



CONTRACT NO. 1504

DEPARTMENT: Public Works

DATE OF AWARD: IGA to take effect 1/1/2020

Intergovernmental Cooperation Agreement

BACKGROUND INFORMATION:

Waukesha funds a transit system designed to address the mass transit needs of employers and employees commuting between Waukesha County and neighboring counties with transit services provide by third party contracts.

Waukesha County has contracted out the administration of this transit system since 2004.

The City of Waukesha owns and operates a public mass transportation system and has acted as Administrator for the Waukesha County Transit System since the Department of Public Works began outsourcing this work in 2004.

§66.0301 of the Wisconsin Statutes promotes intergovernmental cooperation including agreements as set forth herein.

Therefore, in consideration of the mutual promises of the Parties stated herein and pursuant to the authority granted by Wisconsin Statutes §66.0301, the Parties enter into an Intergovernmental Agreement (hereafter referred to as "AGREEMENT") as follows:

Service Description: **Waukesha County Transit Administration Services-City of Waukesha**

Time of Performance: **January 1, 2020 through December 31, 2024**

Total Amount of Contract: **Maximum Compensation Not to Exceed:**

1st year	\$147,700.00
2nd year	\$152,131.00*
3rd year	\$156,694.93*
4th year	\$161,395.77*
5th year	\$166,237.65*

*Years 2-5 estimated at a 3% increase. See Section 3, page 7 of 12, for specific conditions of compensation.

The parties to this Agreement are **the City of Waukesha, d/b/a City of Waukesha Transit Commission** (hereinafter referred to as the "CITY"), and Waukesha County of the State of Wisconsin (hereinafter referred to as the "COUNTY").

Performance and time schedules as outlined in this document and attachments will be approved by: **Allison Bussler, Director of Public Works.**

Work shall commence in accordance with the terms and conditions of this Agreement after the CITY has executed the Agreement, and (a) Has been notified in writing to commence the Performance of Services, or (b) Has received from the COUNTY an original of the AGREEMENT that is complete and fully executed.

In reliance on the CITY'S representations as being capable, experienced and qualified to undertake and personally perform those services as are required in accomplishing the fulfillment of the obligations under the terms and conditions of this Agreement, the COUNTY agrees to engage the CITY as an independent CITY and not as an employee of the COUNTY to perform those services, all in accordance with the terms and conditions of this Contract.

I. REQUIREMENTS: The CITY is required to:

- A.** Do, perform, and carry out in a satisfactory, timely, and proper manner the services delineated in this Agreement.
- B.** Comply with requirements listed with respect to reporting on progress of the services, additional approvals required, and other matters relating to the performance of the services.
- C.** Comply with time schedules and payment terms.

II. SCOPE OF SERVICES: (To include specific duties and responsibilities, deliverables, time schedules, deadlines and approval requirements).

SERVICES TO BE PROVIDED INCLUDE:

A. Service Provider Contract Management – Administrative

The CITY shall provide Administration of all existing service provider contracts, until said service provider contracts expire as mentioned below. Administration shall include, but not be limited to:

- i) All oversight needed to ensure that routes and schedules are adhered to,
- ii) Ensuring proper collection, accounting and auditing of passenger fares and fare structures,
- iii) Monitoring of costs and disbursements of Federal, State and County funds as needed to satisfy terms of the service provider contracts.
- iv) Ensuring a marketing plan is in place.
- v) Re-bid existing routes prior to service provider contract expiration through a formal Request for Proposal (RFP process).
- vi) Bidding new routes through RFP process.
- vii) Providing RFP final draft to the COUNTY for review and approval prior to making solicitation available to the public.
- viii) Providing drafts of each service provider contract to the COUNTY for review and approval before execution.
- ix) Providing COUNTY with copies of all executed service provider contracts.

The CITY agrees that if the Agreement is terminated or not renewed for a subsequent term for services commencing in 2025, that it will assign any existing transit service provider contracts to the COUNTY or the succeeding Administrator as the COUNTY directs.

1. Existing Route Contracts:

The CITY shall advise the COUNTY in writing, no less than 180 days in advance of the applicable route contract expiration date, if the CITY is interested in submitting a proposal to be a service provider for that route. The COUNTY will then be responsible for the RFP process and award.

If the CITY is not interested in submitting a proposal for the route, CITY will advertise and let RFP's for that specific route's service provider and award such service to the responsive, responsible provider who scores the highest total on the evaluation criteria.

The CITY shall include the following language in all transit service provider RFP's and, to the extent possible through good-faith negotiation with third party service providers, in any subsequent contracts administered by the CITY:

- a. Assignment Clause – Provider agrees to the assignment of the Contract to the COUNTY or successive Administrator upon a change in Administrators as the COUNTY may direct.
- b. Insurance – Provider agrees to include the same insurance requirements as noted in Section XXI with the following exceptions: Errors & Omissions is not required. Add Automobile Liability Insurance as follows:

Automobile Liability Insurance – Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limit of liability not less than \$1,000,000.

Waukesha County, its boards, commissions, agencies, officers, employees and representatives shall be named as an additional insured with respect to the General Liability.

Current Service Provider Contract Expiration Dates

- i) Wisconsin Coach Lines Routes 901/904/905_____ 05/31/2022
- ii) *Wisconsin Coach Lines Route 906 _____ 05/31/2022 (Proposed to eliminate as of 12/1/2019)*
- iii) Milwaukee County Transit Route 79_____ 12/31/2023
- iv) Transit Express Paratransit Service_____ 04/30/2023

The sole exception to this provision shall be services which are presently operated as an extension of existing transit service funded by others. These services shall continue to be operated by the existing service provider until such time as the COUNTY directs otherwise.

The following routes are funded by third parties and do not have an expiration date:

- 1) Milwaukee County Transit Route 10 (Gold Line)
- 2) Waukesha Metro Transit Route 1

The CITY will administer operation of the parallel corridor paratransit commuter services. The COUNTY will maintain management of the Rideline Paratransit Services contract. The COUNTY may consider combining the Rideline Paratransit Services with the parallel corridor paratransit services in future RFP's for optimal pricing. The Rideline Paratransit Services contract is currently administered by the Waukesha County Department of Health and Human Services, Division of Aging and Disability Resource Center. The Rideline Paratransit Services differs from the parallel corridor paratransit services in that, Rideline Paratransit Services provides rides by appointment to persons who are physically or mentally challenged, are Waukesha County residents and meet the eligibility requirements based on age, disability, etc. The parallel corridor paratransit service passenger's eligibility requirements are based on Federal guidelines which do not require residency in the affected county.

The CITY agrees to obtain all necessary certifications to approve use of the parallel corridor paratransit services by eligible individuals. Said services shall be limited to parallel corridors and will not include Rideline customers or other Waukesha County services.

2. Reports

The CITY shall provide analysis and statistical reports quarterly for the transit service that it administers or operates for COUNTY. Operational statistics should include cost per hour, cost per mile, cost per passenger, passengers per hour, passengers per mile, subsidy per passenger and fare box recovery. Statistics should include year-to-date information and prior year information by route. Specific format of reports will be discussed and agreed upon between the CITY and the COUNTY. See example of a statistical report in Exhibit B – Route Statistics. Reports are due to the Waukesha County Department of Public Works Business Manager no later than five (5) business days after the end of each quarter.

3. Budget Assistance

The COUNTY and the CITY'S staff shall meet no later than the end of the first fiscal quarter each year to discuss services and costs so as to facilitate the local budget process for both COUNTY and the CITY. The CITY shall provide the following reports to COUNTY to facilitate the annual budgeting process and must meet the scheduled dates as shown:

- a. By April 30th of each year, the CITY shall report on year-end statistical and financial performance of COUNTY transit service for the prior year. Statistical reports should include, but not be limited to, cost per hour, cost per mile, cost per passenger, passengers per hour, passengers per mile, subsidy per passenger and fare box recovery. Financial reports should include route by route comparison of year-end financial information to budget and financial information pertaining to the fuel adjustment clauses for each route, including debits and credits by route and by month.
- b. By May 15th of each year, the CITY shall report on first quarter COUNTY transit performance. The CITY will also report and discuss with the COUNTY all expected changes to funding or service for the following year including but not limited to: costs to continue, State and Federal funding changes, service changes, and fare changes. These reports should be in a route by route format.
- c. By June 1st of each year, Waukesha County Department of Public Works staff provides to the CITY funding assumptions, including tax levy targets, for the following budget year.
- d. By June 15th of each year, the CITY will provide to Waukesha County Public Works staff a detailed budget for the following year. This budget will detail gross expenditures, fare box revenues, State/Federal revenues, any other revenues, by route. It will also include expenditures and revenues for all overhead and ancillary expenditures such as COUNTY staff time, park and ride lot maintenance, and marketing. The CITY will also provide statistical information for the current year and the budget year for reporting in the annual COUNTY budget book.
- e. By August 15th, the CITY, along with representatives from the Waukesha County Department of Public Works, will present the recommendations to the Waukesha County Executive's office where they shall be reviewed as part of the Executive's proposed budget to the Waukesha County Board.

- f. In October of each year, the CITY, along with representatives from the Waukesha County Department of Public Works will present budget information to the Public Works and Finance Committees.
- g. In November, the COUNTY will forward a final updated copy of Exhibit A - 2019 Waukesha County Adopted Transit Budget for 2020, along with documentation defining routes, levels of service, fares and the approved budget, to the CITY for the next fiscal year.

B. Grants Management

1. Federal Funding

The CITY shall be a designated recipient of Federal Section 5307.

The CITY agrees to prepare and submit available federal grant applications to assist in funding transit service and to maintain necessary documentation to meet all related federal regulations.

The parties acknowledge that the CITY applies for and receives Section 5307 grants, according to an allocation determined by SEWRPC, and that grant funds received by the CITY are intended to be divided equally between the COUNTY and the CITY. Therefore, the CITY agrees that not less than 50% of the Section 5307 funding received by the CITY shall be applied to the provision of services to the COUNTY pursuant to this agreement, and shall be applied as a credit towards the COUNTY's payment obligations under this agreement.

The balance of the Section 5307 funds shall be used to fund eligible transit services in the COUNTY as directed by the COUNTY.

The CITY agrees to prepare and submit available Federal operating assistance grant applications to assist in funding transit service and to maintain necessary documentation to meet all related Federal regulations. COUNTY agrees to review, approve and sign appropriate Federal grant applications as deemed necessary by the CITY.

2. State Funding

The CITY agrees to prepare and submit available State operating assistance grant applications to assist in funding transit service and to maintain necessary documentation to meet all related State regulations. COUNTY agrees to review, approve and sign appropriate State grant applications as deemed necessary by the CITY.

The COUNTY agrees that if it receives any State operating assistance funds, said funds shall be passed to the CITY as a credit against the cost of services eligible for such assistance.

3. Additional Funding Sources

If during the course of the Contract additional funding sources become available for use by COUNTY, (i.e. WETAP, CMAQ, etc.) then CITY shall seek out applications for said funding in order to maximize COUNTY'S funding resources.

C. Authority and Regulations

It shall be agreed and recognized by both the CITY and COUNTY that any agreement is subject to any regulatory authority of the U.S. Department of Transportation and the Wisconsin Department of Transportation over the routes, service, and fares provided by the transit system. Any regulations imposed by either the U.S. Department of Transportation or the Wisconsin Department of Transportation will be made a part of any agreement or contract.

The CITY shall have authority and responsibility for the administration, operation, recommendations to the COUNTY, and direction of the transit service provided pursuant to any agreement. During the term of the Contract, the CITY may delegate certain authority and responsibilities to subsidiary bodies through contracts, subject to the approval of the COUNTY.

1. Contract Management - Operational

The CITY shall:

- a. Provide planning and marketing coordination services for the transit service it administers for COUNTY. Marketing planning and media purchases shall have the prior approval of the COUNTY before release to the general public. The CITY will work with the contracted service providers to incorporate the COUNTY transit logo on buses and in marketing materials.
- b. Be required to handle customer complaints, provide driver training and drug tests, resolve issues of fares, and prepare schedules. If the CITY is not providing driver training and drug testing directly, the CITY will be responsible for ensuring that the transit service providers are performing these duties.
- c. Prepare and distribute public timetables, maintain appropriate records and perform other duties as contained in the transit service provider contracts. This work may be performed either directly by the CITY or through terms contained in operating contracts with transit service providers.

CITY may recommend to COUNTY service and fare changes when deemed appropriate. CITYThe Waukesha County Board's Public Works Committee shall be the sole deciding body regarding service and fare changes. The Committee shall be the body holding any necessary public hearings to comply with Federal and State regulations.

2. Contract Management – Service Modifications

The CITY agrees to act in the capacity of transit service analyst and planner. In this capacity, the CITY will work with COUNTY staff to identify areas not served or areas that are underserved. The CITY will assist the COUNTY in identifying, planning for and costing new or modified services to meet those needs. These services shall include but not be limited to fixed route service, demand responsive service and possible alternative services. The Waukesha County Board's Public Works Committee shall be the sole deciding body regarding service reductions and fare increases. The Committee shall be the body holding any necessary public hearings to comply with Federal and State regulations.

In the event that the COUNTY chooses to pursue alternative transportation services, the COUNTY reserves the right to negotiate with the CITY, either on its own or through subcontracting with others, to administer these services. Said administration shall include, but not be limited to, marketing (including outreach efforts with businesses to

match their employees' transportation needs with a vanpool), or other alternative transportation service. The CITY will monitor the use of the service so that it is being used according to program rules as agreed to by the COUNTY and the CITY.

Should the COUNTY determine it is beneficial to procure buses, particularly on routes where the COUNTY has not received competitive bids, the CITY will assist the COUNTY in all aspects of acquiring rolling stock. This will include, but not be limited to, grant writing, preparing specifications and evaluating bids.

D. Paratransit Programs

The CITY agrees to either operate directly, or via contract(s), any paratransit services mandated by the Federal government's Americans with Disabilities Act, (ADA), to serve people with disabilities.

These ADA services shall be considered an expense eligible for Federal and State aid. COUNTY agrees to pay the CITY for any Local Share deficit. The CITY agrees to obtain all necessary certifications to approve use of the parallel corridor paratransit services by eligible individuals.

E. Signage

CITY will work with transit service providers to ensure that the Waukesha County transit logo is displayed from the exterior of the contracted service vehicles. This signage may be fixed or removable, so as to facilitate affixing to vehicles rotated with a fleet. Whenever publicity or brochures are prepared, they must be pre-approved in writing by Waukesha County Department of Public Works prior to the use or distribution in connection to the services under contract. The Waukesha County transit logo is to be incorporated in these materials.

III. SPECIFIC CONDITIONS OF PAYMENT: Payment will be made within thirty (30) days after receipt of a properly documented invoice according to the following Schedules, but only if completion is satisfactory:

Monthly invoices for administering transit services shall be forwarded to Waukesha County's Department of Public Works within sixty (60) days of the last working day of the month invoiced. Invoices should include supporting documentation, such as, but not limited to, fuel clause calculations as described on Exhibit A of Attachment A; fare box information; statistical information; etc.

Submitted invoices shall contain a clear and concise detailed statement of all services provided during the preceding month.

Payments to the CITY shall be made within 30 days of date of invoice, except in cases where the COUNTY has questioned the content of an invoice. Questions or requests for clarifications regarding invoice discrepancies will be forwarded to the CITY in writing within seven (7) days of receipt of invoice in question. The CITY shall respond in writing within ten (10) working days.

Pricing for the first year of service is to be fixed. Thereafter, if timely requested by CITY, pricing shall be adjusted for the next year of service according to the Employment Cost Index, Private Industry Wages and Salaries, 12-month percent change from the 2nd quarter of the previous year to the 2nd quarter of the current year, not seasonally adjusted, for the Midwest Area, or 3% of the previous year's cost, whichever is lower. Request for price increases must be submitted by July 1st (or the closest business day) of the current contract year for the next contract year. Only one increase per contract year will be allowed.

IV. REPORTS:

- A.** The CITY agrees to timely submit reports as may be required by the COUNTY.
- B.** All reports, studies, analyses, memoranda and related data and material developed during the performance of this Contract shall be submitted to and be the exclusive property of the COUNTY, which shall have the right to use them for any purpose without any further compensation to the CITY. All of the documents and materials prepared or assembled by the CITY under this Contract will not be made available to any individual, agency, public body or organization without prior notification and approval by the COUNTY.
- C.** The documents and materials prepared in whole or in part under this Contract shall not be made the subject of any report, book, writing or oral dissertation by the CITY. If this Contract is terminated, all finished or unfinished documents or materials prepared under this Contract shall be immediately transmitted to the COUNTY upon termination.

V. TIME OF PERFORMANCE: The services to be performed under this Contract are to be undertaken and completed in such sequence as to assure expeditious completion in the light of the purpose of this Contract, but in any event all of the services required hereunder shall be completed as indicated on Page 1 under "Time of Performance," which is the termination date of this Contract. In addition to all other remedies available to the COUNTY, should the Contract not be completed by the date specified, the CITY shall continue to be obligated thereafter to fulfill CITY'S responsibility to complete the services and to execute any necessary amendments to this Contract.

VI. CONDITIONS OF PERFORMANCE AND COMPENSATION:

- A. Performance** - The CITY agrees that its work shall conform to such recognized high professional standards as are prevalent in its field of endeavor and like services.
- B. Compensation** - The COUNTY agrees to pay, subject to the contingencies herein, and the CITY agrees to accept for the satisfactory performance of the services under this Contract, up to the maximum as indicated on Page 1 under "Total Amount of Contract," inclusive of all expenses. In no event will the total compensation exceed the maximum amount indicated on Page 1, or any Purchase Order issued pursuant hereto. Compensation for services provided under this Contract is contingent upon the approval process set forth in Section III., Specific Conditions of Payment. Section 66.0135, Wisconsin Statutes, will apply to any late payments by the COUNTY, except as provided by Section XXII.
- C. Taxes, Social Security and Government Reporting** - Personal income tax payments, social security contributions and all other governmental reporting and contributions as a consequence of the CITY receiving payment under this Contract shall be the sole responsibility of the CITY.
- D. Subcontracting** – The CITY shall not subcontract for the performance of any of the services herein set forth without prior written approval obtained from the COUNTY. If any work or service is subcontracted, it shall be specified by written contract or agreement and shall be subject to each provision of this Contract. Notwithstanding the foregoing, the COUNTY understands that the CITY maintains a transit management contract with a firm for the operations of the CITY'S transit system, and that the transit management employees will be involved in the services provided under this Contract, all under the supervision of CITY'S Transit Director.

VII. DISPUTES: The parties shall attempt to resolve, in good faith, all disputes arising between them under this Contract. Within five (5) days of a party's receipt of written notice of a dispute, that party shall contact the complaining party to meet and discuss the dispute in a good faith attempt to resolve the matter. If the parties cannot reach a mutually-agreed upon resolution of the dispute within thirty (30) days of the parties' first meeting on the dispute, each party is free to pursue any available remedy.

VIII. INDEMNIFICATION AND DEFENSE OF SUITS: The CITY agrees to indemnify, hold harmless, and defend the COUNTY, its officers, agents, and employees from any and all liability including claims, demands, damages, actions or causes of action; together with any and all losses, costs, or expense, including attorney fees, where such liability is founded upon or grows out of the acts, errors, or omissions of the CITY, its employees, agents or subcontractors.

IX. REGULATIONS: CITY agrees to comply with all of the requirements of all applicable Federal, State and Local laws.

X. SAFETY REQUIREMENTS: All material, equipment and supplies used in performance of this Contract or provided to the COUNTY must comply with all safety requirements as set forth by the Wisconsin Administration Code, Rules of the Industrial Commission on Safety and all applicable OSHA standards.

XI. VENUE AND APPLICABLE LAW: Any lawsuits related to or arising out of disputes under this Contract shall be commenced and tried in the Circuit Court of Waukesha County, Wisconsin and the COUNTY and CITY shall submit to the jurisdiction of the Circuit Court for such lawsuits. This Contract and any disputes arising under it shall be governed by the laws of the State of Wisconsin.

XII. NOTICE OF BREACH, RIGHT TO CURE, TERMINATION. If either party breaches this Contract, the non-breaching party shall promptly give written notice thereof to the breaching party. The breaching party shall then have ten (10) business days after receipt of notice in which to cure the breach. If after notice of the breach is delivered, the dispute resolution process of Section VII is invoked, the running of the thirty (30) day cure period shall be stayed until the conclusion of the dispute resolution process. Upon a failure to timely cure the breach, the non-breaching party may elect to immediately terminate this Contract.

In the event of termination, all finished and unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other materials related to the services prepared by the CITY under this Contract, shall at the option of the COUNTY, become the property of the COUNTY. Notwithstanding the above, neither party shall be relieved of liability to the other party for damages sustained by that party's breach of this Contract.

XIII. CHANGES: All changes that are mutually agreed upon by and between the COUNTY and the CITY, including any increase or decrease in the amount of the CITY'S compensation, shall be in writing and designated as written amendments to this Contract.

XIV. WAIVER: One or more waivers by any party of any term of this Contract will not be construed as a waiver of a subsequent breach of the same or any other term. The consent or approval given by any party with respect to any act by the other party requiring such consent or approval shall not be deemed to waive the need for further consent or approval of any subsequent act by such party.

XV. PERSONNEL:

- A.** The CITY represents that it has or will secure, at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have a contractual relationship with the COUNTY.
- B.** All of the services required hereunder will be performed by the CITY or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

XVI. CONTRACTOR RELATIONSHIP WITH COUNTY

- A.** Compliance with Federal Immigration Laws and Regulations: Waukesha County supports the Immigration and Nationality Act (INA), which includes provisions addressing employment eligibility, employment verification and non-discrimination. The execution of this contract will be

considered certification that the contractor is in compliance with the INA and has established appropriate procedures and controls so that no services under this contract will be performed by a worker who is not legally eligible to perform such services.

- B. Upon completion or termination of the Contract, it is understood that all completed or partially completed data, records computation, survey information, and all other material that the Contractor prepared during the performance of the Contract shall be provided to and becomes the property of Waukesha County, and shall not be made available to any other individual or organization without prior written approval of the County.
- C. The County shall be entitled to request the removal of individuals associated with its account for any of the following grounds, provided that such request be in writing and shall specify the reasons for the County's dissatisfaction: (i) unsatisfactory performance that causes negative operational impact at the County or causes the County to commit additional resources to avoid operational impact; (ii) dishonesty or belligerent conduct or (iii) violation of County rules or policies related to this Contract. Upon such written request, the County and Contractor shall decide on a course of action to cure any such problems, provided that there shall be no cure opportunity required for problems involving categories (ii) or (iii) in the preceding sentence. In the event Contractor does not cure the problem within (7) days from the date of notice, Contractor shall remove such person and shall promptly provide a qualified replacement. The County will be liable for payment of services only up to the time of dismissal and provided then only if services rendered meet the minimum requirements of the County. The Contractor is responsible for ensuring that any substitute personnel have comparable skills and experience. The County reserves the right to interview substitute personnel prior to commencement of activity on the project.

XVII. ASSIGNMENT: The CITY shall not assign or transfer this Contract and shall not transfer any interest in it without the prior written consent of the COUNTY. Claims for money due or to become due to the CITY from the COUNTY under this Contract may be assigned to a bank, trust company or other financial institution without COUNTY approval; however, notices of any such assignment or transfer shall be furnished promptly to the COUNTY.

XVIII. RECORDS:

- A. **Establishment and Maintenance of Records** - Records shall be maintained by the CITY with respect to all matters covered by this Contract. The records shall be maintained for a period of three (3) years after receipt of final payment under this Contract, except as otherwise authorized or required by applicable law.
- B. **Documentation of Cost** - All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to this Contract and shall be clearly identified and readily accessible.

XIX. AUDITS AND INSPECTIONS: In the event that the COUNTY deems it necessary to conduct an audit or inspection, CITY shall, during normal business hours, furnish or make available at a time designated by the COUNTY information, records and reports regarding powers, duties, activities, organization, property, financial transactions, method of operation, or any and all other records, reports or information in CITY'S custody or control pertinent to this Contract. Audits and inspections hereunder shall not be required more than once per 12-month period.

CITY shall provide the COUNTY'S inspectors or auditors reasonable access to all property, equipment and facilities in CITY'S custody or control related to the services provided or purchased under this Contract. CITY shall be expected to provide, at CITY'S expense, reasonable time by CITY'S personnel as may be required to provide the COUNTY'S inspectors or auditors with the access to information and records required under this Section XVIII, but shall not be required to otherwise provide personnel to assist those inspectors or auditors in the conduct of the inspection or audit.

Any information provided to the inspectors or auditors which is deemed confidential by Federal, State or Local laws, shall be held as confidential and not disclosed to the public.

XX. CONFLICT OF INTEREST:

- A. Interest in Contract** - No officer, employee or agent of the COUNTY who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains, shall have any personal interest, direct or indirect in this Contract.
- B. Interest of Other Local Public Officials** - No member of the governing body of the locality, who exercises any functions or responsibilities in the review or approval of the carrying out of this Contract, shall have any personal interest, direct or indirect, in this Contract.
- C. Interest of CITY and Employees** - If CITY is aware or becomes aware that any person described in Sections XIX, A. and B. has any personal financial interest, direct or indirect, in this Contract, CITY shall immediately disclose such knowledge to the COUNTY. The CITY further 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 CITY further covenants that in the performance of this Contract no person having any conflicting interest shall be employed.

XXI. DISCRIMINATION PROHIBITED:

- A.** CITY shall not discriminate against any individual on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, membership in the National Guard, state defense force or any reserve component of the military forces of the United States or this state, or use or nonuse of lawful products off the employer's premises during nonworking hours. CITY may refuse to employ individuals based on conviction and arrest records only as allowed by sec. 111.335, Wis. Stats.
- B.** The CITY will cause the foregoing provisions to be inserted into all subcontracts, if any, for any work covered by this Contract so that such provisions will be binding upon each subCITY, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

XXII. INSURANCE:

- A.** The CITY shall be solely responsible to meet CITY'S insurance needs as required by the COUNTY as set forth in this Contract and Attachment A, Section IV during the terms of this Contract or any extension thereof.
- B.** The Certificate(s) of Insurance shall be issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to the COUNTY. Such insurance shall be primary. CITY shall furnish the COUNTY with a certificate of insurance and upon request, certified copies of the required insurance policies. The certificate(s) shall reference the Contract and name Waukesha County, its boards, commissions, agencies, officers, employees and representatives as additional insured and provide for thirty (30) days advance notice of any change, cancellation or non-renewal during the term of the Contract.
- C.** No payments or disbursements under the Contract shall be made if such proof has not been furnished. Failure to submit an insurance certificate, as required, can make the Contract void at the COUNTY'S discretion.

XXIII. FORCE MAJEURE: If performance of a party's obligations under this Contract is delayed or rendered impossible by reason of natural disaster, flood, fire, riot, explosion, war or actions or decrees of governmental bodies (a "Force Majeure Event"), the non-performing party shall not be deemed in breach of this Contract provided that it immediately provides notice to the other party of the Force

Majeure Event and continues good faith efforts to resume performance. Notwithstanding the foregoing, if nonperformance continues for a period that exceeds twenty-one (21) days after the date of the notice of the Force Majeure Event, the party who received the notice may elect to terminate this Contract by written notice to the non-performing party. Said termination shall be effectively immediately upon receipt of the notice, unless stated otherwise in the notice. Section 66.0135, Wis. Stats., shall not apply to any late payment by COUNTY due to a Force Majeure Event.

XXIV. OTHER PROVISIONS:

- A. Publicity Releases** - CITY agrees not to refer to award of this Contract in commercial advertising in such a manner that states or implies that the products or services provided are endorsed or preferred by the COUNTY.
- B. Independent Contractor**- CITY agrees that it is working in the capacity of an independent contractor with respect to the services provided. Nothing in this Contract shall be considered to create the relationship of employer and employee between the parties.
- C. Consents and Approvals** – Whenever in this Contract a party's consent or approval is required, that party shall act in good faith to timely evaluate the thing for which consent or approval is needed, and shall not unreasonably withhold, condition or delay such consent or approval.
- D. Authorization by Governing Bodies** – The Parties hereby represent and warrant to each other that the governing body of their own municipality has taken all actions necessary to approve this Agreement and to authorize the person signing below to sign this Agreement on behalf of that municipality and that, upon full execution of this Agreement it shall be binding on each municipality.
- E. Severability** – If any provision of this Agreement is declared invalid by an Court of competent jurisdiction, then to the extent that the invalid term can be severed from the remainder of this Agreement without affecting the enforceability of the remainder of this Agreement of substantially frustrating its purpose, it will be severed, and the remainder of this Agreement will remain in effect and enforceable.
- F. Survival** – Unless specifically limited in this Agreement, any term, condition or provision of this Agreement will survive the execution of this Agreement or any stated time periods, to the extent necessary for their performance.
- G. Liability** – Any liability and indemnification by the COUNTY or the CITY is subject to the limits of §893.80, Wisconsin Statutes, including the amount recoverable.

XXV. NOTICES: Any and all notices shall be in writing and deemed served upon depositing same with the United States Postal Service as "Certified Mail, Return Receipt Requested", addressed to the CITY at:

City of Waukesha Department of Public Works – Metro Transit
Brian Engelking, Transit Manager
2311 Badger Drive
Waukesha, WI 53188

and to the COUNTY at:

Waukesha County Department of Public Works
Attention: ALLISON BUSSLER, Director
Administration Center, Room 310
515 W. Moreland Blvd.
Waukesha, WI 53188

All other correspondence shall be addressed as above, but may be sent by "Regular Mail" and deemed delivered upon receipt by the addressee.

<p style="text-align: center;">WAUKESHA COUNTY</p> <p style="text-align: center;">DEPARTMENT OF PUBLIC WORKS</p> <hr/> <p style="text-align: center;">Allison Bussler, Director</p> <p>Date: _____</p> <p>Distribution:</p> <p>Original – Department Copy 1 – CITY Copy 2 – Corporation Counsel</p>	<p>CITY (To be signed by the person authorized to legally bind your firm to this Contract.)</p> <p>Firm: _____</p> <p>Address: _____</p> <p>City/State: _____</p> <p>Zip Code: _____</p> <p>BY: _____ (Manual Signature Required)</p> <p>PRINTED NAME: _____</p> <p>TITLE: _____</p> <p>DATE: _____</p>
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