

SAMPLE CONTRACT FOR ENGINEERING AND TECHNICAL SERVICES

This Agreement entered into this _____ day of _____, 20__ by and between _____ located at _____, hereinafter referred to as “Engineer” and the (City/County) of _____, Missouri, hereinafter referred to as “City/County” for furnishing engineering and technical services.

The services will be for the design of _____

_____.

I. SCOPE OF SERVICES

In connection with the above, Engineer will perform the following services:

A. Topographic and Design Surveys

1. Engineer will obtain the topographic and design surveys necessary for the preparation of contract plans for the proposed improvements. Such surveys will include, but not necessarily be limited to:

a. _____

_____.

b. _____

_____.

c. _____

_____.

d. _____

_____.

B. Geotechnical Services

Engineer will obtain all necessary subsurface investigations, tests, reports, and perform related surveys.

C. Contract Plans and Cost Estimate

1. Engineer will prepare complete and detailed final contract plans for the proposed improvements as previously described. The plans will include, but not be limited to, the following:
 - a. _____

_____.
 - b. _____

_____.
 - c. _____

_____.
2. Engineer will assist the City/County in obtaining the approval of final agreements with the utility companies and other such public agencies as may be necessary.
3. Engineer will prepare a complete set of front end documents and technical specifications for the construction package.
4. Engineer will provide quantities and a detailed estimate of cost for the work.
5. Engineer will prepare the notice to contractors for bidding purposes, notify Dodge Reports of the progress of the project, send written notices to a number of contractors qualified to bid on the work, and send written notices to various minority organizations and minority contractors.

D. Easement Deeds

Engineer will prepare easement deeds, ready for signature, for all properties from which easements will be required for construction.

E. Construction Services

1. Engineer will assist the City/County in advertising for bids, attend the bid opening, prepare bid tabulations, and assist in analyzing bids and making recommendation with respect to the selection of a qualified contractor for the construction of the work.
2. Engineer will prepare and forward _____ signature sets of Contract Documents to the contractor selected by City/County.
3. Engineer will be available for general consultation and interpretation of the plans and specifications during construction.
4. Engineer will visit the site a maximum of _____ times and observe the progress of construction at intervals during construction of the project. Such observation is not to be construed as supervision of construction, but is a review of the work for general conformance with contract plans.
5. Engineer will review all shop and working drawings.

6. Engineer will participate in the final inspection (included in the visits mentioned in E-3).

II. TO BE PROVIDED BY THE CITY/COUNTY

- A. All available pertinent information that it may have in its possession or to which it may have access.
- B. A representative to whom Engineer will report and from whom Engineer shall receive instruction and authorization.
- C. Right of access to all properties as required during the execution of the work.
- D. All necessary resident engineering services.
- E. Services of an independent testing laboratory to perform all materials testing necessary for control of the project during the construction phase.
- F. Title work necessary for easement or property acquisition.

III. TO BE PROVIDED BY ENGINEER

- A. The services of all professional and technical personnel required for the performance of the services described under Scope of Work.
- B. Up to _____ copies of the construction plans and specifications for the project.

IV. TIME OF PERFORMANCE

- A. The services of Engineer are to commence upon the signing of the contract, and the final contract plans and documents will be available, ready for advertising for bids, within _____ days after receipt of notice to proceed.
- B. Construction services shall be provided at such time as may be required.

V. COMPENSATION

- A. The City/County will compensate Engineer for the work specified above as follows:
 1. For all work and services described in the Scope of Services, except B, Geotechnical Services, the lump sum fee shall be _____ (\$00,000.00).
 2. For all work and services included in B, Geotechnical Services, the fee shall be the direct cost of the subcontract services furnished by a geotechnical consultant, plus _____ percent for administration. The scope and cost of said services would be reviewed and approved by the City/County prior to any authorization to proceed.
 3. This cost shall constitute complete compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Work.

VI. METHOD OF PAYMENT

Payment to Engineer for services under Scope of Work will be made monthly based on the percentage of work completed during the preceding month and will, in every case, be supported by a suitable invoice.

VII. SPECIAL CONDITIONS

This contract is subject to and incorporates the provisions attached hereto as Exhibit A, the Regulations of the Department of Housing and Urban Development relative to Contracts for Community Development, Part II, General Terms and Conditions.

VIII. ACCEPTANCE

If this contract meets with your approval, please indicate your acceptance by signing this proposal and returning one signed copy.

Submitted by:

Engineer Name

Attest:

Name and title

Name and Title

City/County

Attest:

Name and title

Name and Title

STATE OF MISSOURI))ss
COUNTY OF _____)

AFFIDAVIT
(as required by Section 285.530, Revised Statutes of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE: Any person performing work or service of any kind for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge,

(a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or

(b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared _____, who, being duly sworn, states on his oath or affirmation as follows:

1. My name is _____ and I am currently the President of _____ (hereinafter "Contractor"), whose business address is _____

_____ "and I am authorized to make this Affidavit.

2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and _____

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant sayeth not.

Affiant

Subscribed and sworn to before me this _____ day of _____, 2010.

Commission #

PLEASE NOTE:

Acceptable enrollment and participation documentation consists of the following 2 pages of the E-Verify Memorandum of Understanding:

1. A valid, completed copy of the first page identifying the Contractor; and
2. A valid copy of the signature page completed and signed by the Contractor, and the Department of Homeland Security – Verification Division.

SAMPLE CONTRACT FOR ENGINEERING SERVICES (CONTINUED)

CONTRACT FOR ENGINEERING SERVICES

PART II – TERMS AND CONDITIONS

1. Termination of Contract for Cause. If, through any cause, the Engineer shall fail to fulfill in a timely and proper manner his obligations under this Contract, or if the Engineer shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Engineer of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Engineer under this Contract shall, at the option of the City, become its property and the Engineer shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Engineer, and the City may withhold any payments to the Engineer for the purpose of set-off until such time as the exact amount of damages due the City from the Engineer is determined.

2. Termination for Convenience of the City. The City may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Engineer. If the Contract is terminated by the City as provided herein, the Engineer will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Engineer, Paragraph 1 hereof relative to termination shall apply.
3. Changes. The City may, from time to time, request changes in the scope of the services of the Engineer to be performed hereunder. Such changes, including any increase or decrease in the amount of the Engineer's compensation, which are mutually agreed upon by and between the City and the Engineer, shall be incorporated in written amendments to this Contract.
4. Personnel.
 - a. The Engineer represents that he has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.
 - b. All of the services required hereunder will be performed by the Engineer or under his 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.
 - c. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.
5. Assignability. The Engineer shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by the Engineer from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

6. Reports and Information. The Engineer, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
7. Records and Audits. The Engineer shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds, both Federal and non-Federal shares. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted by the City.
8. Findings Confidential. All of the reports, information, data, etc. prepared or assembled by the Engineer under this Contract are confidential and the Engineer agrees that they shall not be made available to any individual or organization without the prior written approval of the City.
9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Engineer.
10. Compliance with Local Laws. The Engineer shall comply with all applicable laws, ordinances, and codes of the State and local governments, and the Engineer shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.
11. Equal Employment Opportunity. During the performance of this Contract, the Engineer agrees as follows:
 - a. The Engineer will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.
 - b. The Engineer will, in all solicitation or advertisements for employees placed by or on behalf of the Engineer, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 - c. The Engineer will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
 - d. The Engineer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - e. The Engineer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the City and

the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f. In the event of the Engineer's noncompliance with the non-discrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Engineer may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The Engineer will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Engineer will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Engineer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Engineer may request the United States Government to enter into such litigation to protect the interests of the United States.
12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 13. Section 109(a) of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.
 14. "Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities.
 - a. The work to be performed under this contract is on a project assisted under a program providing direct Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns, which are located in, or owned in substantial part by, persons residing in the area of the project.
 - b. The parties to this contract will comply with the provision of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

- c. The Engineer will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous place available to employees and applicants for employment or training.
 - d. The Engineer will include this Section 3 clause, in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontract where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
 - e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, and its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.
15. Section 503 of the Rehabilitation Act of 1973, as amended, provides for the nondiscrimination in contractor employment. All recipients of Federal funds must certify to the following through all contracts issued.

Affirmative Action for Handicapped Workers

- a. The Engineer will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Engineer agrees to take affirmative action to employ, advance in employment, and to otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.
- b. The Engineer agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c. In the event of the Engineer's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of the applicants and employees.

- e. The Engineer will 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 terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
 - f. The Engineer will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Engineer will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.
16. Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his handicap in benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of this Section.
17. Age Discrimination Act of 1975. No person in the United States, on the basis of age, be excluded from participation in, be denied benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.
18. Authorized Employees. Consultant acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Consultant therefore covenants that is not knowingly in violation of subsection 1 or Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.
19. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Engineer shall take appropriate steps to assure compliance.
20. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Engineer shall take appropriate steps to assure compliance.
21. Interest of Engineer and Employees. The Engineer covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Engineer further covenants that in the performance of this Contract, no person having any such interest shall be employed.