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CONSULTING ENGINEERING CONTRACT

PATRICK F. GILL
WOODBURY COUNTY

COUNTY WOODBURY
COUNTY BRIDGE No. K-046
FHWA No. 353281
PROJECT NO. _____

I. GENERAL

This CONTRACT made and entered into this 22nd day of January, 2019, by and between the Board of Supervisors of WOODBURY County, Iowa, Party of the First Part, hereinafter referred to as the "COUNTY" and Calhoun-Burns and Associates, Inc., West Des Moines, Iowa, doing business as a corporation incorporated under the laws of Iowa, Party of the Second Part, hereinafter referred to as the "CONSULTING ENGINEER". A member of the firm is a licensed professional engineer in Iowa, with registration in a field appropriate to the work involved in this CONTRACT.

II. SCOPE OF SERVICES

THE COUNTY PROPOSES TO IMPROVE A BRIDGE LOCATED NEAR THE NORTHEAST CORNER OF SECTION 21, T-88N, R-43W;

AND THE COUNTY desires to employ the CONSULTING ENGINEER in connection with the engineering work to be performed in accomplishing the objectives of the Farm to Market Road Laws (Current Code of Iowa) and other applicable laws and regulations of the State of Iowa and the United States, consisting of 0.1± miles of roadway and ONE major structure as follows:

HYDRAULICS, PRELIMINARY AND FINAL DESIGN OF A FOUR SPAN CONTINUOUS CONCRETE SLAB (CCS) BRIDGE WITH 24'-0 ROADWAY AND OPEN CONCRETE RAIL. THE PROJECT INCLUDES ROAD DESIGN BY THE COUNTY AS NECESSARY TO PROPERLY CONNECT TO THE EXISTING COUNTY HIGHWAY SYSTEM. SUBMITTALS WILL BE MADE TO IOWA DOT, IOWA DNR AND USACOE AS NECESSARY.

The authority of the COUNTY to enter into the CONTRACT is found in Chapter 310, current Code of Iowa.

III. TIME OF BEGINNING AND COMPLETION OF THE WORK

- A. If no specific time period is indicated, CONSULTING ENGINEER shall complete its services within a reasonable period of time. Upon execution of this CONTRACT, the CONSULTING ENGINEER and the COUNTY may establish a schedule of work completion. Failure of the CONSULTING ENGINEER to maintain progress in accordance with this schedule may be cause for termination of the CONTRACT.
- B. If, through no fault of CONSULTING ENGINEER, such periods of time or dates are changed, or the orderly and continuous progress of CONSULTING ENGINEER'S services are impaired, or CONSULTING ENGINEER'S services are delayed or suspended, then the time for completion of CONSULTING ENGINEER'S services and the rates and amounts of CONSULTING ENGINEER'S compensation shall be adjusted equitably.
- C. If COUNTY authorized changes in the scope, extent, or character of the Project, then the time for completion of CONSULTING ENGINEER'S services and the rates and amounts of CONSULTING ENGINEER'S compensation shall be adjusted equitably.

D. COUNTY shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the CONSULTING ENGINEER'S performance of its services.

IV. NUMBER OF COPIES

The CONSULTING ENGINEER shall furnish to the COUNTY:

- 1 electronic copy in PDF format of preliminary plan drawings.
- 0 electronic copy in PDF format of shop drawings for steel structures.
- 0 electronic copy in PDF format of road plans for reconnaissance and field exam.
- 0 electronic copy in PDF format of drainage plats.
- 0 electronic copy in PDF format of capacity analyses computations.
- 0 electronic copy in PDF format of road plans and cross sections after field exam corrections for soils recommendations.
- 1 electronic copy in PDF format of check plan drawings.

V. FEES

A. SURVEYS

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

B. ROAD PLANS

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

C. BRIDGE PLANS

PRELIMINARY DESIGN AND DETAILING:	LUMP SUM =	\$	12,880.00
FINAL SUPERSTRUCTURE DESIGN:	LUMP SUM =	\$	11,470.00
FINAL SUPERSTRUCTURE DETAILING:	LUMP SUM =	\$	11,120.00
FINAL SUBSTRUCTURE DESIGN:	LUMP SUM =	\$	8,740.00
FINAL SUBSTRUCTURE DETAILING:	LUMP SUM =	\$	8,410.00
COORDINATION AND SUBMITTALS:	AT HOURLY RATES		
HEC-RAS AND SUBMERSIBLE BRIDGE DESIGN: (IF REQUIRED BY IDNR)	AT HOURLY RATES		

D. CULTURAL, HISTORICAL, ARCHAEOLOGICAL INVESTIGATIONS

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

E. WETLANDS, ENDANGERED SPECIES INVESTIGATIONS

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

F. LEAD/ASBESTOS TESTING

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

G. RIGHT-OF-WAY AND UTILITY COORDINATION

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

H. SUBSURFACE INVESTIGATIONS

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

I. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) COORDINATION

NOT A PART OF THIS CONTRACT. TO BE PROVIDED BY THE COUNTY.

VI. PAYMENTS

Payments shall be made to the CONSULTING ENGINEER as follows:

- A. The CONSULTING ENGINEER may submit monthly statements with proof to the COUNTY for services rendered on the CONTRACT to date. Upon acceptance by the COUNTY, payment will be made promptly. Final payment will be made upon acceptance of the completed plans.
- B. If after the Effective Date of the CONTRACT any governmental entity takes a legislative action that imposes taxes, fees, or charges on CONSULTING ENGINEER'S services or compensation under this CONTRACT, then the CONSULTING ENGINEER shall invoice such new taxes, fees, or charges as a Reimbursable Expense. COUNTY shall pay such invoiced new taxes, fees, and charges; such payment shall be in addition to the compensation to which CONSULTING ENGINEER is entitled under the terms of this CONTRACT.

VII. MISCELLANEOUS PROVISIONS

A. OWNERSHIP OF ENGINEERING DOCUMENTS

- (1) All survey notes, sketches, tracings, plans, specifications, reports on special studies and other data prepared under this CONTRACT shall be delivered to the COUNTY upon request.
- (2) Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- (3) All work furnished by the CONSULTING ENGINEER, including data on electronic media, pursuant to this CONTRACT, are instruments of its Services toward the said Project. They are not intended or represented to be suitable for reuse by the COUNTY or others on extensions of the said Project or any other project. Any such reuse without written verification and adaptation by the CONSULTING ENGINEER for specific purposes intended will be at the user's sole risk and without liability or legal exposure to the CONSULTING ENGINEER. Any such verification and adaptation shall entitle the CONSULTING ENGINEER to further compensation at hourly billing rates plus expenses or a lump sum to be agreed upon at that time.

B. CHANGES OF WORK

If the CONSULTING ENGINEER is of the opinion that any work it has been directed to perform is beyond the scope of this CONTRACT and constitutes extra work, it shall promptly notify the COUNTY in writing of that fact. In the event the COUNTY determines that such work does constitute extra work, it shall provide extra compensation to the CONSULTING ENGINEER upon a basis of hourly billing rates, plus actual expenses or a negotiated lump sum. No claims for extra work can be made by the CONSULTING ENGINEER without receiving written agreement from the COUNTY in advance. Major changes in the scope of the anticipated work shall require negotiation of a supplemental CONTRACT.

C. DELAYS

The CONSULTING ENGINEER will notify the COUNTY of any unusual delay including the reasons therefore, to its normal progress in the preparation of plans, either actual or prospective, and request an appropriate extension of time. Action by the COUNTY on such requests may be subject to approval by the Iowa Department of Transportation and/or the Federal Highway Administration.

D. TERMINATION

If the COUNTY should desire to suspend or terminate the service to be rendered by the CONSULTING ENGINEER under this CONTRACT, such suspension or termination may be effected by the COUNTY giving the CONSULTING ENGINEER written notice 30 days in advance. Payment is to be made by the COUNTY for the CONSULTING ENGINEER'S services, based on hourly billing rates, plus actual expenses.

E. ARBITRATION

Any dispute between the COUNTY and the CONSULTING ENGINEER, not otherwise resolved by the parties pursuant to the provisions of this CONTRACT, including the documents incorporated herein by reference, shall be settled by filing a proper action in the proper District Court of the State of Iowa, and subsequent arbitration as provided in Current Code of Iowa. This section is the only section of this CONTRACT relating to "arbitration" and Article 1109.12 of the Current "Standard Specifications, etc.", is deleted from, and is not a part of this CONTRACT.

F. RESPONSIBILITY FOR CLAIMS AND LIABILITY

The CONSULTING ENGINEER shall indemnify and save harmless the COUNTY, the Iowa Department of Transportation, State of Iowa, and the Federal Government from all claims and liability due to negligence of members, agents or employees of only the CONSULTING ENGINEER.

G. GENERAL COMPLIANCE WITH LAWS

The CONSULTING ENGINEER shall comply with Federal, State and local laws and ordinances applicable to the work.

H. SUBLETTING, ASSIGNMENT OR TRANSFER

Subletting, assignment or transfer of all or part of the interest of the CONSULTING ENGINEER is prohibited unless written consent is obtained from the COUNTY.

I. DESIGN CRITERIA

Design criteria shall be the applicable Farm to Market Design Guides and the AASHTO Design Guides for Local Roads and Streets and shall also conform to local requirements if within an incorporated area.

J. FORBIDDING USE OF OUTSIDE AGENTS

The CONSULTING ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTING ENGINEER, to solicit or secure this CONTRACT, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTING ENGINEER, any fee, commissions, 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 COUNTY shall have the right to annul this CONTRACT without liability, or, in its discretion to deduct from the CONTRACT price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

K. EMPLOYMENT OF COUNTY WORKERS

The CONSULTING ENGINEER shall not engage, on a full or part-time basis during the period of the CONTRACT, any professional or technical personnel who are or have been at any time during the period of the CONTRACT in the employ of the COUNTY, except fully retired employees, without the written consent of the COUNTY.

L. ENGINEER'S CERTIFICATION OF PLANS

The CONSULTING ENGINEER shall place a licensed engineer's certification and seal on the title sheet of the completed plans, all in conformity with Chapter 542B, Code of Iowa.

M. COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this CONTRACT, the CONSULTING ENGINEER, for itself, its assignees and successors in interest (herein referred to as the "Consultant"), agrees as follows:

(1) Compliance with Regulations

The Consultant will comply with the regulations of the U.S. Department of Transportation relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (Title XV, Code of Federal Regulations, Part 8, hereafter referred to as the "regulations"), which are herein incorporated by reference and made a part of this CONTRACT.

(2) Nondiscrimination

The Consultant, with regard to the work performed by it will not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurement of materials and lease of equipment. The Consultant will not participate, either directly or indirectly in the discrimination prohibited by Section 8.4 of the Regulations, including employment practices when the CONTRACT covers a program set forth in Appendix A-11 of the Regulations.

(3) Solicitations for subcontractors, Including Procurement of Materials and Equipment

In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontract or supplier shall be notified by the Consultant of the Consultant's obligations under this subcontract and the regulations relative to nondiscrimination on the grounds of race, color or national origin.

(4) Information and Reports

The Consultant will provide all information and reports required by the regulations, orders and instruction issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY, the Iowa Department of Transportation or the Federal Highway Administration, to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the COUNTY, the Iowa Department of Transportation, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain information.

(5) Sanctions for Noncompliance

In the event of the Consultant's noncompliance with the nondiscrimination provisions of this CONTRACT, the COUNTY shall impose such CONTRACT sanctions as it, the Iowa Department of Transportation, or the Federal Highway Administration, may determine to be appropriate, including, but not limited to:

- (a) Withholding of payments to the Consultant under the CONTRACT until the Consultant complies, and/or
- (b) Cancellation, termination or suspension of the CONTRACT, in whole or in part.

(6) Incorporation of Provisions

The Consultant will include the provisions of Paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations, orders or instruction issued pursuant thereof.

The Consultant will take such action with respect to any subcontractor procurement as the COUNTY, the Iowa Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontract or supplier as a result of such direction, the Consultant may request the COUNTY and State to enter into such litigation to protect their interests and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

N. ACCESS TO RECORDS

The CONSULTING ENGINEER and its subconsultants are to maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the CONTRACT period and for three years from the date of final payment under the CONTRACT, for inspection by the State, Federal

Highway Administration, or any authorized representatives of the Federal Government and copies thereof shall be furnished if required.

O. THIRD PARTIES

Nothing expressed or referred to in this CONTRACT is intended or shall be construed to give any person, other than the parties hereto, any legal or equitable right, remedy or claim under this CONTRACT, it being the intention that this CONTRACT is for the sole and exclusive benefit of the parties hereto, and for the benefit of no other persons, corporations or other entities.

P. ATTORNEY

The COUNTY shall provide the services of a competent attorney, at no cost to the CONSULTING ENGINEER, who shall be experienced in legal matters pertaining to the type of work required by this project. The CONSULTING ENGINEER shall cooperate and assist said attorney during the course of his/her duties as attorney for the COUNTY.

The CONSULTING ENGINEER acknowledges that it is fully acquainted with the concept of the project as presently developed by the COUNTY, and that it is the intention of this CONTRACT with the CONSULTING ENGINEER to do work necessary to bring the plans on this project to the letting stage. Engineering decisions on this project are the responsibility of the CONSULTING ENGINEER, who will be required to furnish, to the COUNTY, factual data supporting decisions.

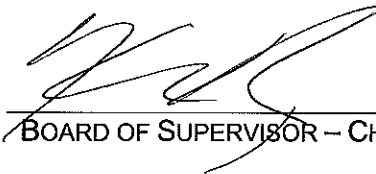
This CONTRACT expresses the entire CONTRACT between the parties and no representations, promises or warranties have been made by either of the parties that are not fully expressed herein. This CONTRACT may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT as of the day and year first above written.

**CONSULTING ENGINEER
CALHOUN-BURNS AND ASSOCIATES, INC.**


MILTON C. CLEMENSON, P.E.
VICE PRESIDENT

APPROVED FOR WOODBURY COUNTY:


BOARD OF SUPERVISOR – CHAIR

ATTESTED BY:


MARK J. NAHRA, P.E.
WOODBURY COUNTY ENGINEER