

**CONSULTANT – ENGINEERING DESIGN SERVICES  
FOR 2022, 2023 & 2024**

ENGINEERING SERVICES CONTRACT

THIS Contract made and entered into as of this day \_\_\_\_\_ of \_\_\_\_\_, 2022, by and between **CONSULTANT\_NAME** with offices at **CONSULTANT\_ADDRESS**, hereinafter referred to as the “CONSULTANT”, and the Washtenaw County Road Commission, 555 N. Zeeb Road, Ann Arbor, Michigan 48103, hereinafter referred to as the “WCRC”.

WITNESSETH:

WHEREAS, the WCRC desires to engage the professional services and assistance of the CONSULTANT to perform as needed design engineering services for various projects in Washtenaw County for the WCRC, said work to be hereinafter referred to as the “SERVICES”, required in connection with various WCRC road and bridge projects and WCRC permit projects to be hereinafter referred to as the “PROJECT”.

“CONSULTANT – ENGINEERING DESIGN SERVICES FOR 2022, 2023 & 2024”, and

WHEREAS, the WCRC may be utilizing Federal Aid, State and/or Township monies to fund the PROJECT, and

WHEREAS, the CONSULTANT has reviewed the Request for Proposal (“RFP”) for the PROJECT distributed by the Washtenaw County Road Commission and provided a response indicating the CONSULTANT’s Understanding of the Project entitled “Proposal for CONSULTANT – ENGINEERING DESIGN SERVICES FOR 2022, 2023 & 2024” attached hereto as “Exhibit A” and “Rate Schedule” attached hereto as Exhibit B, and is willing to render the SERVICES desired by the Washtenaw County Road Commission; and

WHEREAS, the CONSULTANT was selected utilizing a Qualifications-Based Selection (QBS) process; and

WHEREAS, the terms and conditions of the prime contract between the Michigan Department of Transportation (MDOT) and the WCRC for the PROJECT if applicable; shall be incorporated by reference as part of this contract to ensure that if any discrepancies occur between the prime contract and this contract, the prime contract shall prevail; and

WHEREAS, the parties hereto have reached an understanding as to the scope of the work and the performance of the SERVICES on the PROJECT and desire to set forth this understanding in the form of a written contract;

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that:

**THE CONSULTANT SHALL:**

1. Assign qualified personnel who will be responsible to the WCRC Project Manager for the PROJECT. The scope of services for the CONSULTANT is defined by the RFP and the Response to RFP to be hereinafter referred to as "Exhibit A" and attached hereto and made a part hereof.
2. Perform all work under the direction of the WCRC'S Project Engineer.
3. Provide such reports and maintain such records of the PROJECT as are required to document the work to the satisfaction of the WCRC and the MDOT. Upon request by the WCRC, make available thereto all notes and records relating to any and all services performed, including inspector's diaries, field books and worksheets. As required by the WCRC, have its official seal or other identification on all data furnished to the WCRC.
4. Govern all SERVICES by the applicable codes, laws, and standards of the WCRC, MDOT, and FHWA.
5. During the performance of the SERVICES herein provided for, be responsible for any loss or damage to documents requested of and supplied by the WCRC while they are in the CONSULTANT'S possession. Restoration of lost or damaged documents shall be at the CONSULTANT'S expense.
6. Furnish qualified personnel to assist the Project Engineer in solving field problems, when so requested.
7. Attend meetings and make such trips as necessary to the WCRC offices and to the site of work to confer with representatives of the WCRC, Township, other agencies, and the Public as may be necessary in the carrying out of the work under this Contract.
8. Follow standard accounting practices and permit representatives of the WCRC to audit and inspect its PROJECT books and records at any reasonable time. Such records are to be kept available for three (3) years from the date of the final payment for work conducted under this Contract.
  - a. The CONSULTANT shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract; said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this Contract.
  - b. The CONSULTANT shall maintain the RECORDS for three (3) years from the date of final payment made by the WCRC under this Contract. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the CONSULTANT shall thereafter continue to

maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

- c. The WCRC, MDOT and/or their representatives, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
  - d. If any part of the work is subcontracted, the CONSULTANT shall assure compliance with subsections (a), (b), and (c) above for all subcontracted work.
9. Have in its employ a sufficient number of qualified employees available to complete the SERVICES in accordance with the schedule and completion of the PROJECT upon the authorization to proceed with the SERVICES as outlined herein.
  10. Show evidence of Workers' Compensation Insurance, said insurance to be as required by law.
  11. Commence work on the PROJECT as set forth in this Contract only upon receipt of written notice from the WCRC Project Manager that the CONSULTANT'S services are desired.
  12. Submit billings to the Washtenaw County Road Commission as set forth in Section 15.

**THE WCRC WILL:**

13. Assign a Project Manager who shall be the Publicly Employed Professional Engineer in responsible charge of the PROJECT.
14. Furnish the CONSULTANT with the necessary information deemed appropriate to the furtherance and completion of its SERVICES as herein set forth.
15. Pay the CONSULTANT within 30 (thirty) days after receipt of billings of SERVICES of the kind and performed in the manner set forth above, said billing being subject to verification by the WCRC and approval by the WCRC Project Manager. Payments shall be in accordance with Exhibit B, and attached hereto and made a part hereof:
  - a. For services performed on an hourly cost basis, which cost shall include full compensation for all labor, material, and equipment necessary to complete any requested unit of work, at the rates set forth in Exhibit B, attached hereto and made a part thereof.
  - b. For transportation and travel expenses:
    - i. CONSULTANT shall be reimbursed for actual mileage and travel expenses incurred by and paid to their employees in the

performance of SERVICES requested by the WCRC. Amounts claimed for mileage and travel expenses paid to their employees, in the performance of SERVICES requested by the WCRC, shall be included along with a detailed breakdown of charges for SERVICES performed, showing names of employees, dates and amounts of mileage and travel expenses incurred.

- ii. Whenever the CONSULTANT performs services for the WCRC and other clients on the same trip, transportation and travel expenses shall all be pro-rated on the basis of hours worked for the WCRC.

Example:

Hours worked for the WCRC	3
Hours worked for other clients	<u>5</u>
Total hours worked	8

3/8 of the transportation and travel expenses on that trip shall be charged to and paid by the WCRC.

- iii. The CONSULTANT shall make their records pertaining to mileage and travel expenses incurred and paid to employees available for audit.
- c. If federal funds are being used to reimburse the WCRC for the CONSULTANT'S services, the reimbursement for costs incurred are subject to the cost criteria as set forth in 48 C.F.R., Federal Acquisition Regulations, Part 31, incorporated herein by reference as if the same were repeated in full herein. Reimbursement shall follow the required MDOT criteria at the time of the assignment.

16. In the event this Contract is terminated prior to completion of the requested SERVICES from the CONSULTANT, reimburse the CONSULTANT at the above stated rates for all of said SERVICES rendered prior to termination.

IT IS FURTHER AGREED THAT:

17. Approval of this Contract in no way obligates the MDOT for any cost or other responsibilities, with respect to the SERVICES performed by the CONSULTANT for the WCRC.

18. Upon completion or termination of this Contract, all documents prepared by the CONSULTANT, including estimated, specifications, field notes, investigations, studies, etc., as instruments of SERVICE shall become the property of the WCRC.

19. No portion of the PROJECT work, hereto before defined, shall be sublet, assigned, or otherwise disposed of except as herein provided or with the prior written consent and approval by the WCRC. Consent to sublet, assign or

otherwise dispose of any portion of the SERVICES shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this Contract.

20. All questions, which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and specifications shall be decided by the WCRC Project Manager. All questions as to the satisfactory and acceptable fulfillment of the terms of this Contract shall be decided by the WCRC.
21. The CONSULTANT and the WCRC specifically agree that in the event problems arise that may be the result of errors and/or omissions by the CONSULTANT or due to a failure of the CONSULTANT to otherwise perform in accordance with this Contract, that the CONSULTANT will be held responsible with no cost to the WCRC, or in accordance with the WCRC'S dispute resolution process, if applicable.
22. Any change in SERVICES to be performed by the CONSULTANT involving extra compensation must be authorized in writing by the WCRC and approved by the WCRC prior to the performance thereof by the CONSULTANT and requires an amendment to this Contract.
23. In addition, the CONSULTANT shall comply with, and shall require any contractor or subcontractor to comply with, the following:
  - a. In connection with the performance of the PROJECT under this Contract, the CONSULTANT (hereinafter in Appendix "A" referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in the Appendix "A", attached hereto and made a part hereof and will require a similar covenant on the part of any contractor or sub-contractor employed in the performance of this Contract.
  - b. During the performance of this Contract, the CONSULTANT for itself, its assignees, and successors in interest (hereinafter in Appendix "B" referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d and 2000a-2000h-6, and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof and will required similar covenants on the part of any contractor or subcontractor employed in the performance of this Contract.
  - c. The parties hereto further agree that they accept the MDOT'S Minority Business Enterprises/Women's Business Enterprises (MBE/WBE) Program with respect to the PROJECT and will abide by the provisions set forth in Appendix "C" attached hereto and made a part hereof, being an excerpt from Title 49 C.F.R. Part 23, more specifically 23.43(a)(1) and (2) thereof.

24. The CONSULTANT warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONSULTANT, to solicit or secure this Contract, and that he/she has not paid or agreed to pay any company or person, other than bona fide employees working solely for the CONSULTANT, any fee commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award, or making of this Contract. For breach or violation of this warranty, the WCRC shall have the right to annul this Contract without liability or, at its discretion, to deduct from the contract price or consideration, otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts or contingent fee.
25. The CONSULTANT specifically agrees that in the performance of SERVICES herein enumerated by it, or by an approved subcontractor, or anyone acting in its behalf, they will, to the best of their professional knowledge and ability, comply with any and all applicable state, federal, and local statutes, ordinances, and regulations.
26. No charges or claims for damages shall be made by the CONSULTANT for delays or hindrances from any cause whatsoever during the progress of any portions of the SERVICES specified in this Contract, except as hereinafter provided.

In case of a substantial delay on the part of the WCRC in providing to the CONSULTANT either the necessary information or approval to proceed with the work, resulting, through no fault of the CONSULTANT, in delays of such extent as to require the CONSULTANT to perform its work under changed conditions not contemplated by the parties, the WCRC will consider supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be in writing and accompanied by substantiating data. Authorization of such supplemental compensation shall be by an amendment to this contract subject to prior approval by the WCRC.

When delays are caused by circumstances or conditions beyond the control of the CONSULTANT as determined by the WCRC, the CONSULTANT shall be granted an extension of time for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the permitting of the CONSULTANT to proceed to complete the SERVICES, or any part of them, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the WCRC of any of its rights herein set forth.

27. In case the CONSULTANT deems extra compensation will be due for work or materials not clearly covered in this Contract, or not ordered by the WCRC as a change, or due to changed conditions, the CONSULTANT shall notify the WCRC in writing of its intention to make claim for such extra compensation before beginning such work. Failure on the part of the CONSULTANT to give such notification will constitute a waiver of the claim for such extra compensation. The

filing of such notice by the CONSULTANT shall not in any way be construed to establish the validity of the claim. Such extra compensation shall be provided only by amendment to this Contract with approval of the WCRC.

28. The CONSULTANT agrees to obtain the necessary liability insurance, acceptable to the WCRC, naming the WCRC, the Michigan State Transportation Commission, and the Michigan Department of Transportation as insured, and to provide the WCRC with evidence of said insurance, and to indemnify and save harmless the WCRC, the Michigan State Transportation Commission and the MDOT, their officers, agents and employees from any and all claims and losses occurring or resulting to any person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses occurring or resulting to any person, firm or corporation who may be injured or damaged by the CONSULTANT in the performance of this contract.

29. The CONSULTANT'S signature on this Contract constitutes the CONSULTANT'S certification of "status" under penalty or perjury under the laws of the United States in respect to 49 CFR Part 29 pursuant to Executive Order 12549.

The certification which is included as a part of this Contract as Attachment "A", is Appendix A of 49 CFR Part 29, and applies to the CONSULTANT (referred to in Appendix A of 49 CFR Part 29 as "the prospective primary participant").

The CONSULTANT is responsible for obtaining the same certification from all subcontractors under this Contract by inserting the following paragraph in all subcontracts:

"The subcontractor's signature on this Contract constitutes the subcontractor's certification of 'status' under penalty of perjury under the laws of the United States in respect to 49 CFR 29 pursuant to Executive Order 12549. The certification which is included as a part of this Contract as Attachment "B", is Appendix B of 49 CFR Part 29."

This certification is required of all subcontractors, testing laboratories and other lower tier participants with which the CONSULTANT enters into a written arrangement for the procurement of goods or services provided for in this Contract.

30. This Contract shall be terminated upon advisement to the CONSULTANT by the WCRC that its SERVICES are completed and accepted.

31. The CONSULTANT hereby agrees that the costs reported to the WCRC for this Contract shall represent only those items which are properly chargeable in accordance with this Contract. The CONSULTANT also hereby certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.

32. Upon execution of this Contract by the parties hereto, the same shall become binding on the parties hereto and their successors and assigns, until such time as all work contemplated hereunder is complete, or until such time as this Contract is terminated by mutual consent of the parties hereto.

33. The Exhibits consist of:

- a. EXHIBIT A – Part 1: WCRC Request for Proposal CONSULTANT – ENGINEERING DESIGN SERVICES FOR 2022, 2023 & 2024.
- b. EXHIBIT A – Part 2: Response to Request for Proposal issued by **CONSULTANT\_NAME**, Proposal dated February \_\_\_\_, 2022.
- c. EXHIBIT B: Rate Schedule.



IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duly authorized agents and representatives the days and year first above written.

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**WASHTENAW COUNTY ROAD COMMISSION (WCRC)**

BY: \_\_\_\_\_

Date:

\_\_\_\_\_  
Sheryl Soderholm Siddall, Managing Director

**CONSULTANT NAME**

BY: \_\_\_\_\_

Date:

\_\_\_\_\_

BY: \_\_\_\_\_

Date:

\_\_\_\_\_