



MnDOT Contract Number: 1055047

**MINNESOTA DEPARTMENT OF TRANSPORTATION
PROFESSIONAL AND TECHNICAL SERVICES CONTRACT**

Federal Project Number: STBG 8824(193)
State Project Number (SP): 019-626-031/8816-3622
Trunk Highway Number (TH): CSAH 26
Project Identification: Architecture/History Survey

This contract is between the State of Minnesota, acting through its Commissioner of Transportation (“State”), **Dakota County**, Address: 14955 Galaxie Avenue, 3rd Floor, Apple Valley, MN 55124 and **Bolton & Menk, Inc.**, Address: 1960 Premier Drive, Mankato, MN 56001-5900 (“Contractor”). State, County, and Contractor may be referred to jointly as “Parties.”

Recitals

1. State is in need of Contractor to complete an Architecture/History Survey for the CSAH 26 Improvements Project located in the City of Eagan, Dakota County, MN.
2. This contract is funded in whole or in part with federal dollars from CFDA #20.205.

Accordingly, the Parties agree as follows:

Contract

1. Term of Contract.

- 1.1. **Effective date.** This contract will be effective on the date that all required signatures are obtained by State, pursuant to Minnesota Statutes Section §16C.05, subdivision 2. The Contractor must not begin work under this Contract until this Contract is fully executed and the Contractor has been notified by the State’s Authorized Representative to begin the work.
- 1.2. **Expiration date.** This contract will expire on **November 30, 2024**, or when all obligations have been satisfactorily fulfilled, whichever occurs first.

2. Exhibits.

- 2.1. The following Exhibits are attached and incorporated into this Contract. In the event of a conflict between the terms of this Contract and its Exhibits, or between Exhibits, the order of precedence is first the Contract, and then in the following order:
Exhibit A: Contract Terms and Conditions
Exhibit B: Insurance Requirements
Exhibit C: Specifications, Duties, and Scope of Work
Exhibit D: Compensation and Payment
Exhibit E: Budget Details
Exhibit F: Travel Regulations
Exhibit G: Invoice Form
Exhibit H: Progress Report Form
Exhibit I: Contractor Payment Form

3. Contractor’s Duties.

- 3.1. The Contractor, who is not a State employee, will perform all duties described in **Exhibit C** to the satisfaction of the State.

4. Representations and Warranties.

- 4.1. State represents and warrants that is empowered by Minnesota Statutes §15.061 and §16C.03, subdivision 3, and other applicable law, to engage such assistance as deemed necessary.
- 4.2. Contractor represents and warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms.

5. Time.

- 5.1. The Contractor must comply with all the time requirements described in this Contract. In the performance of this Contract, time is of the essence.

6. Consideration and Payment.

- 6.1. The State will pay for performance by the Contractor under this Contract in accordance with **Exhibit D**.

7. Authorized Representatives.

- 7.1. The State's Authorized Representative (or their successor or delegate) is:

Name: Debbie Anderson
Company: Minnesota Department of Transportation
Address: 395 John Ireland Boulevard, St. Paul, MN 55155
Telephone Number: 651-315-6313
E-Mail Address: debbie.k.anderson@state.mn.us

The State's Authorized Representative has the responsibility to monitor the Contractor's performance and the authority to accept or reject the services provided under this contract.

- 7.2. The State's Project Manager (or their successor or delegate) is:

Name: Jammi Ladwig
Company: Minnesota Department of Transportation
Address: 395 John Ireland Boulevard, St. Paul, MN 55155
Telephone Number: 612-427-8063
E-Mail Address: jammi.ladwig@state.mn.us

The State's Project Manager has the responsibility to monitor Contractor's performance and progress. State's Project Manager will sign progress reports, review billing statements, make recommendations to State's Authorized Representative for acceptance of Contractor's good or services and make recommendations to State's Authorized Representative for certification for payment of each invoice submitted for payment.

- 7.3. The County's Authorized Representative (or their successor or delegate) is:

Name: Hassan Hussein
Company: Dakota County
Address: 14955 Galaxie Avenue, 3rd Floor, Apple Valley, MN 55124
Telephone Number: 952-891-7105
E-Mail Address: hassan.hussein@co.dakota.mn.us

7.4. The Contractor's Authorized Representative (or their successor) is:

Name: Renee Barnes
Company: Bolton & Menk, Inc.
Address: 12224 Nicollet Avenue, Burnsville, MN 55337
Telephone Number: 612-463-5529
E-Mail Address: renee.barnes@bolton-menk.com

If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the State.

7.5. Contractor's key personnel specified by name and title in this Contract will be considered essential to the work being performed. If, for any reason, substitution of a key person becomes necessary, Contractor must provide two weeks' advance written notification of the substitution to State's Authorized Representative, if possible. The written notification must include the proposed successor's name and a resume of the successor's qualifications. State's Authorized Representative will have the right to reject the proposed successor based upon reasonable grounds.

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1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statutes §16A.15 and §16C.05.

Signed:
Date:

4. DEPARTMENT OF TRANSPORTATION

(With delegated authority)

Signed:
Date:

2. CONTRACTOR

Contractor certifies that the appropriate person(s) have executed the Contract on behalf of Contractor as required by applicable articles, bylaws, resolutions or ordinances.

*DocuSigned by:
Mustafa J. Chuong*

Signed: A87CCD0D23754E8...

Title: Senior Principal

Date: February 27, 2024

5. COMMISSIONER OF ADMINISTRATION

Signed:
Date:

3. DAKOTA COUNTY

Signed:
Date:

1. Assignment, Amendments, Waiver, Contract Complete, Electronic Records and Signatures.

- 1.1. **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this Contract without the prior consent of the State and a fully executed assignment agreement, executed and approved by the same parties who executed and approved this Contract, or their successors in office.
- 1.2. **Amendments.** Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved this Contract, or their successors in office.
- 1.3. **Waiver.** If the State fails to enforce any provision of this Contract, that failure does not waive the provision or State's right to enforce it.
- 1.4. **Contract Complete.** This Contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.
- 1.5. **Electronic Records and Signatures.** The Parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

2. Termination.

- 2.1. **Termination for Convenience.** The State or Commissioner of Administration may cancel this Contract at any time, with or without cause. Upon termination for convenience, the Contractor will be entitled to payment, determined on a pro rata basis, for services or goods satisfactorily performed or delivered.
- 2.2. **Termination for Insufficient Funding.** The State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services addressed within this Contract. Termination must be by written notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that dedicated funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding. This notice will be provided within a reasonable time of the State's receiving notice.

3. Force Majeure.

- 3.1. A "force majeure event" is an event beyond Contractor's reasonable control that prevents Contractor from performing its obligations under this contract. Contractor will use all reasonable efforts to plan for foreseeable force majeure events and to mitigate the duration and consequences of any delay resulting from a force majeure event. Contractor will give State's Authorized Representative prompt notice of the occurrence of any force majeure event and, upon written request from Contractor, State's Authorized Representative and Contractor will negotiate an adjustment to the project schedule of this contract.

4. Indemnification, Standard of Care, Liability for Work and Deliverable Standards.

- 4.1. In the performance of this Contract, and to the extent permitted by law, the Indemnifying Party must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the State, to the extent caused by Indemnifying Party's:
 - 4.1.1. Intentional, willful, or negligent acts or omissions; or
 - 4.1.2. Actions that give rise to strict liability; or
 - 4.1.3. Breach of contract or warranty.
- 4.2. The Indemnifying Party is defined to include the Contractor, Contractor's reseller, any third party that has a business relationship with the Contractor, or Contractor's agents or employees. The indemnification obligations of this section do not apply if the claim or cause of action is the result of the State's sole

- negligence. This clause will not be construed to bar any legal remedies the Indemnifying Party may have for the State's failure to fulfill its obligation under this Contract.
- 4.3. Nothing within this Contract, whether express or implied, will be deemed to create an obligation on the part of the State to indemnify, defend, hold harmless or release the Indemnifying Party. This extends to all agreements related to the subject matter of this Contract, and to all terms subsequently added, without regard to order of precedence.
- 4.4. **Standard of Care.** In the performance of its professional services, Contractor will use that degree of care, knowledge and skill ordinarily exercised by other reputable professionals in the field under like circumstances within the state of Minnesota.
- 4.5. **Liability for Work.** Contractor will be responsible for any damages incurred as a result of its failure to comply with the standard of care or other failure to comply with contract requirements, and for any loss or cost to repair or remedy such non-compliance, however, Contractor will not be liable for consequential or punitive damages, including, but not limited to, those arising from loss of use, loss of profits or revenue, loss of financing commitments or fees, or the cost of capital. State acknowledges its duty to mitigate damages.
- 4.6. **Deliverable Standards.** All services provided by the Contractor pursuant to this contract, which do not meet the requirements of this Article 4.6, will be considered defective work. All services provided by Contractor pursuant to this contract must be in accordance with (1) the requirements and specifications set forth in this contract; (2) the required standard of care; (3) applicable state and federal standards, specifications, policies and practices; and (4) applicable federal, state, and local, laws, ordinances, rules, and regulations.
- 4.6.1. **Rejection and Correction of Defective Work.** State has the authority to reject services that do not meet the requirements of the contract. Contractor will be responsible for promptly making such revisions, repairs, or corrections to its work and deliverables as are necessary to meet the contract requirements. Such revisions, repairs, and corrections will be made without additional compensation.
- 4.6.2. **No Waiver.** Acceptance of Contractor's services by State is not a waiver of any provision of this contract and does not relieve Contractor of the responsibility for correcting a subsequently-discovered failure to conform to the requirements of the contract.
- 4.6.3. **Effect of Acceptance.** It is understood by the parties that State will rely on the professional performance and ability of Contractor. Any examination by State or the federal government, or any acceptance or use of the work product of Contractor, will not be considered to be a full and comprehensive examination and will not be considered an approval of the work product of Contractor which would relieve Contractor from any liability or expense that could be connected with Contractor's sole responsibility for the propriety and integrity of the professional work to be accomplished by Contractor pursuant to this contract.]
- 4.6.4. **Consultation Concerning Deliverables.** Contractor must, at no additional cost to State, confer with State at any time during construction, or any phase of work performed by others based on deliverables provided by Contractor, when necessary for the purpose of interpreting or clarifying such deliverables. Contractor must give immediate attention to these requests so there will be minimal delay to the construction or other work as referenced. State will notify Contractor of any request for interpretation, clarification, or correction. Notification may be in writing, or by telephone and confirmed in writing. Contractor must respond to such notice within three business days and must promptly perform the necessary services to minimize any delays to State. Contractor may be required to make a field review of the project site, if directed by State's Authorized Representative, and Contractor may be required to send personnel to the appropriate State district office as part of performing the necessary services.
- 4.6.5. **Subsequent Corrections.** If State determines that additional field or office work may be required due to Contractor's failure to comply with the contract requirements and the standards set forth

in this Article, then Contractor must perform such additional work as may be necessary to bring the work into compliance with such requirements and standards. Contractor must prepare any and all plans or data needed to correct its deliverables without additional compensation, even though Contractor may already have received final payment. Contractor must give immediate attention to these changes so there will be minimal delay to the construction or other work as referenced.

- 4.6.6. **Reliance on State-Furnished Data.** The parties understand and agree that Contractor must rely on documents, drawings, specifications, and studies provided to Contractor by State and others on its behalf in making its opinions of conformity to specifications and standards. Contractor will not be entitled to rely on such documents, drawings, or specifications that Contractor knows to be incorrect or incomplete, unless it has first brought such concerns to the attention of State and has been directed to proceed notwithstanding such concerns.

5. Governing Law, Jurisdiction, and Venue.

- 5.1. Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

6. Subcontracting and Subcontract Payment.

- 6.1. A subcontractor is a person or company that has been awarded a portion of the Contract by Contractor. Only subcontractors that have been approved by the State's Authorized Representative can be used for this Contract.
- 6.2. After the effective date of the Contract, the Contractor will not, without prior written approval of the State's Authorized Representative, subcontract for the performance of any of the Contractor's obligations that were not already approved for subcontracting when the Contract was awarded. During this Contract, if an approved subcontractor is determined to be performing unsatisfactorily by the State's Authorized Representative, the Contractor will receive written notification that the subcontractor can no longer be used for this Contract.
- 6.3. The provisions of the Contract will apply with equal force and effect to all approved subcontractors engaged by the Contractor. Notwithstanding approval by the State, no subcontract will serve to terminate or in any way affect the primary legal responsibility of the Contractor for timely and satisfactory performances of the obligations contemplated by the Contract.
- 6.4. Contractor's subcontracts must contain all appropriate terms and conditions of this Contract. Contractor must require subcontractors' invoices to follow the same format and contain the same information as State requires of Contractor. Contractor must submit a copy of all subcontracts exceeding \$10,000.00 to State's Authorized Representative no later than 30 calendar days after executing the subcontract and prior to beginning work under the subcontract. Upon request by State, a copy of any executed subcontract under \$10,000.00 must be sent to State's Authorized Representative.
- 6.5. Contractor must pay its subcontractors in accordance with Minn. Stat. § 16A.1245.

7. Data Disclosure.

- 7.1. Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, already provided to the State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

8. Government Data Practices.

- 8.1. The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 as it applies to all data provided by the State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Contractor or the State. If the Contractor receives a request to release the data referred to in this clause, the Contractor must immediately notify and consult with the State's Authorized Representative as to how the Contractor should respond to the request. The Contractor's response to the request will comply with applicable law.

9. Intellectual Property Rights.

- 9.1. **Definitions.** For the purpose of this Section, the following words and phrases have the assigned definitions:
- 9.1.1. "Documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this Contract.
 - 9.1.2. "Pre-Existing Intellectual Property" means intellectual property developed prior to or outside the scope of this Contract and any derivatives of that intellectual property.
 - 9.1.3. "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this Contract. "Works" includes Documents.
- 9.2. **Ownership.** The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks, in the Works and Documents created and paid for under this Contract. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this Contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.
- 9.3. **Pre-existing Intellectual Property.** Each Party will retain ownership of its respective Pre-Existing Intellectual Property. The Contractor grants the State a perpetual, irrevocable, non-exclusive, royalty free license for Contractor's Pre-Existing Intellectual Property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Contract.
- 9.4. **Obligations.**
- 9.4.1. **Notification.** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this Contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the State's Authorized Representative with complete information and/or disclosure thereon.
 - 9.4.2. **Representation.** The Contractor must perform all acts, and take all steps necessary, to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the

Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities.

- 9.4.3. **Indemnification.** Notwithstanding any other indemnification obligations addressed within this Contract, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including, but not limited to, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

10. Copyright.

- 10.1. The Contractor must save and hold harmless the State of Minnesota, its officers, agents, servants, and employees, from liability of any kind or nature, arising from the use of any copyrighted or noncopyrighted compositions, secret process, patented or nonpatented invention, article or appliance furnished or used in the performance of the Contract.

11. Contractor's Documents.

- 11.1. Any licensing and maintenance agreement, or any order-specific agreement or document, including any pre-installation, linked, or "click through" agreement that is allowed by, referenced within, or incorporated within the Contract whenever the Contract is used for a State procurement, whether directly by the Contractor or through a Contractor's agent, subcontractor or reseller, is agreed to only to the extent the terms within any such agreement or document do not conflict with the Contract or applicable Minnesota or Federal law, and only to the extent that the terms do not modify, diminish or derogate the terms of the Contract or create an additional financial obligation to the State. Any such agreement or document must not be construed to deprive the State of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability applicable to this Contract or afforded to the State by Minnesota law. A State employee's decision to choose "accept" or an equivalent option associated with a "click-through" agreement does not constitute the State's concurrence or acceptance of terms, if such terms are in conflict with this section.

12. State Audits.

- 12.1. Under Minn. Stat. § 16C.05, subd. 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by the State, the State Auditor, or Legislative Auditor, as appropriate, for a minimum of six years from the expiration or termination of this Contract.

13. Diverse Spend Reporting.

- 13.1. If the total value of the Contract may exceed \$500,000, including all extension options, Contractor must track and report, on a quarterly basis, the amount paid to diverse businesses both: 1) directly to subcontractors performing under the Contract, and 2) indirectly to diverse businesses that provide supplies/services to your company (in proportion to the revenue from this Contract compared to Contractor's overall revenue). When this applies, Contractor will register in a free portal to help report the Tier 2 diverse spend, and the requirement continues as long as the Contract is in effect.

14. Publicity and Endorsement.

- 14.1. **Publicity.** Any publicity regarding the subject matter of this Contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, information posted on corporate or other websites, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.
- 14.2. **Endorsement.** The Contractor must not claim that the State endorses its products or services.

15. Debarment by State, its Departments, Commissions, Agencies, or Political Subdivisions.

- 15.1. Contractor certifies that neither it nor its affiliates is presently debarred or suspended by the Federal government, the State, or any of the State's departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the Contract award was based. Contractor will provide immediate written notice to the State's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

16. Federal Funds.

- 16.1. **Compliance with Federal Requirements.** Federal money will be used or may potentially be used to pay for all or part of the goods, construction or services under the Contract. The Contractor is responsible for compliance with all federal requirements imposed on the funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.
- 16.2. **Certification regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.** Federal money will be used (or may potentially be used) to pay for all or part of the work under this contract; therefore, this contract is a covered transaction for purposes of 48 Code of Federal Regulations (CFR) Subpart 9.4 and 2 CFR part 180. As such, Contractor, by signing and submitting this contract, certifies that none of Contractor or its affiliates (as defined by 48 CFR 9.403), are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded by the federal government or a federal agency. Contractor is required to comply with this certification throughout the period of this contract. Contractor must include the requirement to comply with 48 CFR 9.403 in any lower tier covered transaction it enters into. The certification in this clause is a material representation of fact relied upon by State. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to remedies available to State, the Federal Government may pursue available remedies, including, but not limited to, suspension and/or debarment.

17. Contingency Fees Prohibited.

- 17.1. Pursuant to Minn. Stat. § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

18. Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).

- 18.1. If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies that it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

19. Non-discrimination (in accordance with Minn. Stat. § 181.59).

19.1. The Contractor will comply with the provisions of Minn. Stat. § 181.59.

20. E-Verify Certification (in accordance with Minn. Stat. § 16C.075).

20.1. For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

21. Affirmative Action Requirements

The State intends to carry out its responsibility for requiring affirmative action by its contractors.

- 21.1. **Covered Contracts and Contractors.** If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.
- 21.2. **General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36.** These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.
- 21.3. **Disabled Workers.** The Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

- 21.3.1. The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 21.3.2. The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- 21.3.3. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- 21.3.4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

21.3.5. The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

21.4. **Consequences.** The consequences for the Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Contract by the Commissioner or the State.

21.5. **Certification.** The Contractor hereby certifies that it is in compliance with the requirements of Minn.Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

22. Equal Pay Certification.

22.1. If required by Minn. Stat. §363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor claims to be exempt, the State may require Contractor to verify its exempt status.

23. IT Accessibility Standard.

- 23.1. Contractor acknowledges and is fully aware that the State of Minnesota (Executive branch state agencies) has developed IT Accessibility Standard effective September 1, 2010. The standard entails, in part, the Web Content Accessibility Guidelines (WCAG) and Section 508 which can be viewed at: <https://mn.gov/mnit/government/policies/accessibility/>.
- 23.2. The Standards apply to web sites, software applications, electronic reports and output documentation, training delivered in electronic formats (including, but not limited to, documents, videos, and webinars), among others. The Standards do not apply to designs, plans, layouts, maps and similar documents. As upgrades are made to the software, products, or subscriptions available through this Contract, the Contractor agrees to develop functionality which supports accessibility. If any issues arise due to nonconformance with the above-mentioned accessibility Standards, the Contractor agrees to provide alternative solutions upon request at no additional charge to the State.
- 23.3. When updates or upgrades are made to the products or services available through this Contract, the Contractor agrees to document how the changes will impact or improve the product's or service's accessibility and usability. This documentation, upon request, must be provided to the State in advance of the change, occurring within an agreed upon timeframe sufficient for the State to review the changes and either approve them or request a remediation plan from the Contractor. Contractor warrants that its Products comply with the above-mentioned accessibility Standards and agrees to indemnify, defend, and hold harmless the State against any claims related to non-compliance of Contractor's Product with the above-mentioned accessibility Standards. If agreed-upon updates fail to improve the product or service's accessibility or usability as planned, the failure to comply with this requirement may be cause for contract cancellation or for the State to consider the Contractor in default.

24. Nonvisual Access Standards.

24.1. Pursuant to Minn. Stat. § 16C.145, the Contractor must comply with the following nonvisual technology access standards to the extent required by law:

- That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired; and
- Executive branch state agencies subject to Section 16E.03, subdivision 9, are not required to include nonvisual technology access standards developed under this Section in contracts for the procurement of information technology.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

25. AASHTOWare Activities.

- 25.1. For contracts that involve the use of AASHTOWare; AASHTOWare activities conducted by Contractor must adhere to the software license agreement(s) that State has executed with the American Association of State Highway and Transportation Officials (AASHTO). The license agreement and any supplemental agreements can be found on State's Consultant Services website, under the AASHTOWare Access Provisions section, at: <http://www.dot.state.mn.us/consult/consultantcorner.html>.

26. Title VI/Non-discrimination Assurances.

- 26.1. Contractor agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035. Contractor will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. State may conduct a review of the Contractor's compliance with this provision. The Contractor must cooperate with State throughout the review process by supplying all requested information and documentation to State, making Contractor staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by State.

27. Telecommunications Certification.

- 27.1. By signing this agreement, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), and 2 CFR 200.216, Contractor will not use funding covered by this agreement to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any contract related to this agreement.

28. Plain Language; Accessibility Standards

- 28.1. **Plain Language.** Except for designs, plans, layouts, maps and similar documents, Contractor must provide all deliverables in "Plain Language". Executive Order 14-07 requires the Office of the Governor and all Executive Branch agencies to communicate with Minnesotans using Plain Language. As defined in Executive Order 14-07, Plain Language is a communication which an audience can understand the first time they read or hear it. To achieve that, Contractor will take the following steps in the deliverables:

- Use language commonly understood by the public;
- Write in short and complete sentences;
- Present information in a format that is easy-to-find and easy-to-understand; and
- Clearly state directions and deadlines to the audience.

28.2. **Accessibility Standards.** Except for designs, plans, layouts, maps and similar documents, Contractor agrees to comply with the State of Minnesota’s Accessibility Standard (https://mn.gov/mnit/assets/Stnd_State_Accessibility_tcm38-61585.pdf) for all deliverables under this contract. The State of Minnesota’s Accessibility Standards entail, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 of the Rehabilitation Act, as amended. Contractor’s compliance with the State of Minnesota’s Accessibility Standard includes, but is not limited to, the specific requirements as follows:

- All videos must include closed captions, audio descriptions and a link to a complete transcript;
- All documents, presentations, spreadsheets and other material must be provided in an accessible format. In addition, Contractor will provide native files in an editable format. Acceptable formats include InDesign, Word and Excel; and
- All materials intended for downloading and printing such as promotional brochures, must be labeled as such and the content must additionally be provided in an accessible format.

29. Survival of Terms.

29.1. The following clauses survive the expiration or cancellation of this Contract: Indemnification, Standard of Care, Liability for Work and Deliverable Standards; State Audits; Government Data Practices; Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure. Any other Contract term that expressly states or by its nature must survive, will survive.

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1. Notice to Contractor.

- 1.1. The Contractor is required to submit Certificates of Insurance acceptable to the State as evidence of insurance coverage requirements prior to commencing work under this Contract.
- 1.2. Contractor will not commence work under the Contract until they have obtained all the insurance described below and the State has approved such insurance. Contractor will maintain such insurance in force and effect throughout the term of this Contract, unless otherwise specified in this Contract.
- 1.3. The failure of the Contractor to provide a Certificate of Insurance for the policies required under this Contract or renewals thereof, or failure of the insurance company to notify the State of the cancellation of policies required under this Contract, will not constitute a waiver by the State to the Contractor to provide such insurance.
- 1.4. The State reserves the right to immediately terminate this Contract if the Contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's Authorized Representative upon written request.

2. Notice to Insurer.

- 2.1. The Contractor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.
- 2.2. Insurance certificate holder should be addressed to the Agency's Authorized Representative.

3. Additional Insurance Conditions.

The following apply to the Contractor, or the Contractor's subcontractor:

- 3.1. Contractor's policy(ies) will be primary insurance to any other valid and collectible insurance available to the State with respect to any claim arising out of Contractor's performance under this Contract.
- 3.2. If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State within five business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty days advance written notice to the State;
- 3.3. Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- 3.4. If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- 3.5. Contractor's policy(ies) must include legal defense fees in addition to its policy limits with the exception of professional liability.
- 3.6. Contractor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best.
- 3.7. An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

4. Coverages.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

- 4.1. **Commercial General Liability Insurance.** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the Contract. Insurance minimum limits are as follows:
 - \$2,000,000 – per occurrence
 - \$2,000,000 – annual aggregate
 - \$2,000,000 – annual aggregate – applying to Products/Completed Operations

The following coverages must be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal and Advertising Injury
- Blanket Contractual Liability
- Products and Completed Operations Liability
- State of Minnesota named as an Additional Insured, to the extent permitted by law

- 4.2. **Commercial Automobile Liability Insurance.** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this Contract, and in case any work is subcontracted the Contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance minimum limits are as follows:

- \$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included: Owned, Hired, and Non-owned Automobile. Evidence of Subcontractor insurance must be filed with the Contractor.

- 4.3. **Workers' Compensation Insurance.** Statutory Compensation Coverage. Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:

- \$100,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$100,000 – Bodily Injury by Accident

If Minn. Stat. § 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the Contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State with a certificate of insurance.

- 4.4. **Professional Liability, Errors, and Omissions.** This policy will provide coverage for all claims the Contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Contractor's professional services required under the Contract. Insurance minimum limits are as follows:

- \$2,000,000 - per claim or event
- \$2,000,000 - annual aggregate

Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the State. If the Contractor desires authority from the State to have a deductible in a higher amount, the Contractor will so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the State can ascertain the ability of the Contractor to cover the deductible from its own resources.

Exhibit B: Insurance Requirements

The retroactive or prior acts date of such coverage must not be after the effective date of this Contract and Contractor must maintain such insurance for a period of at least three years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by Contractor to fulfill this requirement.

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Exhibit C: Specifications, Duties, and Scope of Work**Background**

Contractor will complete an Architecture/History Survey for the CSAH 26 Improvements project located in the City of Eagan, Dakota County, MN. The project will reconstruct Lone Oak Road from Highway 13 to Pilot Knob Road, and mill and overlay from Pilot Knob Road to the entrance/exit ramps to 35E southbound. West of Pilot Knob, the project will reconstruct the roadway from a 2-lane rural roadway to a 2-lane urban section. The Archaeological Review Area (ARA) will include the following: proposed permanent and temporary easements, and proposed construction limits including equipment staging/laydown areas. The Architectural History Review Area will include 150-foot buffer around the center line. Properties to be surveyed within the APE are those built by 1979.

Project Tasks**Task 1: Project Management**

This task includes monthly virtual meetings with State's Project Manager, discussions regarding project work, timelines, and budget. It will also include contract management and invoicing tasks.

Additional Information:

All correspondence with consulting parties will be completed by State's Cultural Resources Unit (CRU).

Deliverable:

Invoices and emails documenting any changes to the following tasks.

Schedule:

Throughout the contract.

Task 2: Phase I Archaeological Reconnaissance Survey & Phase II Archaeological Evaluation – Fieldwork & Reporting

This task will include Phase I Archaeological Survey fieldwork and subsequent reporting efforts as needed. State's CRU will delineate the study area and/or Archaeological Review Area (ARA), which will consider the direct and indirect effects of selected proposed projects. Within this ARA, Phase I (identification) archaeological work can be performed. This will include research, summary of fieldwork, historic contexts, analysis, site delineations (Phase II) and recommendations of next steps. Additionally, State archaeological site forms and GIS data will be submitted to State's CRU and applicable licensing agencies as required. Reports will comply with State Historic Preservation Office (SHPO) and State CRU guidelines. If an archaeological site is identified during the Phase I Archaeological Survey up to one Phase II site evaluation will be performed. The scope and research design for Phase II work will be formalized with State's CRU and a Phase II archaeological license will be obtained from Office of the State Archaeologist (OSA) if/when it is needed.

Deliverable:

Phase I and/or II Archaeological Reconnaissance Survey & Reporting, GIS submittals.

Additional Information:

This will include up to one Phase II site evaluation. Contractor will work with State's Project Manager, County or City to notify applicable landowners of archaeological investigations and will secure access to sites requiring investigation. State's CRU will provide a project letter to Contractor to send out. State's CRU will handle consultation with applicable consulting parties including but not limited to: OSA, MIAC, SHPO, THPOs and Tribal communities.

Winter fieldwork, if required, will be undertaken as determined appropriate and professionally responsible on a case-by-case basis. A discussion with State's CRU staff will be undertaken if such requests are made. Projects requiring specialized an/or non-traditional archaeological investigation methods i.e. geophysical survey, geoarchaeology studies, or archaeological deep testing will need to be subcontracted. Surface (pedestrian) survey and subsurface (shovel test)

Exhibit C: Specifications, Duties, and Scope of Work

survey is adequate at the Phase I level, and formal excavation units will be adequate at the Phase II level, unless otherwise discussed with State's CRU. No mitigation efforts are included in this scope of work.

Schedule:

Field efforts will be dependent upon several factors including: securing licensing from OSA, the field work schedule will depend on size of project, weather conditions, and other project scheduling. The ground must be snow free, in the case of pedestrian survey to ensure adequate ground surface visibility, and soils must be thawed through the upper approximately 1-meter from the ground surface for archaeological field investigations to occur. A draft report will be submitted within 6 weeks of fieldwork completion at the Phase I level, and within 10 weeks of fieldwork completion at the Phase II level, dependent upon the complexity and associated reporting on resources encountered. Individual project schedules will be discussed with State's Project Manager.

Task 3: Artifact Curation (non-federal public lands)

If encountered in the course of Task 2, artifacts recovered during archaeological fieldwork on non-federal public lands are the property of the State and must be curated at a State recognized repository in perpetuity to meet applicable archaeological licensing requirements. As the potential number of artifacts encountered at the Phase I & II levels and during cultural resources monitoring of construction is unknown and dependent on a project-by-project basis, an estimate for the curation of up to 100 artifacts is included in this scope. Submission of artifacts for curation must meet applicable repository standards.

Additional Information:

Artifacts will be submitted to the Minnesota Historical Society (MNHS) under Contractor's repository agreement. No oversized artifacts or human remains/burial goods will be recovered.

Deliverable:

Submission of artifacts to a State recognized repository along with associated documentation.

Task 4: Phase I and II Architecture/History Surveys

This task will include a Phase I and II architecture/history investigation of the State's CRU determined APE and those properties 45 years or older (1979 or earlier) with the potential to be listed on the National Register. If potential NRHP eligibility cannot be determined at the Phase I level, additional (Phase II) architectural history investigations may be required. Results of the survey will include a report with background research and historic contexts for the project area. The report will meet standards set forth in the *State Cultural Resources Unit (CRU) Project and Report Requirements, 2017*, and the *State Historic Preservation Office (SHPO) Historic and Architectural Survey Manual, revised 2017*. If a previous inventory number associated with the property can be determined it will also be referenced. New inventory numbers will only be requested for those properties within the APE not for those documented in the table that do not currently have inventory numbers. Inventory forms will be provided to State's CRU for properties surveyed.

Additional Information:

This scope includes up to 35 Phase I inventory forms and up to 2 Phase II inventory forms.

Deliverable:

Phase I/II Architecture/History survey report meeting applicable guidelines and GIS submittals.

Schedule:

Background and research can begin within two weeks of notice to proceed. A draft report can be provided within 6 weeks of fieldwork completion. A final report can be provided within 2 weeks of State's CRU review and comments. Individual project schedules will be discussed with State's Project Manager.

1. Compensation and Payment.

1.1. **Consideration.** State will pay for all services performed by Contractor under this Contract as follows:

1.1.1. **Compensation.** Contractor will be paid on a Cost Plus Fixed Fee (profit) basis as follows:

Direct Labor Costs:	\$27,283.50
Overhead Costs:	\$46,381.95
Fixed Fee Costs:	\$ 8,103.20
Direct Expense Costs:	\$ 743.00

1.1.2. **Overhead Rate.** For all work except drilling, overhead rates are not to exceed MnDOT's Overhead Rate Cap. Drilling rates should be determined by Audit. The overhead rate of **170%** of Direct Salary Costs will be used on a provisional basis, determined by State's Office of Audit, and will not exceed 170%. For the purposes of contract close out, MnDOT Audit will apply the most current MnDOT approved overhead rate to direct labor costs, in years where a MnDOT approved overhead rate is not available.

1.1.3. **Fee.** The fee rate of **11%** of Direct Salary and Overhead Costs will be used. The final fee amount distributed will be capped at 15% of actual Direct Salary and Overhead Costs incurred at the close of the Contract, as determined by MnDOT's Office of Audit.

1.1.4. **Overtime.** State will not pay overtime rates for any overtime worked by Contractor or a subcontractor unless State's Authorized Representative has specifically authorized overtime, in writing. If this contract expressly provides for the use of overtime and includes associated classifications, rates and costs, then this contract will serve as written approval. If those items are not included in the contract, then the Contractor must request and receive written approval from the State's Authorized Representative before performing the overtime. The State's Authorized Representative will maintain the documentation in the contract file.

1.1.5. **Direct Costs.** Allowable direct costs include project specific costs listed in **Exhibit E**. Any other direct costs not listed in **Exhibit E** must be approved, in writing, by State's Authorized Representative prior to expenditure.

1.1.6. **Budget Details.** See **Exhibit E** for budget details on Contractor.

1.1.7. **Travel Expenses.** Contractor will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Minnesota Department of Transportation Travel Regulations". Contractor will not be reimbursed for travel and subsistence expenses incurred outside the state of Minnesota unless it has received prior written approval from State for such out of state travel. The state of Minnesota will be considered the home base for determining whether travel is "out of state". See **Exhibit F** for the current Minnesota Department of Transportation Reimbursement Rates for Travel Expenses.

1.1.8. **Total Obligation.** State will pay eighty percent of the project costs (up to \$66,009.32). The County will pay twenty percent of the project costs (up to \$16,502.33). The total obligation for all compensation and reimbursements to Contractor under this Contract will not exceed **\$82,511.65**.

1.2. Payment

1.2.1. **Invoices.** Contractor must submit invoices electronically for payment, using the format set forth in **Exhibit G**. Contractor will invoice the State and the County directly **On a Monthly Basis**. Invoices will detail the total cost of the project, and also identify the 80% State and 20% County amount due.

1.2.2. **Progress Reports.** Contractor must submit a monthly progress report, using the format set forth in **Exhibit H** showing the progress of work in work hours according to the tasks listed in the Specifications, Duties, and Scope of Work.

1.2.3. **State's Payment Requirements.** State will promptly pay all valid obligations under this Contract as required by Minnesota Statutes §16A.124. State will make undisputed payments no later than 30 days after receiving Contractor's invoices and progress reports for services performed. If an

invoice is incorrect, defective or otherwise improper, State will notify Contractor within 10 days of discovering the error. After State receives the corrected invoice, State will pay Contractor within 30 days of receipt of such invoice.

- 1.2.4. **All Invoices Subject to Audit.** All invoices are subject to Audit, at State's discretion.
- 1.2.5. **Invoice Package Submittal.** Contractor must submit the signed invoice, the signed progress report and all required supporting documentation, for review and payment, to State's Consultant Services Section, at ptinvoices.dot@state.mn.us and to the County's Authorized Representative, Greg Ilkka at gregory.ilkka@SteeleCountyMN.gov. Invoices will not be considered "received" within the meaning of Minnesota Statutes §16A.124 until the signed documents are received by State's Consultant Services Section and by the County's Authorized Representative.
 - 1.2.5.1. Each invoice must contain the following information: MnDOT Contract Number, Contractor's invoice number (sequentially numbered), Contractor's billing and remittance address, if different from business address, and Contractor's signature attesting that the invoiced services and costs are new and that no previous charge for those services and goods has been included in any prior invoice.
 - 1.2.5.2. Except for Lump Sum contracts, direct nonsalary costs allocable to the work under this Contract, must be itemized and supported with invoices or billing documents to show that such costs are properly allocable to the work. Direct nonsalary costs are any costs that are not the salaried costs directly related to the work of Contractor. Supporting documentation must be provided in a manner that corresponds to each direct cost.
 - 1.2.5.3. Except for Lump Sum contracts, Contractor must provide, upon request of State's Authorized Representative, the following supporting documentation:
 - Direct salary costs of employees' time directly chargeable for the services performed under this Contract. This must include a payroll cost breakdown identifying the name of the employee, classification, actual rate of pay, hours worked and total payment for each invoice period; and
 - Signed time sheets or payroll cost breakdown for each employee listing dates and hours worked. Computer generated printouts of labor costs for the project must contain the project number, each employee's name, hourly rate, regular and overtime hours and the dollar amount charged to the project for each payperiod.
- 1.2.6. **Subcontractors.** If Contractor is authorized by State to use or uses any subcontractors, Contractor must include all the above supporting documentation in any subcontractor's contract and Contractor must make timely payments to its subcontractors. Contractor must require subcontractors' invoices to follow the same form and contain the same information as set forth above.
- 1.2.7. **Retainage.** Under Minnesota Statutes §16C.08, subdivision 2(10), no more than 90% of the amount due under this Contract may be paid until State's agency head has reviewed the final product of this Contract. The balance due will be paid when State's agency head determines that Contractor has satisfactorily fulfilled all the terms of this Contract.
- 1.2.8. **Federal Funds.** If federal funds are used, Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by Contractor's failure to comply with federal requirements.

2. Conditions of Payment.

- 2.1. All services provided by Contractor under this Contract must be performed to State's satisfaction, as determined at the sole discretion of State's Authorized Representative and in accordance with all applicable federal, state and local laws, ordinances, rules and regulations, including business registration

requirements of the Office of the Secretary of State. Contractor will not receive payment for work found by State to be unsatisfactory or performed in violation of federal, state or local law.

3. Contractor Payment Form Requirement.

- 3.1. Contractors making payments to subcontractors, regardless of their tier or **Disadvantaged Business Enterprise (DBE)** status, are required to complete **Exhibit I**, the “Contractor Payment Form”, and submit it to State’s Office of Civil Rights (OCR) until final payment is made. Contractor must include payments to subcontractors, service providers, sub-consultants and independent contractors. Failure to comply with this form and Minnesota’s prompt payment law may cause progress payments to Contractor to be withheld. Contractor must submit one copy of this form to State’s OCR and one to State’s Project Manager, no later than 10 days after receiving a payment from State.

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Exhibit E: Budget Details**Direct Labor Costs**

	Classification	Hours	Hourly Rate	Cost
Project Management	Cultural Resources Project Manager	4	\$46.50	\$186.00
	Senior Cultural Resources Specialist	20	\$40.00	\$800.00
	Principal-in-Charge	1	\$55.50	\$55.50
	Admin	2	\$31.00	\$62.00
Phase I Archaeological Reconnaissance Survey Fieldwork & Reporting	Cultural Resources Project Manager	2	\$46.50	\$93.00
	Senior Cultural Resources Specialist	160	\$40.00	\$6,400.00
	GIS Specialist	4	\$38.00	\$152.00
	Cultural Resources Specialist	160	\$30.00	\$4,800.00
	Cultural Resources Technician	80	\$26.00	\$2,080.00
	Principal-in-Charge	1	\$55.50	\$55.50
	Admin	2	\$31.00	\$62.00
Artifact Curation (non-federal public lands)	Cultural Resources Project Manager	1	\$46.50	\$46.50
	Senior Cultural Resources Specialist	40	\$40.00	\$1,600.00
	Cultural Resources Specialist	40	\$30.00	\$1,200.00
	Cultural Resources Technician	40	\$26.00	\$1,040.00
	Principal-in-Charge	1	\$55.50	\$55.50
	Admin	2	\$31.00	\$62.00
Phase I Architecture/History Survey and Reporting	Cultural Resources Project Manager	80	\$46.50	\$3,720.00
	Senior Cultural Resources Specialist	80	\$40.00	\$3,200.00
	GIS Specialist	4	\$38.00	\$152.00
	Cultural Resources Specialist	24	\$30.00	\$720.00
	Cultural Resources Technician	24	\$26.00	\$624.00
	Principal-in-Charge	1	\$55.50	\$55.50
	Admin	2	\$31.00	\$62.00
Total Direct Labor Costs:				\$27,283.50
Overhead Rate Costs @ 170%:				\$46,381.95
Fixed Fee Rate Costs @ 11%:				\$8,103.20

Direct Expense Costs

	Description	Units	Unit Rate	Cost
	Mileage at IRS rates			\$143.00
	Artifact Curation (supplies/MHS fee)			\$600.00
Total Direct Expenses				\$743.00

TOTAL CONTRACT AMOUNT**\$82,511.65**

MINNESOTA DEPARTMENT OF TRANSPORTATION
2021-2023 Commissioner's Plan Reimbursement Rates for Travel Expenses*

Subject	Conditions/Mileage	Rate
Personal Car	(1)	Federal IRS reimbursement rate
Commercial Aircraft	(2)	Actual cost
Personal Aircraft	(1)	Federal IRS reimbursement rate
Rental Car	(2)	Actual cost
Taxi	(3)	Actual cost
Subject	Meals	Rate
Breakfast	(1) (5) (7)	\$10.00
Lunch	(1) (5) (7)	\$13.00
Dinner	(1) (5) (7)	\$19.00
Subject	Lodging	Rate
Motel, Hotel, etc.	(2) (4) (6)	Actual cost
Laundry/Dry Cleaning (After seven continuous days in Travel Status)	(1) (3)	\$16.00 each week
Telephone, Personal	(1)	As of July 1, 2022, no reimbursement of costs

Travel Status

- More than 35 miles from Home Station and/or stay overnight at commercial lodging (motel, etc.).
- Leave home in travel status before 6 a.m. for breakfast expense that day or away from home overnight.
- In travel status after 7 p.m. for supper expense that day or is away from home overnight.
- On travel status and/or more than 35 miles from Home Station for lunch expense that day.

Restrictions

1. A maximum rate shown or a lesser rate per actual reimbursement to an employee.
2. Include receipt or copy of receipt when invoicing. (Coach class for aircraft, Standard card size, and standard room.)
 - a. Lodging costs should be reasonable and consistent with facilities available.
3. Include receipt or copy of receipt when more than \$10.00.
4. Reasonable for area of stay.
5. The gratuity is included in the maximum cost.
6. To be in Travel Status and at a commercial lodging.
7. Meal reimbursements for high-cost localities as identified by the IRS, the maximum reimbursement will be Breakfast \$12.00, Lunch \$15.00, and Dinner \$23.00.

*The above expense rates are based on the 2021-2023 Commissioner's Plan contract and are subject to change with subsequent contract updates.

INVOICE NO. _____
 Estimated Completion: %
 Final Invoice? Yes No

Invoice Instructions:

Contractor must:

1. Complete the invoice and, if applicable, the progress report, in their entirety
2. Sign the invoice and progress report
3. Attach supporting documentation
4. Scan the entire invoice package*, **in the following order**:
 - a. Completed, Signed Invoice Form
 - b. Completed, Signed Progress Report Form (if applicable)
 - c. Supporting Documentation

Note: Whenever possible, convert landscape pages to portrait pages and optimize the document to decrease the size
5. E-mail the invoice package, in .pdf, to ptinvoices.dot@state.mn.us

MnDOT Contract Number: 1055047

Billing Period*: From _____ to _____

Contract Expiration Date: November 30, 2024

Invoice Date: _____

SP Number: 019-626-031/8816-3622 TH Number: CSAH 26

	Total Contract Amount	Total Billing to Date	Amount Previously Billed	Billed This Invoice
1. Direct Labor Costs: (Attach Supporting Documentation)	\$27,283.50			
2. Overhead Costs: Rate = 170% (Direct Labor*Overhead Rate)	\$46,381.95			
3. Fixed Fee (Profit) Costs: Rate = 11% (Fixed Fee = \$ * Percent Complete)	\$8,103.20			
4. Direct Expense Costs: (Attach Supporting Documentation)	\$743.00			
Net Earning Totals:	\$82,511.65			
Total Amount due this invoice:				\$
<i>*If your billing period includes costs to and after June 30, provide a "Billed This Invoice" split of cost through June 30, and costs after.</i>				

State's 80% Portion: _____

County's 20% Portion: _____

Contractor: Complete this table when submitting an invoice for payment

Source Type	Total Billing to Date	Amount Previously Billed	Billed This Invoice
1071			
Total			

I certify that the statements contained on this invoice, and its supporting documents, are true and accurate and that I have not knowingly made a false or fraudulent claim, or used a false or fraudulent record in connection with this Invoice. I understand that this invoice is subject to audit.

Contractor: **Bolton & Menk, Inc.**

Signature: _____

Print Name: _____

Title: _____

If you are unable to support electronic submission of Invoices, you must contact the Authorized Representative for possible alternatives.

For Invoice No.: _____

Progress Report Instructions:

1. Contractor must complete the progress report form, in its entirety.
2. Contractor must sign the progress report.
3. Contractor must include the completed, signed progress report as part of the invoice package, and submit it as instructed (see Contract and/or invoice form for further details).

(Note: Whenever possible, convert landscape pages to portrait pages and optimize the document to decrease the size.)

MnDOT Contract No. 1055047

Billing Period: from _____ to _____

Contract Expiration Date: November 30, 2024

From: Bolton & Menk, Inc.

SP Number: 019-626-031/8816-3622 TH Number: CSAH 26

Task	% of Total Contract	% Work Completed This Period	% Work Completed To Date	Weight % Completed This Period	Weight % Work Completed to Date	Hours Budget	Hours Accrued This Period	Total Hours Accrued To Date	% of Budget Hours Used
		3	4	5	6				
1	2	3	4	5	6	7	8	9	10
Project Management						27			
Phase I Archaeological Reconnaissance Survey Fieldwork & Reporting						409			
Artifact Curation						124			
Phase I Architecture / History Survey & Reporting						215			
TOTALS:	100					775			

***Note: If Budgeted Hours Used for any task exceeds 100%, Contractor must attach an explanation to the invoice package.**

I certify that the above statement is correct, and certify that I have not knowingly made a false statement or used a false record in the preparation of this form:

 Contractor's Project Manager Date

Exhibit I: Contractor Payment Form

State Project Number:	Payment Reporting Period: to	Prime Contractor:
Invoice Number:	Date Paid by State:	Subcontractor:

Submittal Instructions: Contractors making payments to subcontractors, regardless of their tier or DBE status, are required to complete and submit this form to State's Office of Civil Rights (OCR) until final payment is made. Contractor must include payments to subcontractors, service providers, sub-consultants and independent contractors. Failure to comply with this form and Minnesota's prompt payment law may cause progress payments to the Prime Contractor to be withheld. Contractor must submit one copy of this form to State's OCR (at Joyce.Brown-Griffin@state.mn.us); State's Project Manager, Consultant Services (at ptinbox@state.mn.us) no later than 10 days after receiving a payment from State.

(A) Contractor's Name, Address & Telephone Number		(B) Total Contract Amount	(C) Committed DBE %	(D) Actual DBE % to Date	
Name:					
Address:					
Phone:					
(E) Name of Subcontractor(s)/Supplier(s)		(F) DBE? (indicate)	(G) Description of Work		(H) Subcontract Amount
1.			1.		1.
2.			2.		2.
3.			3.		3.
(I) Amount of Current Payment	(J) Date Subcontractor Payment Issued	(K) Amount Paid to Date	(L) % Paid to Date	(M) Final Payment? (Yes or No)	
1.	1.		1.	1.	
2.	2.		2.	2.	
3.	3.		3.	3.	
(N) Company Official's Signature, Title & Contact Info		(O) Date Signed	(P) Name, Title & Contact Info for the Individual Completing the Report		
Signature:			Signature:		
Title:			Title:		
Phone Number:		Fax Number:		Phone Number:	
				Fax Number:	

(This form may be submitted in an alternate format)

Contractor Payment Form Instructions:

- (A) **Contractor's Name, Address & Telephone Number:** Enter the Prime Contractor's Information
- (B) **Total Contract Amount:** Enter the Total Contract Amount of the contract, as a whole
- (C) **Committed DBE %:** Enter the DBE requirement, as certified by the Prime Contractor in their proposal, which is the minimum percentage to be met.
- (D) **Actual DBE % To Date:** Enter the DBE percentage that have been met to date.
- (E) **Name of Subcontractor(s)/Supplier(s):** Enter the name of each subcontractor and/or supplier being used under the contract (add lines if necessary).
- (F) **DBE?:** Indicate whether each subcontractor and/or supplier is a DBE, or not.
- (G) **Description of Work:** Enter a description of the service(s) each subcontractor and/or supplier is providing under the contract.
- (H) **Subcontract Amount:** Enter the amount each subcontractor and/or supplier has been contracted for.
- (I) **Amount of Current Payment:** Enter the amount each subcontractor and/or supplier is being paid in this reporting period.
- (J) **Date Subcontractor Payment Issued:** Enter the date that the Prime issued payment to the Subcontractor.
- (K) **Amount Paid to Date:** Enter the amount each subcontractor and/or supplier has been paid to date, including the current payment.
- (L) **% Paid to Date:** Enter the percentage of total payments each subcontractor and/or supplier has received to date, in comparison to their contracted amount.
- (M) **Final Payment? (Yes or No):** Indicate whether the payment for each subcontractor and/or supplier, for the current payment, is the final payment or not.
- (N) **Company Official's Signature and Title:** A company official must sign each Contractor Payment Form submitted – include their title for reference.
- (O) **Date Signed:** Enter the date the Contractor Payment Form was signed by the company official.
- (P) **Name & Title of Individual Completing the Report:** Enter the Name and Title of the person who actually completed the Contractor Payment Form.

If you have any questions regarding this form, call the Office of Civil Rights at 651-366-3073