

**CONTRACT AGREEMENT
BETWEEN
CITY OF SHEBOYGAN
AND
JT ENGINEERING INC.**

**PROJECT ID 3700-30-43
C SHEBOYGAN, KOHLER MEMORIAL DRIVE
STH 23/TAYLOR DR INTERSECTION SIGNAL REHAB
SHEBOYGAN COUNTY**

This Contract Agreement is made and entered into this _____ day of _____ 2023 by and between **City of Sheboygan**, hereinafter referred to as the OWNER, and JT Engineering, Inc. 1077 Centennial Centre Blvd., Hobart, WI 54155-8820, hereinafter referred to as the CONSULTANT.

The CONSULTANT acknowledges by endorsement of this Contract Agreement that: (a) the CONSULTANT has the expertise and has a thorough knowledge of the professional services required to complete the proposed work and is qualified to render such professional services, (b) CONSULTANT shall comply with all applicable laws, regulations, and orders in the performance of the work, and (c) the work shall be performed in a manner consistent with that level of care, quality and skill ordinarily exercised by others performing similar work under similar circumstances.

The parties agree as follows:

CONSULTANT shall furnish design Services to the OWNER for the Project as described below.

CONSULTANT shall furnish the Basic Services as outlined in the attached scope of services if contract, which shall be completed by December 31, 2023.

For all Basic Services, the OWNER agrees to compensate CONSULTANT as follows:

A Lump Sum Amount of \$59,470.00

Section I – BASIC SERVICES

1.1 Basic Services

The services to be performed under this Contract include [the services identified in the attached scope of services commentary.] CONSULTANT shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The CITY’s designated project manager, David Biebel, shall be the sole judge of the adequacy of CONSULTANT’s work in meeting the Standard of Care; however, the CITY shall not unreasonably withhold its approval as to the adequacy of Consultant’s performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.]

Section II – RESPONSIBILITIES

2.1 OWNER’S Responsibilities

- 2.1.1 Assist and cooperate with the CONSULTANT in completing the work in a timely and effective manner.
- 2.1.2 To the extent permitted by law, make available to the CONSULTANT drawings, specifications and data which the CONSULTANT considers pertinent to the CONSULTANT’s responsibilities hereunder, all of which the CONSULTANT may rely upon in performing services hereunder except as may be specifically provided otherwise in writing.
- 2.1.3 Give prompt written notice to the CONSULTANT whenever the OWNER observes or otherwise becomes aware of any development that affects the scope, timing, or performance of services of the CONSULTANT.
- 2.1.4 The CITY’s Project Manager The Director of Public Works shall serve as project manager for purposes of this Agreement and he shall have the authority to transmit instructions, receive information, and render decisions relative to the Agreement on behalf of the CITY.

Section III – TIME SCHEDULE

3.1 Authorization

Unless otherwise directed by the OWNER, the CONSULTANT shall commence the performance of the Basic Services upon execution of this Contract by both parties which shall constitute Authorization to Proceed.

3.2 Expeditious Performance

The CONSULTANT recognizes that the services under this Contract are to be performed as expeditiously as practical after Authorization to Proceed. Every reasonable effort will be made to substantially complete the Basic Services within the period described above.

Section IV – INVOICES AND PAYMENT

4.1 Invoices

Invoices shall be submitted once a month or upon completion of services, whichever occurs earlier, for services provided under Section 1. Invoices shall be sent via first class mail postage prepaid or via email and shall include a progress report documenting the extent of completed services. Invoices shall be sent to:

David Biebel
City of Sheboygan
2026 New Jersey Ave.
Sheboygan, Wisconsin 53081
david.biebel@sheboyganwi.gov

4.2 Payment

4.2.1 The OWNER shall pay the CONSULTANT based on the monthly invoices, with total payment not to exceed the total contract amount.

4.2.2 It is expressly understood and agreed by both parties that the CONSULTANT will be paid by the OWNER within 30 days after receipt of the invoice provided by the CONSULTANT. The OWNER agrees to process the CONSULTANTS invoices promptly.

Section V – CHANGES

5.1 Written Authorization

THE OWNER or CONSULTANT may, at any time, by written order, make changes in the services or work to be performed within the general scope of this Subcontract.

5.2 Equitable Adjustment

If such changes cause an increase or decrease in the CONSULTANTS cost of, or time required for, performance of any services under this Contract, an equitable adjustment shall be made and this Contract shall be modified in writing accordingly.

Section VI – DISPUTES

6.1 Resolution Procedure

Except as this Contract otherwise provides, in all claims, counter-claims, disputes, and other matters in question (**Dispute**) between the OWNER and CONSULTANT arising out of or relating to this Contract or the breach of it, the OWNER and CONSULTANT will negotiate a resolution of the Dispute at a reasonable time and location set by CONSULTANT. Venue of any unresolved dispute arising under this Agreement shall be in the Sheboygan County Circuit Court, Wisconsin.

6.1.1 Negotiation Following written notice of a Dispute, two (2) face-to-face meetings (or less if the Dispute is resolved) shall be held.

Section VII – SUSPENSION OF WORK

7.1 Convenience of the OWNER

The OWNER may order CONSULTANT to suspend, delay, or interrupt all or any part of the CONSULTANT'S services for such period of time as the OWNER may determine to be appropriate for the convenience of the OWNER.

7.2 Adjustment in Schedule

If the performance of all or any part of the CONSULTANT'S services is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the OWNER, an appropriate extension of time shall be made for any such delay in the performance of this Contract necessarily caused by such unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly.

Section VIII – TERMINATION OF CONTRACT

8.1 Written Notice

It is expressly understood and agreed that the OWNER may terminate this Contract at any time by giving the CONSULTANT 10 days written notice either personally at one of the offices of the CONSULTANT or sent by registered mail, return receipt requested, to the principal office of the CONSULTANT. The CONSULTANT may terminate this Contract upon 30 days written notice in the event of nonpayment by the OWNER of CONSULTANT'S invoices rendered for a period of 60 days or in the event the OWNER otherwise substantially fails to fulfill its obligations under this Contract.

8.2 Adjustment for Services Performed

In the event that this Contract is terminated by either the OWNER, or the CONSULTANT, the CONSULTANT shall be compensated for all services performed to the date of termination including reimbursable expenses then due. For those portions of services rendered to which this arrangement cannot be applied, payments shall be based upon reasonable rates for the CONSULTANT'S actual time spent on the work.

Section IX – INSURANCE

9.1 Coverage

Prior to commencing work, the CONSULTANT shall obtain and maintain in effect for the duration of this Contract at its own expense the insurance with insurance companies licensed in the State where the project is located. CONSULTANT shall not allow any approved subcontractor to commence work on its subcontract until the Subcontractor has obtained all insurance required under this Section. CONSULTANT shall provide proof of insurance to the CITY'S designated Project Manager listing the City of Sheboygan as an additional insured. All insurance shall be primary and non-contributory to any insurance or self-insurance carried by the City. The proof of insurance referenced above shall require the insurance company to notify the City at least 30 days prior to the expiration, cancellation, non-renewal, or material change in the coverage. The Certificate Holder on the proof of insurance should be listed as:

City of Sheboygan, Wisconsin
828 Center Ave.
Sheboygan, Wisconsin 53081

The insurance coverage required must be provided by an insurance carrier with the "Best" rating of "A-VII" or better.

Approval of the insurance by the City shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from Consultant's provision of the Services or its operations under this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the City the required proof that the insurance has been procured and is in force and paid for, the City shall have the right at its election to terminate the Agreement.

9.2 Minimum Coverage

The minimum required coverage is the following:

9.2.1 Worker's Compensation and Employer's Liability in compliance with the statutory requirements of the State of Wisconsin.

9.2.2 Commercial General Liability Insurance covering operations, completed operations, contractual agreements, and independent contractors, each with minimum limits of liability on an occurrence basis as set forth below:

General Aggregate	\$2,000,000
Each Occurrence	\$1,000,000
Operations Aggregate	\$2,000,000
Personal Injury	\$1,000,000

9.2.3 Professional Liability Insurance in an amount of at least \$1,000,000 total limit of liability per claim and aggregate with a maximum deductible amount of \$50,000. If such policy is a “claims made” policy, all renewals thereof during the life of this Agreement shall include “prior acts coverage” covering at all times all claims made with respect to Consultant’s work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the City.

9.2.4 Automobile Liability Insurance in an amount of at least \$1,000,000.

9.2.5 Umbrella Liability Insurance in an amount of at least \$5,000,000 per occurrence.

Section X – GENERAL PROVISIONS

10.1 Independent

CONSULTANT represents that it is an independent contractor and is not an employee of the OWNER.

10.2 Indemnification

Nothing contained within this agreement is intended to be a waiver or estoppel of the CITY or its insurers to rely upon the limitations, defenses, and immunities contained within Wis. Stat. ss. 345.05 and 893.80. To the extent that indemnification is available and enforceable, the City or its insurer shall not be liable in indemnity, contribution, or otherwise for an amount greater than the limits of liability of municipal claims established by Wisconsin law.

CONSULTANT hereby agrees to indemnify, pay for defense, and hold OWNER harmless from and against any and all losses, damages, settlement, costs, charges, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character arising out of or related to any negligent acts, errors, and/or omissions of the CONSULTANT, its employees, agents and third parties who perform any of the services of CONSULANT hereunder, and anyone else for whose acts the CONSULTANT is responsible under this contract.

10.3 Interpretation

Interpretation and enforcement of this Contract shall be in accordance with the laws of the State of Wisconsin.

10.4 Notices

Written notices may be delivered in person or by certified mail, or by facsimile, or by courier. All notices shall be effective upon the date of receipt by the party. Notices shall be delivered or sent to the following:

City Clerk	Brian Chlopek, PE
City of Sheboygan	JT Engineering, Inc.
828 Center Ave.	1077 Centennial Centre Blvd.
Sheboygan, Wisconsin 53083	Hobart, Wisconsin 54155-8820

An address may only be changed by written notice.

10.5 Applicable Law

If applicable to this Contract, CONSULTANT will comply with the requirements of:

10.5.1 The Equal Employment Opportunity clause in Section 202 of Executive Order 11246, as amended.

10.5.2 Utilization of Small and Disadvantaged Business Concerns (Public Law 95-507), and

10.5.3 All other federal, state and local laws and regulations or orders issued under such laws.

CONSULTANT affirms that it is not presently listed on any debarment list or similar list prohibiting it from contracting with a governmental entity of any kind. In the event that CONSULTANT shall become listed on any debarment list or similar list, the CITY may terminate this Agreement.

CONSULTANT shall have any and all licenses and permits required to perform the work specified, and shall furnish proof of such licensing authorization and permits upon request.

10.6 Entire Agreement

This Contract, including any schedules, attachments and referenced documents, is the entire agreement between the OWNER and the CONSULTANT. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly stated herein are of no force and effect. Any changes to this Contract shall be in writing and signed by the OWNER and CONSULTANT.

10.7 Open Records

Both parties understand that OWNER is bound by the Wisconsin Public Records Law and, as such, this contract is subject to that law. CONSULTANT acknowledges that it is obligated to assist OWNER in retaining and producing records that are subject to the Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of the contract, and that in such event CONSULTANT must defend and hold the OWNER harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Contract.

10.9 Waiver

No failure of either party to enforce a term of this Contract against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Contract shall be considered to be a waiver of any other term or breach thereof.

10.10 Severability

The invalidity, illegality, or unenforceability of any provision of this Contract or the occurrence of any event rendering any portion or provision of this Contract void shall in no way affect the validity or enforceability of any other portion or provision of this Contract. Any void provision shall be deemed severed from this Contract, and the balance of the Contract shall be construed and enforced as if it did not contain the particular provision held to be void. The parties further agree to amend this Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Section shall not prevent this Contract from being void should a provision which is of the essence of this Contract be determined void.

10.11 Appropriation of Funds. Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the City are at any time not forthcoming or are insufficient, through failure of any entity, including the City itself, to appropriate funds or otherwise, then the City shall have the right to terminate this Agreement without penalty. The City agrees that it will make its best effort to obtain sufficient funds for the Agreement to meet its obligations hereunder in full. **The CONSULTANT will be reimbursed for work performed up to the date of termination as stated in the TERMINATION OF CONTRACT section of this Agreement.**

10.12 Third Party Rights Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Consultant.

10.13 Execution Authority This Contract is a valid and authorized undertaking of the OWNER and CONSULTANT. The representatives of the OWNER and CONSULTANT who have signed below have been authorized to do so.

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract as of the day and year shown on the cover page.

JT Engineering, Inc.
1077 Centennial Centre Blvd.
Hobart, WI 54155-8820

City of Sheboygan
828 Center Ave.
Sheboygan, WI 53081

By: _____
Brian Chlopek, PE
Vice President

By: _____
Ryan Sorenson, Mayor

Date: _____

Date: _____

Attest: _____
Meredith DeBruin, City Clerk

Date: _____

Countersigned by: _____
Evan Grossen, Comptroller

Date: _____

Approved as to Form: _____
Charles Adams, City Attorney

Date: _____