

ORDINANCE NO. 98-20

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH EUTHENICS, INC. FOR THE GATES MILLS BRIDGE REPLACEMENT PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to execute a Professional Services Agreement with Euthenics, Inc. for the Gates Mills Bridge Replacement Project.
- SEC. 2:** That in accordance with Ohio Revised Code §5705.41(D), at the time that the contract or order was made and at the time of execution of the Finance Director's certificate, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance.
- SEC. 3:** That the funds to cover the agreement in the estimated amount of \$91,374.00 are available in Account No. 108-0610-54411.
- SEC. 4:** That a copy of the Agreement is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 5:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 6:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: May 26, 2020

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: May 27, 2020

SIGNED: Dennis Hanwell
Mayor



*Ord - 98-20
Exh. A*

Professional Services Agreement

Design Professional: Euthenics, Inc. 8235 Mohawk Drive Strongsville, Ohio 44136	Client: Mr. Patrick Patton, P.E. City Engineer City of Medina, Ohio 132 North Elmwood Avenue Medina, Ohio 44256
Project No.: 1143	Date: April 21, 2020
Project Name: Gates Mills Blvd Culvert Replacement	
Location: Medina, Ohio	
Scope of Services shall be as described below or in Proposal Letter: Structural and Roadway Engineering, Utility Coordination, Surveying, Environmental, Right of Way and, if needed, Geotechnical	
Fee Arrangement: Cost Plus Fixed Fee - See Exhibit A for Euthenics Inc. fee proposal along with subconsultants.	
Rates: Rates = (Direct Labor + (Direct Labor X Overhead)) x 1.11	
Retainer Amounts: N/A	
Special Conditions: N/A	

Offered By: <i>Alan R. Piatak</i> Signature	<i>04/21/20</i> Date	Offered By: Alan R. Piatak/President Printed Name/Title
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Accepted By: Signature	Accepted By: <i>Dr Hanwell</i> Signature	Accepted By: <i>May 27, 2020</i> Date
 Printed Name/Title	<i>Dennis Hanwell - Mayor</i> Printed Name/Title	

Signature indicates the authority to bind the company/agency to the terms herein

Signature indicates the authority to bind the company/agency to the terms herein

The terms and conditions on the reverse of this form are part of this Agreement.

TERMS & CONDITIONS

Fee

The total fee, except stated lump sum, shall be understood to be an estimate, based upon Scope of Service, and shall not be exceeded by more than ten percent, without written approval of the Client. Where the fee arrangement is to be on an hourly basis, the rates shall be those that prevail at the time services are rendered. Reimbursable expenses will include a mark-up of 0%. Any change in scope will be discussed prior to additional services being rendered.

Billings/Payments

Invoices for services and reimbursable expenses shall be submitted, at the Design Professional's option, either upon completion of the services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. A service charge of 1.5% (or the maximum legal rate) per month will be applied to the unpaid balance after 30 days from the invoice date. Design Professional shall have the right to suspend/terminate services if payment is not received within 60 days after the invoice date and the Design Professional shall have no liability for any resultant delays or damages incurred by Client as a result of such suspension/termination. Retainers shall be credited on the final invoice. The Client agrees to pay all costs of collection, including reasonable attorney's fees.

Standard of Care

In providing services under this agreement, the Design Professional will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Design Professional will perform its services as expeditiously as is consistent with professional skill and care and the orderly progress of Design Professional's part of the Project. Regardless of any other term or condition of this Agreement, Design Professional makes no express or implied warranty of any sort. All warranties, including warranty of merchantability or warranty of fitness for a particular purpose, are expressly disclaimed.

Consequential Damages

Notwithstanding any other provision to the contrary, and to the fullest extent permitted by law, neither the Client nor the Design Professional shall be liable to the other for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or this Agreement. This mutual waiver of consequential damages shall include, but not be limited to, loss of use, loss of profit, loss of business or income or any other consequential damages that either party may have incurred from any cause of action whatsoever.

Hidden Conditions

A condition is hidden if concealed by existing finishes or structure or is not capable of investigation by reasonable visual observation. If the Design Professional has reason to believe that a condition may exist, the Client shall authorize and pay for all costs associated with the investigation of such a condition. If (1) the Client fails to authorize such investigation after such notification, or (2) the Design Professional has no reason to believe that such a condition exists, the Design Professional shall not be responsible for the existing conditions or any resulting damages or losses resulting therefrom.

Hazardous Materials/Mold

The Design Professional shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials of any form including mold. The Design Professional shall have no responsibility for an existing or constructed building that may, as a result of post-construction, use, maintenance, operation or occupation, contain or be caused to contain mold substances which can present health hazards and result in bodily injury, property damage and/or necessary remedial measures and costs.

Risk Allocation

In recognition of the relative risks and benefits of the Project to both the Client and the Design Professional, the Client agrees, to the fullest extent permitted by law, to limit the Design Professional's total liability to the Client or anyone making claims through the client, for any and all damages or claim expenses (including attorney's fees) arising out of this Agreement, from any and all causes, to the total amount of \$50,000 or the amount of the Design Professional's fee, whichever is greater.

Termination of Services

This agreement may be terminated upon 10 days written notice by either party should the other fail to perform their obligations hereunder. In the event of termination, the Client shall pay the Design Professional for all services rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses.

Betterment

If a required item or component of the Project is omitted from the Design Professional's documents, the Design Professional shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been included or required in the Design Professional's original documents. In no event will the Design professional be responsible for any costs or expense that provides betterment or upgrades or enhances the value of the Project.

Defects in Service

The Client shall promptly report to the Design Professional any defects or suspected defects in the Design Professional's services. The Client further agrees to impose a similar notification requirement on all contractors in its Client/Contractor contract and shall require all subcontracts at any level to contain a like agreement. Failure by the Client and the Client's contractors or subcontractors to notify the Design Professional shall relieve the Design Professional of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

Construction Activities

The Design Professional shall not be responsible for the acts or omissions of any person performing any construction Work or for instructions given by the Client or its representatives to any one performing any construction Work, nor for construction means and methods or job-site safety.

Relationship of the Parties

All services provided by Design Professional are for the sole use and benefit of the Client. Nothing in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Design Professional.

Entire of Agreement

This Agreement constitutes the entire agreement between the parties and these Terms & Conditions may only be amended by written agreement by both parties. Should any portion of this Agreement is found to be illegal or enforceable, such portion shall be deleted and the balance shall remain in effect.

Applicable Law

The law applicable to this Agreement is the state of the Project location.

Exhibit A

GATES MILLS BOULEVARD CULVERT REPLACEMENT
DETAILED ESTIMATED MANHOOR BREAKDOWN - REVISED APRIL 21, 2020

PRELIMINARY ENGINEERING AND CONSTRUCTION PLANS

Existing Data Collection/Property Owner Notification Letters
Review Existing Plans, Contacting OUPS, etc...
Property Owner Notification Letters

=	8	MH	\$	34.50	\$	276
=	5	MH	\$	34.50	\$	173
=	13	MH			\$	449

Existing Data Collection/Property Owner Notification Letters = \$ 449

Survey/Field Work/Basemapping

Set Project Control and Benchmarks. Topography, Drainage, and Utility survey needed for the proposed culvert replacement including sewer outfalls into the culverts/stream with invert, material, and size verification. Stream cross-sections for 50 and 75 feet upstream and downstream. Locate trees and sizes within project limits.

Boundary Survey - Property Pins and Centerline Monumentation

Reduce survey data and create Autocad basemap

Plot existing utilities based on field data and existing plans from utility companies

Field verify topo drawing

=	32	MH	\$	34.50	\$	1,104
=	8	MH	\$	34.50	\$	276
=	6	MH	\$	34.50	\$	207
=	4	MH	\$	34.50	\$	138
=	104	MH			\$	3,588

Survey/Field Work/Basemapping = \$ 3,588

Right of Way - Temporary & Permanent

(One temporary and one permanent from parcels 02819D05280, 02819D05281, 02819D05274 = 6 Total) No permanent temporary from City owned parcel 02819D05275)

Deed Research

8 1/2" x 11" R/W Exhibits (6 Exhibits x 6 MH/Exhibit = 36 MH)*

Legal Descriptions & Closure Calc. (6 Descriptions x 4 MH/Description = 24 MH) *

Field Verify

=	6	MH	\$	40.00	\$	240
=	36	MH	\$	36.00	\$	1,296
=	24	MH	\$	36.00	\$	864
=	4	MH	\$	36.00	\$	144
=	70	MH			\$	2,544

Right of Way - Temporary & Permanent = \$ 2,544

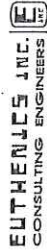
* Recording of Legal Descriptions & Exhibits by others

HEC-RAS Analysis of Existing Culvert and Proposed Reinforced Concrete 4-Sided Box
Culvert (Using Streamstats Flows or Other Provided by City)

=	40	MH	\$	36.00	\$	1,440
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GATES MILLS BOULEVARD CULVERT REPLACEMENT
DETAILED ESTIMATED MANHOOR BREAKDOWN - REVISED APRIL 21, 2020

Plan Drawings/Cost Estimate									
Title Sheet	1	Sheet	@ 10	MH	=	10	MH	\$	360
Schematic Plan with Project Control and Benchmarks	1	Sheet	@ 16	MH	=	16	MH	\$	576
Typical Sections (Existing & Proposed)	1	Sheet	@ 16	MH	=	16	MH	\$	576
General Notes & Specifications	2	Sheets	@ 16	MH	=	32	MH	\$	1,152
Maintenance of Traffic General Notes	1	Sheet	@ 16	MH	=	16	MH	\$	576
Maintenance of Traffic - Part-Width Construction Plan (2-way traffic on one lane)	2	Sheets	@ 24	MH	=	48	MH	\$	1,728
Waterline Plan and Profile (with underpass detail)	1	Sheet	@ 24	MH	=	24	MH	\$	864
Plan and Profile and Roadway Cross Sections - Not Included									
Culvert Site Plan	1	Sheet	@ 36	MH	=	36	MH	\$	1,404
Culvert General Notes and Estimated Quantities	2	Sheets	@ 16	MH	=	32	MH	\$	1,248
Culvert and Footing Layout	1	Sheet	@ 24	MH	=	24	MH	\$	936
Structural Details - Culvert, Headwall, and Wingwall Sections	2	Sheets	@ 24	MH	=	48	MH	\$	1,872
Railing Details	1	Sheet	@ 8	MH	=	8	MH	\$	312
Culvert Layout Plan and Section	1	Sheet	@ 24	MH	=	24	MH	\$	936
Temporary Shoring Details for Part-Width Construction	1	Sheet	@ 24	MH	=	24	MH	\$	936
Reinforcing Schedule - Not Included	1	Sheet	@ 24	MH	=	24	MH	\$	936
Miscellaneous Details (Waterwork and City Standard Drawings)									
Cost Estimate (In City excel spreadsheet format)	3	Sheets	@ 6	MH	=	18	MH	\$	648
						16	MH	\$	576
						392	MH	\$	14,700
Plan Drawings/Cost Estimate =									
Design Criteria/Structural Design						40	MH	\$	1,560
Supervision/Coordination/Utility Documentation						24	MH	\$	1,152
Deliverables						24	MH	\$	912
City of Medina, Private Utilities, Probable Cost of Construction, Design Criteria/Structural Design						24	MH	\$	912
						24	MH	\$	912
Deliverables =									
PRELIMINARY ENGINEERING AND CONSTRUCTION PLANS 707 MH \$ 26,345									
FINAL CONSTRUCTION PLANS									
Bid Document and Specifications						40	MH	\$	1,520
Detailed Specifications						24	MH	\$	912
Bid Schedule						64	MH	\$	2,432
Bid Document and Specifications =									
Finalize Plan Drawings/Cost Estimate/Deliverables									
						48	MH	\$	1,824
FINAL CONSTRUCTION PLANS 112 MH \$ 1,824									



GATES MILLS BOULEVARD CULVERT REPLACEMENT
DETAILED ESTIMATED MANHOUR BREAKDOWN - REVISED APRIL 21, 2020

CONSTRUCTION SERVICES

Shop Drawing Review of Precast Box Culvert	=	8 MH	\$ 39.00	\$	312
Misc. Correspondence for Technical Questions/Recommendations During Construction	=	16 MH	\$ 39.00	\$	624
Periodic Site Visits During Construction as Directed by the City (Estimate 4 visits @ 3 MH/visit = 12 MH)	=	12 MH	\$ 39.00	\$	468
		<u>36 MH</u>		\$	<u>1,404</u>

CONSTRUCTION SERVICES

<u>Labor</u>	<u>Overhead</u>	<u>Fee</u>	<u>Total</u>
\$ 29,573	148% \$ 43,767	11% \$8,067	\$81,407

SUBTOTAL EUTHENICS

- ENVIRONMENTAL - SUBCONSULTANT (LAWHON) NOT TO EXCEED COST (BASE) \$ 4,567
- PROJECT TOTAL NOT TO EXCEED COST (BASE) \$ 85,974 ✓
- GEOTECHNICAL - SUBCONSULTANT (SME) NOT TO EXCEED COST (IF AUTHORIZED) \$ 5,400 ✓
- ENVIRONMENTAL - SUBCONSULTANT (LAWHON) NOT TO EXCEED COST (IF AUTHORIZED) \$ 13,824
- PROJECT TOTAL NOT TO EXCEED COST (IF AUTHORIZED) \$ 18,224
- PROJECT TOTAL NOT TO EXCEED COST (BASE + IF AUTHORIZED) \$ 104,208

Proposal Assumptions
-Three or Four sided concrete box culvert is replacement structure



Lawhon & Associates



Lawhon & Associates, Inc.

ENVIRONMENTAL CONSULTING AND ENGINEERING SERVICES

Columbus

Cleveland

Dayton

April 21, 2020

Luke Baker, PE

Euthenics

8235 Mohawk Dr.

Strongsville, OH 44136

**RE: Gates Mills Blvd Culvert Replacement
City of Medina, Ohio
Environmental Scope and Fee**

Dear Mr. Baker:

Lawhon & Associates, Inc. is pleased to submit our proposal for the **Gates Mills Blvd Culvert Replacement** project over Unnamed Tributary to Rocky River. The proposed project is a complete replacement of the existing culvert consisting of a metal plate arch with a paved invert. The new culvert will include a part-width construction with temporary pavement. Our fee estimate is based upon an email from you on March 19th and 25th and April 20th, 2020.

Task 1: Ecological Survey

L&A will conduct an ecological survey in the immediate vicinity of the proposed culvert replacement project. The ecological survey will include the identification and delineation of all potentially jurisdictional waters (i.e. wetlands and streams) in accordance with the procedures for routine wetland delineations as described in the 1987 USACE Wetland Delineation Manual and the Northcentral and Northeast Regional Supplement; wetland assessment utilizing the Ohio EPA's Ohio Rapid Assessment Method for Wetlands (ORAM); stream assessment utilizing the Ohio EPA's Qualitative Habitat Evaluation Index (QHEI) protocol and/or Headwater Habitat Evaluation Index evaluation (HHEI) for headwater streams (qualitative assessment only), as applicable; and the assessment of any threatened or endangered (T&E) species or potentially suitable habitat for these species within the study area. Prior to the initiation of the field survey, L&A will review existing mapping resources and contact USFWS and ODNR to request information on any recorded occurrences of federal or state-protected species within the immediate vicinity of the study area.

Upon completion of the fieldwork, L&A will prepare a letter report that summarizes the findings of the ecological resources survey. The report will contain an overall site description; descriptions of wetlands, streams, and any other sensitive ecological resources identified within the Study Area; representative photographs; mapping of the GPS data collected during fieldwork as GIS shapefiles; and additional mapping of the Study Area showing topographic, soil survey, and National Wetland Inventory (NWI) data. The report will evaluate the wetlands and streams identified within the project limits to allow a determination of whether these wetlands or streams qualify as Waters of the U.S. and will be suitable for submittal to the USACE for confirmation of our delineation. The report will also include a review of Cultural Resources in the project area. Then the report will be coordinated with the Buffalo District of the US Army Corps of Engineers during the permitting of the project.

Task 2: General Oversight

This task includes project setup, client updates, scheduling, invoices and client communication through project completion.

If Authorized Tasks:

Pre-Construction Notification

Based on the information available and the scale of the proposed project, it is anticipated that the proposed project will require the submission of a Pre-Construction Notification (PCN) for authorization under the Nationwide Permit (NWP) Program, specifically NWP 3 - Maintenance. This is due to the culvert being over 50 years old. Once the impacts have been quantified, L&A will begin preparing the appropriate permit application package for submission to the USACE. Lawhon will provide the preconstruction notification to the USACE. Upon submittal of the application L&A will address any comments or concerns that are received during the agency review of the application.

Phase I Cultural Resources Survey:

The Phase I survey will meet the guidelines established in Archaeology Guidelines (OHPO 1994) and generally follow the recommended format and design. It is anticipated that subsurface shovel testing and visual inspection will be utilized as field methods to survey the project. In regards to the history/architecture aspect of the Cultural Resources survey, a literature review will be completed for any previously identified history/architecture resources within or adjacent the study area. As part of this task, additional study of maps, atlases, reports and other records will be performed. In addition, a History/Architecture Area of Potential Effect (APE) will be determined for the project. This APE will be determined based on the potential for direct and or indirect effects to history/architecture resources within the APE by the proposed project. Finally, any resources, fifty years and older, within the APE will be documented on Ohio Historic Inventory forms. These resources will be evaluated for eligibility for inclusion in the National Register of Historic Places, either individually or as part of a district. The bridge within the study area is greater than 50 years in age and it will need documented and evaluated. A report of findings, including a literature review, fieldwork results, mapping, and recommendations will be generated at the completion of fieldwork.

Asbestos Survey

An asbestos inspection and survey will be completed for the existing culvert. Samples of suspected asbestos containing material will be collected and analyzed. The asbestos survey report will include the Ohio EPA Notification of Demolition and Renovation form.

Schedule

L&A can begin the ecological field work for this project within 10 business days of receipt of signed authorization to proceed, however waiting until the start of the growing season (generally mid- April) is more favorable for completing ecological field work. Based on our understanding of the proposed project, we estimate that the timeframe to secure the necessary permits will be between 45-60 days for a NWP. These estimates are based on our

experience with coordinating with the regulatory agencies and also account for the required comment and review periods afforded to agencies under Section 404.

Assumptions

In completing the scope of services described above, L&A assumes the following:

1. Client will provide plans and/or maps that clearly depict the project boundaries and relevant site features in electronic format. Relevant features include any site improvements or staging areas associated with the proposed project.
2. The schedule estimates assumes no significant delays due to design changes or agency availability.
3. The draft delineation report and permit applications will be submitted as electronic copies (PDF) for review by the Client. The final permit applications will be submitted as hard copies and electronically (PDF).
4. Any fees associated with agency permitting are not included in this fee estimate and will be the responsibility of the client or permit applicant.
5. Although not anticipated, any fees associated with the purchase of wetland or stream mitigation credits are not included in this fee estimate and will be the responsibility of the client or permit applicant.
6. L&A will prepare and submit the required permit application to get the project authorized under a NWP. Please note that the submittal of an application to the regulatory agencies does not guarantee that the project will be authorized as proposed.

Please let me know if you require additional information. We look forward to working with you on this project.

Sincerely,



Jessica Stratigakos
Project Manager



Susan S. Daniels, PE, AICP
Principal, Director of NEPA/Planning Services

Proposal Cost Summary

C/R/S : City of Medina-Gates Mills Blvd Culvert Replacement
 PID: NA
 Agreement Number: NA

Overhead Percentage 166.46%
 Avg OH rate 156.68%
 Net Fee Percentage 11.00%
 Cost of money 1.34%

CONSULTANT: Lawhon & Associates, Inc.
 DATE: 4/21/2020

Task - Description	Avg. Rate	Total Hours	Labor Costs	Overhead Costs	Cost of Money	Direct Costs	Sub Cons.	Net Fee	Total Cost
Ecological Survey	\$29.85	40	\$1,194	\$1,988	\$16	\$120	\$0	\$337	\$3,655
General Oversight	\$44.00	7	\$308	\$513	\$4	\$0	\$0	\$87	\$912
Total Authorized If Authorized	\$31.96	47	\$1,502	\$2,501	\$20	\$120	\$0	\$424	\$4,567
Preconstruction Notification	\$29.91	35	\$1,047	\$1,743	\$14	\$0	\$0	\$296	\$3,100
Phase I Cultural Resources Report	\$36.52	66	\$2,410	\$4,012	\$32	\$120	\$0	\$680	\$7,254
Asbestos Survey	\$34.50	24	\$828	\$1,378	\$11	\$219	\$0	\$234	\$2,670
Total with If Authorized	\$33.65	172	\$5,787	\$9,634	\$77	\$459	\$0	\$1,634	\$17,591

Proposed Labor Rates and Hours

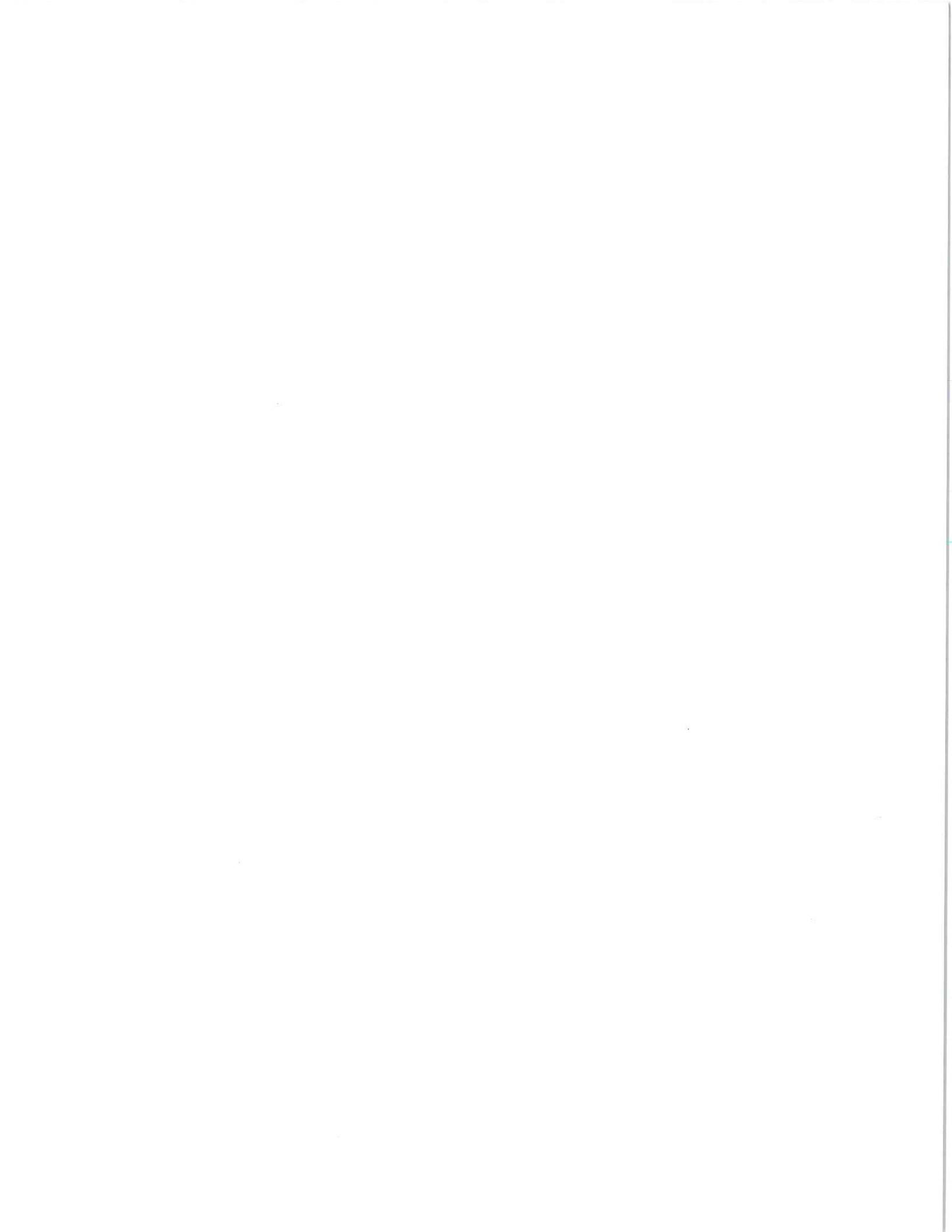
C/R/S : City of Medina-Gates Mills Blvd Culvert Replacement
 PID: NA
 Agreement Number: NA

CONSULTANT: Lawhon & Associates, Inc.

DATE: 4/21/2020

Category	Rate
PR	\$68.00
PM	\$40.00
ES4	\$42.00
ES3	\$35.00
ES2	\$27.00
ES1	\$21.00
ES1-OT	\$30.00
GIS/Admin	\$27.00

Task	Labor Hours by Category										Total Hours	Labor Costs
	PR	PM	ES4	ES3	ES2	ES1	ES1-OT	GIS/Admin	ES1	ES1-OT		
Ecological Survey	0	2	4	14	0	14	0	0	6	0	40	\$1,194
General Oversight	1	6	0	0	0	0	0	0	0	0	7	\$308
Total Authorized If Authorized	1	8	4	14	0	14	0	0	6	0	47	\$1,502
Preconstruction Notification	0	2	4	2	24	0	0	0	3	0	35	\$1,047
Phase I Cultural Resources Report	0	16	32	0	0	10	0	8	8	0	66	\$2,410
Asbestos Survey	0	2	6	8	8	0	0	0	0	0	24	\$828
Total with If Authorized	1	28	46	24	32	24	0	17	17	0	172	\$5,787



Non-Labor Direct Cost Summary

C/R/S : City of Medina-Gates Mills Blvd Culvert Replacement
 PID: NA
 Agreement Number: NA

CONSULTANT: Lawhon & Associates, Inc.

DATE: 4/21/2020

Task	miles	mileage 0.52/mile	copies & postage	field supplies	Lab Testing	meals \$56/day	lodging \$103/night	Direct Costs
Ecological Survey	230	\$120	\$0	\$0	\$0	\$0	\$0	\$120
General Oversight	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Authorized	230	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>If Authorized</i>								
Preconstruction Notification	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Phase I Cultural Resources Report	230	\$120	\$0	\$0	\$0	\$0	\$0	\$120
Asbestos Survey	75	\$39	\$30	\$0	\$150	\$0	\$0	\$219
Total with If Authorized	535	\$159	\$30	\$0	\$150	\$0	\$0	\$339

SME



PROPOSAL

9375 Chillicothe Road Kirtland, OH 44094-8501
Phone: 440-256-6500

CLIENT INFORMATION

Contact: Mr. Alan Piatak, PE
Company: Euthenics
Email Address: arpiatak@euthenics-inc.com
Address: 8235 Mohawk Drive
City: Cleveland State: OH Zip: 44136
Phone: 440-260-1555 Cell: _____

PROJECT INFORMATION

Project Name: Gates Mills Blvd. Bridge
City: Medina State: OH
SME Proposal No.: P01027.20
Date: March 26, 2020
Client P.O. No.: _____

SCOPE OF SERVICES

Provide geotechnical evaluation services for replacement of the culvert on Gates Mills Boulevard in Medina, Ohio. We understand the existing culvert is a corrugated metal arch with a paved invert. Plans indicate the existing foundations bear about 11 feet below grade. No information has been provided about the planned replacement culvert at this time.

We will mark our boring locations and measure their ground surface elevations relative to the top of the concrete headwall. We will contact OUPS to located known underground public utilities. We will mobilize our truck-mounted rig to drill two Standard Penetration Test (SPT) borings to depths of 25 feet below grade, as close to each of the headwalls as overhead utilities will allow. We will sample at 2.5-foot intervals and will collect up to two Shelby tube samples. We will record groundwater levels in the borings during and immediately after drilling. The boreholes will be backfilled with auger cuttings. We will core and patch the existing pavement at one location near the existing culvert. Samples will be visually classified and tested in our laboratory. Laboratory testing will include moisture contents, one hydrometer/gradation analysis, and up to two unconfined compression tests. Our geotechnical report will include boring logs, a boring location plan, laboratory test results, and recommended bearing pressures and lateral earth pressures for design of the replacement culvert and headwalls.

We will use plywood sheets and exercise reasonable care to limit damage to lawn and curbs, but SME will not be responsible for the repair any damage to these surfaces caused by our field operations.

FEES

Lump Sum \$5,400.00

Fee Schedule(s) Attached: _____

REPORT COPIES

An electronic copy of our report will be sent to our Client who signs our General Conditions. Please notify us if other project members require a copy.

Signature

Written By: Brendan P. Lieske, PE
Title: Project Manager

GENERAL CONDITIONS

This contract consists of the services described above together with the attached General Conditions. This is the entire contract and supersedes all other terms except as noted. Please read the general conditions carefully. As written authorization, please sign and date at the bottom of the General Conditions, and return a copy of all pages.

INVOICES

Invoices will be sent to our Client who signs our General Conditions.

Signature

Reviewed By: Alan J. Esser, PE, D.GE
Title: Vice President

As part of our improvement efforts, SME requests feedback from our clients during and/or at the end of our projects to help us understand their project experience and to show us where we can improve. When you receive an SME feedback request, please take a minute or two to respond. Doing so will help us serve you better on the next project.

SPECIAL CONDITIONS FOR DRILLING AND EXCAVATION

1. **RIGHT TO SUBCONTRACT:** SME reserves the right to subcontract for drilling, excavation of test pits, clearing and grubbing for site access, traffic control, and other instrumentation or services necessary to perform the services required by the Agreement.
2. **RIGHTS OF ENTRY:** CLIENT shall provide any necessary rights of entry for SME, including its agents, staff, contractors or subcontractors, to access the site to perform all acts, studies, and research, including tests and evaluation, pursuant to the agreed services. CLIENT shall inform SME of any special requirements as a condition upon such rights of entry.
3. **PERMITS AND LICENSES:** CLIENT shall secure all required permits, except specific permits identified in Agreement as being secured by SME. SME shall hold and maintain all necessary business and professional licenses, registrations, and accreditations necessary to perform its services.
4. **UNDERGROUND UTILITIES AND STRUCTURES:** SME will take reasonable precautions to avoid damage to subterranean structures or utilities, including contacting the appropriate One-Call system for utility clearance. Unless otherwise identified in the Agreement, CLIENT is responsible for identifying all subterranean structures or utilities in the area of evaluation and sharing that information with SME prior to commencement of the field exploration. CLIENT agrees to furnish SME with all information identifying the type and location of utility lines and other man-made structures located beneath the surface of the site in the proposed work area. CLIENT will also locate all known private underground utilities at the site prior to SME performing the field exploration. CLIENT agrees to defend, indemnify and hold SME harmless from all claims, liability, and expense associated with alleged damage to subterranean utilities or structures, except if such damage was caused by SME's sole negligence.
5. **SITE PLANS AND SURVEYS:** CLIENT will provide available project site plans and surveys, preferably in digital format (AutoCAD compatible format), and provide topographical information, if available. The accuracy and proximity of survey control provided by CLIENT will affect the accuracy of test locations and elevation determinations. Unless otherwise noted, the accuracy of test locations and elevations will be commensurate only with pacing and approximate measurements or estimates.
6. **TEST LOCATIONS:** If unanticipated site conditions or site conditions not made known to SME prevent access to locations specified in the Agreement, then SME may deviate a reasonable distance from proposed test locations. If CLIENT objects, then SME shall have the right to reasonable adjustment of its fees and time for performance.
7. **FIELD SERVICES SCHEDULE:** Field services will be performed Monday through Friday, except on holidays, and during normal business hours unless noted otherwise in the Agreement. Additional fees may be required for field services provided on weekends and holidays, or at times other than normal business hours.
8. **RESTORATION:** CLIENT recognizes that some damage to the site may occur in the normal course of our services. SME will exercise reasonable care to mitigate damage from drilling or excavation equipment to lawn, landscape, pavement, or soft ground. Unless otherwise stated in the Agreement, our fee does not include time or expenses associated with the repair of wheel ruts, track marks, or other damage such as crop damage. Due to the potential applicability of environmental and transportation regulations, excess soil cuttings generated from drilling activities will not be removed from the site by SME. Unless otherwise noted in the Agreement, the boreholes will be backfilled with auger cuttings and/or bentonite, and excavations will be backfilled with excavated material. Asphalt coldpatch or quick-setting concrete will normally be used to repair existing pavement areas flush to the existing grade. Core holes in concrete floors and bridge decks will be filled with quick-setting concrete flush to the existing floor surface. Excess soil will be left on-site at the locations of the boreholes or excavations, placed in nearby greenway areas, or containerized as appropriate for site and environmental conditions.
9. **VARIATIONS IN SUBSURFACE CONDITIONS AND INTERPRETATION OF SME DATA:** CLIENT recognizes that subsurface conditions on the site may vary from those encountered at the locations where borings, surveys, or explorations are made by SME and that the data, interpretations and recommendations of SME are based solely on the information available to SME. SME will not be responsible for the data generated by others or interpretations and recommendations by others based upon the data and information developed or provided by SME.
10. **SURFACE MATERIALS:** Unless otherwise noted in the Agreement, SME will obtain approximate thickness measurements of surficial materials, such as pavements, aggregate base, and topsoil, at the time of the exploration. These measurements are considered approximate since some mixing of surficial materials and the underlying subgrade can occur. Additional evaluation methods and additional fees would be required to obtain more precise measurement of surface materials.
11. **TRAFFIC CONTROL:** Unless otherwise noted in the Agreement, SME will be responsible for supplying such signs, barricades and traffic control personnel as may be needed for safe drilling or excavation operations.

12. SAMPLE DISPOSAL:

- a. Unless otherwise requested in writing by CLIENT, SME will dispose of soil samples submitted to SME's laboratories 60 days after the samples are obtained. Unless otherwise requested in writing by CLIENT, samples submitted to subcontract laboratories will be disposed by those laboratories in accordance with their sample retention policies. CLIENT agrees that it will not hold SME responsible or liable for any loss of test specimens or samples, and CLIENT agrees to pay costs associated with the storage of samples beyond the normal storage times described herein.
- b. In the event residual sampled materials in SME's possession are determined to be RCRA hazardous wastes, contain PCBs above Type II landfill disposal limits, or are otherwise subject to state or federal disposal restrictions, we will, after completion of testing and at CLIENT's expense, and using a manifest signed by CLIENT as generator, have such samples transported to a location selected by CLIENT for final disposal (see Disposal of Hazardous and Other Regulated Wastes). CLIENT agrees to pay all costs associated with the storage, transport, and disposal of such samples. CLIENT recognizes and agrees that we are acting as a bailee and at no time assume title to said waste.

13. ENVIRONMENTAL RISKS:

- a. CLIENT shall inform SME of any known environmental site conditions that could affect the health and safety of our field personnel or that could affect SME's performance of its services. For projects other than environmental assessments, SME will report only for informational purposes, unusual odors and/or colorations of the soil observed during field activities.
- b. Unanticipated hazardous substances, subsurface contaminants, and/or biological pollutants (HAZMAT) or levels of HAZMAT may exist at the project site. The discovery of unanticipated HAZMAT may constitute a changed condition mandating renegotiation of the scope and fees and make it necessary for SME to take immediate measures to protect human health and safety, and/or the environment. SME agrees to notify CLIENT as soon as practicable if unanticipated HAZMAT is encountered. CLIENT authorizes SME to take measures that, in SME's sole professional opinion, are justified to preserve and protect the health and safety of SME's personnel and the public, and/or environment, and CLIENT agrees to compensate SME for the additional cost of such work. SME does not assume control of or responsibility for reporting to any federal, state, or local public agencies, any conditions at the site that may present a potential danger to health, safety, or the environment.
- c. There is a risk that drilling and sampling may result in contamination of certain subsurface areas, such as when a boring device moves through a contaminated area and connects it to an aquifer not previously contaminated. SME will exercise reasonable care and caution to prevent such occurrences; however, because such drilling and sampling is a necessary aspect of the services that SME will provide for CLIENT's benefit, CLIENT agrees that SME shall not be held liable for exacerbation of HAZMAT caused in this manner.
- d. CLIENT recognizes that discovery of HAZMAT on the site may result in a significant reduction of the property's value, and SME cannot be held responsible for such devaluation.
- e. It is possible this assessment may fail to reveal the presence of contaminants, hazardous materials, or other types of environmental contamination collectively referred to as "contaminants" at sites where contaminants are assumed, expected, or subsequently determined to exist. CLIENT understands that SME's failure to discover contaminants does not guarantee that contaminants do not exist at the site. Similarly, a site which in fact is unaffected by contaminants at the time of SME's study, may later, due to natural phenomena or human intervention, become contaminated. CLIENT agrees that it would be unfair to hold SME liable for failing to discover contaminants whose exact location is impossible to foretell, or for failing to discover contaminants, which, in fact, did not exist at specific sampling locations at the time such samples were taken. Accordingly, CLIENT waives any claim against SME, and agrees to defend, indemnify and save SME harmless from any claims or liability for injury or loss arising from SME's failure to detect the presence of contaminants through techniques commonly employed for the purpose.
- f. CLIENT agrees to defend, hold harmless and indemnify SME from and against any and all claims and liabilities resulting from encountering unexpected HAZMAT, including compensation for any time spent and expenses incurred by SME.

14. **DISPOSAL OF HAZARDOUS AND OTHER REGULATED WASTES:** CLIENT agrees to select treatment/disposal facilities, pay for transportation and disposal, and sign, or have OWNER sign all waste profile forms, land disposal certifications, transportation manifests, and any other documentation required for transportation and disposal of hazardous wastes, PCB wastes, or other regulated wastes. Under no circumstance will SME select a disposal/treatment facility, arrange for transportation or disposal of regulated wastes, or otherwise act as agent for the generator of the wastes. CLIENT agrees to the maximum extent permitted by law to defend, hold harmless and indemnify SME from and against any and all claims and liabilities resulting from violation of any federal, state or local statute, regulation or ordinance relating to the disposal of hazardous wastes, substances or constituents or allegations that SME generated, transported, stored, treated or disposed of wastes or other contaminated materials, or arranged for the transportation, treatment, storage, or disposal of wastes or other contaminated materials, subject to federal, state, or local regulation or law.

SME GENERAL CONDITIONS

1. **DEFINITIONS:** In this Agreement, the party agreeing to have the services performed is the "CLIENT." The CLIENT's CLIENT shall be referred to as the "OWNER." Unless expressly stated otherwise, SME, its employees, agents, subconsultants and subcontractors, are collectively referred to as "SME." The "services" to be provided under this Agreement are defined in SME's Proposal and subsequent written amendments, change orders, or otherwise-authorized additional services.
2. **INVOICING AND PAYMENT:** SME will submit invoices to CLIENT monthly and a final bill upon completion of services. Payment is due upon presentation of invoice to the CLIENT and is past due 30 days from date of the invoice. CLIENT agrees to pay a service charge of 1-1/2% per month, or the maximum rate allowed by law, whichever is greater, on past due accounts.
3. **INSTRUMENTS OF SERVICE:** All reports, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by SME in connection with this Project shall be considered instruments of service, and shall remain the property of SME. SME grants CLIENT and OWNER a limited license to use such instruments of service for the purpose of designing, constructing, maintaining or repairing work that is part of this Project. Any reuse of SME's instruments of service for any purpose other than the limited license granted herein is prohibited and SME shall have no responsibility to CLIENT, OWNER or third parties for unauthorized use of its instruments of services.
4. **RECORDS RETENTION:** SME will retain pertinent records relating to the services performed for CLIENT for a period of time consistent with SME's File Management Plan, a copy of which will be provided to CLIENT upon request. During that period, the records will be made available to the CLIENT at reasonable times. At the end of the retention period indicated in SME's File Management Plan, SME may, in its sole discretion, dispose of all such records.
5. **SME MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH REGARDS TO ITS SERVICES.**
6. **TERMINATION:** Either party may terminate this Agreement upon at least 7 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination will not be effective if that substantial failure is remedied before expiration of the period specified in the written notice. This Agreement shall also be automatically terminated upon a suspension of the Project for more than 3 months. In the event of termination, CLIENT will pay SME for services performed to the termination notice date plus reasonable termination expenses. In the event of termination, or suspension, prior to completion of all reports contemplated by this Agreement, SME may complete such analyses and records as are necessary to complete the files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension include all direct costs of completing such analyses, records, and reports.
7. **DISPUTES:** If any dispute arising out of or relating to this Agreement, or its breach, is not settled through direct discussions, the parties agree that as a condition precedent to litigation or arbitration, they will endeavor for 30 days following written notice by one party to the other of a dispute or breach, to settle the dispute by mediation with the assistance of a neutral mediator. In any litigation or arbitration, if applicable, the parties agree that the prevailing party is entitled to recover all reasonable costs incurred in defense or prosecution of the claim, including its staff time, court costs, attorney's fees, and other claim-related expenses. Notwithstanding, SME has no obligation to mediate with CLIENT prior to litigation when collecting fees owed by CLIENT.
8. **AUTHORIZATION:** By signing these General Conditions, CLIENT agrees to accept the proposal, including these General Conditions and any Special Conditions, as the Agreement governing SME's services and the relationship between the parties. If CLIENT gives SME other-than-written authorization to proceed with services after receiving SME's written proposal, CLIENT accepts the proposal, these General Conditions, and any Special Conditions, as the Agreement governing SME's services, and the Agreement is effective, except for those provisions that CLIENT objects to in writing within 7 days following the other-than-written authorization.
9. **SAFETY:** SME will be responsible only for the safety of SME employees. Unless otherwise explicitly described in our scope of services, the scope of services does not include job or site safety for, or supervision or direction of, the work of others. The presence of SME on the job site should not be construed to in any way relieve the CLIENT, other contractors, or other parties on the site of the obligation and responsibilities for their personal safety and the safety of their employees, consultants, and subcontractors.
10. **INSURANCE:** SME and its staff are protected by worker's compensation insurance and SME has coverage under General Liability and Professional Liability insurance policies. SME will provide CLIENT with evidence of such policies upon written request. SME is not responsible for any loss, damage or liability arising from acts of CLIENT, its agents, staff, and other consultants employed by CLIENT.
11. **INDEMNIFICATION:** To the fullest extent permitted by law, CLIENT shall hold harmless, defend, and indemnify SME from and against all claims, damages, losses and expense, including reasonable attorney fees, arising out of the performance of SME's services or the materials of others in connection with the Project regardless of whether or not such claim, damage, loss or expense is caused in part by SME; provided however, that this obligation shall not apply to claims, damage, loss or expense caused solely by negligence of SME.

12. GOVERNING LAW: The parties agree that this Agreement shall be governed in all respects by the laws of the State of Michigan.

13. LIMITATION OF LIABILITY: In consideration for SME's undertaking to perform services at the rates set forth on the Fee Schedule attached to SME's proposal or the lump sum fee provided, CLIENT agrees to limit all potential liability of SME to CLIENT, its employees, agents, successors and assigns, for any and all claims, losses, breaches, damages or expenses arising from, or relating to SME's performance of services on this Project, such that SME's total aggregate liability to CLIENT, its employees, agents, successors and assigns shall not exceed \$50,000 or SME's total fee for the services rendered on the Project, whichever is greater. The CLIENT understands that it may negotiate a higher limit of liability in exchange for an appropriate increase in SME's fee.

- a) CLIENT further agrees that it will require all of its contractors and consultants on this project and their respective subcontractors and subconsultants, be bound by an identical limitation of SME's aggregate liability in their agreements for work on this Project.
- b) CLIENT further agrees that it will require all of its contractors and subcontractors defend and indemnify CLIENT and SME from any and all loss or damage, including bodily injury or death, arising from contractor or subcontractors performance of work on this Project, regardless of whether or not such claim, damage, loss or expense is caused in part by SME provided however, that this obligation shall not apply to claims, damage, loss or expense caused by the sole negligence or fault of SME.

14. PERIOD OF LIMITATION: Notwithstanding any period of limitations that might otherwise apply, the parties agree that no action, claim or proceeding of any kind, whether in tort, contract or equity arising out of SME's services may be brought against SME more than two years after the first to occur of the following events: (i) the date of CLIENT's acceptance, use or occupancy of the Project that is the subject of this engagement, or (ii) the date of SME's last service in connection with this Project.

15. ADDITIONAL SERVICES: If SME provides services at the request of CLIENT, in addition to those described in the scope of work contained in SME's proposal, CLIENT agrees that these general conditions including any Special Conditions shall apply to all such additional services.

16. AGREEMENT: This Agreement includes SME's Proposal, these General Conditions, and any other Special Conditions, Fee Schedules, or other documents provided with SME's Proposal. This Agreement constitutes the entire contractual relationship between the parties and cannot be changed except by a written instrument signed by both parties. All preprinted Terms and Conditions on CLIENT's Purchase Order(s) or acknowledgement forms are inapplicable to this Agreement. In the event any provision of this Agreement is held invalid or unenforceable, the other provisions will remain in full force and effect, and binding upon the parties. All the terms of this Agreement, including provisions relating to limitation and allocation of liability, shall survive the completion and/or termination of this Agreement. This Agreement cannot be assigned by either party without the written consent of the other party.

Please complete and return the signed General Conditions to SME to indicate acceptance of this proposal and to initiate work on the referenced project. The CLIENT's signature or direction to proceed also indicates that he/she has read or has had the opportunity to read the General Conditions and agrees to be bound by such General Conditions.

SME PROPOSAL

Proposal No.: P01027.20

Project Name: Gates Mills Blvd. Bridge

Project Location: Medina, Ohio

CLIENT PROPOSAL AND AGREEMENT ACCEPTANCE (Please Print or Type)

CLIENT Signature: _____ Date: _____

Printed Name: Mr. Alan R. Piatak, PE

Title: Vice President

CLIENT (Company) Name: Euthenics

Address: 8235 Mohawk Drive, Cleveland, Ohio 44136

Telephone No.: 440-260-1555 Email: arpiatak@euthenics-inc.com