

RESOLUTION

No. 2019-150

By Commissioner Bell

RESOLVED, by the Wayne County Commission this 7th day of March, 2019 that approval be, and is hereby, granted authorizing a contract between the Charter County of Wayne and Alfred Benesch & Company (of East Lansing) not to exceed \$86,997.41 for engineering services for the Department of Public Services, Engineering Division, as recommended by the Chief Executive Officer; and be it further

RESOLVED, that the term of the contract is from March 7, 2019 through December 31, 2020 and the cost of the contract will be charged to Account No. 201 44908 817000 (Roads-Engineering/Architecture); and be it further

RESOLVED, that the Chief Executive Officer be, and is hereby, duly authorized to execute the aforementioned contract on behalf of the Charter County of Wayne.

[Contract on File]

(2019-30-023)

PROFESSIONAL ENGINEERING SERVICES CONTRACT

between

WAYNE COUNTY

And

ALFRED BENESCH & COMPANY

for

WEST ROAD BRIDGE OVER FRANK & POET DRAIN

Table of Contents

1. PURPOSE.....	3
2. ENGAGEMENT OF CONTRACTOR.....	3
3. SCOPE OF SERVICE.....	3
4. TERM OF CONTRACT.....	3
5. DATA TO BE FURNISHED TO CONTRACTOR.....	4
6. PERSONNEL.....	4
7. ADMINISTRATION.....	4
8. COMPENSATION.....	4
9. METHOD OF PAYMENT.....	4
10. RECORDS - ACCESS.....	5
11. RELATIONSHIP OF PARTIES.....	5
12. INSURANCE.....	6
13. INDEMNIFICATION.....	7
14. BANKRUPTCY OR INSOLVENCY.....	8
15. NOTICE OF MATERIAL CHANGES.....	8
16. TERMINATION.....	9
17. ETHICS IN CONTRACTING.....	10
18. NON-DISCRIMINATION PRACTICES.....	11
19. NOTICES.....	12
20. JURISDICTION AND LAW.....	13
21. CONFIDENTIAL INFORMATION.....	13
22. COMPLIANCE WITH LAWS.....	13
23. CHANGES IN SCOPE/SERVICE.....	14
24. DEBARMENT AND SUSPENSION.....	14
25. PROMPT PAYMENT.....	15
26. SUBCONTRACTING AND ASSIGNMENT.....	15
27. LIQUIDATED DAMAGES.....	16
28. MISCELLANEOUS.....	16
29. AUTHORIZATION AND CAPABILITY.....	17
30. SIGNATURE.....	17
APPENDIX A: SCOPE OF SERVICES.....	18
APPENDIX B: COMPENSATION.....	20
APPENDIX C: LIST OF SUBCONTRACTORS.....	29

THIS CONTRACT is between the County of Wayne, Michigan, a body corporate and Charter county, acting through its Department of Public Services, (the "County") and Alfred Benesch & Company, an Illinois corporation (the "Contractor").

1. PURPOSE

1.01 The County requires engineering services for the West Road Bridge over the Frank & Poet Drain.

1.02 The Contractor desires to provide these services for the County in accordance with the terms and conditions described herein.

2. ENGAGEMENT OF CONTRACTOR

2.01 The County engages the Contractor and the Contractor agrees to faithfully and diligently perform the services according to the terms and conditions contained in this Contract and consistent with the applicable industry and professional standards.

3. SCOPE OF SERVICE

3.01 The Contractor must perform the services described in **Appendix A** in a satisfactory manner, as reasonably determined within the discretion of the County. This project requires expedited deliverable final construction plans. All efforts must be exerted to build this bridge in 2019. The Contractor warrants that the Contractor is authorized to do business under the laws of the State of Michigan and is qualified to perform the Services in this Contract.

3.02 If there is any dispute between the parties regarding the extent and character of the services to be performed, the reasonable interpretation and determination of the County governs.

3.03 The services include all conferences and consultation deemed reasonably necessary by the County to properly and fully perform the services.

3.04 All services are subject to review and approval of the County for completeness and fulfillment of the requirements of this Contract. Neither the County's review, approval, or payment for any of the services shall be construed to operate as a waiver of any rights under the Contract, and the Contractor shall be and remain liable in accordance with the applicable law for all damages to the County caused by the Contractor's negligent performance or nonperformance of any of the Services furnished under this Contract.

3.05 The Contractor shall comply with section 120-50 of the Wayne County Procurement Ordinance. As required by section 120-50, the Contractor shall not commence performance under this Contract or accept payment for services provided under this Contract until:

- A. If this is a contract that requires approval of the Wayne County Commission, this Contract is approved by the Wayne County Board of Commissioners and executed by the Chief Executive Officer; or
- B. If this is a contract that does not require approval of the Wayne County Commission, this Contract is executed by the Chief Executive Officer or a purchase order is issued.

The Contractor shall not rely on representations of any person who purports to authorize performance or payment contrary to section 120-50. If the Contractor provides performance or accepts payment prior to approval and execution as required by section 120-50, it does so at its own risk, and, to the extent provided by law, the Contractor shall indemnify, defend, and hold harmless the County against any and all expenses and liability of any kind the County may sustain, incur or be required to pay arising out of the Contractor's provision of Services or acceptance of payment in violation of section 120-50. In the event the Contractor provides Services in violation of section 120-50, the County may retain the funds that would have been owed to the Contractor as compensation for those Services but for the provision of those Services in violation of section 120-50. In the event the Contractor violates section 120-50, it shall be responsible for a municipal civil infraction punishable by a fine of up to \$500.00 and shall be liable for any and all expenses and liability of any kind, which the County may sustain, incur or be required to pay arising out of the Contractor's violation of section 120-50, and may be debarred from further County contracts.

4. TERM OF CONTRACT

4.01 This Contract begins upon approval by the Wayne County Commission and execution by the Wayne County Executive and ends December 31, 2020. The Contractor must expediently perform the services to achieve the objectives of this Contract. Any work done prior to the beginning of this Contract shall be at the Contractor's own risk.

5. **DATA TO BE FURNISHED TO CONTRACTOR**

5.01 Upon the request of the Contractor, without charge, the County must furnish copies of all information, data, reports, records, etc., that the County thinks is necessary to do the services. The Contractor is entitled to visit County offices and key facilities as approved by the County, during regular business hours to obtain the necessary data. The Contractor will schedule conferences at convenient times with key administrative personnel of the County to gather the information.

6. **PERSONNEL**

6.01 To induce the County to enter into the Contract, the Contractor represents and warrants that the Contractor is authorized to do business under the laws of the State of Michigan and is duly qualified to perform the services as set forth in the Contract. The execution of this Contract is within the Contractor's authorized powers, and is not in contravention of federal, state, or local law.

6.02 The Contractor warrants that all employees of the Contractor assigned to the performance of the services are qualified and authorized to perform the services under the state and local laws and governing professional association rules where the employee is employed.

6.03 Each employee must devote the time and professional ability as is necessary to most effectively and efficiently perform the services according to professional standards.

6.04 Whenever an employee assigned to this Contract must be replaced for any reason, the Contractor must supply an acceptable replacement as soon as possible and agrees not to substitute a lower classified employee to perform the services without obtaining prior County approval in writing.

6.05 Employees' daily working hours may be determined by the Contractor. When the employees are working in or about a County facility, Contractor agrees to adjust its employees' daily working hours to be the same as those worked by County employees working at the facility.

7. **ADMINISTRATION**

7.01 The Contractor must inform the County as soon as the following types of conditions become known:

- A. Probable delays or adverse conditions which do or may materially prevent the meeting of the objectives of the Contract. The Contractor must accompany this disclosure with a statement of any remedial action taken or contemplated by it; and
- B. Favorable developments or events which enable meeting time schedules or goals sooner than anticipated.

7.02 The Contractor must regularly inform the County of its activities in connection with its duties and must keep the County informed of the status of any program. The Contractor is not required to perform in a manner materially in conflict with requirements imposed by any applicable law including any statute, county charter, ordinance, resolution or executive order.

7.03 The Contractor shall have no authority in the name of the County to borrow money, commence or defend litigation, spend money, or enter into contracts except as otherwise provided in this Contract.

8. **COMPENSATION**

8.01 The County agrees to pay the Contractor at the rates in **Appendix B**, attached. The compensation includes all remuneration to which the Contractor may be entitled. The County will not pay the Contractor for overtime, holiday or other premium charges or other benefits in addition to those stated in **Appendix B**. Maximum compensation shall not exceed **Eighty Six Thousand Nine Hundred Ninety Seven and 41/100 Dollars (\$86,997.41)**.

8.02 The Contractor must, upon reasonable notice, be available to participate in any proceeding, whether legal, administrative or otherwise, or in any internal County preparatory meetings for the proceeding, in order to assist the County in any matter relating to the purpose or outcome of this Contract. The County will compensate the Contractor under a separately negotiated agreement for any services rendered pursuant to this section.

9. **METHOD OF PAYMENT**

9.01 The County will pay for the proper performance of the services, commensurate with the progress of the work as evidenced by the timely performance of the services, and after it receives an invoice for payment. The invoice must certify the total cost of the services rendered to the project to date and the cost of all services for that billing period; and must describe the services rendered. If the invoice also requests

reimbursement or payment for reimbursable expenses, the appropriate receipts must be attached. The Contractor must sign the invoice and send it to the County for each calendar month. This section is limited by the provisions of Article 8 with regard to the amounts payable for performance.

9.02 The Contractor must first direct invoices to the attention of the County's Accounts Payable Department located on the 14th Floor of 500 Griswold, Detroit, Michigan 48226, with a copy to the attention of the individual specified in the Notice provisions, Article 19.

9.03 The Contractor must submit as part of the invoices, monthly progress reports indicating the Contractor's activities during the month and being signed by an authorized officer of the Contractor.

10. RECORDS - ACCESS

10.01 The Contractor must maintain complete books, ledgers, journals, accounts, or records in which it keeps all entries reflecting its operation pursuant to this Contract. The Contractor must keep the records according to generally accepted accounting practices and for a minimum of seven (7) years after the Contract's termination and completion. The Contractor must also maintain copies of all records, correspondence and documents, including electronically stored information, prepared in anticipation of this Contract, and for this Contract, for a period of seven (7) years after the Contract's termination and completion.

10.02 The County and the Legislative Auditor General have the right to examine and audit all books, records, documents and other supporting data as they deem necessary of the Contractor, or any subcontractors, or agents rendering services under this Contract, whether direct or indirect, which will permit adequate evaluation of the services or the cost or pricing data submitted by the Contractor. The Contractor must include a similar covenant allowing for audit by the County and the Legislative Auditor General in any contract it has with any subcontractor, a consultant or agent whose services will be charged directly or indirectly to the County. The County may delay payment to the Contractor pending the results of any such audit without penalty or interest.

10.03 The Contractor agrees that representatives of the County are entitled to make periodic inspections to ascertain that the Contractor is properly performing the services. The inspections may be made at any time during normal business hours of the Contractor. If, in the course of the inspections, the representatives of the County should note any deficiencies in the performance of the services of the Contractor, or any other mutually agreed upon performance deficiencies, the alleged deficiencies must be reported promptly to the Contractor, in writing. The Contractor agrees to promptly remedy and correct any reported deficiencies within ten (10) days of notification by the County, or within such other time frame as agreed upon by a duly authorized representatives of the County and the Contractor.

10.04 If, as a result of any audit conducted by or for a County, State of Michigan or Federal, agency relating to the Contractor's performance under this Contract, a discrepancy should arise as to the amount of compensation due the Contractor, the County may retain the amount of compensation in question from any funds allocated to the Contractor but not yet disbursed under the Contract. Should a deficiency still exist, the County may offset such a deficiency against the compensation to be paid the Contractor in any successive or future Contracts between the parties.

11. RELATIONSHIP OF PARTIES

11.01 The relationship of the Contractor to the County is and will continue to be that of an independent contractor. No liability or benefits, such as workers' compensation, pension rights, or insurance rights, arising out of, or related to a contract for hire or employer/employee relationship, accrues to either party or either party's agent, subcontractor or employee as a result of this Contract. No relationship, other than that of independent contractor will be implied between the parties, or either party's agent, employee, or subcontractor. The Contractor agrees to indemnify, defend, and hold the County harmless against any claim based in whole or in part on an allegation that the Contractor or any of its agents, employees or subcontractors qualify as employees of the County, and against any related costs or expenses, including but not limited to legal fees and defense costs.

11.02 For all purposes, County employees will remain employees of the County and the Contractor's employees will remain employees of the Contractor. The Contractor is being retained by the County as an independent contractor to provide services to the County, and is not being retained in any capacity as a joint enterprise or venturer with the County. The Contractor also covenants that none of its employees are or will be, during the period of this Contract, employees of the County.

12. INSURANCE

12.01 Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services by the Contractor, its agents, representatives, or employees.

12.02 Contractor shall maintain at least the following minimum coverage:

- A. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Contract or the general aggregate limit shall be twice the required occurrence limit.
- B. Umbrella or Excess Liability Policy in an amount not less than \$3,000,000. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ies) and shall apply both to the Contractor's general liability and to its automobile liability insurance and shall be written on an occurrence basis. The County, officials, employees and others as may be specified in any "Special Conditions" shall be named as an additional insured under this policy.
- C. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
- D. Workers' Compensation insurance as required by the State of Michigan, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
- E. Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limits no less than \$1,000,000 per occurrence or claim, \$3,000,000 aggregate.

If the Contractor maintains higher limits than the minimum insurance coverage required in Section 12.02, the Contractor shall maintain the coverage for the higher insurance limits for the duration of the Contract.

12.03 Additional Insured Status. The County, its officers, officials, employees, volunteers, and others as may be specified in any "Special Conditions" shall be additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

12.04 Primary Coverage. For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees and volunteers as additional insureds shall be excess of the Contractor's insurance and shall not contribute with it.

12.05 Notice of Cancellation. Each insurance policy shall state that coverage shall not be canceled, except with notice to the County.

12.06 Waiver of Subrogation. Contractor grants to the County a waiver of any right to subrogation which any insurer of the Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

12.07 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

12.08 All insurance must be effected under valid and enforceable policies, issued by recognized, responsible insurers qualified to conduct business in Michigan which are well-rated by national rating organizations. All companies providing the coverage required shall be licensed or approved by the Insurance Bureau of the State of Michigan and shall have a policyholder's service rating no lower than A:VII as listed in A.M. Best's Key Rating guide, current edition or interim report.

12.09 Claims-made Policies. If any of the required policies provide coverage on a claims-made basis:

- A. The Retroactive Date must be shown and must be before the date of the Contract or the date the Contractor starts to perform the services.
- B. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract.
- C. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Contract work.

12.10 Verification of Coverage. Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Article. The County shall receive and approve all certificates and endorsements before the Contractor begins providing services. Failure to obtain the required documents prior to commencement of services shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by the Article, at any time.

12.11 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance satisfying all the stated requirements, and Contractor shall ensure that the County is an additional insured on insurance required from subcontractors.

12.12 Special Risks or Circumstances. The County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

12.13 The Contractor must submit certificates evidencing the insurance to the Risk Management Division at the time the Contractor executes the Contract, and at least fifteen (15) days prior to the expiration dates of expiring policies.

13. INDEMNIFICATION

13.01 The Contractor agrees to indemnify, defend and save harmless the County against, and from any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the County because of any of the following occurring during the term of this Contract:

- A. Any negligent or tortious act, error, or omission to the extent determined by a court of competent jurisdiction to be attributable to the Contractor, or any of its personnel, employees, consultants, agents, or any entities associated, affiliated, (directly or indirectly) or subsidiary to the Contractor now existing, or to be created, their agents and employees for whose acts any of them might be liable.
- B. Any failure by the Contractor, or any of its employees to perform its obligations either implied or expressed under this Contract.

13.02 The Contractor agrees that it is its responsibility and not the responsibility of the County to safeguard the property and materials that the employees of the Contractor use in performing this Contract. The Contractor must hold the County harmless for costs and expenses resulting from any loss of the property and materials used by its employees pursuant to the performance of the Contractor under this Contract.

13.03 The Contractor may not hold the County liable for any personal injury incurred by the employees, agents or consultants of the Contractor while working on this Contract which is not held in a court of competent jurisdiction to be directly attributable to the gross negligence of the County or any employee of the County acting within the scope of their employment. The Contractor agrees to indemnify, defend, and hold the County harmless from and against any such claim by the Contractor's employees.

13.04 Nothing in this article shall be deemed to relieve the Contractor of its duty to defend the County, as specified, pending a determination of the respective liabilities of the Contractor and the County, by legal proceeding or agreement. The County shall cooperate with the Contractor in the defense against the suit. In no event shall the Contractor make any admission of guilt or liability on behalf of the County without the County's prior, written consent. This indemnity does not extend to that portion of a claim for which the County is found by final judgment or arbitration award to have been negligent or at fault. In the event the

County is found, by any dispute resolution process to be negligent or otherwise at fault in whole or in part, the indemnity and hold harmless obligation of Contractor with regard to attorneys' fees and litigation or arbitration costs and expenses incurred in defense of such claim shall be reduced by the percentage of negligence or fault of the County.

13.05 For purposes of these provisions, the term "County" includes the County of Wayne and all other associated, affiliated, or subsidiary departments or divisions now existing or to be created, their agents and employees.

13.06 This indemnity applies without regards to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. This indemnity survives delivery and acceptance of services.

13.07 This indemnity must not be construed as a waiver of any governmental immunity the County, its agencies, or employees, has as provided by statute or modified by court decisions.

14. BANKRUPTCY OR INSOLVENCY

14.01 If the Contractor is adjudicated bankrupt or insolvent, or if a trustee is appointed over the Contractor or any of its property, whether it is a third party or Contractor as debtor-in-possession (referred to as "Contractor" in this Article unless the context clearly requires otherwise) the following rights, obligations and limitations control:

- A. Contractor or any trustee must not assign any or all of its rights, title or interest, in or to this Contract, as this Contract is for the delivery of professional services and related services, as to which the County is entitled to insist upon performance solely by the Contractor.
- B. Contractor or any trustee may only assume this Contract if it provides adequate assurance of future performance. Adequate assurance of future performance means proof reasonably satisfactory to the County
 - (i) adequate financial capacity to employ or contract with sufficient personnel to perform the services assigned to the Contractor as provided in this Contract, and to pay for all services contracted for by the Contractor;
 - (ii) adequate financial capacity to own, operate, lease or obtain sufficient facilities and supplies to perform the services assigned to the Contractor as provided for in this Contract; and
 - (iii) adequate financial and professional capacity to maintain the professional standard provided in this Contract. The reasonable determination of the County as to the adequate professional capacity of the Contractor is determinative.
- C. Because of the unique nature of the services this Contract requires the Contractor to provide, the Contractor agrees that any requests by the County that the trustee or it as debtor-in-possession assume or reject this Contract in a shorter time than provided for in 11 U.S.C. §365 is reasonable so long as the trustee or Contractor receives no less than 5 business days' notice.
- D. If this Contract is terminated during bankruptcy proceedings or if the trustee or debtor-in-possession successfully and properly obtains a court order rejecting this Contract, the Contractor as debtor-in-possession or its trustee must cooperate with the County in arranging for the orderly transfer of responsibilities to persons or entities as the County may designate. The rejection is not effective until the orderly transfer of responsibilities, consistent with sound professional practice, has been completed.

14.02 Although neither party has the right to terminate the Contract merely because the other is adjudicated bankrupt or insolvent or a trustee or a debtor-in-possession is appointed over any parties' property, each party retains all of the other termination rights set forth elsewhere in this Contract during the period of any proceedings under the Bankruptcy Code.

15. NOTICE OF MATERIAL CHANGES

15.01 The Contractor must immediately inform the County of material changes in its operation, ownership or financial condition. Material changes include, but are not limited to:

- A. Reduction or change in staffing assigned to the Contract.
- B. Decrease in, or cancellation of, insurance coverage.
- C. Delinquent payment, or nonpayment, of tax obligations.

- D. Delinquent payment, or nonpayment, of payroll obligations.
- E. Delinquent funding, or nonfunding, of pension or profit sharing plans.
- F. Delinquent payment, or nonpayment, of subcontractors.
- G. Termination of, or changes in, subcontracts.
- H. Transfer, sale, assignment or delegation to an entity other than the Contractor, of ownership or administrative services.

16. TERMINATION

16.01 The County may terminate this Contract without cause at any time, without incurring any further liability, other than as stated in this Article by giving written notice to the Contractor of the termination. The notice must specify the effective date, at least thirty (30) days prior to the effective date of the termination, and this Contract will terminate as if the date were the date originally given for the expiration of this Contract. If the Contract is terminated, the County will pay the Contractor for the services rendered prior to termination, as soon as can be authorized. The County will compute the amount of the payment on the basis of the services rendered, and other means which, in the judgment of the County represents a fair value of the services provided, less the amount of any previous payments made. The final payment constitutes full payment. If the Contractor accepts the payment, the Contract is satisfied. The parties agree that no payments under this section will exceed the amount payable under Article 8.

16.02 Upon terminating the Contract, County shall not incur any further liability to Contractor, except as provided in this Article, which sets forth Contractor's exclusive remedies. In the event that Contractor is properly terminated for cause as determined by a court of competent jurisdiction, the County may procure, upon such terms and in such manner as the County may deem appropriate, Services similar to those terminated, and the Contractor shall be liable to the County for any costs to obtain and transition similar services, provided the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Article. In such an event, in addition to any legal remedies otherwise available to the County by law or equity, the Contractor shall be responsible for all additional costs, charges, and damages incurred by the County in connection with the completion of the Contract. Such expenses shall be deducted from any monies due or which may become due the Contractor under the Contract. If such expense exceeds the sum which would have been payable under the Contract, then the Contractor shall pay, on demand, such excess amount to the County. All excess reprourement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise. The rights and remedies of the County are not exclusive and are in addition to any other rights and remedies provided by law, including the collection of liquidated damages. The Contractor shall be liable to the County for any damages the County sustains by virtue of the Contractor's breach or any reasonable costs the County might incur as a prevailing party in enforcing this Contract. Such costs shall include costs to secure the deliverables from another contractor, reasonable fees and expenses for attorneys, expert witnesses and other consultants.

16.03 After receipt of a Notice of Termination and except as otherwise directed by the County, the Contractor must:

- A. Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
- B. Obligate no additional contract funds for payroll costs and other costs beyond the date as the County specifies.
- C. As of the date the termination is effective, present all Contract records and submit to the County the records, data, notes, reports, discs, and documents ("Records") as the County specifies, all pertinent keys to files, and carry out such directives as the County may issue concerning the safeguarding or disposition of files and property.
- D. Submit within thirty (30) days a final report of receipts and expenditures of funds relating to this Contract.
- E. Place no further orders on subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Contract as is not terminated;
- F. Terminate all orders and subcontracts to the extent that they relate to the portion of work so terminated;
- G. Submit within thirty (30) days a listing of all creditors, subcontractors, lessors, and other parties with which the Contractor has incurred financial obligations pursuant to the Contract.

16.04 Upon termination of this Contract, all Records prepared by the Contractor under this Contract or in anticipation of this Contract shall, at the option of the County, become the County's exclusive property, whether or not said Records are in the possession of the Contractor. The Records shall be free from any claim or retention of rights on the part of the Contractor except as specifically provided in this Contract. The County shall return all property of the Contractor to the Contractor. Neither Contractor, nor its subcontractors shall be responsible for errors or omissions in documents which are incomplete as a result of an early termination under this Agreement, except to the extent any such errors or omissions are caused by Contractor's or its subcontractor's negligence.

16.05 Any intentional failure or delay by the Contractor to deliver the Records to the County promptly upon termination of this Contract will cause irreparable injury to the County not adequately compensable in damages and for which the County has no adequate remedy at law. The Contractor shall pay the County five hundred dollars (\$500.00) per day as liquidated damages, and not as a penalty, until it delivers the Records to the County. The County may seek and obtain injunctive relief in a court of competent jurisdiction and compel delivery of the Records to which the Contractor hereby consents as well as all applicable damages and costs. The County shall have unrestricted use of the Records for the purpose of completing the services.

16.06 Access to the records prior to delivery must be restricted to authorized representatives of the County and the Contractor. The Contractor has no right to disclose or use any information gathered in the course of its work without obtaining the written concurrence of the County. All the information must be confidential and handled in such a manner at all times as to preserve confidentiality. The Records as well as any related products and materials are proprietary to the County, having been developed for the County for its own and sole use.

16.07 In addition, each party will assist the other party in the orderly termination of this Contract and the transfer of all aspects, tangible or intangible, as may be necessary for the orderly, non-disrupted business continuance of each party.

17. ETHICS IN CONTRACTING

17.01 The Contractor must comply with Article 12 of Chapter 120 of the Wayne County code governing "Ethics in Public Contracting."

17.02 Contractor's material misrepresentation or delinquency in the disclosures required by section 120-225 of the Wayne County Code constitutes a material breach of this Contract, sufficient to warrant immediate termination and the imposition of liquidated damages (not a penalty) of fifteen percent (15%) of the consideration made or due under the Contract as of the date of termination.

17.03 If the County determines that the Contractor has made a material misrepresentation or is willfully delinquent or knowingly evasive in the disclosures required by section 120-225, the Contractor and any other business which has substantially the same principal beneficiaries (as defined in section 120-238 of the Wayne County Code), may be debarred by the Purchasing Director, pursuant to Article 6 of Chapter 120 of the Wayne County Code, from competing for any further County contracts for up to three (3) years.

17.04 If the contract price is in excess of twenty thousand dollars (\$20,000), or the terms thereof require the approval of the Wayne County Commission, and the Contractor knowingly collaborate in or induces a violation of any of the ethical standards that are set forth in sections 120-225, 120-228, 120-229, 120-230 or 120-233 of the Wayne County Code, the County has the right to impose any one or more of the following sanctions:

- A. Immediately terminate the Contract and require the Contractor to pay the County liquidated damages, and not a penalty of fifteen percent (15%) of the total Contract compensation;
- B. Debar or suspend the Contractor from consideration from competing for further County contracts; or
- C. Recover the value transferred or received in breach of the ethical standards by a County employee or other person.

17.05 Upon a showing that a subcontractor has paid a surcharge to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount of the surcharge was included in the price of the subcontract or order and ultimately borne by the County and that the County shall have the right to recover the amount of the surcharge from the Contractor. The County may also recover the amount of the surcharge from the subcontractor that paid or is paying the surcharge. Recovery by the County of the surcharge from one offending party shall not preclude

recovery from other offending parties. The Wayne County Prosecuting Attorney may initiate and prosecute any civil action needed to enforce this article, if the Wayne County Corporation Counsel declines to do so.

18. NON-DISCRIMINATION PRACTICES

18.01 The Contractor and its subcontractors must comply with:

- A. Titles VI and VII of the Civil Rights Act (42 U.S.C. §2000d et. seq.) and the United States Department of Justice Regulations (28 C.F.R. Part 42) issued pursuant to those Titles.
- B. The Age Discrimination Act of 1985 (42 U.S.C. §6101-07).
- C. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).
- D. The Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et. seq.) and its associated regulations.
- E. The Michigan Civil Rights Act (P.A. 1976 No. 453) and the Persons With Disabilities Civil Rights Act (P.A. 1976 No. 220).
- F. Article XI of Chapter 120 of the Wayne County Code governing Equal Contracting Opportunity.
- G. Any other appropriate affirmative action provisions as may be required from time to time by the Director of Human Relations of the County. Contractor shall promptly give notice of any such provisions to County during the term of the Contract.

18.02 The Contractor and its subcontractors must not:

- A. Refuse to recruit, hire, employ, promote or to bar or discharge from employment an individual, or discriminate against an individual in compensation, terms, conditions or privileges of employment because of race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.
- B. Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive any individual of employment opportunities or otherwise adversely affects the employment status of an employee because of race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.
- C. Print or publish or cause to be printed or published a notice, application, or advertisement relating to employment by the Contractor indicating a preference, limitation, specification, or discrimination based upon race, color, creed, national origin, age, marital status, handicap, religion, familial status, height or weight.
- D. Except as permitted by rules and regulations promulgated pursuant to Article 11 of the Wayne County Code, headed "Equal Contracting Opportunity," or applicable state or federal law.
 - (i) Make or use a written or oral inquiry or form of application that solicits or attempts to elicit information concerning the race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height, or weight of prospective employees;
 - (ii) Make or keep a record of that information or disclose that information;
 - (iii) Make or use a written or oral inquiry or form of application that expresses a preference, limitation or specification based on race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight; or
 - (iv) Make, before or during the initial application process, background checks or oral or written inquiries as to prior criminal conviction or convictions.
- E. Absolutely bar or otherwise preclude possible employment based on prior criminal conviction or convictions, provided that the prior criminal conviction or convictions is or are not directly related to the position being sought.

18.03 The Contractor and its subcontractors must not discriminate against any employee or applicant for employment, training, education, or apprenticeship connected directly or indirectly with the performance of this Contract, with respect to hire, promotion, job assignment, tenure, terms, conditions or privileges of employment because of religion, race, color, national origin, age, sex, height, weight, familial status, marital status, creed, prior criminal conviction(s) or handicap. This Section does not apply if it is determined by the Wayne County Division of Human Relations that the requirements are bona fide occupational qualifications reasonably necessary to perform the duties required for employment. The burden of proof that the occupational qualifications are bona fide is upon the Contractor.

18.04 The Contractor agrees that its subcontractors shall be subject to and shall not violate the nondiscrimination provisions of section 120-192(a) of the Wayne County Procurement Ordinance in performing work on County contracts. The Contractor shall notify its subcontractors that they shall be subject to said nondiscrimination provisions, and shall include said nondiscrimination provisions in its subcontracts. The Contractor shall provide the County with a complete copy of any subcontractor agreement when requested.

18.05 If the Contract price is in excess of twenty thousand dollars (\$20,000), the Contractor shall comply with the slavery era disclosure requirements of section 120-192(f) of the Wayne County Procurement Ordinance, as implemented by the Wayne County Slavery Era Disclosure Affidavit the Contractor will complete as part of the contract approval process. If it is subsequently determined by the Wayne County Division of Human Relations that the Contractor has not made a full disclosure in its affidavit of the information required by section 120-192, that failure shall constitute a substantial breach of the terms of this Contract, sufficient to warrant rescission of the Contract, the institution of liquidated damages as set forth in section 18.07, and debarment from any further business with the County.

18.06 Breach of any section 120-192 of the Wayne County Procurement Ordinance or of the covenants in this Article may be regarded as a material breach of this Contract.

18.07 If the Contractor does not comply with the non-discrimination and affirmative action provisions of this Contract, the County may impose sanctions, as it determines to be appropriate, including but not limited to:

- A. Withholding of payments to the Contractor under this Contract until the Contractor attains compliance;
- B. Cancellation, termination or suspension of this Contract, in whole or in part;
- C. Disqualification from bidding on future contractors for a period of no more than three (3) years;
- D. Referral to Corporation Counsel for consideration of injunction, liquidated damages or other remedies; and/or
- E. Because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the County would sustain, the imposition of liquidated damages (not a penalty) in the amount of five hundred dollars (\$500.00) per day, for each day that the Contractor shall fail to comply with said requirements, as determined by the Wayne County Purchasing Director, in consultation with the Wayne County Director of Human Relations and Corporation Counsel. The liquidated damages shall first be setoff against the unpaid portion of the Contract price, and the balance shall be paid by the Contractor.

18.08 If the Contract is funded, in whole or in part, by federal funds and if the County has been authorized by the funding source to require an affirmative action commitment from contractors who are to be paid from those funds, Contractor must establish and implement a good faith plan and goal to eliminate the continuing effects of past discrimination, which is determined by the Division of Human Relations to be appropriate for that purpose.

18.09 In the event that this Contract is or becomes subject to federal or state law which conflicts with the requirements of section Article XI of the Wayne County Code, the provisions of the federal or state law shall apply and the Contract shall be interpreted and enforced accordingly.

19. NOTICES

19.01 All notices, consents, approvals, requests and other communications ("Notices") required or permitted under this Contract must be given in writing and mailed by first-class mail and addressed as follows:

If to the Contractor:

Alfred Benesch & Company
4660 S. Hagadorn Road, Suite 315
East Lansing, MI 48823

Attn: John Salman, PE

Phone: 517-391-1392
Fax: 517-482-7180

E-mail: jsalman@benesch.com

If to the County:

Michael Gorman
Deputy Director – Roads
29900 Goddard Road
Romulus, MI 48242
Email: mgorman@waynecounty.com

And

Ali Aljawad
400 Monroe St, 3rd Floor
Detroit, Michigan 48226
Phone: (734) 595-6504
Email: aaljawad@waynecounty.com

And

Director of Administration
WCDPS
400 Monroe, 3rd Floor
Detroit, MI 48226

19.02 All notices are deemed given on the day of mailing. Either party to this Contract may change its address for the receipt of notices at any time by giving notice to the other as provided. Any notice given by a party must be signed by an authorized representative of such party.

19.03 Termination notices, change of address notices, and other notices of a legal nature, are an exception and must be sent by registered or certified mail, postage prepaid, return receipt requested.

20. JURISDICTION AND LAW

20.01 This Contract, and all actions arising from it, must be governed by, subject to, and construed according to the law of the State of Michigan. The Contractor consents to the personal jurisdiction of any competent court in Wayne County, Michigan, for any action arising out of this Contract. Service of process at the address and in the manner specified in this Contract will be sufficient to put the Contractor on notice. The Contractor will not commence any action against the County because of any matter arising out of or relating to the validity, construction, interpretation and enforcement of this Contract, in any courts other than those in the County of Wayne, State of Michigan unless original jurisdiction is in the United States District Court for the Eastern District of Michigan, Southern Division, the Michigan Supreme Court or the Michigan Court of Appeals.

21. CONFIDENTIAL INFORMATION

21.01 If the County discloses confidential information to the Contractor's employees pertaining to the County's past, present and future activities, the Contractor must instruct its employees to regard all information gained by each person as a result of the services to be performed as information which is confidential and not to be disclosed to any organization or individual without the prior written consent of the County.

21.02 The Contractor agrees to take appropriate action with respect to its employees to insure that the obligations of nonuse and non-disclosure of confidential information concerning this Contract can be fully satisfied.

22. COMPLIANCE WITH LAWS

22.01 The Contractor must comply with and must require its employees to comply with all applicable laws and regulations.

22.02 The Contractor must hold the County harmless with respect to any damages arising from any violations of this Article by it or its employees.

23. CHANGES IN SCOPE/SERVICE

23.01 County may request changes to the scope of Services to be furnished or performed by the Contractor under the Contract, as well as changes in the time of performance of the Contract. All such changes shall be authorized by either Change Order or Contract Modification.

23.02 If any such change request increases or decreases the Contractor's cost of, or the time required for, performance of any part of the Services under this Contract, an adjustment may be made and the Contract modified in writing accordingly.

23.03 Contractor shall provide County with a written proposal to County's change request within five (5) business days of receipt of any such request. Contractor's proposal shall describe in reasonable detail the basis for any proposed price or time adjustment. All cost estimates shall include all completed Services, and cover all costs, expenses, overhead and profit of subcontractors, if any.

23.04 Contractor acknowledges that any change in the Contract price represents full compensation for all costs associated with the change request, including delay costs, impacts, acceleration, disruption, consequential damages and any other cost of any nature.

23.05 If the County does not accept the Contractor's proposal, the County may:

- A. withdraw its change request;
- B. modify its change request, in which case the procedures set forth above will apply to the modified change request; or
- C. issue a Change Order.

23.06 Any adjustment in the Contract price shall be computed in the manner as the parties may agree. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the Contract as changed, provided the County promptly and duly makes provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the required Services under protest, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of the time for completion.

23.07 No action, conduct, omission, prior failure or course of dealing by the County shall act to waive, modify, change or alter the requirement that Contract Modifications must be in writing and signed by the County and the Contractor. Contractor further acknowledges that Change Orders and Contract Modifications are the exclusive method for effecting any change to the Contract.

23.08 No change to this Contract is effective unless it is in writing and references this Contract. If the change is a Contract Modification, it must be signed and acknowledged by duly authorized representatives of both parties. If the change is a Change Order, it must be signed by an authorized representative of the County.

24. DEBARMENT AND SUSPENSION

24.01 The Contractor certifies to the best of its knowledge and belief, that:

- A. The Contractor and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal agency;
- B. The Contractor and its principals have not, within a three (3) 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 connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under 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;
- C. The Contractor and its principals are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in 24.01 b above; and;
- D. The Contractor and its principals have not, within a three (3) year period preceding this contract, had one or more public transactions (Federal, State or local) terminated for cause or default.

24.02 The certification in this clause is a material representation of fact upon which reliance was placed. When the County determines that the Contractor knowingly rendered an erroneous certification, in

addition to other remedies available to the County, the County may terminate this Contract for cause or default.

24.03 The Contractor shall provide immediate written notice to the County if, at any time, Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

24.04 The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "Grantee", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76.

24.05 The Contractor agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the County.

24.06 The Contractor further agrees that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction", provided by the County, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

24.07 A Contractor may rely upon a certification of a participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Contractor may decide the method and frequency by which it determines the eligibility of its principals. Each Contractor may, but is not required to, check the Non-procurement List (of excluded parties).

24.08 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

24.09 If a Contractor is in a covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the County, the County may terminate this transaction for cause or default.

25. PROMPT PAYMENT

25.01 If the Contractor should subcontract a part of the obligations under this Contract to a business which has been certified by the County's Division of Human Relations as a small or disadvantaged business enterprise, the Contractor shall make prompt payments to each such subcontractor as the subcontract is performed which are at least equal to the prompt payments which have been paid to the Contractor under the provisions of this Contract. Unless alternate terms which have a similar purpose and effect are otherwise agreed upon in writing, the Contractor shall make payment within forty five (45) days after satisfaction of the subcontract and receipt of a complete invoice therefore. If an invoice is filled out incorrectly or contains a defect or impropriety, the Contractor shall notify the subcontractor of that fact within ten (10) days after receipt of the invoice. The forty five (45) day period shall be extended by each day over five (5) days which the subcontractor takes to make a correction. If a payment is past due, the Contractor shall pay to the subcontractor an additional amount to be calculated on a daily basis which is equal to an annual rate of interest of nine percent (9%) (amount overdue X number of days overdue X .000246575). Interest shall not be due if payment is delayed because of a good faith disagreement between the Contractor and the subcontractor regarding contract performance and the dispute is resolved in favor of the Contractor. This provision is expressly intended to create a third-party right which is legally enforceable by a subcontractor. This provision does not, however, create a duty on the part of the County to seek enforcement of a default of this provision or to make payment to the subcontractor on behalf of the Contractor.

26. SUBCONTRACTING AND ASSIGNMENT

26.01 The Contractor may subcontract with the companies listed in Appendix C, List of Subcontractors. Appendix C shall identify each such subcontract by stating the name and address of the subcontractor, describing in a general manner the services that will be subcontracted, and stating the percentage of this Contract, by dollar value, that will be subcontracted. The Contractor shall not terminate any subcontractor, without the County's prior written approval. Such approval shall not in any way relieve the Contractor of full responsibility for the performance of the Contract. The Contractor shall provide the County with immediate notice when a Wayne County-based subcontractor is terminated or substantially displaced by

a subcontractor who is not so qualified. The Contractor must also direct notices to the attention of the individual specified in the Notice provisions, Article 19. The Contractor must not assign this Contract, nor any part, or subcontract any of the work or services to be performed without the County's prior written approval. Any unauthorized assignment or transfer will be considered a breach of this Contract and result in the termination of the Contract at the County's discretion. If the Contract is not terminated, the assignment shall be deemed null and void.

27. LIQUIDATED DAMAGES

27.01 The Contractor shall perform the services according to the Completion Schedule contained in **Appendix A**. The Contractor shall be responsible for any loss or damage which results from failure to timely perform the services resulting from causes solely within Contractor's reasonable control. Because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the County would sustain, the Contractor shall pay liquidated damages as indicated below. If Contractor does not have the specified services completed according to the scheduled completion date, then Contractor shall pay to the County as fixed and agreed liquidated damages, in lieu of all other damages due to such delay, for each calendar day between the specified completion date and the date that Contractor actually completes the applicable services, an amount of one thousand dollars (\$1,000.00) per day. The liquidated damages shall first be set off against the unpaid portion of the Contract price.

28. MISCELLANEOUS

28.01 The Contractor covenants that it is not, and will not become, in arrears to the County upon any contract, debt, or any other obligation to the County, including real property and personal property taxes.

28.02 Articles 12, 13, 19, and 21 survive termination of the Contract.

28.03 All the provisions of this Contract are "covenants" and "conditions" as though the words specifically expressing or imparting covenants and conditions are used in each provision.

28.04 If any Affiliate of the Contractor takes any action which, if done by the Contractor, would constitute a breach of this Contract, the action is deemed a breach by the Contractor. "Affiliate" is a "parent", subsidiary or other company controlling, controlled by or in common control with the Contractor.

28.05 Neither party is responsible for force majeure events. If there is a dispute between the parties with regard to what constitutes a force majeure event, the County's reasonable determination is controlling.

28.06 Unless the context otherwise requires, the words, "herein", "hereof" and "hereunder", and other words of similar import, refer to this Contract as a whole and not to any particular article, section, or other subdivision.

28.07 The headings of the articles in this Contract are for convenience only and must not be used to construe or interpret the scope or intent of this Contract or in any way affect the Contract.

28.08 As used, the singular includes the plural, the plural includes the singular, and the use of any gender is applicable to all genders.

28.09 The Contractor warrants that any products sold or processes used in the performance of this Contract do not infringe upon or violate any patent, copyright, trademark, trade secret or any other proprietary rights of any third party. If a third party makes a claim against the County, the County must promptly notify the Contractor. The Contractor must defend the claim in the name of the County, at the Contractor's expense. The Contractor must indemnify the County against any loss, cost, expense or liability arising out of the claim, whether or not the claim is successful.

28.10 No failure by a party to insist upon the strict performance of any term of this Contract or to exercise any term after a breach, constitutes a waiver of any breach of term. No waiver of any breach affects or alters this Contract, but every term of this Contract remains effective with respect to any other then existing or subsequent breach.

28.11 The Contractor shall secure all permits necessary to perform the services and shall comply with all statutes, ordinance, and laws.

28.12 If any provision of this Contract or the application to any person or circumstance is, to any extent, judicially determined to be invalid or unenforceable, the remainder of the Contract, or the application of the provision to persons or circumstances other than those as to which it is invalid or unenforceable, is not affected and is enforceable.

28.13 The County or the Contractor may contract with other firms providing the same or similar

services so long as the Contractor's obligations to the County contained in this Contract will not be affected in any manner.

28.14 If the division of Human Relations determines that the Contractor has not made a full disclosure in its affidavit regarding its investments in, support or profit in some manner from the institution of slavery, that failure shall constitute a substantial breach of this Contract, sufficient to warrant rescission of the Contract, the institution of liquidated damages, and debarment from any further business with the County.

28.15 This document, including the Appendices, contains the entire agreement between the parties and all prior negotiations and agreements are merged in this document. Neither party has made any representations except those expressly set forth. No rights or remedies are, or will be acquired by either party by implication or otherwise unless set forth.

29. AUTHORIZATION AND CAPABILITY

29.01 The Contractor warrants to the County that it has taken all corporate actions necessary for the authorization, execution, delivery and performance of this Contract. It is ready to perform its obligations. The Contractor further warrants that the person signing this Contract is authorized to do so on behalf of the Contractor and is empowered to bind the Contractor to this Contract.

29.02 This Contract is effective only upon review and approval by the Wayne County Commission.

30. SIGNATURE

30.01 The County and the Contractor, by their authorized officers and representatives have executed this Contract.

CONTRACTOR

By: _____

Its: _____

James H. Carlson
Senior Vice President

COUNTY OF WAYNE

By: _____

Its: _____

DocuSigned by:
Dannella Williams for
WARREN C. EVANS
COUNTY EXECUTIVE

#320233 v.2
2/4/2019

APPENDIX A: SCOPE OF SERVICES/COMPLETION SCHEDULE

Scope of Services

Alfred Benesch will provide engineering service for the superstructure replacement and substructure rehabilitation for West Road bridge crossing the Frank and Poet Drain in Wayne County, Michigan.

Scope of service will include the following:

- Attend kickoff meeting, preliminary & final plan review meetings, pre-construction & utility coordination meeting (total of 5 meetings).
- Perform structure and roads topographic survey.
- Develop MOT sheets.
- Determine right of way and address related issues.
- Prepare and submit the MDOT program application.
- Identify utilities on the bridge, perform utility coordination and address any conflicts. No municipal utility design is included.
- Initiate SHPO correspondence if needed.
- Perform geotechnical investigation and provide recommendations.
- Perform TS&L.
- Submit MDEQ permit, if required. We do not anticipate any disturbance to the channel nor impacts to any endangered species.
- Develop 65% plans and conduct preliminary plan review meeting.
- Develop 95% plans and conduct final plan review meeting.
- Prepare proposal and final estimate for the project.
- Attend and participate in pre-construction and utilities coordination meeting.
- Review shop drawings, if applicable.
- Design issues consultation and resolution. Provide as needed engineering services during construction and respond to contract modification during construction.
- Develop and update final-as-built construction plans after completion of the project.

The scope of work will include replacing the superstructure with a new superstructure at the same width and depth. Because of this a hydraulic analysis is not required, and there will be no environmental or right of way impacts. The intent is to meet the August letting date by performing all work above the

Additional scope of service items:

- Plans will be developed in AutoCAD format.
- Design the proposed structure for HL-93 Modified live load.
- Initial load rating using BrR for proposed superstructure design to verify the proposed structure will carry all Michigan 28 legal truck loading.
- If MDEQ requires scour analysis, it will be performed to determine appropriate scour measures.
- Respond to contractor RFI during bidding and construction.

- Upon construction completion, provide the County with final load rating calculations and XML files using BrR, perform routine final bridge inspection, updated bridge / culvert safety inspection report (BSIR/CSIR), and structure inventory.

Completion Schedule

- TS&L submittal by 2/18/2019
- Submit program application and GI package to MDOT by 3/20/2019
- Deliver Final Plans, Spec & Estimate to LAP by 5/17/2019
- Achieve Letting date by 8/2/2019

APPENDIX B: COMPENSATION

[illegible]

Task - Environment_Mussel Survey					
WCDPS Work Order # :		37-19-028-P1			
Project Description :		SN 12012 West Road over Frank and Poet Drain			
Consultant :		ASTI			
DIRECT LABOR					
<u>Classification</u>	Person Hours	x	Hourly Rate	=	Labor Costs
Total Hours	0		Total Direct Labor Costs		\$8,500.00
OVERHEAD (OH)					
(Total Direct Labor Costs) x (Overhead rate)	Total Direct Labor Costs	x	Overhead Rate	=	Total Overhead Costs
	\$0.00		112.4500%		\$0.00
DIRECT EXPENSES					
List items at actual costt - NO MARKUP (Expense Multiplier = 1.0)					
			Total Direct Expenses Costs		\$0.00
FIXED FEE					
(Total Labor ÷ Total Overhead) x Fee	Total Labor + Total OH	x	Fixed Fee	=	Total Fixed Fee Costs
	\$0.00		11.00%		\$0.00
TOTAL TASK COSTS					
(Total Labor + Total Overhead + Direct Expenses + Fixed Fee)					\$8,500.00

[illegible]

Task - Roadway Geotechnical Investigation					
WCDPS Work Order # :		37-19-028-P1			
Project Description :		SN 12012 West Road over Frank and Poet Drain			
Consultant :		G2 Consulting Group, LLC			
DIRECT LABOR					
Classification	Person Hours	x	Hourly Rate	=	Labor Costs
QA/QC	1.5		\$72.50		\$108.75
Project Manager	12		\$59.25		\$711.00
Project Engineer	34		\$32.50		\$1,105.00
Staff Engineer	30		\$26.00		\$780.00
Lab/Field Technician	18		\$22.00		\$396.00
Admin. Assist.	2		\$17.00		\$34.00
Total Hours	97.5		Total Direct Labor Costs		\$3,134.75
OVERHEAD (OH)					
(Total Direct Labor Costs) x (Overhead rate)	Total Direct Labor Costs	x	Overhead Rate	=	Total Overhead Costs
	53,134.75		209.17%		\$6,556.96
DIRECT EXPENSES					
List items at actual cost - NO MARKUP (Expense Multiplier = 1.0)					
Drill Rig Mobilization (each)	1		\$400.00		\$400.00
Drilling (rotary wash, per foot)	150		\$18.00		\$2,700.00
Sample Jars (per box of 12)	3		\$16.00		\$48.00
Shelby Tubes (each)	2		\$60.00		\$120.00
Traffic Control (single lane, per day)	2		\$1,550.00		\$3,100.00
Core Rig & Generator (per day)	1		\$250.00		\$250.00
Mileage (per mile)	210		\$0.58		\$121.80
Permit Fees (each)	0		\$400.00		\$0.00
			Total Direct Expenses Costs		\$6,739.80
FIXED FEE					
(Total Labor + Total Overhead) x Fee	Total Labor + Total OH	x	Fixed Fee	=	Total Fixed Fee Costs
	59,691.71		15.00%		\$1,453.76
TOTAL TASK COSTS					
(Total Labor + Total Overhead + Direct Expenses + Fixed Fee)					\$17,885.26

Task - Utility Coordination					
WCDPS Work Order # :		37-19-028-P1			
Project Description :		SN 12012 West Road over Frank and Poet Drain			
Consultant :		Alfred Benesch & Company			
DIRECT LABOR					
<u>Classification</u>	Person Hours	x	Hourly Rate	=	Labor Costs
Utility Coordination_Project Manager	4		572.00		\$288.00
Utility Coordination_Project Engineer	10		535.00		\$350.00
Total Hours	14		Total Direct Labor Costs		\$638.00
OVERHEAD (OH)					
(Total Direct Labor Costs) x (Overhead rate)	Total Direct Labor Costs	x	Overhead Rate	=	Total Overhead Costs
	\$638.00		166.17%		\$1,060.16
DIRECT EXPENSES					
List items at actual costt - NO MARKUP (Expense Multiplier = 1.0)					
					0.00
			Total Direct Expenses Costs		0.00
FIXED FEE					
(Total Labor + Total Overhead) x Fee	Total Labor + Total OH	x	Fixed Fee	=	Total Fixed Fee Costs
	\$1,698.16		11%		\$186.80
TOTAL TASK COSTS					
(Total Labor ÷ Total Overhead + Direct Expenses + Fixed Fee)					\$1,884.96

[illegible]

[illegible]

Task - Engineering Assistance During Letting and Construction					
WCDPS Work Order #: 37-19-028-P1					
Project Description: SN 12012 West Road over Frank and Poet Drain					
Consultant: Access Engineering, Inc.					
DIRECT LABOR					
Classification	Person Hours	x	Hourly Rate	=	Labor Costs
Principal Engineer	0		\$58.14		\$0.00
Total Hours	0		Total Direct Labor Costs		\$0.00
OVERHEAD (OH)					
(Total Direct Labor Costs) x (Overhead rate)	Total Direct Labor Costs	x	Overhead Rate	=	Total Overhead Costs
	\$0.00		112.4500%		\$0.00
DIRECT EXPENSES					
List items at actual cost - NO MARKUP (Expense Multiplier = 1.0)					
			Total Direct Expenses Costs		\$0.00
FIXED FEE					
(Total Labor + Total Overhead) x Fee	Total Labor + Total OH	x	Fixed Fee	=	Total Fixed Fee Costs
	\$0.00		11.00%		\$0.00
TOTAL TASK COSTS					
(Total Labor + Total Overhead + Direct Expenses + Fixed Fee)					\$0.00

COST PROPOSAL - SUMMARY					
WCDPS Work Order # :		37-19-028-P1			
Project Description :		SN 12012 West Road over Frank and Poet Drain			
Consultant :					
TASK	DIRECT LABOR	OVERHEAD	DIRECT COSTS	FIXED FEE	TOTAL
Design Survey	\$1,552.00	\$2,900.53	\$0.00	\$489.78	\$4,942.31
Environmental_T&E Clearances					\$8,500.00
MOT	\$2,735.75	\$3,076.35	\$0.00	\$639.33	\$6,451.43
Roadway Geotechnical Investigation	\$3,134.75	\$6,556.96	\$6,739.80	\$1,453.76	\$17,885.26
Utility Coordination	\$638.00	\$1,060.16	\$0.00	\$186.80	\$1,884.96
Plans and Bid Documents	\$14,545.00	\$24,169.43	\$406.00	\$4,258.59	\$43,379.01
Engineering Assistance during Letting and during construction Access	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Assistance during Letting and during Construction_Benesch	\$1,309.00	\$2,175.17	\$87.00	\$383.26	\$3,954.42
CONTRACT TOTAL =					\$86,997.41

APPENDIX C: LIST OF SUBCONTRACTORS

**WAYNE COUNTY HUMAN RELATIONS DIVISION
FIRST TIER SUBCONTRACTOR DESIGNATION FORM**

To be completed by Prime Contractors for "First Tier" Subcontractors Only

This form Must be completed by all prime contractors receiving a contract of more than \$50,000 (supply/service) or more than \$100,000 (construction) from Wayne County regardless of the dollar amount at which the subcontractor participates. The prime contractor is responsible for ensuring that all first tier subcontractors are in compliance with the FEP ordinance.

****THIS PAGE MUST BE COMPLETED EVEN IF NO SUBCONTRACTORS WILL BE USED****

37-19-003

1. CONTRACT NUMBER: 3 7 - 1 9 - 0 2 8-P (number on bid announcement)
2019-30-023

2. CHECK ONE:

This is a: ☒ **SUPPLIES/SERVICES contract (over \$50,000? ☒ YES ☐ NO)**
OR
☐ **CONSTRUCTION contract (over \$100,000? ☐ YES ☐ NO)**

3. WILL SUBCONTRACTORS BE USED FOR THIS CONTRACT? (Check One)

☒ **YES** ☐ **NO**

(This page must be completed even if no subcontractors will be used)

Prime Company Name: Alfred Benesch & Company		Fed Tax ID: 36-2407363	
Address: 4660 S Hagadorn Rd, Suite 315			
City: East Lansing	County: Ingham	State: MI	Zip: 48823
Phone: (517) 482-1682		Fax: (517) 482-7180	
Authorized Contact Person: James H. Canham, PE, CVS		Email: jcanham@benesch.com	

I Declare that all of the information contained in this form is complete and accurate to the best of my knowledge.

Print Name James H. Canham, PE, CVS Title Senior Vice President

Signature James H Canham Date 02/12/2019

If you answered "YES" to subcontractors, complete the next page.

SUBCONTRACTOR LIST

(MAKE ADDITIONAL COPIES OF THIS PAGE TO LIST ADDITIONAL SUBCONTRACTORS)

Prime Contractor Name Alfred Benesch & Company

Contract # 37.1 9.0 0.3

Subcontractor # 1

Company Name <u>Surveying Solutions, Inc.</u>		Fed Tax ID: <u>38-3620839</u>	
Address <u>100 S. US-27</u>			
City: <u>St. Johns</u>	County: <u>Clinton</u>	State <u>MI</u>	Zip <u>48879</u>
Authorized contact: <u>Anthony Thelen, P.S.</u>	Phone: <u>(989) 227-9212</u>	Fax: <u>(989) 224-2729</u>	
Subcontract Amount: \$ <u>4,942.31</u>		% of Contract <u>5.68</u>	
Work to be performed: <u>Structure, Hydraulic Surveying Services</u>			

Subcontractor # 2

Company Name <u>Access Engineering, Inc.</u>		Fed Tax ID: <u>38-3442712</u>	
Address <u>400 N. Main Street, Suite 303</u>			
City: <u>Milford</u>	County: <u>Oakland</u>	State <u>MI</u>	Zip <u>48381</u>
Authorized contact: <u>Annette Stroman, PE</u>	Phone: <u>(248) 921-8406</u>	Fax: <u>(248) 714-4293</u>	
Subcontract Amount: \$ <u>6,451.43</u>		% of Contract <u>7.42</u>	
Work to be performed: <u>Maintaining traffic plans</u>			

Subcontractor # 3

Company Name <u>G2 Consulting Group, LLC</u>		Fed Tax ID: <u>38-3190422</u>	
Address <u>1866 Woodslee Street</u>			
City: <u>Troy</u>	County: <u>Oakland</u>	State <u>MI</u>	Zip <u>48083</u>
Authorized contact: <u>David L. Wanlass</u>	Phone: <u>(248) 670-5172</u>	Fax: <u>(248) 680-9745</u>	
Subcontract Amount: \$ <u>17,885.26</u>		% of Contract <u>20.56</u>	
Work to be performed: <u>Geotechnical Investigation and Engineering</u>			

Subcontractor # 4

Company Name <u>ASTI</u>		Fed Tax ID: <u>38-2567197</u>	
Address <u>10448 Citation Dr., Suite 100</u>			
City: <u>Brighton</u>	County: <u>Livingston</u>	State <u>MI</u>	Zip <u>48116</u>
Authorized contract: <u>Dianne C. Martin</u>	Phone: <u>810-225-2800</u>	Fax: <u>810-225-3800</u>	
Subcontract Amount: \$ <u>8,500.00</u>		% of Contract <u>9.77</u>	
Work to be performed: <u>Environmental</u>			