

CONSULTANT CONTRACT FOR THE PREPARATION OF AN INTENSIVE ARCHTECTURAL AND HISTORICAL SURVEY FOR THE CITY OF LA CROSSE

CONTRACT FOR SERVICES (10/9/2015)

- 1) This is a contract agreement dated the 13th of October 2015 between The City of La Crosse (herein after referred to as “the sponsor”) and Barbara Kooiman (herein after referred to as “the consultant”). The sponsor wishes to have developed, and approved by the Wisconsin Historical Society and the City of La Crosse, an updated Architectural and Historic Intensive Survey. The survey must focus on the historical and architectural fabric of the community for the purpose of identifying not only historically/architecturally significant structures, but also areas that have special character, historic/architectural significance, aesthetic interest or other significant value for the purpose of preserving such buildings or areas. Thorough, site specific research must be conducted in order to identify historic residential districts.
- 2) The contract will go into effect starting the 13th day of October 2015 and ending the 1st day of November 2016, unless an extension agreement has been arranged by the sponsor and consultant prior to the 1st day of November 2016.
- 3) The consultant agrees to the following work activities and project conditions for the completion of an intensive survey and related activities for this agreement:
 1. **Survey Manual.** The subgrantee shall conform to and follow all necessary program requirements and guidelines detailed in the Division of Historic Preservation “Survey Manual”.
 2. **Consultant Selection.** The Heritage Preservation Commission will have final approval of the principal investigator selected. The principal investigator must be qualified according to the requirements for Wisconsin Historic Preservation Office staffs.
 3. **Consultant Training.** The principal investigator, project assistants, and the project director may be required to attend a training session in Madison prior to beginning work to be trained in DHP survey procedures if needed.
 4. **Completion Schedule.** All products must be completed within 1 year of a signed agreement. Final products must be submitted by the project completion date. Non-compliance with the schedule is considered grounds for terminating the agreement.
 5. **Reconnaissance Survey.** The project must begin with a reconnaissance survey of the La Crosse city limits in order to document properties of architectural or historical interest and potential significance. The survey should evaluate all properties built prior to 1975. This should also include a re-evaluation of properties previously surveyed in the “Intensive Architectural and Historical *Survey Report 1984, for the City of La Crosse*” and its 1996 update. Any properties, either listed individually on the NRHP, or as a contributing building in a NRHP Historic District need not be re-evaluated. The survey must be conducted according to guidelines described in the DHP “Survey Manual”. Products of the reconnaissance survey are:
 - a) **Acknowledgment of Federal Assistance**
For projects funded by grants from the Historic Preservation Fund, the following acknowledgment of federal assistance is required on the title page or on the page immediately following the title page. The following acknowledgment must be used in its entirety: “This programs receives Federal financial assistance for identification and

protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, or disability or age in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to: Office of Equal Opportunity, National Park Service, 1849 C Street NW, Washington, DC 20240 The activity that is the subject of this (type of publication) has been financed (in part/entirely) with Federal Funds from the National Park Service, U.S. Department of the Interior, and administered by the Wisconsin Historical Society. However, the contents and opinions do not necessarily reflect the views or policies of the Dept. of the Interior or the Wisconsin Historical Society. Nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Dept. of the Interior or the Wisconsin Historical Society.”

- b) **Methodology**
Highlight important aspects of the survey and describe the methodology used to conduct the survey. Explain what was surveyed and why. Photograph any properties within the community that have not been photographed.
 - c) **Historical Context**
A brief historical sketch of the development of the community should focus on settlement patterns, immigrant groups, important industries, and dominant architectural traditions.
 - d) **Local Contacts**
It is important to provide the names and addresses or telephone numbers of local contacts who were especially knowledgeable or helpful; groups or organizations supportive of historic preservation might also be included.
 - e) **Preservation Issues and Threats**
In considering the local preservation situation, the surveyor should note any imminent threats to buildings in the area and the nature of the threats.
 - f) **Bibliography**
References consulted should be listed in the bibliography.
 - g) **Survey Findings**
The presence, location and type of possible historic districts should be noted and briefly described. Priorities for National Register nominations or outstanding buildings might be mentioned. If the reconnaissance survey is part of an intensive survey project, a reconnaissance survey is not required. The information usually contained in a reconnaissance survey report will be part of the intensive survey report.
 - h) **Map**
Produce a survey map of the reconnaissance survey.
6. **Intensive Survey.** This phase of the survey contains three basic work elements: site-specific research, preparation of district survey forms, and the preparation of the survey report. Each of these elements is described below. They are more fully discussed in the DHP “Survey Manual”.

a) **Site specific research.**

Historic research must be conducted on all properties potentially eligible for the National Register of Historic Places or within a potential National Register historic district.

b) **Preparation of district survey forms.**

District survey forms, fully completed and typed, must be prepared for all districts identified by the principal investigator with the assistance of the DHP. A list of all properties and their classification as contributing or non-contributing must be attached to the form.

c) **Preparation of intensive survey report.**

The intensive survey report must be prepared according to the guidelines in the intensive survey manual. All themes represented in the history of the survey area not addressed by the 1996 survey must be addressed.

I. **Title Page**

The title page must include the title of the project, describe the nature and location of the survey, the author of the report, the principal investigators, the project director, the sponsoring institution, association, or agency, and the date the report was prepared.

II. **Abstract**

The abstract must include a summary of project elements, a description of the purpose, location, and products of the project, and the repository for the products.

III. **Table of Contents**

The table of contents must list report chapters and all subdivisions, including study unit subdivisions. Pagination must be shown in the table of contents.

IV. **Acknowledgment**

For projects funded by grants from the Historic Preservation Fund, the following acknowledgment of federal assistance is required on the title page or on the page immediately following the title page. The following acknowledgment must be used in its entirety: "This program receives federal assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, or disability or age in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to: Office of Equal Opportunity, National Park Service, 1849 C Street NW, Washington, DC 20240 The activity that is the subject of this (type of publication) has been financed (in part/entirely) with Federal Funds from the National Park Service, U.S. Department of the Interior, and administered by the Wisconsin Historical Society. However, the contents and opinions do not necessarily reflect the views or policies of the Dept. of the Interior or the Wisconsin Historical Society. Nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Dept. of the Interior or the Wisconsin Historical Society."

V. **Introduction**

The introduction must summarize the objectives for conducting the intensive survey project, the scope of the project, and the agencies involved. A map showing the location of the project must be included.

VI. **Survey Methodology**

An explanation of the procedures used to execute the work program must be included in this section. Describe who surveyed the area and how the survey was conducted; phases of the survey, including a description of geographic or political areas that contributed to the phasing; types of properties surveyed and the criteria for coverage; resources that contributed to the research effort; public education efforts conducted in conjunction with the project, and the role of any volunteer or advisory groups and the success of their participation.

VII. **Historical Overview**

An overview of the community's development presented chronologically. Information on Native American occupation, preferably drawing on recent, professionally-prepared reports, and early settlement should be followed by a general description of the factors that affected the community's development. A description of how the community achieved its physical form must be included.

VIII. **Architecture**

IX. **Thematic Research and Annotated Bibliography** This is the most important section of the report. The thematic research synthesis and the bibliography prepared during the research phase must be included in this section. The statements of fact must be appropriately footnoted, in a standard format. Thematic chapters summaries must be named and organized, with subheadings, following the format of study units identified in the state CRMP. Some themes and study units will not pertain to all survey areas; only those that are relevant need be addressed. A "note on sources" must follow each thematic summary, briefly discussing in narrative form the most important sources used in compiling the summary. At the conclusion of each thematic chapter, include a list of all related properties included in the survey, noting their addresses, and the study units to which they pertain. A comprehensive bibliography of sources should be included at the end of the thematic research section of the report. Bibliographic references must indicate author, title and date of publication. The following chapters must also be included in this section:

- i. **Designers, Engineers, and Builders** including biographical information on architects, landscape architects, engineers, builders and contractors, and other designers who practiced in the survey area. The DHP's "Architects File" is a useful tool for obtaining information.
- ii. **Notable People** including biographical information on major figures in the community's history and reference to buildings or sites associated with them.
- iii. **Survey Results** A comprehensive list of all potentially eligible, arranged alphabetically and numerically by street must be included in this chapter. The list must imply National Register eligibility in guarded terms since the evaluation is only an opinion and may be invalid if the property is altered or

further research calls eligibility into question. The DHP recommends the term “potentially eligible.” This chapter should also contain the district survey forms, building lists and district maps with a brief discussion of each potential district identified. The survey results must be approved by the DHP prior to the completion of the report.

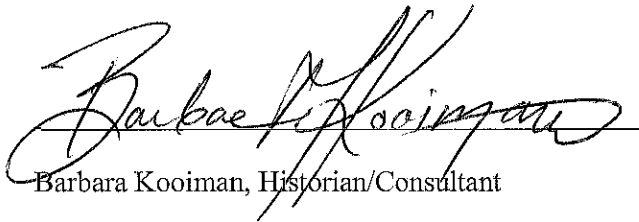
- iv. **Recommendations/Future Survey and Research Needs**
The recommendations chapter must be divided into two major areas: “Recommendations for the Registration and Protection of Resources” and “Community Strategies for Historic Preservation.” Future survey and research needs should include a description of research questions not answered during the survey and recommendations for other areas of a city or region that should be a high priority for survey. The section also must include a description of surveys that should be undertaken in order to evaluate properties in a regional or state context.
- v. **Threats to Resource** A description of the activities or conditions that pose threats to significant properties or districts or to historic resources in general.
- vi. **National Register Priorities** A list in priority order, recommending future nominations with a brief rationale for each. This section should be prepared in consultation with the survey sponsor and the DHP.
- vii. **Community Strategies for Historic Preservation** This section should contain recommendations to further local preservation efforts. It should begin with a description of the current state of preservation efforts in the community. Additional steps to strengthen local preservation efforts should be described that may include public education, establishment or amendment of local ordinances, creation or revision of smart growth plans, or increased nomination efforts. Possible educational uses of the survey materials should be suggested, particularly uses directed to government officials and agencies, historical societies, and school groups.
- viii. **Preservation Planning** This chapter is required if a preservation planning element was included in the subgrant work program. The goals and objectives of the plan and the necessary actions required to implement the plan must be described. If a separate planning document was prepared, it must be summarized and its accessibility must be explained.
- ix. **Appendix**
This section must include a copy of the subgrant work program, the National Register criteria for evaluation, and a description of the state and federal programs described in the DHP brochure “Wisconsin Preservation Information” and other publications of the Wisconsin Historical Society and the Department of the Interior. This section should also include any information of local interest that pertains to the intensive survey. Typed drafts of report chapters must be submitted for review according to the project schedule, and not less than eight weeks from the project completion date. At least eight (8) copies of the report must be submitted to the DHP by the project completion date. The subgrantee should retain at least (1) copy.

- 4) **Public Participation/Education** The subgrantee will sponsor at least two public meetings during the course of the project. It will be necessary for the principal investigator and the DHP to participate in both public meetings. The first meeting, to be held near the beginning of the survey project, should introduce the project and the principal investigator to the community, as well as familiarize the community with the survey process, and describe the areas of history that will be researched. The second meeting, to be held toward the end of the survey, should include a formal presentation of survey findings by the principal investigator. At this meeting, the DHP will explain the National Register of Historic Places program and its benefits. Additional public meetings can be held at the discretion of the subgrantee and the DHP as necessary. A copy of the script and slides from the presentation must be submitted to the DHP by the project completion date. Materials for a public information meeting include:
- audio-visual equipment (if necessary)
 - maps of proposed districts and the survey area
 - the survey report, if complete.
- 5) The survey shall also include a statement stating:
- “This project was supported by the City of La Crosse Planning and Development Department and Community Development Block Grant funds from the U.S. Department of Housing and Urban Development.”
- 6) The consultant agrees to provide the following materials to the sponsor:
1. One (1) hard-copy of the final, completed survey.
 2. One (1) electronic copy of the final, completed survey.
 3. All information files and photographs (either CD or electronic file) gathered for the project.
- 7) The consultant shall produce a draft, hard-copy of the report to the sponsor two (2) months before the end date of November 1, 2016. The sponsor and consultant shall then review and address any changes or concerns about the survey. A final hard-copy with all the required back-up files and photographs shall be presented to the sponsor on or before the end date of this contract which is November 1, 2016.
- 8) The consultant also agrees to attend one (1) meeting of the Historic Preservation Commission at the beginning of the process, one (1) meeting of the Heritage Preservation Commission at the end of process, and two (2) meetings with City of La Crosse Department of Planning and Development staff.
- 9) The consultant agrees that the end products will be property of the sponsor, with any printing and distribution to be done by the sponsor, unless a further arrangement is negotiated between the two parties.
- 10) The consultant will submit a monthly invoice to the sponsor for fees stated in the proposal submitted by the consultant on September 14, 2015. Monthly invoices shall be submitted to

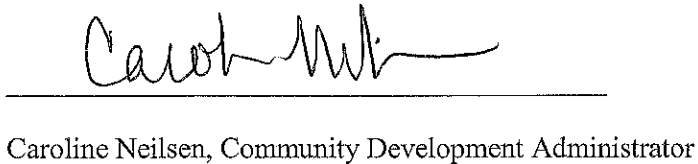
the sponsor by the 2nd Friday of each month so it can be approved by the Heritage Preservation Commission at their monthly meeting. . If the Heritage Preservation Commission does not hold a meeting than the invoice may be approved by Planning and Development Department staff. The total of all fees may not exceed \$39,995.

- 11) If, for any reason the consultant cannot complete the project, he must inform the sponsor at least one (1) month before the end date (November 1, 2015)
- 12) The agreement is officially finalized when the sponsor is satisfied with the work given by the consultant and the consultant has received his payment in full.
- 13) The consultant also has filled out and signed Attachment A. Conflict of Interest Statement.
- 14) The consultant agrees to the Attachment B. Standard Contract Terms and Conditions.
- 15) The consultant has submitted a completed W9 Form with the sponsor.

Signatures:


Barbara Kooiman, Historian/Consultant

10/13/2015
Date


Caroline Neilsen, Community Development Administrator

10/19/2015
Date

Attachment A. Conflict of Interest Statement.

CERTIFICATION

The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting a proposal for the same.

The UNDERSIGNED hereby declares that they have read and understand all standard contract conditions outlined in the **CONSULTANT CONTRACT FOR THE PREPARATION OF AN INTENSIVE ARCHITECTURAL AND HISTORICAL SURVEY FOR THE CITY OF LA CROSSE - CONTRACT FOR SERVICES (10/13/2015)** and that their proposal is made in accordance with the same. Furthermore, should they be the selected applicant, the undersigned will agree to these standard contract terms and conditions.

The UNDERSIGNED hereby declares that any person(s) employed by the City of La Crosse, who has direct or indirect personal or financial interest in this RFQ, application, or in any portion of the profits that may be derived there from, has been identified and the interest disclosed below. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of La Crosse employee, City of La Crosse Council Member, City of La Crosse Community Development Block Grant Committee, who would be paid to perform services under this proposal. An example of indirect interest would be a City of La Crosse employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

Declaration of any Conflict of Interest with the City of La Crosse.

ORGANIZATION NAME:

Barbara Kooiman, Architectural Historian

AUTHORIZED SIGNATURE:

Barbara Kooiman DATE: 10/13/2015

PRINT NAME & TITLE:

Barbara Kooiman, Architectural Historian

ADDRESS:

1

PHONE NUMBER: _____

1 FAX NUMBER: N/A

FEDERAL TAX IDENTIFICATION NUMBER (Required):

DUNS Number: _____

ATTACHMENT B. Standard Contract Terms and Conditions

1. **DEFINITIONS.** In this section “Contracting Party” shall mean any party that is entering into this Agreement with the City of La Crosse. “La Crosse” shall mean the City of La Crosse. These definitions shall apply only to this section titled “Standard Terms and Conditions” and shall not replace, modify or supersede any definitions used in other sections of this Agreement.
2. **STANDARD OF PERFORMANCE.** Contracting Party agrees that the performance of the services, pursuant to the terms and conditions of this Agreement, shall be performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same professions currently practicing under similar circumstances providing like services. Contracting Party agrees to abide by all applicable federal, state and local laws, regulations and ordinances, and all provisions of this Agreement.
3. **FULLY QUALIFIED.** Contracting Party represents that all personnel engaged in the performance of the services set forth in this Agreement shall be fully qualified and shall be authorized or permitted under state and local law to perform the services.
4. **SCOPE OF SERVICES.** Contracting Party is required to perform, do and carryout in a satisfactory, timely, and professional manner the services set forth in this Agreement. The Contracting Party is required to furnish all services and labor necessary as indicated in this Agreement, including without limitation materials, equipment, supplies, and incidentals. The scope of services to be performed shall include, without limitation, those services set forth in this Agreement. La Crosse may from time to time request the Contracting Party to perform additional services which are not set forth in this Agreement. In the event that such a request is made, the performance of such services shall be subject to the terms, conditions and contingencies set forth in this Agreement.
5. **CHANGE OF SCOPE.** The scope of service set forth in this Agreement is based on facts known at the time of the execution of this Agreement, including, if applicable, information supplied by Contracting Party. Scope may not be fully definable during initial phases. As projects progress, facts discovered may indicate that the scope must be redefined. Parties shall provide a written amendment to this Agreement to recognize such change.
6. **COMPENSATION.** Contracting Party will be compensated by La Crosse for the services provided under this Agreement and subject to the terms, conditions and contingences set forth herein. Payments to Contracting Party for services rendered under this Agreement will be based on itemized invoices submitted on a monthly basis by the Contracting Party to La Crosse. These invoices must be itemized to include labor costs and the Contracting Party’s direct expenses, including subcontractor costs. In addition, such invoices shall show the hours worked by the Contracting Party’s staff and the amount of work completed as a percentage of the work to be performed. The final payment of the balance due the Contracting Party for the completed service shall be made upon completion and acceptance of the services performed by the Contracting Party under this Agreement.
7. **TAXES, SOCIAL SECURITY, INSURANCE AND GOVERNMENT REPORTING.** Personal income tax payments, social security contributions, insurance and all other governmental reporting and contributions required as a consequence of the Contracting Party receiving payment under this Agreement shall be the sole responsibility of the Contracting Party.
8. **TERMINATION FOR CAUSE.** If, through any cause, the Contracting Party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contracting Party shall violate

any of the covenants, agreements, or stipulations of this Agreement, La Crosse shall thereupon have the right to terminate this Agreement by giving written notice to the Contracting Party of such termination and specifying the effective date, at least ten (10) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other material related to the services performed by the Contracting Party under this Agreement for which compensation has been made or may be agreed to be made shall, at the option of La Crosse, become the property of La Crosse. Notwithstanding the foregoing, the Contracting Party shall not be relieved of liability to La Crosse for damages sustained by La Crosse by virtue of this Agreement by the Contracting Party, and La Crosse may withhold any payments to the Contracting Party for the purpose of setoff until such time as the exact amount of damages due to La Crosse from the Contracting Party is determined.

9. **TERMINATION FOR CONVENIENCE.** La Crosse may terminate this Agreement at any time and for any reason by giving written notice to the Contracting Party of such termination and specifying the effective date, at least ten (10) days before the effective date of such termination. If this Agreement is terminated by La Crosse pursuant to this provision, Contracting Party will be paid an amount which bears the same ratio to the total compensation as the services actually and satisfactorily performed bear to the total services of the Contracting Party covered by this Agreement, less payments for such services as were previously made. The value of the services rendered and delivered by Contracting Party will be determined by La Crosse.

10. **SAFETY.** Unless specifically included as a service to be provided under this Agreement, La Crosse specifically disclaims any authority or responsibility for general job site safety, or the safety of persons or property.

11. **DELAYS.** If performance of La Crosse's obligations is delayed through no fault of La Crosse, La Crosse shall be entitled to an extension of time equal to the delay.

12. **OPINIONS OF COST.** Any opinion of costs prepared by La Crosse is supplied for general guidance of Contracting Party only. La Crosse cannot guarantee the accuracy of such opinions as compared to actual costs to Contracting Party.

13. **USE OF LA CROSSE PROPERTY.** Any property belonging to La Crosse being provided for use by Contracting Party shall be used in a responsible manner and only for the purposes provided in this Agreement. No changes, alterations or additions shall be made to the property unless otherwise authorized by this Agreement.

14. **INSURANCE.** Contracting Party shall, at its sole expense, obtain and maintain in effect at all times during this Agreement the following insurance coverage:

- 1) Commercial General Liability Insurance of not less than \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage;
- 2) Automobile Liability Insurance of not less than \$1,000,000.00 per occurrence for bodily injury and property damage covering all vehicles to be used in relationship to this Agreement;
- 3) Umbrella Liability Insurance of not less than \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage in excess of coverage carried for commercial general liability and automobile liability;
- 4) Professional Liability Insurance of not less than \$1,000,000.00 per claim and annual aggregate; and
- 5) To the extent that Contracting Party employs any employees or as otherwise required by law, Workers' Compensation and Employees' Liability Insurance with Wisconsin statutory limits.

On the certificate of insurance, La Crosse shall be named as an additional insured on any General Liability Insurance, Automobile Insurance, and Umbrella Liability Insurance. The certificate must state the following: The City of La Crosse, its officers, agents, employees, and authorized volunteers shall be Additional Insureds. Prior to execution of the Agreement, Contracting Party shall file with La Crosse, a certificate of insurance signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Contracting Party shall provide La Crosse with a thirty (30) day notice prior to termination or cancellation of the policy. La Crosse reserves the right to require review and approval of the actual policy of insurance before it executes this Agreement.

15. **INDEMNIFICATION.** To the fullest extent allowable by law, Contracting Party hereby indemnifies and shall defend and hold harmless, at Contracting Party's expense, La Crosse, its elected and appointed officials, committee members, officers, employees or authorized representatives or volunteers, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, losses, interest, attorney's fees (including in-house counsel legal fees), costs and expenses of whatsoever kind, character or nature whether arising before, during, or after completion of the Agreement hereunder and in any manner directly or indirectly caused or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive of Contracting Party, or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Agreement, regardless if liability without fault is sought to be imposed on La Crosse. Contracting Party's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the willful misconduct of La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Nothing in this Agreement shall be construed as La Crosse waiving its statutory limitation and/or immunities as set forth in the applicable Wisconsin Statutes or other applicable law. This indemnity provision shall survive the termination or expiration of this Agreement.

Contracting Party shall reimburse La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contracting Party's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by La Crosse, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

16. **NO PERSONAL LIABILITY.** Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of La Crosse have any personal liability arising out of this Agreement, and Contracting Party shall not seek or claim any such personal liability.

17. **INDEPENDENT CONTRACTORS.** The parties, their employees, agents, volunteers, and representative shall be deemed independent contractors of each other and shall in no way be deemed as a result of this Agreement to be employees of the other. The parties, their employees, agents, volunteers, and representatives are not entitled to any of the benefits that the other provides for its employees. The parties shall not be considered joint agents, joint venturers, or partners.

18. **GOVERNING LAW.** This Agreement and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in La Crosse County, Wisconsin. Each party waives its right to challenge venue.

19. **JURY TRIAL WAIVER.** The parties hereby waive their respective rights to a jury trial on any claim or cause of action based upon or arising from or otherwise related to this Agreement. This waiver of right to trial by jury is given knowingly and voluntarily by the parties and is intended to encompass

individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Each party is hereby authorized to file a copy of this section in any proceeding as conclusive evidence of this waiver by the other party.

20. NOTIFICATION. Contracting Party shall:

(1) As soon as possible and in any event within a reasonable period of time after the occurrence of any default, notify La Crosse in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by Contracting Party with respect thereto.

(2) Promptly notify La Crosse of the commencement of any litigation or administrative proceeding that would cause any representation and warranty of Contracting Party contained in this Agreement to be untrue.

(3) Notify La Crosse, and provide copies, immediately, upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by Contracting Party or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of Contracting Party or any guarantor under any environmental laws, rules, regulations, ordinances or which seeks damages or civil, criminal or punitive penalties from or against Contracting Party or any guarantor for an alleged violation of any environmental laws, rules, regulations or ordinances.

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

22. ASSIGNMENT, SUBLET, AND TRANSFER. Contracting Party shall not assign, sublet, or transfer its interests or obligations under the provisions of this Agreement without the prior written consent of La Crosse. This Agreement shall be binding on the heirs, successors, and assigns of each party hereto. Contracting Party shall provide not less than forty-five (45) days advance written notice of any intended assignment, sublet or transfer.

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

24. SUBCONTRACTING. None of the services to be performed under this Agreement shall be subcontracted without the prior written approval of La Crosse. If any of the services are subcontracted, the performance of such services shall be specified by written contract and shall be subject to each provision of this Agreement. Contracting Party shall be as fully responsible to La Crosse for the acts and omissions of its subcontractors and of person either directly or indirectly employed by them, as it is for acts and omissions of persons directly employed by it.

25. CONFLICTS OF INTEREST. Contracting Party covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contracting Party further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. Any interest on the part of Contracting Party or its employee must be disclosed to La Crosse

26. **NON-DISCRIMINATION.** Pursuant to law, it is unlawful and Contracting Party agrees not to willfully refuse to employ, to discharge, or to discriminate against any person otherwise qualified because of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed, or familial status; not to discriminate for the same reason in regard to tenure, terms, or conditions of employment, not to deny promotion or increase in compensation solely for these reasons; not to adopt or enforce any employment policy which discriminates between employees on account of race, color, religion, sex, creed, age, disability, national origin or ancestry, lawful source of income, marital status or familial status; not to seek such information as to any employee as a condition of employment; not to penalize any employee or discriminate in the selection of personnel for training, solely on the basis of race, color, religion, sex, sexual orientation, age, disability, national origin or ancestry, lawful source of income, marital status, creed or familial status.

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

27. **POLITICAL ACTIVITIES.** Contracting Party shall not engage in any political activities while in performance of any and all services and work under this Agreement.

28. **GOVERNMENTAL APPROVALS.** Contracting Party acknowledges that various of the specific undertakings of La Crosse described in this Agreement may require approvals from the City of La Crosse Council, City of La Crosse bodies, and/or other public bodies, some of which may require public hearings and other legal proceedings as conditions precedent thereto. Contracting Party further acknowledges that this Agreement is subject to appropriation by the La Crosse Common Council. La Crosse's obligation to perform under this Agreement is conditioned upon obtaining all such approvals in the manner required by law. La Crosse cannot assure that all such approvals will be obtained, however, it agrees to use good faith efforts to obtain such approvals on a timely basis.

29. **ENTIRE AND SUPERSEDING AGREEMENT.** This writing, all Exhibits hereto, and the other documents and agreements referenced herein, constitute the entire Agreement between the parties with respect to the subject matter hereof, and all prior agreements, correspondences, discussions and understandings of the parties (whether written or oral) are merged herein and made a part hereof. This Agreement, however, shall be deemed and read to include and incorporate such minutes, approvals, plans, and specifications, as referenced in this Agreement, and in the event of a conflict between this Agreement and any action of La Crosse, granting approvals or conditions attendant with such approval, the specific action of La Crosse shall be deemed controlling. To the extent that any terms and conditions contained in this Agreement, all Exhibits hereto, and the other documents and agreement referenced herein conflict with these Standard Terms and Conditions, the Standard Terms and Conditions shall take precedence.

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

31. **IMPLEMENTATION SCHEDULE AND TIME OF THE ESSENCE.** Any and all phases and schedules which are the subject of approvals, or as set forth herein, shall be governed by the principle that time is of the essence, and modification or deviation from such schedules shall occur only upon approval of La Crosse. The Mayor, or in the Mayor's absence, the Council President, shall have the ability to postpone any deadline listed herein, up to a maximum of ninety (90) days.

32. **TIME COMPUTATION.** Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time

described in this Agreement by reference to a number of business days does not include Saturdays, Sundays or any state or national holidays. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

33. NOTICES. Any notice, demand, certificate or other communication under this Agreement shall be given in writing and deemed effective: a) when personally delivered; b) three (3) days after deposit within the United States Postal Service, postage prepaid, certified, return receipt requested; or c) one (1) business day after deposit with a nationally recognized overnight courier service, addressed by name and to the party or person intended as follows:

To the City:	Attn. City Clerk	Copy to:	Attn. City Attorney
	City of La Crosse		City of La Crosse
	400 La Crosse Street		400 La Crosse Street
	La Crosse, WI 54601		La Crosse, WI 54601

Contracting party shall identify in writing and provide to La Crosse the contact person and address for notices under this Agreement.

34. INCORPORATION OF PROCEEDINGS AND EXHIBITS. All motions adopted, approvals granted, minutes documenting such motions and approvals, and plans and specifications submitted in conjunction with any and all approvals as granted by La Crosse, including but not limited to adopted or approved plans or specifications on file with La Crosse, and further including but not limited to all exhibits as referenced herein, are incorporated by reference herein and are deemed to be the contractual obligation of Contracting Party whether or not herein enumerated.

35. ACCESS TO RECORDS. Contracting Party, at its sole expense, shall maintain books, records, documents and other evidence pertinent to this Agreement in accordance with accepted applicable professional practices. La Crosse, or any of its duly authorized representatives, shall have access, at no cost to La Crosse, to such books, records, documents, papers or any records, including electronic, of Contracting Party which are pertinent to this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions.

36. PUBLIC RECORDS LAW. Contracting Party understands and acknowledges that La Crosse is subject to the Public Records Law of the State of Wisconsin. As such, Contracting Party agrees to retain all records as defined by Wisconsin Statute § 19.32(2) applicable to this Agreement for a period of not less than seven (7) years after the termination or expiration of this Agreement. Contracting Party agrees to assist La Crosse in complying with any public records request that La Crosse receives pertaining to this Agreement. Additionally, Contracting Party agrees to indemnify and hold harmless La Crosse, its elected and appointed officials, officers, employees, and authorized representatives for any liability, including without limitation, attorney fees related to or in any way arising from Contracting Party's actions or omissions which contribute to La Crosse's inability to comply with the Public Records Law. In the event that Contracting Party decides not to retain its records for a period of seven (7) years, then it shall provide written notice to La Crosse whereupon La Crosse shall take custody of said records assuming such records are not already maintained by La Crosse. This provision shall survive the termination of this Agreement.

37. NO THIRD-PARTY BENEFICIARY. Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party.

38. COMPLIANCE WITH LAW. The parties shall comply in all material respects with any and all applicable federal, state and local laws, regulations and ordinances.

39. FORCE MAJEURE. La Crosse shall not be responsible to Contracting Party for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

41. GOOD STANDING. Contracting Party affirms that it is a company duly formed and validly existing and in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Contracting Party is duly licensed or qualified to do business and is in good standing in the State of Wisconsin and in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

42. AUTHORITY. The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

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

44. SURVIVAL. All express representations, indemnifications and limitations of liability included in this Agreement will survive its completion or termination for any reason.

45. ANTI-LOBBYING. (24 CFR 91.225). No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative Agreement.

46. AFFIRMATIVE MARKETING AND MINORITY/WOMEN OUTREACH (24 CFR 92.351) The Contracting Party shall use its best efforts to obtain the participation of services, supplies, and other purchases from minority and women-owned businesses. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians.

47. FEDERAL REGULATORY COMPLIANCE. The Contracting Party shall at all times observe and comply with HOME Investment Partnership Program (24 CFR Part 92) and Community Development Block Grant (24 CFR Part 570) and all applicable laws, ordinances or regulations of the federal, state, county, and local governments, which may in any manner affect the performance of this Contract, and the Contracting Party shall perform all acts with responsibility to the CITY in the same manner as the CITY is required to perform all acts with responsibility to the federal government. The Contracting Party shall comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of HOME and CDBG funds in accordance with the ACT and the policies of the CITY as applicable to the HOME Program.