

**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:** 01/03/2018

**Meeting Date:** 01/08/2018

**Contact Information:**

**Requested by:** Rick Littleton – DPW Superintendent

**On Behalf of Organization or Individual:** DPW

**Telephone:** 317-736-3640

**Email address:** [rlittleton@franklin.in.gov](mailto:rlittleton@franklin.in.gov)

**Mailing Address:** 796 S. State Street

**Describe Request:**

Approval and execution of General Services Agreement with Commonwealth Engineers

**List Supporting Documentation Provided:**

Agreement

**Who will present the request?**

**Name:** Rick Littleton

**Telephone:** 317-736-3640

*In order for an individual and/or agency to be considered for new business on the Board of Works agenda, this reservation form and supporting documents must be received in the Mayor's office no later than 4:00 p.m. on the Wednesday before the meeting.*

**AGREEMENT BETWEEN  
CITY OF FRANKLIN, INDIANA  
AND  
COMMONWEALTH ENGINEERS, INC.  
FOR  
ON-CALL WASTEWATER ENGINEERING SERVICES**

THIS AGREEMENT, entered into by and between the City of Franklin, Indiana (hereinafter named OWNER) and Commonwealth Engineering, Inc. (hereinafter named ENGINEER):

WITNESSETH THAT:

WHEREAS, the OWNER has need for On-Call Engineering Services to address issues with the City's wastewater collection and treatment system; and

WHEREAS, the ENGINEER proposes to provide Professional Services to the OWNER to address issues with the wastewater system, herein described as the PROJECT and

WHEREAS, the Project shall consist of individual Task Orders initiated at the request of the OWNER; and

WHEREAS, the ENGINEER has expressed a willingness to provide the Professional Services and agrees to furnish these services as described in this Agreement for the above-described PROJECT.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto mutually covenant and agree as follows:

**ARTICLE I  
SCOPE OF PROFESSIONAL SERVICES - BASIC SERVICES**

**A. BASIC SERVICES**

- I. All Professional Services shall be executed by a separate Task Order which, upon execution, will become part of this Agreement. Each Task Order shall define the scope of work, include the proposed fee and type of fee, and anticipated schedule for completing the work defined by the Task Order.

**ARTICLE II**  
**OWNER'S RESPONSIBILITIES**

The OWNER's responsibilities are contained in Attachment No. 1, Standard Terms and Conditions.

**ARTICLE III**  
**COMPENSATION**

In accordance with the terms and conditions of the Agreement, the ENGINEER shall provide the professional services for which the OWNER shall compensate the ENGINEER as follows:

- A. Compensation for Basic Services to be provided as described in Article I shall be on the basis of either (1) a Lump Sum Fee (including Reimbursable Expenses) or (2) the ENGINEER's current Hourly Rate and Reimbursable Expense Schedule, as defined in each individual Task Order. No charges for Professional Services shall be incurred without written approval of the Owner or Owner's Representative.

Under Item (2), Compensation shall be on the basis of the of the actual man-hours and expenses incurred in performing the Services, at the ENGINEER'S hourly rate and reimbursable expense schedule in effect at the time the Services are performed (the 2017-2018 Hourly Rate and Reimbursable Schedule is included as Attachment No. 2), plus reimbursement for actual out-of-pocket costs incurred in conjunction with providing the Professional Services described herein.

**ARTICLE IV**  
**SCHEDULE**

The Schedule for completing the Work shall be as defined in each individual Task Order.

**ARTICLE V**  
**STANDARD TERMS AND CONDITIONS**

The Standard Terms and Conditions of this Agreement are included as Attachment No. 1 through 6.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same agreement. A telecopied or facsimile signature shall be equivalent to and as binding as an original signature.

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**ENGINEER**  
COMMONWEALTH ENGINEERING, INC.

**OWNER**  
CITY OF FRANKLIN, INDIANA

  
\_\_\_\_\_  
Albert C. Stong, P.E. President

\_\_\_\_\_  
Steve Barnett, Mayor

Attest:   
\_\_\_\_\_  
Brady M. Dryer  
Environmental Compliance Manager

Attest: \_\_\_\_\_  
Jayne W. Rhoades  
Clerk Treasurer

Date: 1-2-18

Date: \_\_\_\_\_

ADDRESS FOR GIVING NOTICE:  
Commonwealth Engineering, Inc.  
7256 Company Drive  
Indianapolis, IN 46237

ADDRESS FOR GIVING NOTICE:  
City of Franklin  
70 E. Monroe Street  
Franklin, Indiana 46131

Attachments: No. 1 - Standard Terms and Conditions  
No. 2 - 2017 - 2018 Standard Hourly Rates and Reimbursable Expenses Schedule  
No. 3 - E-Verify Affidavit  
No. 4 - Certificate of No Investment Activities in Iran  
No. 5 - City of Franklin Affidavit  
No. 6 - Certification of Compliance with Applicable Law

# ATTACHMENT NO. 1

## STANDARD TERMS AND CONDITIONS

### I. Basic Agreement

A. Engineer shall provide, or cause to be provided, the Basic Services as described in this Agreement, and Owner shall pay Engineer for such Services.

### 2. Payment Procedures

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 45 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 45 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

### 3. Design without Construction Phase Services

A. If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, then (1) Engineer's services under this Agreement shall be deemed complete no later than the end of the Bidding or Negotiating Phase; (2) Engineer shall have no design or shop drawing review obligations during construction; (3) Owner assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services; and (4) Owner waives any claims against the Engineer that may be connected in any way thereto.

### 4. Termination

A. This Agreement may be terminated by either party by thirty days written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

B. Owner may terminate or suspend performance of this Agreement for Owner's convenience upon written notice to Engineer. Engineer shall terminate or suspend performance of the Services on a schedule acceptable to Owner, and Owner shall pay Engineer for all the Services performed plus termination or suspension expenses.

Upon restart of suspended Services, an equitable adjustment shall be made to Engineer's compensation and the Project schedule.

### 5. Owner's Responsibilities

A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and specify any design and construction standards that Owner requires be included in the Drawings and Specifications.

B. Designate in writing a person authorized to act as the Owner's representative. The Owner or his representative shall receive and examine documents submitted by the Engineer, interpret and define the Owner's policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of the Engineer's services.

C. Furnish to the Engineer all available existing information for service and utilities locations, easements, right-of-way, encroachments, and zoning and deed restrictions.

D. Provide for full and free access for the Engineer to enter upon all property required for the performance of the Engineer's services under this Agreement.

E. Provide legal, accounting and insurance counseling services as necessary for the Project.

F. Pay for placement and payment for advertisement for Bids in appropriate publications, and all permit fees for agency approval of the Project.

G. Furnish above services at the Owner's expense and in such manner that the Engineer may rely upon them in the performance of his services under this Agreement.

H. Give prompt notice to the Engineer whenever the Owner observes or otherwise becomes aware of any defect in the Project or other event, which may substantially affect the Engineer's performance of services under this Agreement.

### 6. Dispute Resolution

A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Mediation or exercising their rights under law.

B. If Mediation is invoked, the Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually agreed upon party. If such mediation is

unsuccessful in resolving the Dispute, then (a) the parties may mutually agree to a dispute resolution of their choice, or (b) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

#### **7. Successors, Assigns, and Beneficiaries**

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 8.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or 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.

#### **8. General Considerations**

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. This Agreement is to be governed by the laws of the State of Indiana.

C. All design documents prepared or furnished by Engineer shall become the property of Owner.

D. The Engineer agrees to provide and maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with Owner's requirements specified at the time of execution of the Agreement. Certificates evidencing such coverage will be provided to Owner upon request. For projects involving construction, Owner agrees to require its construction contractor(s), if any, to include Engineer as an additional insured on its policies relating to the Project.

E. The Engineer agrees to maintain records of payroll costs, including fringe benefit costs, and actual out-of-pocket costs on a generally recognized accounting basis and shall be available to the Owner during the life of this Agreement at mutually convenient times.

F. In the event any provisions of this Agreement shall be held to be invalid and non-enforceable, the remaining provisions shall be valid and binding upon the parties. One or

more waivers by either party of any provisions, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

G. The Hold Harmless Indemnification and Insurance requirements as set forth in Attachment NO. 5 are specifically incorporated herein.

#### **9. Subconsultants**

A. Subconsultants to the Engineer are listed in the Agreement. Engineer may add, remove, or replace Subconsultants for reasonable cause with prior written approval of the Owner. In the event Owner does not approve the addition or the replacement of a Subconsultant listed in the Agreement, and Engineer cannot reasonably perform the Services intended for said Subconsultant, Owner agrees to contract directly with an entity qualified and capable of performing said Services or terminate the Agreement as set forth above. Owner further releases Engineer from all liability associated with the performance of said entity's Services.



## ATTACHMENT NO. 2

### COMMONWEALTH ENGINEERS, INC. STANDARD HOURLY RATES AND REIMBURSABLE EXPENSES SCHEDULE July 1, 2017 – June 30, 2018

Billing Class	Rate Per Hour	Billing Class	Rate Per Hour
Principal III	\$ 90.66	Environmental Compliance Manager	\$ 40.58
Principal II	\$ 83.18	Compliance Specialist	\$ 22.80
Principal I	\$ 76.04		
		Resident Project Representative IV	\$ 35.57
Project Manager IV	\$ 75.25	Resident Project Representative III	\$ 31.37
Project Manager III	\$ 70.40	Resident Project Representative II	\$ 28.31
Project Manager II	\$ 57.41	Resident Project Representative I	\$ 25.25
Project Manager I	\$ 51.69		
		Clerical III	\$ 28.48
Senior Electrical Engineer	\$ 70.40	Clerical II	\$ 23.20
		Clerical I	\$ 17.32
Project Engineer IV	\$ 58.46		
Project Engineer III	\$ 46.84	Reproduction Processor	\$ 21.63
Project Engineer II	\$ 44.14		
Project Engineer I	\$ 40.93	Trainee	\$ 16.39
Engineering Intern III	\$ 37.49	CADD Specialist IV	\$ 35.62
Engineering Intern II	\$ 31.60	CADD Specialist III	\$ 32.35
Engineering Intern I	\$ 29.96	CADD Specialist II	\$ 27.66
		CADD Specialist I	\$ 22.15
Designer IV	\$ 44.57		
Designer III	\$ 36.86	IT Manager	\$ 45.91
Designer II	\$ 35.49	IT Tech	\$ 24.72
Designer I	\$ 30.22	Multimedia Coordinator	\$ 39.40
		Surveyor	\$ 32.35
Grants Manager	\$ 44.66	Field Technician	\$ 22.95

In order to arrive at the total billing rate, the above direct payroll rates shall be multiplied by factors of 40% and 96.4286% to account for payroll and general overhead costs respectively. In addition, a 15% profit level is then added to arrive at total labor costs. This is a total multiplier factor of 3.1625 times direct payroll rates.

#### Reimbursable Expenses

1. Travel: Starts at the office and shall be at the then approved rate by the U.S. Internal Revenue Service, plus 15% profit.
2. Subsistence and Lodging: Actual Cost, plus 15% profit.
3. Express Charges and Postage, other than first class mail: Actual Cost, plus 15% profit.
4. Paper Prints: \$0.75 per square foot, plus 15% profit.
5. Special Tests and Services of Special Consultants (not used without specific written consent of Owner): Actual Costs, plus 15% profit.

It is agreed that the Owner will make payment of each invoice presented by Commonwealth within forty-five (45) days from the date of the invoice. Payments received after this time shall be subject to an interest charge of 1% per month.

Appendix 1, Standard Hourly Rates Schedule.

EJCDC® E-520, Short Form of Agreement Between Owner and Engineer for Professional Services.  
Copyright ©2015 National Society of Professional Engineers, American Council of Engineering Companies,  
and American Society of Civil Engineers. All rights reserved.

### ATTACHMENT NO. 3

#### E-Verify Affidavit

Pursuant to Indiana Code 22-5-1.7-11, the Engineer entering into a contract with the Owner is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program. The Engineer is not required to verify the work eligibility status of all its newly hired employees through the E-Verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Engineer, being first duly sworn, deposes and states that the Engineer does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into its contract with the Owner, the undersigned Engineer has enrolled in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

Engineer: Commonwealth Engineers, Inc.

By (Written Signature): 

Printed Name: Albert C. Stong, P.E.

Title: President

*Important - Notary Signature and Seal Required in the Space Below*

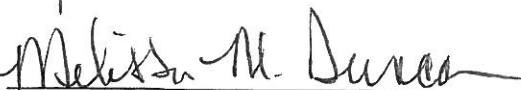
STATE OF INDIANA

SS:

COUNTY OF MARION



Subscribed and sworn to before me this 2<sup>nd</sup> day of January, 2018.

My commission expires: December 3, 2022 (Signed) 

Residing in Marion County

Printed Name: Melissa M. Duncan

State of Indiana



## ATTACHMENT NO. 4

### CERTIFICATE OF NO INVESTMENT ACTIVITIES IN IRAN (IC 5-22-16.5-13)

1. Indiana Code. Reference is hereby made to Indiana Code 5-22-16.5 (the "Code"), specifically to Section 5-22-16.5-13 of the Code. Terms used herein, not otherwise defined herein, shall have the meanings ascribed to them in the Code.
2. Contract. Reference is hereby made to that certain Agreement between Owner and Engineer for Professional Services (Stipulated Price), by and between Commonwealth Engineers, Inc., ("Engineer") and City of Franklin a Governmental Body ("Owner") respecting that certain project known as Miscellaneous On-Call Services (the "Project").
3. Certification. Pursuant to Section 5-22-16.5-13(b) of the Code, Engineer hereby certifies to Owner that Engineer is not engaged in Investment Activities in Iran.
4. Contract File. Pursuant to Section 5-22-16.5-13(c) of the Code, this Certificate shall be placed in the Contract File for the Project.

In Witness Whereof, Engineer has executed this Certificate as of January 2, 2018.

COMMONWEALTH ENGINEERS, INC.

(Engineer)

By: 

(Signature)

Printed Name: Albert C. Stong, P.E.

Title: President

STATE OF INDIANA

SS:

COUNTY OF MARION



Subscribed and sworn to before me this 2nd day of January, 2018.

My commission expires: December 3, 2022

(Signed) 

Residing in Marion

County

Printed Name: Melissa M. Duncan

State of Indiana

## ATTACHMENT 5

This is **Appendix 1**, consisting  
of 3 pages, dated \_\_\_\_\_

### Indemnification

To the fullest extent permitted by law, Engineer shall indemnify, defend (at their sole expense) and hold harmless the City of Franklin and their employees ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and costs, and consultants' fees and costs) ("Claims") which arise or are in any way connected with the Professional Services provided under this Agreement by the Engineer or its agents. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of the Engineer, its employees or agents, whether active or passive. The Engineer's indemnification and defense obligations hereunder shall extend to Claims occurring after this Agreement is terminated as well as while it is in force.

### Insurance

- i. ENGINEER shall, as a prerequisite to this Agreement, purchase and thereafter maintain such insurance as will protect it from the claims set forth below which may arise out of or result from ENGINEER'S operations under this Agreement, whether such operations be by ENGINEER or by any SUB-CONSULTANTS or by anyone directly or indirectly employed by any or all of them, or by anyone for whose acts any of them maybe liable.:

#### Coverage

Workmen's Compensation & Disability	Statutory Requirements
Employer's Liability Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by	\$1,000,000 policy limit
Disease Bodily Injury by Disease	\$1,000,000 each employee
Commercial General Liability (Occurrence Basis) Bodily Injury, personal injury; property damage, contractual liability, products- completed operations	\$1,000,000

This is **Appendix 1**, consisting  
of 3 pages, dated

---

General Aggregate Limit (other than Pnxlucts/Completed Operations	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000
Medical Expense Limit (anyone person)	\$ 10,000
Comprehensive Auto Liability (single limit, owned, hired and non-owned) Bodily Injury and Property Damage	\$1,000,000 each accident
Umbrella Excess Liability	\$1,000,000 each occurrence

The Deductible on the Umbrella Liability shall not be more than \$ 10,000.

This is **Appendix 1**, consisting  
of 3 pages, dated

---

- ii. ENGINEER'S comprehensive general liability insurance shall also provide coverage for the following:
  - 1. Premises and operations;
  - 2. Contractual liability insurance as applicable to any hold-harmless agreements.
  - 3. Completed operations and products; which also must be maintained for a minimum period of two years after final payment and ENGINEER shall continue to provide evidence of such coverage to city on an annual basis during the aforementioned period; and
  - 4. Broad form property damage - including completed operations;
  - 5. Fellow employee claims under Personal Injury;
  - 6. Independent Engineers.
- iii. With the prior written approval of CITY, ENGINEER may substitute different types or amounts of coverage for those specified as long as the total amount of required protection is not reduced.
- iv. Certificates of insurance, naming the City of Franklin as an "additional insured", showing such coverage then in force (but not less than the amount shown above) shall be on file with CITY prior to commencement of work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled or non-renewed until at least thirty (30) days prior written notice has been received by CITY.

## ATTACHMENT 6

### CERTIFICATION OF COMPLIANCE WITH APPLICABLE LAW

The undersigned, in consideration of contracting with and/or entering into agreements with the City of Franklin, a governmental entity, does hereby make the below certifications and acknowledges that said representations and compliance with applicable law is a requirement of doing business with a governmental entity and is deemed valuable consideration in entering into a contract with the City of Franklin. The undersigned agrees to be in full compliance with all applicable laws and shall immediately notify the City of Franklin in the event it has failed to comply with this certification. In such event, the City of Franklin may immediately terminate any and all contracts with the undersigned. Compliance with all applicable State and Federal laws shall include, but is not limited to, the following:

- a. Execution of Non-Collusion Affidavits to be provided and submitted on a form required by the State Board of Accounts;
- b. Applicable wage scale provisions as required by law;
- c. Applicable anti-discrimination provisions as required by law;
- d. E-verify affidavit as required by law. Specifically, the undersigned declares under penalty of perjury that as a term of doing business with the City of Franklin that they have enrolled in and verify the work eligibility status of newly hired employees through the E-verify program and that by their signature below they do not knowingly apply unauthorized aliens.

Furthermore, the undersigned certifies that it is not involved in the Iranian Energy Industry and does not do business with Vendors involved in the Iranian Energy Industry.

Additionally, the undersigned certifies that they/it are not aware of any relationship between the City of Franklin and the undersigned, its agents, employees or assigns which violates Indiana's anti-nepotism laws.

I HEREBY SWEAR AND AFFIRM UNDER PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. ALL OF WHICH IS SWORN TO THIS 2nd DAY OF January, 2018.

COMMONWEALTH ENGINEERING, INC.

  
\_\_\_\_\_  
Albert C. Stong, P.E., President