design efforts to achieve uniformity and quality.
- Provide technical direction and monitor work activities.
- Conduct bi-weekly design team progress and coordination meetings with the City of Milwaukee (City) and the City's Owner's Representative (OR).
- Assist as a liaison with third parties as (e.g. WisDOT) in order to complete the work.
- Provide materials and technical support for any City-led outreach activities that may include presentations to City officials and staff, business groups, or neighborhood groups impacted or affected by the project.
- Provide materials and technical support for application to the Board of Zoning Appeals for a dimensional variance related to the streetcar maintenance facility.

1.3 Project Schedule

- Prepare a design schedule for the design activities and provide updates on a monthly basis.
- Schedule shall be in Microsoft Project format and shall be incorporated into the overall Project Master Schedule that will be maintained by the OR.

1.4 Document Control

- Develop and distribute standard formats for technical reports and memoranda.
- Implement a document control system that addresses the design phase and identifies and documents design issues and tracks action items and resolution efforts.
- Document control system shall be incorporated into the overall project Document Control System that will be maintained by the OR.
- Prepare documents for the document control system to be included in the Milwaukee Streetcar Project Management Plan (PMP). Once plan is completed, it will be the responsibility of the OR to maintain and update the PMP and any sub-plan updates.

1.5 Quality Management

- Prepare a Quality Management Plan outlining responsibilities and procedures to apply to all project deliverables prior to submittal.
- Provide ongoing quality control functions to audit compliance with the approved Quality Management Plan and be prepared for review and audit by the City or OR.
- Prepare documents for the Quality Management Plan to be included in the Milwaukee Streetcar PMP. Once plan is completed, it will be the responsibility of the OR to maintain and update the PMP and any sub-plan updates.

1.6 System Safety and Security Plan

- Prepare a System Safety and Security Plan (SSSP) for the Project in accordance with FTA guidance.
- Prepare a Certifiable Elements List (CEL) based upon a review of codes, standards, and design criteria that will be used for the final design for this project.
- Prepare documents for the SSSP to be included in the Milwaukee Streetcar PMP. Once plan is completed, it will be the responsibility of the OR to maintain and update the PMP and any sub-plan updates.

1.7 Design Review

- For each bid package, participate in three formal review meetings with the City and OR (60% design, 90% design, and final design).
- For each bid package, lead and participate in a constructability review meeting with the City and OR after 60% design is completed.

1.8 Value Engineering

- Lead and participate in a two-day value engineering (VE) workshop. The workshop shall occur within the first 45 days of the start of the Final Design Consultant's activities on the project.
- Provide the necessary technical representatives to evaluate the various project disciplines including overall project operations.

1.9 Environmental Assessment (EA) Update

- Develop an update to the approved EA to accommodate any modifications that are identified as part of the final design activity. In particular, it is anticipated that this task will need to address the alignment modification associated with changing the N Broadway Street bi-directional running alignment to a one-way pair alignment on both N Broadway Street and N Milwaukee Street.
- Prepare a draft EA update for review by the City and OR that can then be forwarded to the FTA for review and approval.

2.0 Task: Design Support

2.1 Design Criteria

- Prepare a draft and final design criteria manual for the project. The designer should commence with the use of previously identified design criteria that were completed as part of the preliminary engineering. The design criteria manual shall be according to the following general outline and include design criteria for the following:
 - a) General
 - b) Track Geometry and Trackwork
 - c) Street Reconstruction and Drainage
 - d) Utilities & Stray Current/Corrosion Control
 - e) Station Areas/Platforms
 - f) Landscaping and Urban Design
 - g) Structures
 - h) Lighting
 - i) Traffic Signals and Communications
 - j) Fare Collection
 - k) Traction Power and Electrification Systems
 - l) Operations and Maintenance Facility (OMF)
 - m) Other as recommended by the Final Design Consultant

- Prepare updates and revisions to the design criteria manual as necessary.
- Document design variances or exceptions as necessary.

2.2 Base Mapping

- Perform topographic field survey and prepare base mapping in sufficient detail for preparation of the final design plans as deemed necessary by the design team.
- Base mapping shall include locations of surface features located within the public right-of-way, including site surveys for the Traction Power System (TPS) locations and the OMF location.
- Base mapping shall include, but not be limited to, the following: hollow walks, surface markings of underground utilities, storm drain inverts, curb and gutter, and sidewalk and building thresholds at station areas.
- As part of the base mapping, coordinate/investigate the hollow walk areas of impacts and conditions prior to completing final design.

2.3 Geotechnical

- Prepare a field geotechnical investigation that will provide the necessary subsurface conditions information for the final design.
- Provide information for foundation designs for the OMF.
- Provide information for miscellaneous structures and foundations along the corridor, including Overhead Contact System (OCS) poles.
- Provide information to confirm streetcar guideway construction and roadway reconstruction cross-section.
- Provide information on soil resistivity for stray current analysis.
- Develop plan and perform hazardous materials survey and analysis of the entire alignment and the maintenance facility shop.

2.4 Traffic Analysis

- Prepare a traffic analysis report on the proposed for the Broadway/Milwaukee alignment consistent with the level of detail conducted as part of the Environmental Assessment.
- Review preliminary results with the City and OR prior to preparation of report for feedback.
- Prepare final traffic analysis report.

3.0 Task: Engineering Design

3.1 Utility Coordination

- Coordinate with the following to be prepared by the OR: stray current measures policy, utility owner work during operations policy, and draft utility coordination recommendations.
- For those utilities identified to be within and adjacent to the project limits, lead and participate in all coordination to determine the appropriate protection and/or relocation requirements.
- Schedule and hold meetings with the appropriate utility agencies and obtain information regarding the protection and/or relocation requirements.
- Maintain documentation of all conflicts between the proposed streetcar design and the existing utilities along the corridor.
- Maintain a formal list of utility contacts.
- Document utility agency comments to the final design documents and prepare responses.
- Coordinate with utility agencies on methods for protecting utilities in place, including protective sleeves, stray current protection, and offset manholes.
- Coordinate utility agency requirements for on-going access to utilities during streetcar operations.

3.2 Civil Engineering

3.2.1 Utility Design

- For the Milwaukee/Broadway alignment modification, develop utility relocation plans and details consistent with the level of detail shown in the 30% plans for the project.
- Complete final design for MMSD sanitary sewer, street storm drainage, water lines, and communications ductbank as shown in the 30% plans.
- Coordinate with City staff on incorporating final design plans (to be prepared by others) for City sewer.
- Coordinate utility design with private utility designs (to be performed by each private utility company) in coordination with the City and the OR.

3.2.2 Trackwork

- For the Milwaukee/Broadway alignment modification, develop trackwork design plans and profiles and special trackwork details consistent with the level of detail shown in the 30% plans for the project.
- Complete final design for trackwork and special trackwork for the project as shown in the 30% plans.
- Coordinate with the City and OR regarding the interface between the St. Paul Bridge project and the streetcar project.
- As part of the track final design, develop track geometry adjustments as necessary to minimize disruptions to utilities, businesses, and parking.
- Coordinate with the City and OR regarding delivery times of special trackwork, including curved rail for a determination of potential early procurement requirements

3.2.3 Street Reconstruction and Station Area

- For the Milwaukee/Broadway alignment modification, develop street reconstruction plans and details consistent with the level of detail shown in the 30% plans for the project.
- Complete final design for the street reconstruction including identifying the limits of pavement replacement, sidewalk replacement and curb and gutter replacement along the alignment and in the station areas as shown in the 30% plans.
- Coordinate with the City and OR regarding the interface between the St. Paul Bridge project and the streetcar project.

3.2.4 Traffic Signal Design

- For the Milwaukee/Broadway alignment modification, coordinate with City staff to develop and incorporate traffic signal designs, plans and details (design by others) consistent with the level of detail shown in the 30% plans for the project.
- Coordinate with City staff to incorporate traffic signal designs, plans and details (design by others) according to the 30% plans.
- Coordinate with the City and OR regarding the interface between the St. Paul Bridge project and the streetcar project.

3.2.5 Signing and Striping

- For the Milwaukee/Broadway alignment modification, develop signing and striping plans and details consistent with the level of detail shown in the 30% plans for the project.
- Complete final design for signage and striping according to the 30% plans.
- Prepare plans in accordance with the Manual of Uniform Traffic Control Devices and City standards.

3.2.6 Lighting

- For the Milwaukee/Broadway alignment modification, coordinate with City staff to develop and incorporate lighting designs, plans and details (design by others) consistent with the level of detail shown in the 30% plans for the project.
- Coordinate with City staff to incorporate lighting designs, plans and details (design by others) according to the 30% plans.
- Coordinate with the City and OR regarding the interface between the St. Paul Bridge project and the streetcar project.

3.3 Station Area Design

3.3.1 Urban Design

3.3.1.1 Pavements

- For the Milwaukee/Broadway alignment modification, develop urban design plans and details consistent with the level of detail shown in the 30% plans for the project.
- Develop design of hard surface elements such as pavement colors, pavers, and tactile warning devices.
- Prepare site layouts plans and details according to the 30% plans.
- Confirm pedestrian and bicycle circulation in and around station site areas.
- Minimize impact of station site areas to adjacent businesses.
- Coordinate grading issues with civil engineering tasks.

3.3.1.2 Lighting

- For the Milwaukee/Broadway alignment modification, coordinate with City staff to develop and incorporate lighting designs, plans and details (design by others) for the station areas consistent with the level of detail shown in the 30% plans for the project.
- Coordinate with City staff to incorporate lighting designs, plans and details (design by others) according to the 30% plans.
- Confirm lighting levels for pedestrian and bicycle circulation in and around stations.

3.3.1.3 Wayfinding

- Develop a station area wayfinding master plan to address station area signage and interface with existing City sign standards.
- Prepare final designs, plans, and details of wayfinding consistent with the station area master plan.

3.3.1.4 Landscaping & Irrigation

- Develop a station area landscaping and irrigation master plan to address station area landscaping integrated into the station area design (as applicable).
- Prepare final designs, plans, and details of landscaping and irrigation consistent with the station area master plan.

3.3.2 Shelters and Station Furnishings

- Develop station shelter designs according to the 30% plans.
- Coordinate shelter and station furnishings with pedestrian and bicycle movements in and around the station areas.
- Coordinate with various project disciplines to provide necessary electrical and communications equipment within the shelter and station furnishings.

3.4 OMF Design

- Based on the design criteria established in Task 2.1 and the 30% plans, complete the final design and plans for the Operations and Maintenance Facility (OMF).
- The OMF design and plans shall include, but not be limited to, the following:
 - Yard and parking lot layout
 - Grading, drainage and utilities
 - Shop layout
 - Architectural/structural features
 - Electrical, mechanical, plumbing
- The OMF design shall be coordinated with the vehicle selection and procurement being performed by the City and the OR.

3.5 Systems

3.5.1 Traction Power and Electrification System

3.5.1.1 OCS and Power System

- Consultant shall perform simulation models of the proposed OCS. Based on the simulation model, the Consultant shall determine the location, and rating of substation structures.
- Consultant will coordinate substation locations based on the 30% and urban design considerations such as noise and aesthetics, safety, and grounding requirements.
- Coordinate with the City and private utility agencies for available service voltage.
- Confirm preliminary pole locations and update OCS layout plans.
- OCS and Power System design shall consider future additional expansion of Phase II of the project.
- OCS and Power System design shall be coordinated with St. Paul bridge reconstruction.

3.5.1.2 Substation Design

- Prepare a substation building type and develop a foundation design relying on the reuse of existing substations to be provided by the City.
- Design shall include determination of types of exterior finishes, enclosures, or landscaping requirements.
- Design shall include development of the site design for grading, drainage, and utilities.

3.5.2 Communications

- Design the cable transmission system with capacity to support the core requirements and foreseeable future voice, video, and data communications needs.
- Establish passenger information systems requirements, including coverage for platforms and ticket vending areas, and on board vehicles.
- Design and prepare drawings in conformance with the design criteria for the future passenger information systems to be installed in fixed facilities.
- Establish safety and security systems requirements for providing future security surveillance in stations, and for system access points.
- Evaluate the need for each surveillance function, and recommend a configuration for each system. Prepare diagrammatic layouts and functional descriptions for each proposed system.
- Prepare facility-interfacing information and develop provisions to accommodate any remote surveillance system requirements. Review and coordinate with facility designs to ensure system integration.
- Communications system shall be coordinated with St. Paul bridge project.

3.5.3 Fare Collection

- Determine location and quantities of fare collection equipment and requirements for support and surveillance systems for maintenance and security. Ensure proper interfaces, scheduling, installation, and operation between the fare collection system and other facilities and systems.
- Identify related equipment requirements and related security requirements.
- Develop technical specifications and plans for the installation of the fare collection equipment. Coordinate with each facility design, designating power and control conduits for machine installation and locations for installation.

3.5.4 Stray Current Corrosion Control

- Define appropriate stray current control measures in plans and specifications.
- Establish stray current controls to be installed to traction power, invert, retaining walls, and trackwork systems to minimize flow of DC stray currents into the surrounding environment.
- Determine level of protection measures to be applied to maintain acceptable stray current ranges. Structure-to-earth resistivity measurements shall be obtained as needed to determine effects and magnitude of stray currents on existing utility installations, and to serve as reference for future investigations.

3.5.5 System Integration

- Provide assurance that the various elements of the Streetcar System, as designed, work together seamlessly to meet the operational performance goals.
- Confirm that system element hardware, software, firmware, equipment, and facilities meet the operational requirements.
- Coordinate and facilitate the interface and integration of system elements with the vehicle design.
- Identify and document all technical interfaces and define design responsibilities for managing and engineering the interface.

3.6 Project Specifications

- Develop project specifications for each discipline in a format acceptable to the City and OR.
- Prepare an outline of specification sections with the 60% design plans and prepare draft project specifications with the 90% design plans.
- Front end documents will be prepared by the OR with review and coordination with the Consultant.

3.7 Capital Cost Estimate

- Prepare a capital cost estimate at the 60%, 90% and final level of project completion for each bid package.
- The capital cost estimate will be at sufficient detail and in a format that will permit information to be included in the overall master project budget.
- The cost estimate will identify FTA Standard Cost Categories (SCC).
- Quantity take-off information shall be provided to the OR at each submittal for verification and shall provide a basis of estimate at each submittal.
- Prepare detailed information outlining major changes for each cost estimate update at each submittal phase of the project for each bid package.

4.0 Bid Support Services

- Attend pre-bid meeting for each bid package.
- Review/respond to questions during bidding for each bid package.
- Prepare addenda as required for each bid package based on the responses to the questions.

5.0 Design Support During Construction

- Attend preconstruction meeting for each bid package
- Attend periodic construction meetings as directed by the City and OR.
- Review and respond to RFIs through the OR.
- Review submittals and shop drawings and coordinate responses through the OR.
- Respond to design modifications as requested by the City and OR and prepare any necessary changes.
- Review and respond to RFIs related to system testing to be performed by the Contractor.
- Prepare record drawings based on information provided by the Contractor through the City and OR.
- Prepare and document environmental mitigation measures identified in the EA and/or EA update.

6.0 Public Outreach and Community Relations

- Develop a public outreach plan in cooperation with the City and the OR to be implemented during the design process.
- Implement the public outreach plan developed for the project.
- Develop a plan to commence branding the service for City and OR review and approval. Focus of branding should be limited to the vehicles and station areas.
- Implement the branding plan through a series of stakeholder meetings. Identify the number of meetings required to complete this activity.
- Attend preconstruction meeting for each bid package to provide contractor with understanding of outreach program.

Exhibit B
Master Project Schedule

Exhibit B - MKE Streetcar Master Schedule

ID	Task Name	Duration	Start	Finish	2013				2014				2015				2016				2017					
					Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	
1	MILWAUKEE STREETCAR	1023 days	Mon 7/2/12	Wed 6/1/16	MILWAUKEE STREETCAR																					
2	Award Final Designer	0 days	Sat 12/15/12	Sat 12/15/12	12/15 ♦ Award Final Designer																					
3	Final Designer Pre-design Activities	10 days	Sun 12/16/12	Thu 12/27/12	Final Designer Pre-design Activities																					
4	60% Design Activities	113 days	Thu 12/27/12	Mon 6/3/13	60% Design Activities																					
5	Utilities	90 days	Thu 12/27/12	Wed 5/1/13	Utilities																					
6	Offsite Maintenance Facility	90 days	Thu 12/27/12	Wed 5/1/13	Offsite Maintenance Facility																					
7	Guideway	90 days	Thu 12/27/12	Wed 5/1/13	Guideway																					
8	Budget Confirmation & Signoff	23 days	Thu 5/2/13	Mon 6/3/13	Budget Confirmation & Signoff																					
9	Common Council Meeting	0 days	Mon 6/3/13	Mon 6/3/13	6/3 ♦ Common Council Meeting																					
10	100 % Public Utility Design Phase	50 days	Tue 6/4/13	Mon 8/12/13	100 % Public Utility Design Phase																					
11	Design	20 days	Tue 6/4/13	Mon 7/1/13	Design																					
12	Budget Confirmation & Signoff	30 days	Tue 7/2/13	Mon 8/12/13	Budget Confirmation & Signoff																					
13	90% Design Activities	105 days	Tue 6/4/13	Mon 10/28/13	90% Design Activities																					
14	Offsite Maintenance Facility	75 days	Tue 6/4/13	Mon 9/16/13	Offsite Maintenance Facility																					
15	Guideway	75 days	Tue 6/4/13	Mon 9/16/13	Guideway																					
16	Budget Confirmation & Signoff	30 days	Tue 9/17/13	Mon 10/28/13	Budget Confirmation & Signoff																					
17	100% Design Activities	70 days	Tue 10/29/13	Mon 2/3/14	100% Design Activities																					
18	Offsite Maintenance Facility	40 days	Tue 10/29/13	Mon 12/23/13	Offsite Maintenance Facility																					
19	Guideway	40 days	Tue 10/29/13	Mon 12/23/13	Guideway																					
20	Budget Confirmation & Signoff	30 days	Tue 12/24/13	Mon 2/3/14	Budget Confirmation & Signoff																					
21	Vehicle Procurement	100 days	Mon 7/2/12	Fri 11/16/12	Vehicle Procurement																					
22	Determine Vehicle Procurement Method	100 days	Mon 7/2/12	Fri 11/16/12	Determine Vehicle Procurement Method																					
23	Bidding	165 days	Tue 8/13/13	Mon 3/31/14	Bidding																					
24	Public Utilities Bid & Award	25 days	Tue 8/13/13	Mon 9/16/13	Public Utilities Bid & Award																					
25	Offsite Maintenance Facility Bid & Award	30 days	Tue 2/4/14	Mon 3/17/14	Offsite Maintenance Facility Bid & Award																					
26	Guideway Bid & Award	40 days	Tue 2/4/14	Mon 3/31/14	Guideway Bid & Award																					
27	Construction	870 days	Thu 1/3/13	Wed 5/4/16	Construction																					
28	Long Lead Procurement	335 days	Thu 1/3/13	Wed 4/16/14	Long Lead Procurement																					
29	Utilities	240 days	Tue 9/17/13	Mon 8/18/14	Utilities																					
30	Utilities Closeout	60 days	Tue 8/19/14	Mon 11/10/14	Utilities Closeout																					
31	Offsite Maintenance Facility	280 days	Tue 3/18/14	Mon 4/13/15	Offsite Maintenance Facility																					
32	Offsite Maintenance Facility Closeout	60 days	Tue 4/14/15	Mon 7/6/15	Offsite Maintenance Facility Closeout																					
33	Guideway	480 days	Tue 4/1/14	Mon 2/1/16	Guideway																					
34	Systems Testing & Startup	40 days	Tue 2/2/16	Mon 3/28/16	Systems Testing & Startup																					
35	Operational	0 days	Thu 4/7/16	Thu 4/7/16	4/7 ♦ Operational																					
36	Guideway Closeout	60 days	Thu 2/11/16	Wed 5/4/16	Guideway Closeout																					
37	Planning for Future Phases	1023 days	Mon 7/2/12	Wed 6/1/16	Planning for Future Phases																					
38	Monitoring the Availability of Potential Funding Opportunities	1023 days	Mon 7/2/12	Wed 6/1/16	Monitoring the Availability of Potential Funding Opportunities																					
39	Search of Potential Entities for Public / Private Partnership	1023 days	Mon 7/2/12	Wed 6/1/16	Search of Potential Entities for Public / Private Partnership																					

Exhibit C
Milwaukee Streetcar Environmental Analysis

Please see:

<http://www.themilwaukeestreetcar.com/pdf/Milwaukee-Streetcar-Environmental-Assessment.pdf>

Exhibit D
30% Design Plans

Please see:

www.themilwaukeeestreetcar.com/30percentdesign

Exhibit E Federal Requirements

(see also <http://www.fta.dot.gov/>)

A) No Federal Government Obligations to Third Parties. In connection with the Project, the Contractor agrees that, absent the express written consent of the United States of America or any executive department or agency thereof (collectively, the "Federal Government"), the Federal Government shall not be subject to any obligations or liabilities to the Contractor, any subcontractor, lessee, third party contractor, or other participant at any tier of the Project, or other person or entity other than the City, to the extent that the City enters into a grant agreement or similar agreement with the Federal Government for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, subcontract, lease, third party contract, or arrangement at any tier, the Federal Government has no obligations or liabilities to any entity, including the Contractor, any subcontractor, lessee, third party contractor, other participant at any tier of the Project.

B) False or Fraudulent Statements or Claims. The Contractor acknowledges and agrees that:

1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. Department of Transportation ("U.S. DOT") regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to the Contractor's activities in connection with the Project. By executing the CM/GC Contract, the Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Contractor the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

2) Criminal Fraud. If the Contractor makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Contractor the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

C) Access to Third Party Contract Records. The Contractor agrees to require, and assures that its subcontractors require, their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. § 5325(g). The Contractor further agrees to require, and assures that its subcontractors require, their third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by FTA.

D) Changes to Federal Requirements. Federal laws, regulations and directives governing

the Project may change, and the changed provisions will apply to the Project, except to the extent that FTA determines otherwise in writing.

E) Termination. The Contractor agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided for the Project if the City has violated the terms of a grant agreement or similar agreement with the Federal Government for the Project, or if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project. The Contractor understands and agrees that any failure to make reasonable progress on the Project or any violation of the City's grant agreement or similar agreement with the Federal Government for the Project that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the City's grant agreement or similar agreement for the Project. In general, termination of Federal assistance for the Project will not invalidate obligations properly incurred by the Contractor before the termination date to the extent those obligations cannot be canceled. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the City's grant agreement or similar agreement with the Federal Government for the Project.

F) Civil Rights. The Contractor agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

1) Nondiscrimination in Federal Public Transportation Programs. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

2) Nondiscrimination – Title VI of the Civil Rights Act. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the Contractor agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued.

3) Equal Employment Opportunity. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity ("EEO") provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Contractor also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

a) General. The Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Contractor agrees to take

affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor ("U.S. DOL") to qualify as "construction," the Contractor agrees to comply and assures the compliance of each subcontractor, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq.; with implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

4) Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Contractor agrees to facilitate participation by Disadvantaged Business Enterprises (each, a "DBE") in the Project and assures that each subcontractor, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:

a) The Contractor agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

b) The Contractor agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any subcontract, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26. The Contractor agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all subcontracts, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the Contractor's DBE program approved by U.S. DOT, if any, is incorporated by reference. The Contractor agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the CM/GC Contract. Upon notification by U.S. DOT to the Contractor of the Contractor's failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq., or both.

5) Nondiscrimination on the Basis of Sex. The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq., and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

6) Nondiscrimination on the Basis of Age. The Contractor agrees to comply with all applicable requirements of:

a) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

b) The Age Discrimination in Employment Act ("ADEA") 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission ("U.S. EEOC") regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

7) Access for Individuals with Disabilities. The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 ("ADA"), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Contractor agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

b) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

c) Joint U.S. Architectural and Transportation Barriers Compliance Board ("U.S. ATBCB")/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

- d) U.S. Department of Justice (“U.S. DOJ”) regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. Part 35;
- e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. Part 36;
- f) U.S. General Services Administration (“U.S. GSA”) regulations, “Accommodations for the Physically Handicapped,” 41 C.F.R. Subpart 101-19;
- g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630;
- h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 64, Subpart F;
- i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. Part 1194;
- j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609; and
- k) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

8) Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Contractor agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 et seq., the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 et seq., and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

9) Access to Services for Persons with Limited English Proficiency. The Contractor agrees to facilitate compliance with the policies of Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

10) Environmental Justice. The Contractor agrees to facilitate compliance with the policies of: Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 42 U.S.C. § 4321 note; and U.S. DOT Order 5620.3, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377 et seq., April 15, 1997, except to the extent that the Federal Government determines otherwise in writing.

11) Other Nondiscrimination Laws. The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal

directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

G) Incorporation of FTA Terms. The Contractor agrees to comply with applicable third party procurement requirements of 49 U.S.C. chapter 53 and Federal laws in effect now or subsequently enacted; with applicable U.S. DOT third party procurement regulations at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48, and with other applicable Federal regulations pertaining to third party procurements and later amendments thereto. The Contractor also agrees to follow the provisions of the most recent edition and revisions of FTA Circular 4220.1F, "Third Party Contracting Guidance," and any later revision thereto, except to the extent FTA determines otherwise in writing. The Contractor agrees that it may not use FTA assistance to support its third party procurements unless its compliance with Federal laws and regulations is satisfactory. Although the FTA "Best Practices Procurement Manual" provides additional third party contracting information, the Contractor understands and agrees that the FTA "Best Practices Procurement Manual" may omit certain Federal requirements applicable to specific third party contracts.

H) Suspension and Debarment. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget ("U.S. OMB") "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180. To the extent required by these U.S. DOT regulations and U.S. OMB guidance, the Contractor agrees to, and assures that its subcontractors, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any subcontract, lease, third party contract, or other arrangement in connection with the Project.

I) Buy America. The Contractor agrees to comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and any amendments thereto.

J) Resolution of Disputes, Breaches, or Other Litigation. The Contractor agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

1) Notification to FTA. The Contractor agrees to notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Contractor seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Contractor agrees to inform FTA in writing before doing so. At a minimum, each notice to FTA under this section shall be provided to the FTA Regional Counsel within whose Region the Contractor implements the Project.

2) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds derived from any third party recovery, based on the percentage of the Federal share awarded for the Project, except that the City may return liquidated damages recovered to its project account in lieu of returning the Federal share to the Federal Government.

3) Enforcement. The Contractor agrees to pursue its legal rights and remedies

available under any third party contract or available under law or regulations.

4) FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Contractor.

5) Alternative Dispute Resolution. FTA encourages the Contractor to use alternative dispute resolution procedures, as may be appropriate.

K) Lobbying. The Contractor agrees that:

1) In compliance with 31 U.S.C. § 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the CM/GC Contract;

2) In addition, it will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

3) It will comply, and will assure the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352, as amended.

L) Clean Air. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. Specifically:

1) The Contractor agrees to comply with the applicable requirements of subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c); to comply with U.S. Environmental Protection Agency ("U.S. EPA") regulations, "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, Subpart A; and to comply with any other applicable Federal conformity regulations that may be promulgated at a later date. To support the requisite air quality conformity finding for the Project, the Contractor agrees to implement each air quality mitigation or control measure incorporated in the applicable documents accompanying approval of the Project. The Contractor further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, that may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, to the extent they apply to the Project, the Contractor agrees to comply with U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; U.S. EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and U.S. EPA regulations "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.

3) The Contractor agrees to comply with the notice of violating facility provisions of section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act

and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

M) Clean Water. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

1) The Contractor agrees to protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

2) The Contractor agrees to comply with the notice of violating facility provisions of section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, “Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

N) Cargo Preference. To the extent applicable, the Contractor agrees to comply with 46 U.S.C. § 55305 and U.S. Maritime Administration regulations, “Cargo Preference-U.S.-Flag Vessels,” 46 C.F.R. Part 381.

O) Fly America. The Contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 through 301-10.143.

P) Energy Conservation. The Contractor agrees to comply with applicable mandatory energy efficiency standards and policies of applicable state energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 et seq., except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the Contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, “Requirements for Energy Assessments,” 49 C.F.R. Part 622, Subpart C.

Q) Recycled Products. To the extent applicable, the Contractor agrees to comply with the U.S. EPA, “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

R) Seismic Safety Requirements. The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR part 41 and will certify compliance to the extent required by the regulation. The Contractor also agrees to ensure that all Work performed under this agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

Exhibit F
Draft Streetcar Vehicle Procurement RFP

Please see:

www.themilwaukeeestreetcar.com/30percentdesign

**Exhibit G
Insurance Requirements**

**INSURANCE REQUIREMENTS
FOR
PROFESSIONAL SERVICE CONTRACTS**

I. Worker's Compensation and Employer's Liability

Coverage Amounts			
Worker's Compensation			Statutory
Employer's Liability			
Bodily Injury by Accident	Each Accident		\$100,000.00
Bodily Injury by Disease	Each Employee		100,000.00
Bodily Injury by Disease	Policy Limit		500,000.00

II. Commercial General Liability

Limits of Liability		
Bodily Injury/Property Damage		
	Each Occurrence	\$1,000,000.00
	General Aggregate	\$1,000,000.00
	Products/Completed	
	Operations Aggregate	\$1,000,000.00
Personal Injury	Aggregate	\$1,000,000.00
<i>To Include:</i>		
Occurrence Form		
Premises/Operations Coverage		
Products/Completed Operations Coverage		
(to extend for two (2) years after the acceptance of the work by the		
City of Milwaukee)		
Contractual liability for risks assumed in this agreement		

III. Automobile Liability

Limits of Liability		
Bodily Injury/Property Damage	Each Accident	\$1,000,000.00
<i>To Include:</i>		
Coverage on all Owned, Non-Owned and Hired Vehicles		

IV. Umbrella Liability

Limits of Liability		
Personal Injury/Property Damage	Each Occurrence	\$5,000,000.00
	Aggregate	\$5,000,000.00
<i>To Include:</i>		
Occurrence Insuring Agreement		
First Dollar Defense Coverage		
Insuring Agreement which will:		
Provide Excess Protection to the Primary Coverage (exclusive of professional liability)		

V. Professional Liability

Limits of Liability		
Wrongful Act	Per Claim	\$2,000,000.00
	Aggregate	\$2,000,000.00
<i>To Include:</i>		
Insuring agreement to cover errors, and omissions including loss, costs and expenses, which result from the operations of the service provider. If insuring agreement is claims made, the coverage must be continued for the duration of the contract or for a period to time after contract completion date as required by the City of Milwaukee.		

Note: With regard to Section Nos. II, III and IV, a Certificate of Insurance shall be provided to the Department of Public Works as evidence thereof naming the City of Milwaukee, its officers, agents and employees as an additional insured for public liability and property damage, and providing for a thirty (30) day notice to the Department of Public Works prior to change, termination or cancellation.



Exhibit H – Anti-Slavery Affidavit

CITY OF MILWAUKEE - DEPARTMENT OF ADMINISTRATION
PROCUREMENT SERVICES SECTION

AFFIDAVIT OF COMPLIANCE
DISCLOSURE OF PARTICIPATION IN OR PROFITS DERIVED FROM SLAVERY BY CONTRACTORS

COMPANY NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

This affidavit of compliance will be the contractor's sworn statement that publicly discloses any slavery policies sold by any companies, or profits from slavery by industries or their predecessors who are doing business with the City of Milwaukee as defined in the Milwaukee Code of Ordinances 310-14.

Please check one:

- _____ This business **was not** in existence prior to the slavery era (1865).
- _____ This business **was** in existence prior to the slavery era (1865). I have searched any and all records for records of investments or profits from slavery, and have found no such records.
- _____ This business **was** in existence prior to the slavery era (1865). I have searched any and all records for records of investments or profits from slavery, and am disclosing the following findings (attach additional pages, if necessary):

I hereby declare that all statements are true, accurate and complete as of the date furnished to the City of Milwaukee.

AUTHORIZED SIGNATURE: _____

PRINTED NAME: _____

DATE: _____

Subscribed to before me on this day ____ of _____, 20____, at _____
County, _____ State.

NOTARY PUBLIC SIGNATURE: _____
(SEAL)

PRINT NAME: _____

My commission expires: _____

PLEASE RETURN THIS FORM TO:
200 E. WELLS STREET, ROOM 601, MILWAUKEE, WI 53202
OR FAX TO 414-286-5976

**Exhibit I
Professional Service Agreement**

CONTRACT NO. _____

**PROFESSIONAL SERVICES AGREEMENT
FOR
MILWAUKEE STREETCAR PROJECT
FINAL DESIGN SERVICES**

BETWEEN

THE CITY OF MILWAUKEE

AND

_____ **(CONSULTANT)**

THIS AGREEMENT is made and entered into this _____ day of _____, 2012, by and between the City of Milwaukee, a municipal corporation organized under the laws of the State of Wisconsin acting through its Commissioner of Public Works (the "City"), and _____ (the "Consultant").

WHEREAS, the City has determined it necessary to procure the services of a Final Designer to provide design services to complete the design from the current 30% documents through final design per the detailed scope of services, and perform design coordination of the public and private utility relocations, provide bid support and design support services during construction, provide public outreach and community relations services; and assist the City of Milwaukee's Owner's Representative in providing project management services.

WHEREAS, the City issued a Request for Qualifications (the "RFQ") on _____ requesting qualifications to provide Final Design Services for the Milwaukee Streetcar project;

WHEREAS, the Consultant desires to provide the professional services to the City upon the terms and conditions hereinafter set forth;

WHEREAS, the Consultant represents itself as being capable, experienced, and qualified to undertake and perform those certain services as hereinafter set forth as are required in accomplishing fulfillment of its obligation under the terms and conditions of this Agreement as an independent Consultant and not as an employee of the City;

WHEREAS, the Common Council of the City of Milwaukee adopted Resolution File No. 110372 on February 21, 2012 which authorized the Commissioner of Public Works (the "Commissioner") to proceed with implementation of the Milwaukee Streetcar project and engage consultants as necessary;

WHEREAS, the Common Council of the City of Milwaukee adopted Resolution File No. 110372 on February 21, 2012 and Resolution File No. 110324 on July 26, 2011 which authorized \$9.7 million local share of capital costs for the Milwaukee Streetcar Project to be funded by Tax Incremental District No. 49 (Cathedral Place);

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, the City and the Consultant promise and agree as follows:

ARTICLE I

Retention of Services

The City hereby agrees to engage the Consultant and the Consultant hereby agrees to personally perform, as an independent Consultant and not as an employee of the City, the services hereinafter set forth, all in accordance with the terms and conditions of this Agreement, the RFQ (**Exhibit X**), and the Consultant's Statement of Qualifications dated **xx/xx/xxxx (Exhibit X)**.

ARTICLE II

Term of Agreement and Early Termination

2.1 Term of Agreement. The term of this Agreement shall commence on the date hereof, and shall end upon satisfactory completion of the services in accord with the timeframes identified in Article III – Scope of Services. In addition to all other remedies inuring to the City should this Agreement not be completed within the timeframes identified in this Article III, in accordance with all the terms, requirements, and conditions set forth in the Agreement, the Consultant shall continue to be obligated thereafter to fulfill the Consultant's responsibility to complete the services associated with this Agreement.

2.2 Changes. The City may authorize changes in the Contract Documents. Such changes, including any increase or decrease in the contracted scope of services and/or increase or decrease in the amount of the Consultant's compensation and/or completion date which are mutually agreed upon by and between the City and Consultant, shall be incorporated in written amendments to the Contract Documents. No changes to this Contract shall be valid unless incorporated as a written, mutually agreed amendment thereto.

2.3 Termination for Cause. If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Consultant of such termination and specifying the effective date, at least ten days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other materials related to the services performed by the Consultant under this Agreement for which compensation has been made or may be agreed to be made shall, at the option of the City, become the property of the City. Notwithstanding the foregoing, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Consultant, and the City may withhold any payments to the Consultant for the purpose of setoff until such time as the exact amount of the damages due to the City from the Consultant is determined.

2.4 Termination for Convenience. The City may terminate this Agreement at any time and for any reason by giving written notice to the Consultant of such termination and specifying the effective date, at least seven days before the effective date of such termination. If this Agreement is terminated by the City pursuant to this Section 2.4, the Consultant will be paid an amount which bears the same ratio to the total compensation as the services actually and satisfactorily performed bear to the total services of the Consultant covered by this Agreement, less payments for such services as were previously made. The value of the services rendered and delivered by the Consultant will be determined by the City. Furthermore, the City reserves the right not to enter into future contract amendments with the consultant for subsequent phases of the Milwaukee Streetcar project.

ARTICLE III

Scope of Services

The Consultant is required to perform, do, and carryout in a satisfactory, timely, and professional manner the services set forth herein. The Consultant is required to furnish all services and labor necessary as indicated herein, including without limitation, materials, equipment, supplies, and incidentals. The consultant shall perform the following tasks:

(Based on Exhibit A of the RFQ)

ARTICLE IV

Standards of Performance

The Consultant agrees that the performance of the services, pursuant to the terms, conditions and agreements of this Agreement, shall be performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances providing like services. The Consultant agrees to abide by all federal, state and local laws, regulations, and ordinances, and all provisions of this Agreement.

ARTICLE V

Compensation and Terms of Payment

5.1 Compensation. The Consultant will be compensated by the City for the services provided under this Agreement on an actual cost plus fixed fee not-to-exceed basis, in accordance with the level-of- effort spreadsheet attached as **Exhibit X** and subject to the terms, conditions and contingencies set forth within the Contract Documents.

5.2 Not to Exceed. Notwithstanding the foregoing Section 5.1, total compensation to the Consultant under this Agreement shall be dependent on City staffing levels and future budget appropriations. The total amount of this contract shall not exceed \$_____, except that, if DPW elects to expand the scope of services as provided for in Section 2.2.

5.3 Invoicing and Payments. Payments to the Consultant for services rendered under this Agreement will be based on itemized invoices submitted on a monthly basis by the Consultant to the City. These invoices shall document costs to date to a similar level of detail as the **Exhibit X** level of effort spreadsheet (labor hours by position, labor costs by position, overhead costs, fixed fee, direct expenses, and subconsultant costs) along with percent completion of each task. Invoices shall be reviewed and approved by the Commissioner of Public Works or his designee. The final five percent (5%) of the contract amount shall be retained. The final payment of the balance due the Consultant for the completed services shall be made upon completion and acceptance by the City of the services performed by the Consultant under this Agreement. All payments made under this Agreement shall be subject to the City's prompt payment policy set forth in section 5.4, below.

5.4 Prompt Payment Policy. It is the City's policy to pay all invoices within 30 days. If the City does not make payment within 45 days after receipt of properly completed supporting payment and other required contract documentation, the City shall pay simple interest beginning with the 31st calendar day at the rate of one percent per month (unless the amount due is subject to a good-faith dispute and, before the 45th day of receipt, notice of the dispute is sent to the consultant by first-class mail, personally

delivered, or sent in accordance with the notice provisions in the contract). If there are subcontractors, consistent with s.66.0135(3), Wis. Stats., the prime consultant must pay the subconsultant for satisfactory work within seven days of the consultant's receipt of payment from the City of Milwaukee, or seven days from receipt of a properly submitted and approved invoice from the subconsultant, whichever is later. If the consultant fails to make timely payment to a subconsultant, the consultant shall pay interest at the rate of 12 percent per year, compounded monthly, beginning with the 8th calendar day. Reference Common Council File No. 101137 adopted January 2011.

5.5 Additional Fringe or Employee Benefits. The Consultant shall not receive nor be eligible for any fringe benefits or any other benefits to which City employees are entitled to or are receiving.

5.6 Taxes, Social Security, Insurance, and Government Reporting. Personal income tax payments, social security contributions, insurance, and all other governmental reporting and contributions required as a consequence of the Consultant receiving payment under this Agreement shall be the sole responsibility of the Consultant.

5.7 Withholding of Salaries. If in the performance of this Agreement, there is an underpayment of salaries by the Consultant or by any subcontractor thereunder, the City shall withhold from the Consultant out of payments due to it an amount sufficient to pay employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the City for and on account of the Consultant or subcontractor, if any, to the respective employees to whom they are due.

ARTICLE VI

Personnel, Qualifications, Subcontracting

6.1 Required Personnel. The Consultant represents that it has or will secure at its own expense all personnel required to perform the services set forth in the Contract Documents. These personnel shall not be employees of or have any contractual relationship to the City.

6.2 Fully Qualified. The Consultant represents that all personnel engaged in the performance of the services set forth in the Contract Documents shall be fully qualified and shall be authorized or permitted under state and local law to perform the services.

6.3 Subcontracting. None of the services to be performed under the Contract Documents shall be subcontracted without the prior written approval of the City. If any of the services are subcontracted, the performance of such services shall be specified by written contract and shall be subject to each provision of this Agreement. The Consultant shall be as fully responsible to the City for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by it, as it is for acts and omissions of persons directly employed by it.

ARTICLE VII

Indemnification and Defense of Suits

In case any action in court, claim, or proceeding before an administrative agency is brought against the City or any of its officers, agents, or employees for the failure, omission, or neglect of the Consultant, in whole or in part, to perform any of the covenants, acts, matters, or things by this Agreement undertaken, or for injury or damage caused by the negligence of the Consultant, its officers, agents and employees, the Consultant shall defend, indemnify, and save harmless the City and its officers, agents, and employees from all losses, damages, costs, expenses, judgments, or decrees

arising out of such action. Provided, however, that in no event shall consultant's total liability for loss (indemnity or defense) exceed consultant's prorata share of all fault causing any injury or loss. The City shall tender the defense of any claim or action at law or in equity to the Consultant or the Consultant's insurer, and upon such tender, it shall be the duty of the Consultant or the Consultant's insurer to defend such claim or action without cost or expense to the City or its officers, agents, or employees. The Consultant shall be solely responsible for the conduct and performance of the services required under the terms and conditions of this Agreement and for the results therefrom. Nothing in this Article VIII shall be construed to impose liability on the Consultant for the negligence of the City, or of its officers, agents, or employees in the performance of this Agreement.

ARTICLE VIII

Insurance

The Consultant shall be solely responsible to meet the Consultant's insurance needs as required by the City, including public and professional liability and property damage, during the term of this Agreement or any extension thereof. A Certificate of Insurance shall be provided to the City as evidence thereof naming the City, if officers, agents and employee as an additional insured for public liability and property damage, and providing for a 30 day notice to the City prior to termination or cancellation of the policy. The City reserves the right to require review and approval of the actual policy of insurance before it executes this Agreement. The minimum limits of insurance required by the City under this Agreement are set forth in **Exhibit X** attached hereto.

ARTICLE IX

Conflicts of Interest

9.1 The City - Governing Body. No officer, employee or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement. No member of the Governing Body of the locality and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of this Agreement, shall have any personal interest, direct or indirect, in this Agreement.

9.2 Consultant. The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Consultant further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. An interest on the part of the Consultant or its employee must be disclosed to the City.

ARTICLE X

Non-Discrimination and Equal Employment

10.1 Discrimination. The Consultant agrees not to discriminate against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories; not to discriminate for the same reasons in regard to tenure, terms, or conditions of employment; not to deny promotion or increase in compensation solely for these reasons; not to adopt or

enforce any rule or employment policy which discriminates between employees on account of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories.

10.2 Subcontracts. The Consultant shall include or cause to be included in each subcontract covering any of the services to be performed under this Agreement a provision similar to the above paragraph, together with a clause requiring such insertion in further subcontracts that may in turn be made.

ARTICLE XI

Addresses and Notices

Unless otherwise provided in the Contract Documents, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "notice"), herein provided or permitted to be given, made or accepted by one party to the other must be in writing and may be given or be served by depositing the same in the United States mail, postage paid and certified and addressed to the party to be notified, with return receipt requested. Notice deposited in the mail in the manner described above shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is deposited. Notice given in any other manner should be effective only if and when received by the party to be notified. For the purpose of notice, the address of the parties shall be as follows:

If to the City, to: Ghassan Korban
Commissioner of Public Works
City of Milwaukee
Frank P. Zeidler Municipal Building
841 North Broadway, Room 501
Milwaukee, WI 53202

If to the Consultant, to: _____

ARTICLE XII

Records, Audits, Confidentiality

12.1 Access to Records. The Consultant shall maintain books, records, documents and other evidence directly pertinent to performance under this Agreement in accordance with accepted applicable professional practices. The City, or any of its duly authorized representatives, shall have access to such books, records, documents, papers, or any records of the Consultant which are directly pertinent to this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions.

12.2 Establishment and Maintenance of Records / Public Records Law. Records shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of seven years after receipt of the final payment under this Contract. Furthermore, the Consultant assist the City in meeting its obligations under the Wisconsin Public Records Law and FTA document control requirements.

ARTICLE XIII

Disadvantaged Business Enterprise (DBE) Program

13.1 Goal. The Disadvantaged Business Enterprise (DBE) participation goal under this agreement is 17%. Only firms certified by the Wisconsin Department of Transportation Disadvantaged Business Enterprise program are eligible to satisfy the DBE goal.

13.2 Compliance Reviews. During the performance of this Agreement, the Commissioner reserves the right to conduct compliance reviews. If the Consultant is not in compliance with the specifications, the Commissioner will notify the Consultant in writing of the corrective action that will bring the Consultant into compliance. If the Consultant fails or refuses to take corrective action as directed, the Commissioner may take one or more of the following actions: (i) Terminate or cancel this Agreement, in whole or in part; (ii) Remove the Consultant from the list of qualified firms and refuse to accept future proposals for a period not to exceed three years; or (iii) Impose other appropriate sanctions.

ARTICLE XIV

Federal Transit Administration Provisions

The Milwaukee Streetcar project is primarily funded with federal grant funding administered by the Federal Transit Administration. As such, all work, including work under the Owner's Representative contract, is subject to federal requirements as may be updated during the course of the project. Relevant federal requirements are generally identified in the following regulations, FTA circulars, and guidance and are available at <http://www.fta.dot.gov/>.

Regulations

- Project Management Oversight, 49 C.F.R. Part 633
- Major Capital Investment Projects, 49 C.F.R. Part 611
- Joint FTA/FHWA regulations, Metropolitan Planning, 23 C.F.R. Part 450
- Joint FTA/FHWA regulations, Environmental Impact and Related Procedures, 23 C.F.R. Part 771
- U.S. DOT regulation, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, 49 C.F.R. Part 24

FTA Circulars

- C4220.1F, Third Party Contracting Guidance
- C5010.1D, Grant Management Guidelines
- FTA Master Agreement
- C5800.1, Safety and Security Management Plan
- Best Practices Procurement Manual

Guidance

- Guidance for Transit Financial Plans, June 2000

- Reporting Instructions for the Section 5309 New Starts Criteria
- Interim Guidance on Design-Build
- Quality Assurance and Quality Control Guidelines
- Project and Construction Management Guidelines, 2009 Update
- Value Engineering Process Overview, January 1998
- TCRP G-08 - A Guidebook for the Evaluation of Project Delivery Methods

However, these documents may not be inclusive of all federal requirements. The Consultant shall be responsible to assure compliance with all federal requirements during project implementation. Federal requirements applicable to the Consultants services include, but are not limited to the following:

A) No Federal Government Obligations to Third Parties. In connection with the Project, the Contractor agrees that, absent the express written consent of the United States of America or any executive department or agency thereof (collectively, the "Federal Government"), the Federal Government shall not be subject to any obligations or liabilities to the Contractor, any subcontractor, lessee, third party contractor, or other participant at any tier of the Project, or other person or entity other than the City, to the extent that the City enters into a grant agreement or similar agreement with the Federal Government for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, subcontract, lease, third party contract, or arrangement at any tier, the Federal Government has no obligations or liabilities to any entity, including the Contractor, any subcontractor, lessee, third party contractor, other participant at any tier of the Project.

B) False or Fraudulent Statements or Claims. The Contractor acknowledges and agrees that:

1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. Department of Transportation ("U.S. DOT") regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to the Contractor's activities in connection with the Project. By executing the CM/GC Contract, the Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Contractor the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

2) Criminal Fraud. If the Contractor makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Contractor the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

C) Access to Third Party Contract Records. The Contractor agrees to require, and assures that its subcontractors require, their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. § 5325(g). The Contractor further agrees to require, and assures that its subcontractors require, their third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and

regulations or to assure proper Project management as determined by FTA.

D) Changes to Federal Requirements. Federal laws, regulations and directives governing the Project may change, and the changed provisions will apply to the Project, except to the extent that FTA determines otherwise in writing.

E) Termination. The Contractor agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided for the Project if the City has violated the terms of a grant agreement or similar agreement with the Federal Government for the Project, or if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project. The Contractor understands and agrees that any failure to make reasonable progress on the Project or any violation of the City's grant agreement or similar agreement with the Federal Government for the Project that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the City's grant agreement or similar agreement for the Project. In general, termination of Federal assistance for the Project will not invalidate obligations properly incurred by the Contractor before the termination date to the extent those obligations cannot be canceled. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the City's grant agreement or similar agreement with the Federal Government for the Project.

F) Civil Rights. The Contractor agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

1) Nondiscrimination in Federal Public Transportation Programs. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

2) Nondiscrimination – Title VI of the Civil Rights Act. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the Contractor agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued.

3) Equal Employment Opportunity. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity ("EEO") provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Contractor also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

a) General. The Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor ("U.S. DOL") to qualify as "construction," the Contractor agrees to comply and assures the compliance of each subcontractor, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq.; with implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

4) Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Contractor agrees to facilitate participation by Disadvantaged Business Enterprises (each, a "DBE") in the Project and assures that each subcontractor, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:

a) The Contractor agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

b) The Contractor agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any subcontract, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26. The Contractor agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all subcontracts, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the Contractor's DBE program approved by U.S. DOT, if any, is incorporated by reference. The Contractor agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the CM/GC Contract. Upon notification by U.S. DOT to the Contractor of the Contractor's failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate

Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq., or both.

5) Nondiscrimination on the Basis of Sex. The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq., and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

6) Nondiscrimination on the Basis of Age. The Contractor agrees to comply with all applicable requirements of:

a) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

b) The Age Discrimination in Employment Act ("ADEA") 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission ("U.S. EEOC") regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

7) Access for Individuals with Disabilities. The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 ("ADA"), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Contractor agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

b) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

c) Joint U.S. Architectural and Transportation Barriers Compliance Board

("U.S. ATBCB")/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

d) U.S. Department of Justice ("U.S. DOJ") regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

f) U.S. General Services Administration ("U.S. GSA") regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

k) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

8) Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Contractor agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 et seq., the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 et seq., and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

9) Access to Services for Persons with Limited English Proficiency. The Contractor agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

10) Environmental Justice. The Contractor agrees to facilitate compliance with the policies of: Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note; and U.S. DOT Order 5620.3, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377 et seq., April 15, 1997, except to the extent that the Federal Government determines otherwise in writing.

11) Other Nondiscrimination Laws. The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

G) Incorporation of FTA Terms. The Contractor agrees to comply with applicable third party procurement requirements of 49 U.S.C. chapter 53 and Federal laws in effect now or subsequently enacted; with applicable U.S. DOT third party procurement regulations at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48, and with other applicable Federal regulations pertaining to third party procurements and later amendments thereto. The Contractor also agrees to follow the provisions of the most recent edition and revisions of FTA Circular 4220.1F, "Third Party Contracting Guidance," and any later revision thereto, except to the extent FTA determines otherwise in writing. The Contractor agrees that it may not use FTA assistance to support its third party procurements unless its compliance with Federal laws and regulations is satisfactory. Although the FTA "Best Practices Procurement Manual" provides additional third party contracting information, the Contractor understands and agrees that the FTA "Best Practices Procurement Manual" may omit certain Federal requirements applicable to specific third party contracts.

H) Suspension and Debarment. The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget ("U.S. OMB") "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180. To the extent required by these U.S. DOT regulations and U.S. OMB guidance, the Contractor agrees to, and assures that its subcontractors, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any subcontract, lease, third party contract, or other arrangement in connection with the Project.

I) Buy America. The Contractor agrees to comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and any amendments thereto.

J) Resolution of Disputes, Breaches, or Other Litigation. The Contractor agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

1) Notification to FTA. The Contractor agrees to notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Contractor seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Contractor agrees to inform FTA in writing before doing so. At a minimum, each notice to FTA under this section shall be provided to the FTA Regional Counsel within whose Region the Contractor implements the Project.

2) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds derived from any third party recovery, based on the percentage of the Federal share awarded for the Project, except that the City may return liquidated damages recovered to its project account in lieu of

returning the Federal share to the Federal Government.

3) Enforcement. The Contractor agrees to pursue its legal rights and remedies available under any third party contract or available under law or regulations.

4) FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Contractor.

5) Alternative Dispute Resolution. FTA encourages the Contractor to use alternative dispute resolution procedures, as may be appropriate.

K) Lobbying. The Contractor agrees that:

1) In compliance with 31 U.S.C. § 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the CM/GC Contract;

2) In addition, it will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

3) It will comply, and will assure the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352, as amended.

L) Clean Air. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. Specifically:

1) The Contractor agrees to comply with the applicable requirements of subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c); to comply with U.S. Environmental Protection Agency ("U.S. EPA") regulations, "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, Subpart A; and to comply with any other applicable Federal conformity regulations that may be promulgated at a later date. To support the requisite air quality conformity finding for the Project, the Contractor agrees to implement each air quality mitigation or control measure incorporated in the applicable documents accompanying approval of the Project. The Contractor further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, that may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, to the extent they apply to the Project, the Contractor agrees to comply with U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; U.S. EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and U.S. EPA regulations "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.

3) The Contractor agrees to comply with the notice of violating facility provisions of section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

M) Clean Water. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

1) The Contractor agrees to protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

2) The Contractor agrees to comply with the notice of violating facility provisions of section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

N) Cargo Preference. To the extent applicable, the Contractor agrees to comply with 46 U.S.C. § 55305 and U.S. Maritime Administration regulations, "Cargo Preference-U.S.-Flag Vessels," 46 C.F.R. Part 381.

O) Fly America. The Contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

P) Energy Conservation. The Contractor agrees to comply with applicable mandatory energy efficiency standards and policies of applicable state energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 et seq., except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the Contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

Q) Recycled Products. To the extent applicable, the Contractor agrees to comply with the U.S. EPA, "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

R) Seismic Safety Requirements. The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR part 41 and will certify compliance to the extent required by the regulation. The Contractor also agrees to ensure that all Work

performed under this agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

ARTICLE XV

Additional Provisions

15.1 Captions. The captions appearing at the first of each numbered section of this Agreement are inserted and included solely for convenience, but shall never be considered or given any effect in construing this Agreement or the duties, obligations or liabilities of the respective parties hereto, or in ascertaining intent if any questions of intent should arise.

15.2 Severability. The provisions of this Agreement are severable. If any provision or part of this Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

15.3 Entire Agreement. This Agreement, and the Exhibits attached hereto, constitute the entire agreement between the parties hereto relating to the subject matter hereof, and all prior agreements, correspondence, discussions and understandings of the parties (whether oral or written) are merged herein and made a part hereof, it being the intention of the parties hereto that this Agreement shall serve as the complete and exclusive statement of their agreement together.

15.4 No Additional Waiver Implied. The failure of any party to insist, in any one or more instance, upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition by any other party hereto, but the obligation of such other party with respect to such future performances shall continue in full force and effect.

15.5 Amendment. This Agreement shall be amended only by formal written supplementary amendment. No oral amendment of this Agreement shall be given any effect. All amendments to this Agreement shall be in writing executed by both parties.

15.6 Applicable Law and Venue. This Agreement and all questions arising in connection herewith shall be governed by and construed in accordance with the internal laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in the City of Milwaukee for matters arising under state law and in Federal District Court for matters arising under federal jurisdiction.

15.7 Independent Consultant. In performing its obligations under this Agreement, the Consultant shall act as an independent consultant solely for its own account and not as an agent, representative, or employee of the City.

15.8 Assignment. This Agreement shall be binding on the heirs, successors, and assigns of each party hereto. The employment by the City of the Consultant to perform the services set forth in this Agreement is a personal contract and the Consultant shall not assign, sublet or transfer the Consultant's interest or obligations under the provisions of this Agreement without the prior written consent of the City. Provided, however, that claims for money due or to become due the Consultant from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notices of any such assignment or transfer shall be furnished promptly to the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City.

15.9 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered but one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

15.10 Conflicts. In the event of conflicts between provisions of the base contract and/or the provisions of any of the contract exhibits, the various documents shall govern in the following order: The Agreement, **Exhibit X, Exhibit X, Exhibit X**. Furthermore, in the event of conflicts between Article XIV Federal Transit Authority Provisions and remaining provisions of this agreement, Article XIV shall take precedence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day, month and year set forth above.

(Consultant)

By: _____

Date: _____

Its: _____

CITY OF MILWAUKEE

COUNTERSIGNED

By: _____
Commissioner of Public Works

By: _____
Comptroller

Date: _____

Date: _____

CITY ATTORNEY

CITY ATTORNEY

Examined and approved as to content

Examined and approved as to execution

This ____ day of _____, 2012

This ____ day of _____, 2012

Assistant City Attorney

Assistant City Attorney

Exhibit J Bid Protest Procedure

City of Milwaukee, Department of Public Works Procurement Protest Procedure for FTA-funded Projects

This Protest Procedure is intended to comply with FTA Circular 4220.1F, Chapter 7.1, and is in no way intended as a substitute for resolution of any questions or concerns on the part of prospective bidders or proposers that may be addressed as outlined in a particular request for bids/request for proposals, ("RFB/RFP"), or informally through other appropriate means. The City of Milwaukee Department of Public Works, ("DPW"), strives to ensure that all proposers and bidders are treated fairly and equitably. DPW shall incorporate this Protest Procedure explicitly, or by reference, in all RFB/RFPs for FTA-funded Projects.

Protests concerning aspects of the procurement process may be made as follows:

Prior to bid opening/proposal submission date:

Protests pertaining to specifications contained in an RFB/RFP may be made by a prospective bidder/proposer and shall be received by the Commissioner of Public Works, ("Commissioner"), on a date not less than five (5) calendar days prior to the date scheduled for bid opening/proposal submission. Such protest shall be in writing and state the reason/s for it as well as the relief sought. Any supporting documentation should be included with the written protest. Failure to follow the deadlines set forth in this paragraph, to provide the protest in writing, or to state with specificity the reasons for the protest or the relief sought will result in summary rejection of such protest.

The Commissioner shall review protests and, if modification is deemed necessary, an addendum containing the changes shall be issued. If necessary, the bid opening date/proposal submission date shall be extended. If the protest is rejected, the protestor shall be notified in writing. Such notice will be mailed no more than five (5) calendar days after receipt of the protest by the Commissioner. The decision of the Commissioner shall be final.

After bid opening/proposal submission date:

The Commissioner shall, with regard to any contract for an FTA-funded project, make a written recommendation as to which bidder appears to be the lowest responsible bidder or which proposer appears to be the highest ranked proposer, and notify all unsuccessful bidders/proposers by mail of such recommendation. Protests pertaining to award recommendations may be made by an unsuccessful bidder/proposer and shall be received by the Commissioner of Public Works within five (5) calendar days after receipt of the award recommendation. Such award recommendation will be deemed received two (2) days after mailing. Such protest shall be in writing and state the reason/s for it as well as the relief sought. Any supporting documentation should be included with the written protest. Failure to follow the deadlines set forth in this paragraph, to provide the protest in writing, or to state with specificity the reasons for the protest or the relief sought will result in summary rejection of such protest.

The Commissioner shall review the protest and issue a written decision, addressing each substantive issue raised by the protestor. The written decision will be mailed no more than five (5) calendar days after receipt of the protest by the Commissioner. If the protest is rejected, the Commissioner shall proceed to award the contract in accordance with his/her award recommendation. If the protest is granted, in whole or in part, the Commissioner shall take further action consistent with such decision

and notify any interested parties, if necessary. No contract shall be awarded while a protest is pending. The decision of the Commissioner is final.

The Commissioner shall inform FTA of any protests received pursuant to this Protest Procedure, and keep the FTA apprised of the progress and resolution of any protests.

Any protest filed pursuant to this Protest Procedure shall be delivered to:
Commissioner, City of Milwaukee Department of Public Works
841 North Broadway, Room 501
Milwaukee, WI 53202

Review of any aspect of the procurement process must be sought under this Protest Procedure prior to an appeal to the FTA. The FTA's review of the appeal will be limited to whether: (1) DPW failed to have or follow this Protest Procedure; (2) DPW failed to review a properly file protest; or (3) DPW violated federal laws or regulations. Such appeal must be received by the appropriate FTA regional or Headquarters Office within five (5) working days of the date the protestor learned or should have learned of an adverse decision by DPW; or the date DPW is alleged to failed to have or follow this Protest Procedure or failed to review a properly filed protest.