



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

Buyer Department

Event XXXXXX

OAKLAND COUNTY DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING DIVISION

PROFESSIONAL SERVICE CONTRACT NUMBER: XXXXXX

Contract Expiration Date: XX/XX/XXXX

Contract - NOT TO EXCEED AMOUNT \$ XXXX

This "Contract" is made between the COUNTY OF OAKLAND, a Michigan Constitutional Corporation, hereinafter called "County", and the "Contractor" as further described in the following Table. In this Contract, either Contractor or the County may also be referred to individually as a "Party" or jointly as the "Parties".

Table with 2 columns: COUNTY OF OAKLAND (2100 Pontiac Lake Road, Waterford, MI 48328) and CONTRACTOR NAME (Contact Person, Address 1, Address 2, Vendor I.D. No. xxxx)

This Contract is organized and divided into the following "Section" or "Sections" for the convenience of the Parties.

- SECTION 1. CONTRACT DOCUMENTS AND DEFINITIONS
SECTION 2. CONTRACT EFFECTIVE DATE AND TERMINATION
SECTION 3. SCOPE OF CONTRACTOR'S SERVICES
SECTION 4. COUNTY PAYMENT OBLIGATION FOR CONTRACTOR'S SERVICES
SECTION 5. CONTRACTOR ASSURANCES AND WARRANTIES
SECTION 6. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION
SECTION 7. GENERAL TERMS AND CONDITIONS



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In consideration of the mutual promises, obligations, representations, and assurances in this Contract, the Parties agree to the following:

§1. CONTRACT DOCUMENTS AND DEFINITIONS

The following words and expressions when printed with the first letter capitalized as shown herein, whether used in the singular or plural, possessive or non-possessive, and/or either within or without quotation marks, shall be defined and interpreted as follows:

- 1.1. "County" means the County of Oakland, a Municipal and Constitutional Corporation, its departments, divisions, authorities, boards, committees, and "County Agent" as defined below.
- 1.2. "County Agent" means all elected and appointed officials, directors, board members, council members, commissioners, employees, volunteers, representatives, and/or any such persons' successors (whether such person act or acted in their personal representative or official capacities), and/or any persons acting by, through, under, or in concert with any of them. "County Agent" shall also include any person who was a "County Agent" anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and serving as an Agent.
- 1.3. "Contract Administrator" or "County Representative" means the individual by the County to act as a liaison between the County and the Contractor. Any questions or problems the Contractor may have concerning the work under this Contract should be directed to this individual.
- 1.4. "Contract Documents" means the following documents which are included and fully incorporated into this Contract:
 - 1.4.1 Exhibit I: Contractor Insurance Requirements.
 - 1.4.2 Exhibit II: Scope of Contractor's Services.
 - 1.4.3 Exhibit III: Construction Drawings and Specifications. (If Applicable)
- 1.5. "Contractor Employee" means without limitation, any employees, officers, directors, members, managers, trustees, volunteers, attorneys, and representatives of Contractor, and also includes any Contractor licensees, concessionaires, contractors, subcontractors, independent contractors, contractor's suppliers, subsidiaries, joint ventures or partners, and/or any such persons, successors or predecessors, employees, (whether such persons act or acted in their personal, representative or official capacities), and/or any and all persons acting by, through, under, or in concert with any of the above. "Contractor Employee" shall also include any person who was a Contractor Employee at anytime during the term of this contract but, for any reason, is no longer employed, appointed, or elected in that capacity.
- 1.6. "Subcontractor" includes only those having a direct contact with the Contractor in the way of labor or materials worked to a special design. One who merely furnishes material to the Contractor is not included in this definition.
- 1.7. "Claims" means any alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgements, deficiencies, liability, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in



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settlement, and/or other amounts or liabilities of any kind which are imposed on, incurred by, or asserted against the county, or for which the county may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.

- 1.8. "Day" means any calendar day, which shall begin at 12:00:01 a.m. and end at 11:59:59 p.m.
- 1.9. "Working Day" means any calendar day except Saturday, Sunday, and County legal holidays.
- 1.10. "E-Verify" is an Internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their new hired employees. For more information and to register visit <https://e-verify.uscis.gov/enroll/>.
- 1.11. "Written Notice" shall be considered properly served if delivered in person to the Contractor, or to a member or office of his company; also if delivered at, or sent by registered mail to, the last known business address of the Contractor.
- 1.12. "Intellectual Property" means any developments, improvements, designs, innovation, and materials that may be the subject of a trademark/servicemark, copyright or patent, trade secrets or Proprietary Information.
- 1.13. "Proprietary Information" means ideas, concepts, inventions and processes related to the development and operation of computer software and systems such as source code, object code, security procedures and passwords.

§2. CONTRACT EFFECTIVE DATE AND TERMINATION

- 2.1. The effective date of this Contract shall be as stated on the first page of this Contract, and unless otherwise terminated or canceled as provided below, it shall end at 11:59:59 p.m. on the "Contract Expiration Date" shown on the first page of this Contract, at which time this Contract expires without any further act or notice of either Party being required. The Parties are under no obligation to renew or extend this Contract after Contract Expiration Date. Notwithstanding the above, under no circumstances shall this Contract be effective and binding and no payments to the Contractor shall be due or owing for any Contractor services until and unless:
 - 2.1.1. This Contract is signed by a Contractor Employee, legally authorized to bind the Contractor.
 - 2.1.2. Any and all Contractor Certificates of Insurance and any other conditions precedent to the Contract have been submitted and accepted by the County.
 - 2.1.3. This Contract is signed by an authorized agent of the Oakland County Purchasing Division, as provided for on the signature page of this Contract, who shall be the final signatory to this Contract.
- 2.2. The County may terminate and/or cancel this Contract (or any part thereof) at any time during the term, any renewal, or any extension of this Contract, upon ninety (90) days written



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notice to the Contractor, for any reason, including convenience without incurring obligation or penalty of any kind. Notwithstanding the above, if the County is being reimbursed for any cost or expenses incurred under this Contract by any third party, including any Federal, State or local governmental agency, and any such third party funding is terminated, the County may terminate, end or cancel this Contract immediately upon written notice to the Contractor. The effective date for termination or cancellation shall be clearly stated in the written notice.

- 2.3. The County's sole obligation in the event of termination is for payment for actual services rendered by the Contractor before the effective date of termination. Under no circumstances shall the County be liable for any future loss of income, profits, any consequential damages or any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination and/or cancellation of this Contract. The County shall not be obligated to pay Contractor any cancellation or termination fee if this Contract is cancelled or terminated as provided herein.
- 2.4. Contractor may terminate and/or cancel this Contract (or any part thereof) at anytime upon one hundred and eighty days (180) days written notice to the County, if the County defaults in any obligation contained herein, and within the one hundred and eighty days (180) notice period the County has failed or has not attempted to cure any such default. The effective date of termination and/or cancellation and the specific alleged default shall be clearly stated in the written notice.
- 2.5. Under no circumstances shall the County be obligated to pay the contractor for any Services rendered or Goods delivered which have not been invoiced, as required herein, within sixty (60) days of the date such Goods were actually delivered to the County or Services were actually rendered pursuant to this Contract.

3. **SCOPE OF CONTRACTOR'S SERVICES**

- 3.1. The Contractor shall perform all work identified and itemized in Exhibit II: "Scope of Contractor's Services".
- 3.2. The work performed by Contractor shall be done pursuant to the Drawings and Specifications attached as Exhibit III. (If Applicable)

4. **COUNTY PAYMENT OBLIGATIONS FOR CONTRACTOR'S SERVICES**

- 4.1. Except as otherwise expressly provided for in this Contract, the County's sole financial obligation to the Contractor for any services under this Contract shall be:
 - 4.1.1. In no event, shall the County's amount due and owing the Contractor for any and all services rendered exceed the amount identified as the "NOT TO EXCEED AMOUNT" on the first page of this Contract. In the event the Contractor can reasonably foresee the total billings for its services will exceed this "NOT TO EXCEED AMOUNT", the Contractor shall provide the County with notice of this contingency at least fifteen (15) Days before this event.
 - 4.1.1. The Contractor shall submit an invoice to the County which shall itemize all amounts due and/or owing by the County under this Contract, as the date of the invoice. The invoices shall be submitted in the form and schedule approved by the County. The



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County shall have no obligation to make payment until a proper invoice of service is submitted. The County reserves the right to make partial payments on account of the amount due the Contractor as the work progresses.

4.2. Payment Schedule.

4.2.1 Payment schedule as specified in Exhibit II Scope of Contractor's Services.

4.2.1. Final payment for the work performed under this Contract shall not be made until all work is satisfactorily performed and final clean-up has been performed.

4.3. Under no circumstances shall the County be responsible for any cost, fee, fine, penalty, or direct, indirect, special, incidental or consequential damages incurred or suffered by Contractor in connection with or resulting from the Contractor's providing any services under this Contract.

4.4. The County has the right to offset any amounts due and owing to the Contractor should the County incur any cost associated with this Contract that is the obligations of Contractor under this Contract. This includes withholding payment in the amount of any County provided equipment, supplies or identification badges that are not returned by Contractor upon completion of the services provided under this Contract.

4.5. This Contract does not authorize any in-kind services by either Party, unless expressly provided herein.

4.6. Change Order Process.

4.6.1. Changes in the Contract, Contract price or Scope of Work shall only occur in writing via a "Contract Change Order".

4.6.2. Contract Change Orders shall be used to reflect additions to, reductions in, or changes to the Scope of Work (Exhibit II), Construction Drawings and Specifications (Exhibit III) (If Applicable), Contract price, or any other changes to the Contract.

4.6.3. The Contract Change Order shall indicate the reason for the addition, reduction, change, the cost impact, the new total Contract price and the resulting impact on the work schedules.

5. CONTRACTOR'S ASSURANCES AND WARRANTIES

5.1. The Contractor certifies that all statements, assurances, records, and materials submitted to County in connection with securing this Contract have been truthful, complete and accurate in all respects. The Contractor agrees and understands that any material false statement, representation or omission made in connection with its seeking or obtaining this Contract may be grounds for canceling or terminating this Contract and/or debaring the Contractor from future County contracts. The County's right to cancel this Contract as provided herein shall be in addition to any other rights the County has to terminate or cancel this Contract.

5.2. Service Warranty. Contractor warrants that all services performed hereunder will be performed in a manner that complies with all applicable laws, statutes, regulations, ordinances, and professional standards.

- 5.3.** Business and Professional Licenses. The Contractor will obtain and maintain at all times during the term of this Contract all applicable business and professional licenses necessary to provide the contracted services.
- 5.4.** Equipment and Supplies. The Contractor is responsible for providing equipment and supplies required to complete the specified services under the Contract unless otherwise expressly set forth in the Contract,
- 5.5.** Taxes. The Contractor shall pay, its own local, state and federal taxes, including without limitation, social security taxes, and unemployment compensation taxes. The County shall not be liable to or be required to reimburse the Contractor for any federal, state and local taxes or fees of any kind.
- 5.6.** Contractor's Incidental Expenses. Except as otherwise expressly provided in this Contract, the Contractor shall be solely responsible and liable for all costs and expenses incident to the performance of all services for the County including, but not limited to, any professional dues, association fees, license fees, fines, taxes, and penalties.
- 5.7.** E-Verify. In accordance with Miscellaneous Resolution No.09116 (BOC Minutes, July 30, 2009, pp 37-38), unless otherwise exempted, all service contractors and/or vendors who wish to contract with the County to provide services must first certify they have registered with, will participate in, and continue utilize, once registered, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the contractors and/or vendors. Breach of this term or conditions is considered a material breach of this agreement.
- 5.8.** Contractor's/Vendor's execution of this agreement constitutes a certification that they are authorized to certify on behalf of contractor/vendor and do hereby certify on behalf of contractor/vendor that the contractor/vendor has registered with, has and will participate in, and does and will continue utilize once registered and throughout the term of this contract and any permissible extension hereof, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the contractors and/or vendors.
- 5.9.** Contractor Employees.
- 5.9.1.** The Contractor shall employ and assign qualified Contractor Employees as necessary and appropriate to provide the services under this Contract. Contractor shall ensure all Contractor Employees have all the necessary knowledge, skill, and qualifications necessary to perform the required services and possess any necessary licenses, permits, certificates, and governmental authorizations as may required by law.
- 5.9.2.** The Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. The Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employee.
- 5.9.3.** All Contractor Employees shall wear and display appropriate County provided identification at all times while working on County premises. The Contractor shall

return all County provided identification when any of the following situations occur: (1) Upon completion of the last day of work provided under this Contract; (2) when a Contractor Employee has completed the work under this Contract; or (3) when a Contractor Employee no longer works for Contractor.

5.9.4. All Contractor Employees assigned to work under this Contract may, at the County's discretion, be subject to a security check and clearance by the County.

5.9.5. All newly hired Contractor Employees, unless otherwise excluded under Misc. Resolution No. 09116 must undergo employment eligibility verification through the E-Verify system. Failure of to verify newly hired employees is a material breach of this agreement.

5.10. Contractor Employee-Related Expenses. All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance) and the Contractor warrants that all Contractor Employees shall fully comply with and adheres to all of the terms of this Contract. The Contractor shall be solely and completely liable for any and all applicable Contractor Employee's federal, state, or local payment withholdings or contributions and/or any and all Contractor Employee related pension or welfare benefits plan contribution under federal or state law. The Contractor shall indemnify and hold the County harmless for all Claims against the County by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between the Contractor and any Contractor Employee, including, but not limited to, Worker's Compensation, disability pay or other insurance of any kind.

5.11. Full Knowledge of Service Expectations and Attendant Circumstances. The Contractor warrants that before submitting its bid and entering into this Contract, it had a full opportunity to review the proposed services, examine all measurements, dimensions, and existing conditions of the work area for this Contract and to review all County requirements and expectations under this Contract. The Contractor is responsible for being adequately and properly prepared to execute and perform this Contract. The Contractor has satisfied itself in all material respects that it will be able to perform all obligations under the Contract as specified herein.

5.12. The Contractor's Relationship To The County Is That Of An Independent Contractor. Nothing in this Contract is intended to establish an employer-employee relationship between the County and either the Contractor or any Contractor Employee. All Contractor Employees assigned to provide services under this Contract by the Contractor shall, in all cases, be deemed employees of the Contractor and not employees, agents or sub-contractors of the County.

6. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION

6.1. Indemnification.

6.1.1. The Contractor shall indemnify and hold the County harmless from any and all Claims which are incurred by or asserted against the County by any person or entity, alleged to have been caused or found to arise, from the acts, performances, errors, or omissions of the Contractor or Contractor's Employees, including, without limitation, all Claims relating to injury or death of any person or damage to any property.

- 6.1.2. The indemnification rights contained in this Contract are in excess and over and above any valid and collectible insurance rights/policies. During the term of this Contract, if the validity or collectability of the Contractor's insurance is disputed by the insurance company, the Contractor shall indemnify the County for all claims asserted against the County and if the insurance company prevails, the Contractor shall indemnify the County for uncollectible accounts.
- 6.1.3. The Contractor shall have no rights against the County for any indemnification (e.g., contractual, equitable, or by implication), contribution, subrogation, and/or any other right to be reimbursed by the County except as expressly provided herein.
- 6.1.4. The Contractor waives and releases all actions, liabilities, loss and damage including any subrogated rights it may have against the County based upon any Claim brought against the County suffered by a Contractor Employee.

6.2. Contractor Provided Insurance.

- 6.2.1. At all times during this Contract, including renewals or extensions, Contractor shall obtain and maintain insurance according to the specifications indicated in Exhibit I: Contractor Insurance Requirements.

7. GENERAL TERMS AND CONDITIONS

7.1. Notification and Access to County Facilities.

- 7.1.1. While the Contractor retains the right to perform work at any time, the Contractor shall give the County three (3) working days notice before commencement of work under this Contract and the Contractor must obtain prior permission from the County for access to County facilities after the County's regular business hours.

- 7.1.2. The County shall have full access to the work site and full access to the off-site preparation and fabrication facilities.

7.2. Use of County's Premises. The Contractor shall confine its equipment, apparatus, materials and products, and operations of Contractor Employees to the limits indicated by law, ordinances, permits or directions of the County and shall not unnecessarily encumber the work site and County premises with its materials, products, or equipment.

7.3. Damage to County Property and Premises.

- 7.3.1. The Contractor shall be responsible for any damage to the County premises or property and the work site that is caused by the Contractor or Contractor Employees.
- 7.3.2. The Contractor shall take all necessary measures to prevent damage to County property and premises including other areas of the building and grounds and buildings and grounds located adjacent to the work site.
- 7.3.3. Should damage occur as a result of the Contractor's actions or the actions of the Contractor Employees, the Contractor is responsible for the repair and/or replacement of the damage. If the Contractor fails to repair or replace the damage, the County shall repair and/or replace the damaged area and charge the Contractor or deduct the amount from the Contractor's payment, at the County's option.

7.4. Cleaning.

- 7.4.1.** The Contractor shall at all times keep the work site, the County's property and premises, the adjoining property and premises, driveways, and streets clean of rubbish and debris. At the completion of this Contract, Contractor shall remove all rubbish, debris, tools, equipment, temporary work and surplus materials from and about the work site and shall leave the work site clean and ready for use. If the Contractor does not perform such cleaning immediately upon request, the County may perform such cleaning and charge the cost to the Contractor.
- 7.4.2.** While performing work under this Contract, the Contractor shall store its materials, products, supplies, and equipment in a neat and orderly manner so as not to unduly interfere with the progress of work under this Contract or the operation of County business.
- 7.4.3.** The Contractor shall clean-up the work site on a daily basis to remove rubbish and debris from that day's work.
- 7.4.4.** The Contractor shall remove all rubbish and debris from County property and premise and legally dispose of it. No burning of debris or rubbish shall be permitted.
- 7.5. Materials, Equipment and Construction.**
- 7.5.1.** Prior to commencing work under this Contract, the Contractor shall verify all measurements and conditions at the work site and shall be responsible for the accuracy of such measurements and conditions. No extras shall be paid due to differences between actual dimensions taken by the Contractor and those indicated in the Drawings and Specifications. The Contractor shall immediately notify the County of any discrepancies discovered.
- 7.5.2.** All work performed under this Contract shall conform to the best current practice at the respective trades. All equipment, materials and products used in the work under this Contract shall be new and of the best grade of its kind for the purpose. The Contractor shall furnish evidence as to kind and quality of materials and products, upon request of the County.
- 7.5.3.** The Contractor shall deliver all materials and products to the work site in their original unopened containers bearing the names of the manufacturer and brand. Materials and products shall be handled and stored as recommended by the manufacturer to prevent damage.
- 7.5.4.** The Contractor shall retain all stored items at and around the work site in an orderly manner allowing maximum access to the work site, not impeding drainage or traffic, and providing the required protection of materials and products.
- 7.5.5.** The Contractor shall confine his equipment, apparatus, the storage of materials and operations of his employees to the limits indicated by law, ordinances, permits or directions of the County and shall not unnecessarily encumber the premises with his materials or equipment.
- 7.5.6.** In general, it is the intent of these Specifications to permit the use of equipment of any manufacture so long as they are fully consistent, in the opinion of the County, with the quality and performance requirements of the job. This is indicated by the use of the words "or approved equal" following specific trade name or manufacture.

- 7.5.7.** When the Contractor wishes to use a product as an approved equal, he must seek prior approval of the County Representative.
- 7.5.8.** Should the Contractor use sub-standard or non-specified materials or products, such materials or products shall be removed and replaced with the proper or correct materials or products at Contractor's expense.
- 7.5.9.** Within twenty-four (24) hours after receiving written notice from the County, the Contractor shall remove from the grounds or buildings all material, products, fixtures or apparatus that do not conform to the Drawings and Specifications as set forth in Exhibit III (If Applicable) or the conditions of the Contract as determined by the County.
- 7.5.10.** The County shall have the right to order the work wholly or partially stopped until the objectionable work, materials, products, fixtures or apparatus are removed or to declare the Contract forfeited for non-performance or not being executed according to the intent or meaning of the Drawings and Specifications, set forth in Exhibit III. (If Applicable)
- 7.5.11.** Contractors working for Oakland County are responsible for being adequately and properly prepared to execute the Contract. They are expected to maintain high standards or workmanship, representing the best traditions of the trade.
- 7.5.12.** In the event the Contractor shall fail, neglect, or refuse to perform any or all of his duties under this Contract, the County, after giving the Contractor seven (7) calendar days notice in writing, may perform or employ another entity to perform such duties under the Contract and charge the Contractor or deduct the amount from the Contractor's payment due under this Contract, at the County's option.
- 7.5.13.** All materials, products and work used in the performance of this Contract shall comply with all applicable federal, state and local codes.
- 7.6.** Safety. As stated in Exhibit II
- 7.7.** Guarantees. As stated in Exhibit II
- 7.8.** Bonding Requirements. As stated in Exhibit II
- 7.9.** Liens. As stated in Exhibit II
- 7.10.** Cumulative Remedies. A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.
- 7.11.** Survival of Terms and Conditions. The following terms and conditions shall survive and continue in full force beyond the termination and/or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their very nature:
"CONTRACTOR'S ASSURANCES AND WARRANTIES";
"CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION";
"Damage Clean Up To County Property and/or Premises";
"Audit";
"Severability";

"Governing Law/Consent To Jurisdiction And Venue"; and
"Survival of Terms And Conditions".

- 7.12.** County Right to Suspend Services. Upon written notice, the County may suspend performance of this Contract if Contractor has failed to comply with federal, state, or local laws, or any requirements contained in this Contract. The right to suspend services is in addition to the County's right to terminate and/or cancel this Contract. The County shall incur no penalty, expense, or liability to Contractor if the County suspends services under this Section.
- 7.13.** No Third Party Beneficiaries. Except as provided for the benefit of the Parties or except as specifically set forth in the Contract, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' rights in this Contract, and/or any other right, in favor of any other person or entity.
- 7.14.** Compliance with Laws. Contractor shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract, including zoning and building codes and MIOSHA guidelines.
- 7.15.** Permits and Licenses. Contractor shall be responsible for obtaining and maintaining throughout the term of this Contract all licenses, permits, certificates, and governmental authorizations necessary to perform all of its obligations under this Contract and to conduct business under this Contract. Upon request by the County, Contractor shall furnish copies of any permit, license, certificate or governmental authorizations necessary to provide services under this Contract. The Contractor shall deliver all certificates of inspection to the County, if applicable.
- 7.15.1.** The County Representative or Contract Administrator shall act as inspector for this project.
- 7.15.2.** The inspector shall have access to the Work under this Contract. Off-site preparation, fabrication, or execution of Work under this Contract shall be inspected as required.
- 7.16.** Discrimination. Contractor shall not discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, or handicap in violation of State and Federal law.
- 7.16.1.** Contractor shall promptly notify the County of any complaint or charge filed and/or determination by any Court or administrative agency of illegal discrimination by Contractor.
- 7.16.2.** The County, in its discretion, may consider any illegal discrimination described above as a breach of this Contract and may terminate or cancel this Contract immediately with notice.
- 7.17.** Reservation of Rights. This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the County.

- 7.18. Force Majeure.** Notwithstanding any other term or provision of this Contract, neither Party shall be liable to the other for any failure of performance hereunder if such failure is due to any cause beyond the reasonable control of that Party and that Party cannot reasonably accommodate or mitigate the effects of any such cause. Such cause shall include, without limitation, acts of God, fire, explosion, vandalism, any law, order, regulation, direction, action, or request of the United States government or of any other government, national emergencies, insurrections, riots, wars, strikes, lockouts, work stoppages, or other labor difficulties. Reasonable notice shall be given to the affected Party of any such event. The Contractor is expected, through insurance or alternative temporary or emergency service arrangements, to continue its obligations under this contract in the event of a reasonably anticipated, insurable business risk such as business interruption and/or any insurable casualty or loss.
- 7.19. Conflict of Interest.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.321, et seq.), no contracts shall be entered into between the County, including all agencies and departments thereof, and any County Agent. To avoid any real or perceived conflict of interest, Contractor shall identify any Contractor Employee or relative of Contractor's Employees who are presently employed by the County. Contractor shall give the County notice if there are any County Agents or relatives of County Agents who are presently employed by Contractor.
- 7.20. Grant Compliance.** If any part of this Contract is supported or paid for with any state or federal funds granted to the County, the Contractor shall comply with all applicable grant requirements.
- 7.21. Project Managers.** Each Party shall designate an employee or agent to act as a Project Manager. The Project Managers shall serve as a contact point for all matters related to the services to be performed under this Contract. The Contractor's Project Manager shall coordinate with the County's Project Manager; the Contractor shall provide the name and qualifications of its Project Manager and an alternate.
- 7.22. Contract Administrator.** Each Party may designate an employee or agent to act as Contract Administrator. The County's Contract Administrator shall be responsible for such activities as monitoring deliverables and funding, addressing the quality of services provided by the Contractor, reviewing invoices and submitting requests to the County's procurement authority for any contract modification in accordance with Sections 7.32 of this Contract.
- 7.23. Dispute Resolution.** All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Contract involving or affecting the Parties may first be submitted to the respective Project Managers and Contract Administrators for possible resolution. The Project Managers and Contract Administrators may promptly meet and confer in an effort to resolve such dispute. If the Project Managers cannot resolve the dispute in five (5) business days, the dispute may be submitted to the signatories of this Contract or their successors in office. The signatories of this Contract may meet promptly and confer in an effort to resolve such dispute.

- 7.24.** Access and Records. Contractor will maintain accurate books and records in connection with the services provided under this Contract for thirty-six (36) months after end of this Contract, and provide the County with reasonable access to such book and records.
- 7.25.** Audit. Contractor shall allow the County's Auditing Division, or an independent auditor hired by the County, to perform finance compliance audits with the authority to access all pertinent records and interview any Contractor Employee throughout the term of this Contract, and for a period of three years after final payment.
- 7.25.1.** Contractor shall explain any audit finding, questionable costs, or other Contract compliance deficiencies to the County within thirty (30) business days of receiving the draft audit report. Contractor's written response shall include all necessary documents and information that refute the draft audit report, and an action plan to resolve the audit findings. A copy of the Contractor's response will be included in the final report. Failure by the Contractor to respond in writing within thirty (30) business days shall be deemed acceptance of the draft audit report, and will be noted in the final report.
- 7.26.** Delegation /Subcontract/Assignment.
- 7.26.1.** The Contractor shall not assign, delegate, or subcontract any part of this Contract without the prior written consent of the County.
- 7.26.2.** The rights and obligations under this Contract shall not be diminished in any manner by assignment, delegation or subcontract.
- 7.26.3.** Any assignment, delegation, or subcontract by Contractor must include a requirement that the assignee, delegee, or subcontractor will comply with the rights and obligations contained in this Contract.
- 7.26.4.** The Contractor shall remain primarily liable for all work performed by any subcontractors. The Contractor shall remain liable to the County for any obligations under the Contract not completely performed or incorrectly performed by any Contractor delegee or subcontractor.
- 7.26.5.** The Contractor shall be fully responsible to the County for the acts and omissions of its subcontractors.
- 7.26.6.** Should a subcontractor fail to provide the work as required by the Contract, the Contractor shall contract with another entity to perform the work in a timely manner. Any additional costs associated with securing a competent subcontractor and performing the required work shall be the sole responsibility of the Contractor.
- 7.26.7.** The County reserves the right to let other contracts in connection with this Work even if of like character to the Work under this Contract. The Contractor shall coordinate his work with theirs.
- 7.26.8.** If any part of the Contractor's services depends upon the work of any other contractor or subcontractor, the Contractor shall inspect and promptly report to the County any defects in such work that shall render it unsuitable. The failure to inspect and report shall constitute an acceptance of the other contractor's or subcontractor's services.
- 7.26.9.** This Contract cannot be sold.



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- 7.26.10.** In the event that a Petition in Bankruptcy is filed and there is an assignment of this Contract by a Court, the County may declare this Contract null and void.
- 7.27.** Non Exclusive Contract. No provision in this Contract limits, or is intended to limit, in any way the Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, this Contract is a non-exclusive agreement and the County may freely engage other persons to perform the same work that the Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee the Contractor or any Contractor Employee any number of fixed or certain number or quantity of hours or services to be rendered to the County.
- 7.28.** No Implied Waiver. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any right or remedy under this Contract shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Contract. No waiver of any term, condition, or provision of this Contract, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Contract. No waiver by either Party shall subsequently affect its right to require strict performance of this Contract.
- 7.29.** Severability. If a court of competent jurisdiction finds a term, condition, or provision of this Contract to be illegal or invalid, then the term, condition, or provision shall be deemed severed from this Contract. All other terms, conditions, and provisions of this Contract shall remain in full force and effect. Notwithstanding the above, if Contractor's promise to indemnify or hold the County harmless is found illegal or invalid, Contractor shall contribute the maximum it is permitted to pay by law toward the payment and satisfaction of any Claims against the County.
- 7.30.** Captions. The section and subsection numbers, captions, and any index to such sections and subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this contract. Any use of the singular or plural number, any reference to the male, female, or neuter genders, and any possessive or nonpossessive use in this contract shall be deemed the appropriate plurality, gender or possession as the context requires.
- 7.31.** Notices. Notices given under this Contract shall be in writing and shall either be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given when one of the following occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.
- 7.31.1.** If notice is sent to the Contractor, it shall be addressed to the individual and sent to the address listed on the first page of this Contract.
- 7.31.2.** If notice is sent to the County, it shall be addressed to the Contract Administrator and sent to the address listed on the first page of this Contract.

- 7.31.3.** Either Party may change the address or individual to which notice is sent by notifying the other party in writing of the change.
- 7.32.** Contract Modifications or Amendments. Any modifications, amendments, rescissions, waivers, or releases to this Contract must be in writing and agreed to by both Parties. Unless otherwise agreed, the modification, amendment, rescission, waiver, or release shall be signed by an expressly authorized Contractor Employee and by the same person who signed the Contract for the County or other County Agent as authorized by the Oakland County Board of Commissioners.
- 7.33.** Precedence of Documents. In the event of a conflict between the terms and conditions in any of the documents comprising this Contract, the conflict shall be resolved as follows:
- 7.33.1.** The terms and conditions contained in this main Contract document shall prevail and take precedence over any allegedly conflicting provisions in all other Exhibits and documents.
- 7.34.** Governing Laws/Consent to Jurisdiction and Venue. This Contract shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the Sixth Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgement obtained in such forum or taking action under this Contract to enforce such judgement in any appropriate jurisdiction.
- 7.35.** Contractor Use of Confidential Information. The Contractor and/or Contractor Employees shall not reproduce, provide, disclose, or give access to Confidential Information to any third party, or to any Contractor Employee not having a legitimate need to know any such information and data, and shall not use the Confidential Information for any purpose other than performing its services under this Contract. Notwithstanding the foregoing, Contractor may disclose the Confidential Information if required by law, statute or other legal process; provided that Contractor (i) gives County prompt written notice of an impending disclosure, (ii) provides reasonable assistance to County in opposing or limiting the disclosure, and (iii) makes only such disclosure as is compelled or required.
- 7.35.1.** This Contract imposes no obligation upon Contractor with respect to any Confidential Information which Contractor can establish by legally sufficient evidence: (i) was in the possession of, or was known by Contractor, prior to its receipt from the County, without an obligation to maintain its confidentiality; or (ii) is obtained by Contractor from a third party having the right to disclose it, without an obligation to keep such information confidential.
- 7.35.2.** As used in this Contract, Confidential Information means all information that the County is required or permitted by law to keep confidential.
- 7.36.** Contractor Use of County Licensed Software. In order for the Contractor to perform its services under this Contract, the County may permit Contractor or Contractor Employees to

access certain copyrighted Software licensed to the County. Contractor or Contractor Employees shall not: transfer, remove, use, copy, or otherwise provide or make available any such copyrighted Software or Documentation to any other person or entity, for any purpose, without the prior written consent of the County and/or the licensor. Furthermore, neither the Contractor nor Contractor Employee shall produce a source listing, decompile, disassemble, or otherwise reverse engineer any copyrighted Software. Neither the Contractor nor Contractor Employee shall use any copyrighted software contrary to the provisions of any applicable Software license agreement or state or federal law.

- 7.37. Assignment of Rights.** In consideration for the work Contractor performs under this Contract, and the fees paid to Contractor for services, Contractor agrees to the following:
- 7.37.1.** Contractor shall have no copyright, patent, trademark or trade secret rights in County Intellectual Property.
 - 7.37.2.** Any and all programs, inventions and other work or authorship developed by Contractor while performing services to County are works made for hire, created for and owned exclusively by County.
 - 7.37.3.** Contractor assigns to County all rights and interest in County Intellectual Property, which Contractor has made or conceived, or may make and conceive, either solely or jointly with others, either on or off county premises (1) while providing services to County, or (2) with the use of the time, materials or facilities of the County.
 - 7.37.4.** Contractor shall sign any papers necessary for patents, copyrights or trademark registrations to give title to County.
- 7.38. Confidential Information.** Contractor acknowledges:
- 7.38.1.** That the County is developing and using Proprietary Information and Intellectual Property that is valuable to its operations. The County has instituted policies and procedures to protect this information. In performance of its obligations under this Contract, Contractor may become acquainted with County Proprietary Information and Intellectual Property.
 - 7.38.2.** Either during or after the term of this Contract, Contractor shall not disclose to anyone or use any County Proprietary Information and Intellectual Property disclosed to Contractor while providing services to County under this Contract. This obligation does not apply to information after it becomes generally known to the public.
 - 7.38.3.** Contractor shall not disclose any Intellectual Property belonging to a third party that Contractor learns about by virtue of providing services to the County.
- 7.39. Entire Contract.** This Contract represents the entire Contract and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements or Contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.



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The undersigned executes this Contract on behalf of Contractor and the County, and by doing so legally obligates and binds Contractor and the County to the terms and conditions of this Contract.

FOR THE CONTRACTOR:

BY: _____ DATE: _____

_____ appeared in person before me this day and executed this Contract on behalf of Contractor and acknowledged to me under oath that they have taken all actions and secured any and all necessary approvals and authorizations and has the requisite authority from Contractor to fully and completely obligate and bind Contractor to the terms and conditions of this Contract and any and all other documents incorporated by reference and also acknowledged to me under oath having been provided with copies and having read and reviewed all Contract documents including all documents incorporated by reference.

Subscribed and sworn to before me on this _____ day of _____, 20____.

Notary Public, State of _____,
_____ County

My Commission Expires: _____

Acting in the County of _____

FOR THE COUNTY:

BY: _____ DATE: _____

Jack Sato Smith, Manager
Oakland County Purchasing Division

APPROVED AS TO SCOPE OF CONTRACTOR SERVICES:

BY: _____ DATE: _____

Contract Administrator

Department
Street Address
City, State, Zip

xxx



L. BROOKS PATTERSON-COUNTY EXECUTIVE
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EXHIBIT I

CONTRACTOR INSURANCE REQUIREMENTS

1. At all times during this Contract, including renewals or extensions, Contractor shall obtain and maintain insurance according to the following specifications:
 - a. Commercial General Liability - with the following as minimum requirements:

\$3,000,000 – Each Occurrence (Total Limit)
Occurrence Form Policy
Broad Form Property Damage
Premises/Operations
Independent Contractors
Products and Completed Operations
(Blanket) Broad Form Contractual
Personal Injury - Delete Contractual Exclusion
Additional Insured: The County of Oakland and County Agents (as defined in this Contract);
 - b. Workers' Compensation - as required by law and \$500,000 Employer's Liability;
 - c. Automobile Liability and Property Damage - \$1,000,000 each occurrence, including coverage for all owned, hired and non-owned vehicles including No Fault coverage as required by law;
 - d. Professional Liability/Errors & Omissions Insurance (as applicable) - with minimum limits of \$1,000,000 per claim and \$1,000,000 dollars aggregate.
2. General Certificates of Insurance:
 - a. All Certificates of Insurance shall contain evidence of the following conditions and/or clauses and shall be sent to: The County of Oakland and County Agents, Oakland County Purchasing Division, 2100 Pontiac Lake Road, Bldg 41W, Waterford, MI 48328-0462 or fax 248-858-1677.
 - b. The County of Oakland and County Agents (as defined in this Contract) shall be named as "General Liability" Additional Insured with respect to work performed by the Contractor.
 - c. All Certificates are to provide 30 days written notice of material change, cancellation, or non-renewal. Certificates of Insurance or insurance binders must be provided no less than ten (10) working days before commencement of work to the Oakland County Purchasing Division. Insurance carriers are subject to the approval of Oakland County.



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EXHIBIT II

SCOPE OF CONTRACTOR'S SERVICES

SAMPLE