

BOARD OF PUBLIC WORKS AND SAFETY
Agenda Request Form

(Form B-01-2012)

Organizations and individuals are asked to submit a request form and supporting documents to be placed on the agenda. You will be contacted by the City confirming the date of the meeting in which your request will be heard.

Please make sure that your contact information is accurate in case we need to get in touch with you. The Board of Works meets on the 1st and 3rd Monday of each month at 5:00 p.m. in City Hall located at 70 E. Monroe Street.

| | | | |
|--|----------------------------|----------------------------------|--------------|
| Date Submitted: | 1-23-2013 | Requested Meeting Date: | 2-4-2013 |
| | | Confirmed Meeting Date: | |
| Received by: | | | |
| Contact Information: Please provide all requested information in the fields below. (Print or Type) | | | |
| On Behalf of Organization or Individual: | | City of Franklin- Mayor's Office | |
| Name: | Matt Zimmerman | Telephone: | 317-736-3602 |
| Title or Position: | Director of Operations | | |
| E-Mail: | mzimmerman@franklin.in.gov | | |
| Address: | 70 E. Monroe Street | | |
| City: | Franklin | State: | IN |
| ZIP: | 46131 | | |
| Who will attend the meeting and present the request? | | | |
| Name: | Joe McGuinness | Telephone: | 317-736-3602 |
| Title or Position: | Mayor | | |
| E-Mail: | mayor@franklin.in.gov | | |
| Please describe the purpose or title of your presentation. | | | |
| Seeking BOW approval for Mayor McGuinness to sign an addendum to the HWC Comprehensive Plan contract to now include additional work for the Stellar Grant application. | | | |
| Supporting documents: All supporting documents should be submitted with the request form. | | | |
| 1. HWC contract addendum | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |

HWC ENGINEERING
601 South 3rd Street
Terre Haute, IN 47807
(812) 234-2551
(812) 234-9067 (fax)

MEMORANDUM OF AGREEMENT FOR ENGINEERING SERVICES

Client: City of Franklin, Indiana
Client Address: 70 E. Monroe St.
P.O. Box 280
Franklin, IN 46131
Project Name: Stellar Communities Application
Project Number: 2012-185

Services to be provided: Services to be provided are described in detail in the attached Scope of Services included herein as Exhibit A.

Schedule: See schedule section in Exhibit B.

Fees: Fee breakdowns are described in Exhibit B attached.

Invoicing/Payments: Billing is monthly unless otherwise noted. Payments are due within 30 days of invoice receipt. The rates identified in this Agreement are not subject to change. In no event shall the maximum fee and reimbursable expenses exceed the stated amount of the RFP accepted by the Client. If a maximum fee amount is indicated, this amount will not be exceeded without further authorization by the client. The terms and conditions under which we are providing these services are set forth on pages 2 and 3, and are incorporated herein by reference. Additional services requested may necessitate a higher fee.

The above is intended as a summary of our agreement for the performance of the work described. Please examine same carefully and, if accurate, indicate your approval and acceptance in space provided below.

HWC ENGINEERING, INC.

Date: 1-14-13
Printed Name & Title:

By: *Edward P. Joffiffe*
EDWARD P. JOFFIFFE PRESIDENT

CLIENT:

The undersigned hereby states that they are the person or duly authorized agent of the person or organization contracting for the above services for the above described project and that the terms and conditions stated are understood and herewith agreed to and accepted. HWC Engineering, Inc. is hereby authorized to proceed with the services outlined herein.

Date: _____ By: _____
Printed Name & Title: Joe McGuinness, Mayor



TERMS AND CONDITIONS

To assure an understanding of matters related to our mutual responsibilities these terms and conditions for professional engineering services are part of this agreement for our services.

COMPENSATION FOR HWC's SERVICES - The basis for compensation will be as identified in the agreement. When "Lump Sum" payment is utilized it shall include all labor and expenses (for the scope of work as defined in the agreement) incurred by HWC and shall not exceed the fixed payment amount without prior authorization of the CLIENT. When hourly (no limit) and hourly not-to-exceed (nte) is utilized, all labor and reimbursable expenses will be billed according to the rate schedule attached to this agreement.

"Reimbursable Expenses" means the actual expenses incurred directly or indirectly in connection with the work including but not limited to the following: Transportation and subsistence, toll telephone calls, facsimile transmissions, reproduction or printing, HWC's computer time, and outside aerial photographs or topography, testing, geotechnical, layout, inspection, and other outside consultants.

TIME OF PAYMENT - HWC may submit monthly statements for services and expenses based upon the proportion of the actual work completed at the time of billing. If the CLIENT fails to make any payment due HWC for services and expenses within 30 days after receipt of HWC's invoice the amounts due HWC will be increased at the rate of 1.5% per month from the thirtieth day from invoicing. In addition, HWC may, after giving fourteen days written notice to CLIENT, suspend services under this Agreement until HWC has been paid in full all amounts due for services, expenses, and other related charges. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

DOCUMENT OWNERSHIP, COPYRIGHTS, AND ALLOWED DOCUMENT USES - All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by HWC as instruments of service shall remain the property of HWC. HWC shall retain all common law, statutory and other rights, including the copyright thereto.

Unless otherwise indicated, with respect to this Project, all Documents are instruments of service. HWC shall retain an ownership and property interest therein (including the right of reuse at the discretion of HWC), whether or not the Project is completed.

The CLIENT acknowledges HWC's construction documents as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the CLIENT upon completion of the work and payment in full of all monies due to HWC.

HWC may rely upon copies of CLIENT-furnished data in the performance of its services as defined within this agreement and the agreement Exhibits. The CLIENT-furnished data may be in any acceptable format including electronic media formats such as text, data, graphics, or other types furnished by the CLIENT and acceptable to HWC.

Copies of Documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by HWC. Files in electronic media format of text, data, graphics, or of other types that are furnished by HWC to CLIENT are only for the convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

CLIENT may make and retain copies of Documents for information and reference in connection with use on the Project by CLIENT. Such Documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or any other Project. Any such reuse or modification without written verification or adaptation by HWC, as appropriate for the specific purpose intended, shall be at CLIENT's sole risk and without liability or legal exposure to HWC or to HWC's Consultants.

If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. Any verification or adaptation of the Documents for extensions of the Project or for any other Project shall entitle HWC to further compensation at rates to be agreed upon by CLIENT and HWC.

CERTIFICATIONS, GUARANTEES, AND WARRANTIES - The standard of care for all professional engineering and related services performed or furnished by HWC under this Agreement will be the care and skill ordinarily used by members of HWC's profession practicing under similar circumstances at the same time in the same locality. HWC makes no warranties, express or implied, under this Agreement or otherwise, in connection with HWC's services.

HWC shall not guarantee the work of any Contractor or Subcontractor, shall have no authority to stop work, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, and shall not be responsible for safety in, on, or about the job site.

HWC shall not be required to sign any documents, no matter by whom requested that would result in HWC having to certify, guarantee, or warrant the existence of conditions whose existence HWC cannot ascertain. The CLIENT also agrees not to make resolution of any dispute with HWC or payment of any amount due to HWC in any way contingent upon HWC's signing any such certification.

TERMINATION - The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, HWC shall be paid for all services rendered to the effective date of termination, including unbilled services at hourly rates in effect at the time of termination.



INSURANCE - HWC shall procure and maintain Professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be either: General Office Coverage or Project Specific Professional Liability Insurance, with a per occurrence limit of not less than \$2,000,000.00. The Professional Liability Insurance shall contain prior acts coverage sufficient to cover all Services performed by HWC, and Worker's Compensation, disability benefit, or any other similar employee benefit laws, including bodily injury, occupational sickness or disease of an employee; Commercial General Liability Insurance, with a per occurrence limit of not less than \$1,000,000.00; Additionally, HWC shall require its Consultants to maintain Commercial General Liability and Comprehensive Automobile Liability coverage.

DISPUTE RESOLUTION - HWC and CLIENT agree that any controversy, claim, counterclaim, or other dispute arising out of or relating to this contract, or any alleged breach thereof, provided that the amount in controversy is in excess of Five Thousand Dollars (\$5,000.00), shall first be submitted by the parties to pre-arbitration mediation, under the Indiana Rules for Alternative Dispute Resolution and with a mediator agreed to by the parties, prior to and as a condition precedent to arbitration, litigation or any other binding action or recourse under law.

Submission of a dispute under this Agreement to mediation will be a condition precedent to filing arbitration or litigation regarding any dispute (when the amount in controversy is in excess of \$5,000) arising out of or related to this contract. Failure to comply with this condition precedent shall be in contravention of the parties express intention to implement these alternative means of dispute resolution and constitute a breach of this clause.

Mediation shall be conducted by the parties within 120 days after either party has invoked this clause and notified the other party of its intention to mediate.

Each party shall bear its own costs and expenses of the mediation. If one party has filed litigation which is otherwise covered by this dispute resolution clause and which has not been subject to mediation and/or arbitration as per this clause, the other party may properly seek to dismiss or stay the litigation at its discretion for the purpose of conducting mediation or arbitration.

AMENDMENTS - This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be deemed to supersede all prior and contemporaneous agreements, representations and understandings, whether written or oral, and the same shall be deemed to have been merged into this Agreement. No amendment or modification to this Agreement shall have any force or effect unless in writing and signed by both the CLIENT and HWC.

EXHIBIT A

SCOPE OF SERVICES – STELLAR COMMUNITIES CONSULTING SERVICES

CITY OF FRANKLIN STELLAR COMMUNITIES APPLICATION CITY OF FRANKLIN, INDIANA HWC #2012-185

JANUARY 2013

INTENT

HWC will assist the city in preparing for the 2013 Stellar Communities Grant competition by helping to lay the groundwork for the application through the Letter of Intent and, if shortlisted, assisting the City with the preparation and planning of the full Stellar Communities application and Selection Committee site visit. The key objective is to ensure the City of Franklin is prepared to put together a complete and comprehensive proposal for the next round of Stellar Communities grant funding. HWC's staff will consult with city officials in order to prepare for the Stellar Communities competition. Our scope of services would include the following activities:

PHASE I: APPLICATION PREPARATION

Task 1: Priority Area & Projects Workshop

HWC conducted a preliminary review of existing plans and studies, priority areas, and projects identified by the comprehensive plan, Gateways, Greenways, and Redevelopment Study, and the Downtown Market Analysis. Alongside City officials, HWC will conduct an initial planning workshop to help to identify projects and priorities within the existing plans which would likely meet State Agency goals for the Stellar Communities program. HWC will assist the City in selecting the project priority area for the Stellar application, identify potential constraints and opportunities, and identify and prioritize needed projects and initiatives.

Task 1 Deliverables: For Task 1, HWC will summarize the results of the workshop and will provide one (1) digital (PDF) copy of the summary to the City.

Task 2: Monthly Planning/Progress Meetings

HWC will assist with the formation of the Stellar Planning Committee. HWC will meet with the Stellar Planning Committee on a monthly basis throughout the planning effort. The purpose of the planning meetings is to bring local stakeholders and community partners together to work through the details of identifying and planning the proposed Stellar Communities projects. The Stellar Committee will be selected by City Officials, with guidance from HWC Engineering. It is anticipated that the Stellar Committee will commence monthly meetings beginning with the conclusion of the initial planning workshop described in Task 1. This committee is expected to run from January 2013 to May 2013.

Task 2 Deliverables: For Task 2, HWC will provide one (1) digital (PDF) copy of the meeting minutes for each planning meeting.

Task 3: Investment Plan

Working with the Results from Task 1 and Task 2, HWC will make final recommendations for the Stellar Communities project priority area and will identify likely key Stellar projects. Upon approval from the City, HWC will then work with the City's financial advisor to develop an investment plan for the projects in the identified priority area. This plan will identify planning level project costs, likely grant funding resources, and likely City matching funds sources. This will form the basis for the financial information which will be required during the Letter of Intent phase Described in Task 4.

Task 3 Deliverables: There will be no direct deliverables associated with Task 3 work. The results from the investment planning activity will be used in the final deliverables associated with Task 4.

Task 4: Letter of Intent

HWC will lead the development and submittal of a 2013 Stellar Communities Letter of Intent. The letter of Intent is the first stage of the Stellar Communities Grant Application and consists of a detailed summary of the proposed project area, the identified projects, proposed partnerships, planning level estimates of anticipated project budgets, and a detailed program investment plan. For this stage of the process, HWC will work with the City to provide the following services:

- HWC will facilitate the process of identifying projects, partners, and funding for the Stellar Communities Letter of Intent.
- HWC will assist the City in developing target budgets for the engineering projects to be included in the Letter of Intent. Budget estimates associated with architectural components of the projects will be by others under separate agreements.
- One (1) schematic graphic of project locations will be developed. Graphics associated with architectural components of the projects will be by others under separate agreements.
- Anticipated Schedule: Begin January 2013. Anticipate submitting letter of intent in 1st quarter of 2013.

Task 4 Deliverables: For Task 4: HWC will prepare all materials required for the submittal of the Letter of Intent. HWC will also provide all copies necessary in the format required to meet stated grant submittal requirements.

Task 5: Final Application and State Selection Committee Site Visit

If the City is selected as a Finalist for Stellar Communities, HWC will facilitate the preparation of a final strategic investment plan, prepare detailed project scope/schedule/budget summaries for each identified project, write the stellar communities application, and assist with preparations for the site visit.

- HWC will attend the state workshop for finalists.
- HWC will facilitate meetings with the City and identified community partners to review and prepare the application.
- HWC will develop project summary graphics for each Stellar Project. Graphics will include one (1) project location map, one (1) project narrative summary, One (1) summary project schedule, one(1) perspective sketch, and one (1) plan graphic for each proposed Stellar project. Architectural plans and renderings for building projects shall be completed by others.
- HWC will prepare the formal application and will provide the City with the necessary copies in the required format for submittal.

- For the State Selection Committee site visit, HWC will prepare an agenda for the site visit and develop an outline for key presentations. Planning and logistics for the selection committee site visit will be the responsibility of the City.
- Anticipated Schedule: The grant application is likely due in the second quarter of 2013. The site visit is anticipated to occur 2-4 weeks after the application is submitted.

***Task 5 Deliverables:** For Task 5: HWC will prepare all materials required for the submittal of the final Stellar Communities application. HWC will also provide all copies necessary in the format required to meet stated Stellar Communities application submittal requirements.*

Task 6: Services for Program Management

If selected as a Stellar Community, the City agrees to retain HWC as the Program Manager for the Stellar Communities Projects. The role of the Program Manager will be facilitation of the planning and execution of the projects over the 3 year duration of the program, and to manage project scope, schedule and budgets. Work associated with Stellar Communities Projects is anticipated to take 3 years to complete. Services described within this scope conclude with the submittal of a Final Stellar Communities Application. If the City is selected as a winner of a Stellar Communities grant a separate agreement will be negotiated to define the scope, deliverables, and fees associated with the Program Management activities described in Task 6.

Notes & Assumptions

- HWC makes no guarantee of being selected as a finalist or winning Stellar Community. Fees in this proposal for the Letter of Intent and Application phases are due regardless of selection.
- The submittal deadlines for the 2013 Stellar Communities program have not been released by the Indiana Office of Community and Rural Affairs (OCRA) at the time of this agreement. Schedules in this agreement have been estimated based upon information available at the time and are subject to change to coincide with the final program submittal deadlines issued by OCRA.
- If selected as a finalist, the State has previously awarded a \$10,000 planning grant to prepare the application. This funding can be used towards the payment of the above amounts.
- Except for the anticipated \$10,000 planning grant if selected as a finalist, the balance of above fees will only be payable from local funds. The amounts are not eligible for grants or state reimbursement.
- Additional costs, not included in this proposal, may be associated with the preparation of the application. Notably, an architect will need to be engaged to prepare budgets for the building projects. Many communities have also chosen to have a professional video completed to accompany the site visit. Such costs shall be paid directly by the City or others.
- HWC will assist the City in developing a programming strategy for the Selection Committee Site Visit under this agreement. All costs associated with the programming, planning, and execution of the site visit will be the responsibility of the

city. These costs include, but are not limited to, venue rentals, printing costs, advertising costs, costs for food and beverage, transportation costs, and any other costs incidental to the site visit.

EXHIBIT B

SCHEDULE AND FEES

**CITY OF FRANKLIN STELLAR COMMUNITIES APPLICATION
CITY OF FRANKLIN, INDIANA
HWC #2012-185**

January 2013

SCHEDULE

HWC began work associated with Task 1 in December of 2012 with the initial planning workshop and kickoff meeting occurring on December 19, 2012. It is anticipated that all work to complete Task 1 through Task 4 of this agreement will take approximately six (6) months to complete. The actual duration of the services described for Task 1 through Task 4 will be dependent upon the final program requirements, and the needs of the City. The schedule associated with the services described in Task 5 is anticipated to be approximately 45 days in duration but will be dependent upon the program deadlines defined in the Stellar Communities Program Request for Proposals. The schedule associated with completion of Task 6 will be negotiated upon selection of the City of Franklin as a Stellar Communities Grant recipient.

FEES

Fees associated with the work described in Task 1 through Task 4 of this agreement will be billed on a monthly basis of Two Thousand Five Hundred Dollars (\$2,500) per month with a total maximum duration of six months and a total fee not to exceed Fifteen Thousand Dollars (\$15,000). Billing for monthly fees will begin with the execution of this agreement and will be billed retroactively for services rendered beginning in December of 2012. Monthly fees will end upon completion of the final deliverables described in Task 4 of this agreement. Fees associated with Task 5 of this agreement will be a lump sum total of Ten Thousand Dollars (\$10,000), making the total maximum contract amount for services associated with Tasks 1-5 of this agreement Twenty Five Thousand Dollars (\$25,000). Fees associated with Task 6 of this agreement will be billed on an hourly rate basis with rates negotiated upon selection of the City of Franklin as a Stellar Communities Grant recipient.

SCHEDULE AND FEES SUMMARY TABLE

| Work Task | Deliverable Phase | Fee Structure | Fee Amount |
|------------------|---------------------------|----------------------|--|
| Task 1 -Task 4 | Letter of Intent (LOI) | Monthly Retainer | \$2,500 per month ending with submittal of LOI \$15,000 maximum |
| Task 5 | Final Stellar Application | Lump Sum | \$10,000 |
| Task 6 | Program Management | Hourly Rate Basis | Negotiable Upon Selection |