

Consultant Contract

This Contract is made by and between the City of Waukesha, referred to as the City, and [tes Historical Consulting, LLC], referred to as Consultant. Together, the City and Consultant are referred to as the Parties.

Recitals

The City has received a grant from the U.S. Department of Interior, administered by the State Historic Preservation office of the State of Wisconsin, to be used to nominate four individual properties in the City for addition to the National Register of Historic Places.

The Consultant is capable of providing the professional assistance required, and is willing to make those services available.

Now, therefore, the Parties agree and contract as follows:

1. **Scope of Consultant Services.** The Consultant shall perform the following services:
 - a. Compilation of information necessary to complete all products listed in the Attachment A: Work Program of the Memorandum of Agreement between the State Historical Society and the City of Waukesha for Project Number WI-19-10019; which is incorporated herein by reference. The products listed in Attachment A are referred to as the Work.
 - b. The Consultant will coordinate the Work with the Historic Preservation Division of the Wisconsin Historical Society, referred to as the WHS, and will comply with the requirements of the Memorandum of Agreement between the City and the WHS.
2. **Time of Performance.** Consultant shall complete the Work so that all final products are submitted to and accepted by the Wisconsin Historical Society by August 15, 2020.
3. **Compensation.** The City shall pay Consultant for the Work a flat fee of \$16163.00 (**\$4,361.00 for the St. Mary's Church (225 S. Hartwell) nomination and \$3,934.00 each for the other three nominations**), to be paid in installments as follows:
 - a. 20% of the fee for each nomination upon completion of site visits and local records checks.
 - b. 70% of the fee for each nomination upon submission of each nomination to the SHPO and confirmation of receipt.
 - c. 10% of the fee for each nomination upon the earlier of completion of all items listed in the MOA and Request for Proposal or the end of the grant period.
4. **Changes.** Changes in the Work and the compensation therefor may be made by the written mutual agreement of the Parties.
5. **Compliance with Federal, State and Local Laws.** Consultant shall comply with all federal and state laws and regulations concerning equal opportunity, affirmative action and fair employment opportunities. Consultant further agrees to comply with all applicable regulations, laws, ordinances and codes of state and local government, and the policies, guidelines and requirements of this federal grant program identified as 15.904 in the Catalog of Federal Domestic Assistance.

6. **Consultant Conflict of Interest.** The Consultant represents that it now has no personal interest, direct or indirect, in any property or business of any kind, and shall not acquire any such interest, which would conflict in any manner or degree with the performance of the Work.
7. **Indemnification.**
 - a. Consultant agrees to indemnify, defend and hold the City and its agents harmless from and against all damages, loss or expense, including court costs and attorney fees, arising out of the acts or omissions of Consultant or its employees, agents or assigns in the course of the performance of the Work.
 - b. Consultant shall indemnify and hold the State Historic Preservation Officer, the Wisconsin Historical Society, all its officers, agents and employees harmless from all suits, action, or claims of any character brought for or on account of any injuries for damages received by any persons or property resulting from the operations of the Consultant in executing the Work.
8. **Termination of Contract for Cause.**
 - a. If the Consultant fails to fulfill timely its obligations under this Contract, or breaches any of the provision of this Contract, the City may terminate this Contract by giving written notice to the Consultant and specifying the effective date of such termination. In that event, all finished or unfinished documents, data, studies, reports, or other materials prepared by the Consultant under this Contract shall at the option of the City become the property of the City and the Consultant shall be compensated for Work satisfactorily completed at that time.
 - b. Regardless of the above, Consultant shall not be relieved of liability to the City for damages sustained by the City as the result of any breach of contract by the Consultant, and the City may withhold any payments to the Consultant as set-off until such time as the exact amount of damages due to the City from the Consultant is determined.
9. **Termination of Contract for Convenience.** The City or the Consultant may terminate this Contract at any time by giving at least 20 days notice in writing to the other party. If the contract is terminated as provided herein, the Consultant will be paid for the time and expenses incurred up to the termination date.
10. **Records and Audits.** The Consultant shall maintain records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary to assure proper accounting for all project funds. These records will be made available for audit purposes to the City, and will be retained for 7 years after the expiration of this contract unless permission to destroy them is granted by the Wisconsin Historical Society.
11. **Relationship of Parties.** The City and Consultant are independent contractors, do not have agency for one another, and do not have vicarious liability for one another.
12. **Equal Opportunity and Affirmative Action.**
 - a. In the performance of the Work, the Consultant agrees not to discriminate against any employee or applicant because of sex, race, color, handicap, religion, national origin, age, or marital status to the person maintaining the household, lawful source of income, age or ancestry. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, age, color or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection

for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause:

- b. This program receives financial assistance for identification and preservation of historic properties. The U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin or handicap (mental and/or physical impairment).

13. Ownership of Documents. All of the reports, forms, information, data, etc., prepared or assembled by the Consultant under this contract are the property of the City, and the Consultant agrees that they shall not be made available to any individual or organization at any time without prior written approval of the City.

14. Severability. If any provision of this Contract is determined by a court having jurisdiction to be illegal or unenforceable, all other provisions of this Contract remain in full force.

Dated the _____ day of _____, 2019.

City of Waukesha

Shawn N. Reilly, Mayor

Gina L. Kozlik, City Clerk-Treasurer

Consultant

[tes Historical Consulting LLC]

[Traci Schnell, Architectural Historian/Owner]