

## CONSULTING SERVICES AGREEMENT

<b>CLIENT</b> Lancaster County Engineering <b>Address</b> Department 444 Cheerycreek Road Lincoln, NE 68528  <b>Telephone</b> 402-441-7681	<b>Project Name</b> Lancaster County Asphalt Correlation <b>Testing</b> <b>Project No.</b> 017.01  <b>Project Location</b> Multiple Sites  <b>Consultant PM</b> Brant Wells <b>Consultant Job No.</b>
<b>Client Contact</b> Ms. Pamela Dingman <b>Client Job No.</b>	<b>Consultant PM</b> Brant Wells <b>Consultant Job No.</b>

This AGREEMENT is made by and between Lancaster County Engineering Dept, hereinafter called "CLIENT," and Alfred Benesch & Company, hereinafter called "CONSULTANT", for professional consulting services as specified herein. CONSULTANT agrees to provide CLIENT with requested consulting services more specifically described as follows (or shown in Attachment A):

The GENERAL CONDITIONS and the following Attachments are hereby made a part of the AGREEMENT:

- Attachment A: Scope of Services and Fee Estimate  
 Attachment B: Schedule of Unit Rates  
 Attachment C: \_\_\_\_\_  
 or  
 Exhibit A: Work Authorizations specifying Method of Payment, Scope, and Fee

By signing this AGREEMENT, CLIENT acknowledges that it has read and fully understands this AGREEMENT and all attachments thereto. CLIENT further agrees to pay CONSULTANT for services described herein upon receipt of invoice by CLIENT for the CONSULTANT's estimated fee as described below:

- BY LUMP SUM: \$\_\_\_\_\_.  
 BY TIME AND MATERIALS: \$13800.00.  
 BY OTHER PAYMENT METHOD (See Attachment \_\_\_\_\_): \$\_\_\_\_\_.  
 AS SHOWN ON SERIALY NUMBERED WORK AUTHORIZATIONS USING EXHIBIT A

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT:

**CLIENT**

**ALFRED BENESCH & COMPANY**

BY: \_\_\_\_\_  
 AUTHORIZED REPRESENTATIVE

BY: Anthony Dirks  
 AUTHORIZED REPRESENTATIVE

PRINT NAME: \_\_\_\_\_

PRINT NAME: Anthony Dirks

TITLE: \_\_\_\_\_

TITLE: Sr. Vice President

DATE DATE: \_\_\_\_\_, 20\_\_\_\_

DATE: April 28, 2017

BENESCH OFFICE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**PLEASE SIGN AND RETURN ONE COPY TO ALFRED BENESCH & COMPANY (ADDRESS ABOVE).**

**Scope of Services and Fee Estimate for Lancaster County  
Asphalt Correlation Testing Project No. 17-01**

**ATTACHMENT A**

Item No.	Description		Unit Price	Amount
	Asphalt Correlation Testing during production (Assumes 22 Sublots)			
I.	1. Fabricate Gyratory Specimen (2 per subplot)	44.0 ea.	\$ 64.50 /ea.	\$ 2,838.00
	2. Extraction Testing (% asphalt & sieve analysis)	22.0 ea.	\$ 129.00 /ea.	\$ 2,838.00
	3. Maximun Specific Gravity (Rice)	22.0 ea.	\$ 109.00 /ea.	\$ 2,398.00
	4. Fine Aggregate Angularity	22.0 ea.	94.00 /ea.	\$ 2,068.00
	5. Coarse Aggregate Angularity	11.0 ea.	\$ 93.00 /ea.	\$ 1,023.00
	6. Bulk Specific Gravity & Density of Field Cores	22.0 ea.	\$ 37.00 /ea.	\$ 814.00
II.	Project Planning, Coordination and Report Preparation (Assumes 2 Hrs PM Set-up, Billing & Closeout) (Assumes 2 Hrs corrections & edits to test data reports) (Assumes 16.5 Hrs review and QC by Lab Manager)			
	1. Personnel			
	a. Project Manager II	2.5 hr.	\$ 145.00 /hr.	\$ 362.50
	b. Field/Lab Technician III	2.0	\$ 61.00	\$ 122.00
	c. Field/Lab Operations Manager	16.5 hr.	\$ 81.00 /hr.	\$ 1,336.50
	Not To Exceed \$13,800		Estimated Total:	\$ 13,800

## GENERAL CONDITIONS

### SECTION I - SERVICES BY CONSULTANT

#### 1.1 General

CONSULTANT shall provide services under this AGREEMENT only upon request of the CLIENT, and only to the extent defined and required by the CLIENT. These services may include the use of outside services, outside testing laboratories, and special equipment.

Attachments to this AGREEMENT are as identified on the signature page to this AGREEMENT or using serially numbered Work Authorizations, and with these GENERAL CONDITIONS, are all as attached hereto, and made a part of this AGREEMENT.

#### 1.2 Scope of Services and Fees

The services to be performed by CONSULTANT and the associated fee are attached hereto and made a part of this AGREEMENT or using by serially numbered Work Authorizations, all as identified on the signature page to this AGREEMENT, and shall be performed by the CONSULTANT in accordance with the CLIENT's requirements. It is mutually understood that CONSULTANT'S fee is not a firm contractual amount except the total fee by the CONSULTANT shall not be exceeded unless authorized in writing by the CLIENT. The intent of the Scope of Services is to identify the services to be provided by CONSULTANT. However, it is specifically understood that by written notice to CONSULTANT, CLIENT can decrease or, with concurrence of CONSULTANT, increase the Scope of Services.

### SECTION II - PAYMENTS TO CONSULTANT

#### 2.1 Method of Payment

Payment for CONSULTANT'S personnel services and direct expenses shall be expressed in U. S. dollars, and based on the Method of Payment which is identified on the signature page to this AGREEMENT or serially numbered Work Authorizations, attached hereto, and made a part of this AGREEMENT.

#### 2.2 Payment for Personnel Services

##### 2.2.1 Payment

Payment for the services rendered by CONSULTANT'S personnel shall be based on the hours of chargeable time and in accordance with CONSULTANT'S Schedule of Unit Rates, which is identified on the signature page to this AGREEMENT and attached hereto, and made a part of this AGREEMENT.

##### 2.2.2 Chargeable Time

Chargeable time for CONSULTANT'S personnel is that portion of their time devoted to providing services requested by CLIENT. Chargeable time for field personnel located away from CONSULTANT'S office for more than one week is a minimum of eight hours per day and five days per calendar week, except for federally declared legal holidays or during an employee's sick leave or vacation time. Travel time from CONSULTANT'S office to an assigned work site, and return to CONSULTANT'S office, is chargeable time; or if more economical for CLIENT, CONSULTANT shall lodge its personnel overnight near the work site in lieu of traveling back to CONSULTANT'S office at the end of each work day.

##### 2.2.3 Overtime Rates

The basis for payment to CONSULTANT for each hour worked in excess of forty (40) hours in any calendar week shall be the applicable hourly rate as specified in the Schedule of Unit Rates.

#### 2.3 Payment for Direct Expenses

##### 2.3.1 Payment

For Direct Expenses incurred by CONSULTANT, payment to CONSULTANT by the CLIENT shall be in accordance with CONSULTANT'S Schedule of Unit Rates.

##### 2.3.2 Direct Expenses

For the purposes of this AGREEMENT, Direct Expenses to be contracted and managed by CONSULTANT and payable by CLIENT to CONSULTANT shall include: Outside Services including the services and reimbursable expenses for firms other than CONSULTANT which are necessary for the work the CONSULTANT is directed to perform; Laboratory Tests and related reports necessary for the work the CONSULTANT is directed to perform, either by the CONSULTANT or by an outside service for the CONSULTANT; Special Equipment expenses including the costs of the CONSULTANT locating, acquiring, leasing, or renting any equipment or facilities not currently owned, leased, or rented by CONSULTANT at the time of the request for services which are necessary to enable CONSULTANT to provide the services requested; vehicles furnished by CONSULTANT for CONSULTANT'S authorized travels and for CONSULTANT'S field personnel; Per Diem expense or actual costs of maintaining CONSULTANT'S field personnel on or near the Project site, for each day of field assignment away from CONSULTANT'S office; and Other Direct Expenses associated with all services provided hereunder and identified in the Schedule of Unit Rates.

#### 2.4 Payment Conditions

2.4.1 CONSULTANT shall submit monthly invoices for all personnel services and direct expenses under this AGREEMENT and a final invoice upon completion of services.

2.4.2 Invoices are due and payable upon receipt by CLIENT. Interest at a rate of 1.5% per month, or the maximum allowed by law, will be charged on all past due amounts starting thirty (30) days after date of invoice. Payments will first be credited to interest and then to principal.

2.4.3 In the event of a disputed or contested invoice, only that portion so contested will be withheld from payment and the CLIENT will pay the undisputed portion. No interest will accrue on any reasonably contested portion of the invoice until mutually resolved.

2.4.4 If CLIENT fails to make payment in full to CONSULTANT within sixty (60) days after the date of the undisputed invoice, CONSULTANT may, after giving seven (7) days' written notice to CLIENT, suspend services under this AGREEMENT until paid in full, including interest. CONSULTANT shall have no liability to CLIENT for delays or damages caused by such suspension of services. No final plans, documents or reports will be released for any purpose until CONSULTANT has been paid in full.

**2.4.5** The billing rates specified in the Schedule of Unit Rates for subsequent years shall be adjusted annually in accordance with CONSULTANT's costs of doing business, subject to CLIENT's review and concurrence.

### **SECTION III - Term of Agreement**

#### **3.1 Term**

CONSULTANT's obligations to perform under this AGREEMENT shall extend from the date of execution until terminated by either party.

#### **3.2 Abandonment of Work**

CLIENT shall have the absolute right to abandon any work requested hereunder or to change the general scope of the work at any time, and such action on its part shall in no event be deemed a breach of contract.

#### **3.3 Termination of AGREEMENT**

##### **3.3.1 Termination with Cause**

The obligation to provide further services under this AGREEMENT may be terminated with cause by either party. In the event of such termination, either party will promptly notify and confirm the termination in writing to the other party. The termination will be effective seven (7) days after delivery of written notice thereof. In the event of termination by CONSULTANT caused by failure of the CLIENT to perform in accordance with the terms of this AGREEMENT, CLIENT shall pay for all services performed prior to the effective date of the termination, including all project termination expenses. CONSULTANT shall prepare a progress report, including information as to all the services performed by CONSULTANT and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this AGREEMENT to the CLIENT upon receipt of final payment. In the event of termination by the CLIENT caused by failure by CONSULTANT to perform in accordance with the terms of this AGREEMENT, CONSULTANT shall prepare a progress report, including information as to all the services performed by CONSULTANT and the status of the services as of the date of the termination and provide information and documents developed under the terms of this AGREEMENT to the CLIENT. Upon receipt of all other information and documents, CLIENT shall pay CONSULTANT for services performed prior to the effective date of the termination.

##### **3.3.2 Termination without Cause**

Either party may, at its sole discretion, terminate this AGREEMENT without cause at any time. In the event of such termination, the terminating party will promptly notify and confirm the termination in writing to the other party. The termination will be effective seven (7) days after delivery of written notice thereof. Upon termination, CONSULTANT shall prepare a progress report, including information as to all the services performed by CONSULTANT and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this AGREEMENT to the CLIENT upon receipt of final payment.

#### **3.4 Payment for Work Upon Abandonment or AGREEMENT Termination**

If CLIENT abandons requested work or terminates this

AGREEMENT, CONSULTANT shall be paid on the basis of work completed to the date of abandonment or effective date of termination. CONSULTANT shall perform no activities other than reasonable wrap-up activities after receipt of notice of abandonment or termination. Payment for the work shall be as established under Section II.

### **SECTION IV - General Considerations**

#### **4.1 Assignment and Responsibility for Personnel**

**4.1.1** The assignment of personnel and all phases of the undertaking of the services which CONSULTANT shall provide hereunder shall be subject to the oversight and general guidance of CLIENT.

**4.1.2** While upon the premises of CLIENT or property under its control, all employees, agents, and subconsultants of CONSULTANT shall be subject to CLIENT's rules and regulations respecting its property and the conduct of its employees thereon.

**4.1.3** However, it is understood and agreed that in the performance of the work and obligations hereunder, CONSULTANT shall be and remain an independent Consultant and that the employees, agents or subconsultants of CONSULTANT shall not be considered employees of or subject to the direction and control of CLIENT. CONSULTANT shall be responsible for the supervision and performance of all subconsultants which are to perform hereunder.

#### **4.2 Insurance**

**4.2.1.** CONSULTANT shall not commence work under this AGREEMENT until they have obtained all insurance coverage from insurance companies authorized to provide insurance in the states in which the Services are to be performed and for the entire period Services to be performed, and with an AM Best rating of no less than A:VII unless specific approval has been granted by the CLIENT. Such insurance shall comply with the following minimum requirements:

(a) Workers' Compensation Insurance in the statutory amount and Employer's Liability in an amount not less than \$500,000 for all of CONSULTANT's employees. In case any such Services are sublet, CONSULTANT shall require all SUBCONSULTANTS to similarly provide the same level of insurance for all of their employees.

(b) Commercial General Liability insurance including Blanket Contractual, XCU Hazards, Broad Form Property Damage, Products/Completed Operations, and Independent Contractor's Liability covering claims for injuries to members of the public or damage to property of others arising out of any negligent act or omission of the CONSULTANT or any of its employees, agents, or subconsultants, with not less than \$1,000,000 per occurrence and \$2,000,000 General Aggregate.

(c) Comprehensive Automobile and vehicle liability insurance as shall protect them against claims for damages resulting from (i) bodily injury, including wrongful death, and (ii) property damage which may arise from the operations of any owned, hired, or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such coverage shall be \$1,000,000 combined single limits.

(d) Professional liability insurance of not less than \$1,000,000 per claim and in the aggregate.

**4.2.2.** CONSULTANT shall, upon execution of this AGREEMENT, prior to starting the Scope of Services, and annually thereafter during the term of this AGREEMENT, provide CLIENT with a certificate of insurance for such policies. CLIENT will be named as an additional insured with respect to CONSULTANT's Commercial General and

Automobile Liability policies. All insurance certificates shall specifically state that the insurance carrier will give CLIENT thirty (30) days' notice of cancellation or non-renewal in accordance with policy provisions.

#### **4.3 Successors and Assigns**

**4.3.1** CLIENT and CONSULTANT each binds itself and its partners, successors, executors, administrators, assigns, and legal representatives to the other party to this AGREEMENT and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this AGREEMENT.

**4.3.2** Neither CONSULTANT nor CLIENT shall assign or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this AGREEMENT without the written consent of the other party, except as stated in paragraph 4.3.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this AGREEMENT. Nothing contained in this paragraph shall prevent CONSULTANT from employing such independent consultants, associates, and subconsultant's as it may deem appropriate to assist in the performance of services hereunder.

**4.3.3** Nothing herein shall be construed to give any rights or benefits hereunder to any one other than CLIENT and CONSULTANT except as otherwise provided herein.

#### **4.4 Compliance with Law**

**4.4.1** CONSULTANT shall comply with, and cause its subconsultants to comply with, applicable Federal, state, and local laws, orders, rules, and regulations relating to the performance of the services CONSULTANT is to perform under this AGREEMENT.

**4.4.2** Neither the CONSULTANT nor the CONSULTANT's agents or employees shall discriminate against any employee or applicant for employment to be employed in the performance of this AGREEMENT with respect to hiring, tenure, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin.

#### **4.5 Ownership and Reuse of Documents**

**4.5.1** All drawings, specifications, test reports, and other materials and work products which have been prepared or furnished by CLIENT prior to this AGREEMENT shall remain CLIENT's property. CONSULTANT shall be permitted to rely on CLIENT furnished documents and CLIENT shall make available to CONSULTANT copies of these materials as necessary for the CONSULTANT to perform the services requested hereunder.

**4.5.2** All drawings, specifications, test reports, and other materials and work products, including computer aided drawings, designs, and other data filed on electronic media which will be prepared or furnished by CONSULTANT (and CONSULTANT's independent professional associates and subconsultants) under this AGREEMENT, are instruments of service in respect to the Project and CONSULTANT shall retain an ownership and property interest therein whether or not the Project is completed. CLIENT may make and retain copies for information and reference in connection with the use and the occupancy of the Project by CLIENT and others; however, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project. Further,

CONSULTANT makes no warranty as to the compatibility of computer data files with computer software and software releases other than that used by CONSULTANT in performing services herein, and to the condition or availability of the computer data after an acceptance period of thirty (30) days from delivery to CLIENT. Any reuse without written verification or adaptation by CONSULTANT for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to CONSULTANT or to CONSULTANT's independent professional associates or subconsultants, and CLIENT shall indemnify and hold harmless CONSULTANT and CONSULTANT's independent professional associates and subconsultants from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle CONSULTANT to further compensation at rates to be agreed upon by CLIENT and CONSULTANT.

#### **4.6 Severability**

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

#### **4.7 Location of Underground Utilities**

It shall be the CLIENT's responsibility to locate and physically mark all underground utilities and structures which lie within the work area prior to the start of subsurface investigations. If the CLIENT elects not to assume this responsibility, CLIENT shall notify CONSULTANT and shall compensate CONSULTANT for all costs associated with locating and physically marking said underground utilities and structures over and above the estimated project fee. CLIENT shall indemnify and hold CONSULTANT harmless from any damages and delays resulting from unmarked or improperly marked underground utilities and structures. For reasons of safety, CONSULTANT will not begin work until this has been accomplished.

#### **4.8 Subsurface Investigations**

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics might vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of the CONSULTANT.

#### **4.9 CONSULTANT's Personnel at Project Site**

**4.9.1** The presence or duties of the CONSULTANT personnel at a Project site, whether as onsite representatives or otherwise, do not make the CONSULTANT or its personnel in any way responsible for those duties that belong to the CLIENT and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the project documents and any health or safety precautions required by such construction work. The CONSULTANT and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for

inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor or other entity or any other persons at the site except CONSULTANT's own personnel.

**4.9.2** The presence of CONSULTANT's personnel at a construction site is for the purpose of providing to CLIENT a greater degree of confidence that the completed work will conform generally to the project documents and that the integrity of the design concept as reflected in the project documents has been implemented and preserved by the contractor(s). CONSULTANT neither guarantees the performance of the contractor(s) nor assumes responsibility for contractor(s)' failure to perform their work in accordance with the project documents.

#### **4.10 Opinions of Cost, Financial Considerations, and Schedules**

In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Project, the CONSULTANT has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. CONSULTANT's opinions of probable Total Project Costs and Construction Costs provided for herein as appropriate are made on the basis of CONSULTANT's experience and qualifications and represent CONSULTANT's judgments as an experienced and qualified professional consultant familiar with the construction industry. CONSULTANT makes no warranty that the CLIENT's actual Total Project or Construction Costs, financial aspects, economic feasibility, or schedules will not vary from the CONSULTANT's opinions, analyses, projections, or estimates. If CLIENT wishes greater assurance as to any element of the Total Project or Construction cost, feasibility, or schedule, CLIENT will employ an independent cost estimator, contractor, or other appropriate advisor.

#### **4.11 Disposition of Samples and Equipment**

##### **4.11.1 Disposition of Samples**

No samples and/or materials will be kept by CONSULTANT longer than thirty (30) days after submission of the final report unless agreed otherwise.

##### **4.11.2 Hazardous or Potentially Hazardous Samples and Materials**

In the event that samples and/or materials contain or are suspected to contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state, or local statutes, regulations, or ordinances, CONSULTANT will, after completion of testing, return such samples and materials to CLIENT, or have the samples and materials disposed of in accordance with CLIENT's directions and all applicable laws. CLIENT agrees to pay all costs associated with the storage, transportation, and disposal of samples and materials. CLIENT recognizes and agrees that CONSULTANT at no time assumes title to said samples and materials, and shall have no responsibility as a handler, generator, operator, transporter, or disposer of said samples and materials.

##### **4.11.3 Contaminated Equipment**

All laboratory and field equipment contaminated in CONSULTANT's performance of services will be cleaned at CLIENT's expense. Contaminated consumables will be disposed of and replaced at CLIENT's expense. Equipment (including tools) which cannot be reasonably decontaminated shall become the property and responsibility of CLIENT. At CLIENT's expense, such equipment shall be delivered to CLIENT, or disposed of in the same manner specified in 4.11.2 above. CLIENT agrees to pay CONSULTANT the fair market value of any such equipment which cannot reasonably be decontaminated and is delivered to CLIENT pursuant to this

AGREEMENT.

#### **4.12 Discovery of Unanticipated Pollutant and Hazardous Substance Risks**

**4.12.1** If CONSULTANT, while performing the services, discovers pollutants and/or hazardous substances that pose unanticipated risks, it is hereby agreed that the scope of services, schedule, and the estimated cost of CONSULTANT's services will be reconsidered and that this AGREEMENT shall immediately become subject to renegotiation or termination.

**4.12.2** In the event that the AGREEMENT is terminated because of the discovery of pollutants and/or hazardous substances posing unanticipated risks, it is agreed that CONSULTANT shall be paid for its total charges for labor performed and reimbursable charges incurred to the date of termination of this AGREEMENT, including, if necessary, any additional labor or reimbursable charges incurred in demobilizing.

**4.12.3** CLIENT also agrees that the discovery of unanticipated pollutants and/or hazardous substances may make it necessary for CONSULTANT to take immediate measures to protect health and safety. CONSULTANT agrees to notify CLIENT as soon as practically possible should unanticipated pollutants and/or hazardous substances be suspected or encountered. CLIENT authorizes CONSULTANT to take measures that in CONSULTANT's sole judgment are justified to preserve and protect the health and safety of CONSULTANT's personnel and the public. CLIENT agrees to compensate CONSULTANT for the additional cost of taking such additional precautionary measures to protect employees' and the public's health and safety. This section is not intended to impose upon CONSULTANT any duties or obligations other than those imposed by law.

### **SECTION V - Professional Responsibility**

#### **5.1 Performance of Services**

Client acknowledges that the performance of professional services is not an exact science, and errors and omissions may occur that are within the industry standard of practice which states that CONSULTANT will strive to perform services under this AGREEMENT in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document, or otherwise.

#### **5.2 Not Used**

#### **5.3 Not Used**

#### **5.4 Indemnification**

Each party shall indemnify and hold harmless the other party, its agents, employees and representatives from all claims, demands, suits, actions, payments, liability, judgments and expenses (including court-ordered attorney's fees), arising out of or resulting from the performance of this Agreement that results in bodily injury, sickness, disease, death, civil rights liability, or damage to or destruction of tangible property, including the loss of use resulting therefrom, and is caused in whole or in part by the indemnifying party, its employees, agents, or representatives, either directly or indirectly employed by them. This section will not require the indemnifying party to indemnify or hold harmless the other party for any losses, claims, damages and expenses arising out of or resulting from the negligence of the other party.

### **5.5 No Third Party Beneficiaries**

CLIENT and CONSULTANT expressly agree that AGREEMENT does not confer upon any third party any rights as beneficiary to this AGREEMENT. CONSULTANT accepts no responsibility for damages, if any, suffered by any third party as the result of a third party's use of the work product, including reliance, decisions, or any other action taken based upon it.

CLIENT agrees that CONSULTANT's services and work products are for the exclusive present use of CLIENT. CLIENT agrees that CONSULTANT's compliance with any request by CLIENT to address or otherwise release any portion of the work product to a third party shall not modify, rescind, waive, or otherwise alter provisions of this AGREEMENT nor does it create or confer any third party beneficiary rights on any third party.

## **SECTION VI - Miscellaneous Provisions**

### **6.1 Notices**

Any notice to either party herein shall be in writing and shall be served either personally or by registered or certified mail addressed to the signing party shown on the signature page.

### **6.2 Joint Preparation**

For purposes of contract interpretation and for the purpose of resolving any ambiguity in this AGREEMENT, the parties agree that this Agreement was prepared jointly by them and/or their respective attorneys.

### **6.3 Headings**

Headings used in this AGREEMENT are for the convenience of reference only and shall not affect the construction of this AGREEMENT

### **6.4 Dispute Resolution**

CLIENT and CONSULTANT agree to negotiate in good faith to resolve any dispute arising under this AGREEMENT in a timely manner. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

### **6.5 Governing Law**

This AGREEMENT is to be governed by the laws of the jurisdiction in which the project is located. For locations outside of the United States, this AGREEMENT shall be governed by the laws of the State of Illinois.

### **6.6 Entire Agreement**

This AGREEMENT, along with those documents specified, attached, or hereby cited together, and serially numbered Work Authorizations if used, constitute the entire AGREEMENT between the parties hereto and no changes, modifications, extensions, terminations, or waivers of this agreement, or other documents, or any of the provisions herein, or therein contained, shall be valid unless made in writing and signed by duly authorized representatives of both parties.

### **6.7 Work Eligibility Verification**

In accordance with Neb. Rev. Stat. § 4-108 through § 4-114, CONSULTANT agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration

Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. CONSULTANT shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. § 1324b. CONSULTANT shall require any SUBCONSULTANT to comply with the provisions of this section.



ALFRBEN-01

CMURPHY

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/08/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Ames &amp; Gough</b> 859 Willard Street Suite 320 Quincy, MA 02169	<b>CONTACT NAME:</b> <b>PHONE (A/C, No., Ext): (617) 328-6555</b> <b>FAX (A/C, No.): (617) 328-6888</b> <b>E-MAIL ADDRESS: boston@amesgough.com</b>
<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURER A : Travelers Indemnity Co. of America A++, XV</b>	<b>25666</b>
<b>INSURER B : Charter Oak Fire Insurance Company A++ (XV)</b>	<b>25615</b>
<b>INSURER C : Travelers Property Casualty Company of America</b>	<b>25674</b>
<b>INSURER D : Zurich American Insurance Company (A+) XV</b>	<b>16535</b>
<b>INSURER E :</b>	
<b>INSURER F :</b>	

**INSURED**  
  
**Alfred Benesch & Company**  
 825 M Street, Suite 100  
 Lincoln, NE 68508

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:	X	X	630-0D870755	05/31/2016	05/31/2017	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
							MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	810-2D558685	05/31/2016	05/31/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0	X	X	ZUP-15P01416	05/31/2016	05/31/2017	EACH OCCURRENCE \$ 1,000,000
							AGGREGATE \$ 1,000,000
							\$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	UB-0D896722	05/31/2016	05/31/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Prof. Liability & Pollution Liab.			EOC557426703	05/31/2016	05/31/2017	Per Claim 1,000,000
				EOC557426703	05/31/2016	05/31/2017	Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 All Coverages are in accordance with policy terms and conditions.

RE: Lancaster County Asphalt Correlation Testing-Multiple Sites County Project No. 017.01

Lancaster County Engineering Department shall be listed as additional insured with respect to General, Auto and Umbrella Liability where required by written contract. General, Auto and Umbrella Liability is Primary & non-contributory. A Waiver of Subrogation and 30 Day Notice of Cancellation is provided in accordance with the policy terms and conditions.

**CERTIFICATE HOLDER****CANCELLATION**

Lancaster County Engineering Department  
 444 Cherrycreek Rd., Attn: Pamela Dingman  
 Lincoln, NE 68528

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Michael Walshy*



POLICY NUMBER: P-630-0D870755-TIA-16

COMMERCIAL GENERAL LIABILITY  
ISSUE DATE: 05-01-17

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
SCHEDULE

**Name of Person or Organization:**

CITY OF LINCOLN AND/OR LANCASTER  
COUNTY (CONTINUED ON CG T8 04)

555 SOUTH 10TH STREET

LINCOLN NE 68508

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

**A. Section II – Who Is An Insured** is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

**B.** With respect to the insurance afforded to these additional insureds, the following exclusion is added:

**2. Exclusions**

This insurance does not apply to "bodily injury" or "property damage" occurring after:

(1) All work, including materials, parts or equipment furnished in connection with

such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

POLICY NUMBER: P-630-0D870755-TIA-16

COMMERCIAL GENERAL LIABILITY  
GENERAL PURPOSE ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - CONTINUED

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

AMENDING SCHEDULE OF CG 20 10 10 01 "ADDITIONAL INSURED OWNERS, LESSEES OR CONTRACTORS SCHEDULED PERSON OR ORGANIZATION", NAME OF PERSON OR ORGANIZATION TO INCLUDE:

CITY OF LINCOLN AND/OR LANCASTER COUNTY AND/OR CITY OF LINCOLN/LANCASTER COUNTY PUBLIC BUILDING COMMISSION  
555 SOUTH 10TH STREET  
LINCOLN, NE 68508

LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:

CONTRACT PROJECTS FOR THE CITY OF LINCOLN AND/OR LANCASTER COUNTY AND/OR CITY OF LINCOLN/LANCASTER COUNTY PUBLIC BUILDING COMMISSION

POLICY NUMBER: P-630-0D870755-TIA-16

COMMERCIAL GENERAL LIABILITY  
ISSUE DATE: 05-01-17

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name of Person or Organization:**

CITY OF LINCOLN AND/OR LANCASTER  
COUNTY (CONTINUED ON CG T8 05)

**Location And Description of Completed Operations:**

SEE CG T8 05

**Section II – Who Is An Insured** is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

POLICY NUMBER: P-630-0D870755-TIA-16

COMMERCIAL GENERAL LIABILITY  
GENERAL PURPOSE ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - CONTINUED

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

AMENDING SCHEDULE OF CG D3 73 11 05 "ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS", NAME OF PERSON OR ORGANIZATION TO INCLUDE:

CITY OF LINCOLN AND/OR LANCASTER COUNTY AND/OR CITY OF LINCOLN/LANCASTER COUNTY PUBLIC BUILDING COMMISSION  
555 SOUTH 10TH STREET  
LINCOLN, NE 68508

LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:

CONTRACT PROJECTS FOR THE CITY OF LINCOLN AND/OR LANCASTER COUNTY AND/OR CITY OF LINCOLN/LANCASTER COUNTY PUBLIC BUILDING COMMISSION



**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**ENDORSEMENT WC 00 03 13 (00)-01**

POLICY NUMBER: UB-0D896722

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

**SCHEDULE**

**DESIGNATED PERSON:**

**DESIGNATED ORGANIZATION:**

**ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS  
AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO  
FURNISH THIS WAIVER.**

DATE OF ISSUE: 05/31/2016 ST ASSIGN: