

SAMPLE STANDARD PROVISIONS FOR CONTRACTS

If a contract is awarded, the selected contractor will be required to adhere to a set of general contract provisions which will become a part of any formal agreement. These provisions are general principles which apply to all contractors of service to Washtenaw County such as the following:

SERVICE CONTRACT - FEDERAL FUNDED

AGREEMENT is made this -----_day of -----, 20XX, by the COUNTY OF WASHTENAW, a municipal corporation, with offices located in the County Administration Building, 220 North Main Street, Ann Arbor, Michigan 48107("County") and **(NAME OF CONTRACTOR)** located at **(CONTRACTOR'S ADDRESS)** ("Contractor").

Federal Awarding Agency	
Federal / State Contract Number	
Federal Program Title	
CFDA Number	
Federal Funding %	

In consideration of the promises below, the parties mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES

The Contractor will **(SPELL OUT SCOPE OF SERVICE)**

ARTICLE II - COMPENSATION

Upon completion of the above services and submission of invoices the County will pay the Contractor an amount not to exceed **(SPELL OUT DOLLAR AMOUNT)** in accordance with specifications described in RFP # _____.

ARTICLE III - REPORTING OF CONTRACTOR

Section 1 - The Contractor is to report to **(DEPARTMENT HEAD TITLE)** and will cooperate and confer with him/her as necessary to insure satisfactory work progress.

Section 2 - All reports, estimates, memoranda and documents submitted by the Contractor must be dated and bear the Contractor's name.

Section 3 - All reports made in connection with these services are subject to review and final approval by the County Administrator.

Section 4 - The County may review and inspect the Contractor's activities during the term of this contract.

Section 5 - When applicable, the Contractor will submit a final, written report to the County Administrator.

Section 6 - After reasonable notice to the Contractor, the County may review any of the Contractor's internal records, reports, or insurance policies.

ARTICLE IV - TERM

This contract begins on the date of this agreement and ends on December 31, _____(YEAR).

ARTICLE V - PERSONNEL

Section 1 - The contractor will provide the required services and will not subcontract or assign the services without the County's written approval.

Section 2 - The Contractor will not hire any County employee for any of the required services without the County's written approval.

Section 3 - The parties agree that all work done under this contract shall be completed in the United States and that none of the work will be partially or fully completed by either an offshore subcontractor or offshore business interest either owned or affiliated with the contractor. For purposes of this contract, the term, "offshore" refers to any area outside the contiguous United States, Alaska or Hawaii.

ARTICLE VI - INDEPENDENT CONTRACTOR

Contractor and the County shall, at all times, be deemed to be independent contractors and nothing herein shall be construed to create or imply that there exists between the parties a partnership, joint venture or other business organization. Contractor shall hold no authority, express or implied, to commit, obligate or make representations on behalf of the County and shall make no representation to others to the contrary.

Nothing herein is intended nor shall be construed for any purpose as creating the relationship of employer and employee or agent and principal between the parties. Except as otherwise specified in this contract, Contractor retains the sole right and obligation to direct, control or supervise the details and means by which the services under this contract are provided.

Contractor shall not be eligible for, or participate in, any insurance, pension, workers' compensation insurance, profit sharing or other plans established for the benefit of the County's employees. Contractor shall be solely responsible for payment of all taxes arising out of the Contractor's activities in connection with this Agreement, including, without limitation, federal and state income taxes, social security taxes, unemployment insurance taxes and any other tax or business license fees as required. The County shall not be responsible for withholding any income or employment taxes whatsoever on behalf of the Contractor.

ARTICLE VII - INDEMNIFICATION AGREEMENT

The contractor will protect, defend and indemnify Washtenaw County, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the Contractor's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of Washtenaw County in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of contractor, any

sub-contractor, or any employee, agent or representative of the contractor or any sub-contractor.

ARTICLE VIII - INSURANCE REQUIREMENTS

The Contractor will maintain at its own expense during the term of this Contract, the following insurance:

1. Workers' Compensation Insurance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000 each accident for any employee.
2. Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage. The County shall be added as "additional insured" on general liability policy with respect to the services provided under this contract.
3. Automobile Liability Insurance covering all owned, hired and nonowned vehicles with Personal Protection Insurance and Property Protection Insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage. For transportation services contracts, the County shall be added as additional insured on automobile liability policy with respect to the services provided under this contract.

Insurance companies, named insureds and policy forms may be subject to the approval of the Washtenaw County Administrator, if requested by the County Administrator. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions which reduce coverage provided to Washtenaw County. Contractor shall be responsible to Washtenaw County or insurance companies insuring Washtenaw County for all costs resulting from both financially unsound insurance companies selected by Contractor and their inadequate insurance coverage. Contractor shall furnish the Washtenaw County Administrator with satisfactory certificates of insurance or a certified copy of the policy, if requested by the County Administrator.

No payments will be made to the Contractor until the current certificates of insurance have been received and approved by the Administrator. If the insurance as evidenced by the certificates furnished by the Contractor expires or is canceled during the term of the contract, services and related payments will be suspended. Contractor shall furnish certification of insurance evidencing such coverage and endorsements at least ten (10) working days prior to commencement of services under this contract. Certificates shall be addressed to the Washtenaw County c/o: : **INSERT DEPARTMENT, ADDRESS, CITY, STATE & ZIP CODE AND CONTRACT # _____**, and shall provide for written notice to the Certificate holder of cancellation of coverage.

ARTICLE IX - COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.

ARTICLE X - INTEREST OF CONTRACTOR AND COUNTY

The Contractor promises that it has no interest which would conflict with the performance of services required by this contract. The Contractor also promises that, in the

performance of this contract, no officer, agent, employee of the County of Washtenaw, or member of its governing bodies, may participate in any decision relating to this contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph does not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 and/or Section 30 of Act No. 156 of Public Acts of 1851, as amended by Act No. 51 of the Public Acts of 1978, whichever is applicable.

ARTICLE XI - CONTINGENT FEES

The Contractor promises that it has not employed or retained any company or person, other than bona fide employees working solely for the Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach of this promise, the County may cancel this contract without liability or, at its discretion, deduct the full amount of the fee, commission, percentage, brokerage fee, gift or contingent fee from the compensation due the Contractor.

ARTICLE XII – DEBARMENT AND SUSPENSION

By signing this Contract, Contractor assures the County that it will comply with Federal Regulation 45 CFR Part 76 and certifies that to the best of its knowledge and belief the Contractor and any subcontractors retained by Contractor:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or contractor;
2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses enumerated in section 2, and ;
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

ARTICLE XIII – LOBBYING

By signing this contract, Contractor assures the County that it will comply with Section 1352, Title 31 of the U.S. Code (pertaining to not using federal monies to influence federal contracting and financial transactions). The Contractor assures the County that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, 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 making of any Federal

grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid 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 this Federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form - LLL, Disclosure of Lobbying Activities," in accordance with its instructions;
3. This language shall be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

ARTICLE XIV - DRUG-FREE WORKPLACE

Grantees Other Than Individuals

- A. As required by the Drug-Free Workplace Act of 1988, the Contractor assures the County that it will or will continue to provide a drug-free workplace by:
 - a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b) Establishing an on-going drug-free awareness program to inform employees about—
 - 1) The dangers of drug abuse in the workplace;
 - 2) The grantee's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, *and* employee assistance programs; and
 - 4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 - 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - e) Notifying the County, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to the County;
 - f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
 - 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

- g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

Grantees Who Are Individuals

As required by the Drug-Free Workplace Act of 1988:

- A. As a condition of the grant, the Contractor assures the County that it will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and
- B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, the Contractor agrees to report the conviction, in writing, within 10 calendar days of the conviction, to the County.

ARTICLE XV - FEDERAL PROCUREMENT STANDARDS

The Contractor assures the County that it will follow federal procurement standards as described in the Code of Federal Regulations Part 215 Subpart C – Post-Award Requirements, Procurement Standards, Sections 215.40-48 when procuring goods or services with federal funds to insure that procurement decisions are made ethically and with free and open competition among those providing the goods or services.

ARTICLE XVI - EQUAL EMPLOYMENT OPPORTUNITY

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

The Contractor will take affirmative action to eliminate discrimination based on sex, race, or a handicap in the hiring of applicant and the treatment of employees. Affirmative action will include, but not be limited to: Employment; upgrading, demotion or transfer; recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship.

The Contractor agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the Contractor, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief.

ARTICLE XVII - LIVING WAGE

The parties understand that the County has enacted a Living Wage Ordinance that requires covered vendors who execute a service or professional service contract with the County to pay their employees under that contract, a minimum of either \$13.61 per hour with benefits or \$15.18 per hour without benefits. Contractor agrees to comply with this Ordinance in paying its employees. Contractor understands and agrees that an adjustment of the living wage amounts, based upon the Health and Human Services poverty guidelines, will be made on or before April 30, 2020 and annually thereafter which amount shall be automatically incorporated into this contract. County agrees to give Contractor thirty (30) days written notice of such change. Contractor agrees to post a notice containing the County's Living Wage requirements at a location at its place of business accessed by its employees.

ARTICLE XVIII - EQUAL ACCESS

The Contractor shall provide the services set forth in Article I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical handicap, or age.

ARTICLE XIX - OWNERSHIP OF DOCUMENTS AND PUBLICATION

All documents developed as a result of this contract will be freely available to the public. None may be copyrighted by the Contractor. During the performance of the services, the Contractor will be responsible for any loss of or damage to the documents while they are in its possession and must restore the loss or damage at its expense. Any use of the information and results of this contract by the Contractor must reference the project sponsorship by the County. Any publication of the information or results must be co-authored by the County.

ARTICLE XX - ASSIGNS AND SUCCESSORS

This contract is binding on the County and the Contractor, their successors and assigns. Neither the County nor the Contractor will assign or transfer its interest in this contract without the written consent of the other.

ARTICLE XXI - TERMINATION OF CONTRACT

Section 1 - Termination without cause. Either party may terminate the contract by giving thirty (30) days written notice to the other party.

Section 2 - In the event of any breach or default by the County or the Contractor of the terms and conditions of this Agreement, the party not in default will give written notice to the party in default specifying the acts and/or omissions constituting the alleged default or breach; if within fifteen (15) working days after issuance of such notice, the party in default has failed to cure such default, then in that event, the party not in default may terminate this Agreement and exercise such other rights as are provided herein and by law for breach of contract; provided, however, that if the alleged default can be cured by the performance of work or repairs or by some act, the performance of which requires a period of time, such default will be determined to have been cured if, within the above-referenced fifteen (15) working days, the party allegedly in default has begun to cure the default and continues until such default is cured within a reasonable time.

ARTICLE XXII - PAYROLL TAXES

The Contractor is responsible for all applicable state and federal social security benefits and unemployment taxes and agrees to indemnify and protect the County against such liability.

ARTICLE XXIII- PRACTICE AND ETHICS

The parties will conform to the code of ethics of their respective national professional associations.

ARTICLE XXIV- CHANGES IN SCOPE OR SCHEDULE OF SERVICES

Changes mutually agreed upon by the County and the Contractor, will be incorporated into this contract by written amendments signed by both parties.

ARTICLE XXV - CHOICE OF LAW AND FORUM

This contract is to be interpreted by the laws of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Washtenaw County, Michigan.

ARTICLE XXVI-FEDERALLY REQUIRED PROVISIONS

When applicable, the following provisions shall apply to contracts funded in whole, or in part, by federal award monies:

For "federally assisted construction contracts" as defined by 41 CFR Part 60-1.3, Contractor must comply with the equal opportunity clause provided under 41 CFR 60—1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity (30 FR 12319, 12935, 3 CFR Part, 1964—1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

For all prime construction contracts exceeding \$2,000.00 awarded by non-Federal entities, Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141—3144, and 3146—3148), as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must be paid wages not less than once a week. The parties agree that the County will report all suspected or reported violations of this provision to the Federal awarding agency.

In addition, Contractor must also comply with the Copeland "Anti-Kickback Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Bidding or Public Work Financed in Whole or in Part by Loans or Grants from the United States") which prohibits Contractor or Subrecipient from inducing, by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. County shall report all suspected or reported violations to the Federal awarding agency.

If this contract exceeds \$100,000.00 and involves the employment of mechanics or laborers, Contractor shall comply with U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). To that extent, Contractor must compute the wages of each mechanic and laborer on the basis of a standard forty (40) hour work week with hours exceeding this standard to be paid at one and one half the standard hourly rate. In addition, Contractor agrees that no mechanic or laborer shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

If the Federal award funding this Agreement meets the definition of "funding agreement" under 37 CFR, Sec. 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental or research work under that funding agreement, the recipient or subrecipient must comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

If this Agreement and/or subgrant exceeds \$150,000.00, Contractor shall comply with all applicable standards, orders and/or regulations issued pursuant to the Clean Air Act (42 U.S.C.

7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). The parties agree that the County shall report all violations of these Acts to the Federal awarding agency and the Regional Office of the Environmental Protection Agency ("EPA").

Contractor agrees to comply with all mandatory standards and policies relating to energy efficiency which are contained in the State of Michigan's energy conservation plan issued in compliance with the Energy Policy and Conservation Act. (42 U.S.C. 6201).

Contractor agrees to comply with the provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. Section 1352), which prohibits the use of federal funds by the Contractor or subcontractor of a Federal contract, grant, loan or cooperative agreement to pay any person to influence or attempt 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 federal funds awarded under this Agreement.

The parties agree that County and Contractor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include, for those items where the purchase price exceeds \$10,000.00 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.00, procuring only items designated in guidelines of the EPA at 40 CFR, Part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program to procuring recovered materials identified in the EPA guidelines.

ARTICLE XXVII - EXTENT OF CONTRACT

This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

ATTESTED TO:

WASHTENAW COUNTY

By: _____
Lawrence Kestenbaum (DATE)
County Clerk/Register

Gregory Dill (DATE)
County Administrator

APPROVED AS TO CONTENT:

CONTRACTOR

By: _____
(DEPARTMENT HEAD) (DATE)

(CONTRACTOR'S NAME) (DATE)

APPROVED AS TO FORM:

By: _____
Curtis N. Hedger (DATE)
Office of Corporation Counsel