

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:	10.30.2019	Meeting Date:	11.04.2019
Contact Information:			
Requested by:	Lynnette Gray		
On Behalf of Organization or Individual: City of Franklin			
Telephone:	317-738-3365		
Email address:	lynng@jgmlawfirm.com		
Mailing Address:	63 E. Court St., P.O. Box 160, Franklin, IN 46131		
Describe Request:			
Professional Services Agreement between the City of Franklin and Wessler Engineering for services including design, data collection and field survey for Eastside interceptor and lift station.			
List Supporting Documentation Provided:			
Professional Services Agreement with Exhibits 1 through 6			
Who will present the request?			
Name:	Mark Richards/Sally Brown	Telephone:	317-736-3608

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.

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") dated this ____ day of October, 2019, is made by and between the **City of Franklin**, acting by and through its Board of Public Works and Safety ("OWNER") and **Wessler Engineering, Inc.**, ("CONSULTANT") an Indiana corporation organized under the laws of the State of Indiana.

Project Description: Engineering services including design, data collection and field survey for eastside interceptor and lift station as more fully set forth on the scope of services attached hereto as EXHIBIT 1.

RECITALS

WHEREAS, OWNER wishes to hire CONSULTANT to provide certain professional services with respect to the Project; and

WHEREAS, CONSULTANT has extensive experience, knowledge and expertise relating to these services and has expressed a willingness to furnish the services in connection therewith, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises, the mutual covenants and undertakings herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Section I – Services by CONSULTANT

The engineering services to be performed by CONSULTANT are described in EXHIBIT 1, which is attached hereto, and made a part hereof, and are referred to herein as the "Services".

Section II – Information and Services to be furnished by OWNER

The information and services to be furnished by OWNER are as set out in EXHIBIT 2, which is attached to this Agreement, and incorporated herein by reference.

Section III – Commencement of Services and Schedule

CONSULTANT shall commence performance under this Agreement and shall provide the Services hereunder in accordance with the Schedule contained in EXHIBIT 3, which is attached to this Agreement, and incorporated herein by reference.

Section IV – Compensation

For all Services rendered by CONSULTANT in accordance with the terms of this Agreement, OWNER shall pay the CONSULTANT as follows:

1. Compensation for the following Basic Services as described in Article I shall be on the basis of a Lump Sum Fee as follows:

<u>Article</u>	<u>Component</u>	<u>Fee</u>
I.A	Design Phase	\$ 270,000.00
I.B	Bid Assistance	<u>\$ 25,000.00</u>
Total Lump Sum Fee		\$ 295,000.00

2. Compensation for the following Basic Services as described in Article I shall be on the basis of the of the actual man-hours and expenses incurred in performing the Services, at the CONSULTANT'S hourly rate and reimbursable expense schedule in effect at the time the Services are performed (the 2019 Hourly Rate and Reimbursable Expense Schedule is included as *EXHIBIT 6*), plus reimbursement for actual out-of-pocket costs incurred in conjunction with providing the Engineering Services.

<u>Article</u>	<u>Component</u>	<u>Fee</u>
I.C	Permitting Assistance Phase	\$ 25,000.00
I.D	Easement Exhibit Phase	\$ 50,000.00
I.E	Land Acquisition Phase	\$ 70,000.00

3. Compensation for Additional Professional Services as provided in Exhibit 1, shall be on the basis of the of the actual man-hours and expenses incurred in performing the Services, at the CONSULTANT'S hourly rate and reimbursable expense schedule in effect at the time the Services are performed (the 2019 Hourly Rate and Reimbursable Expense Schedule is included as *EXHIBIT 6*), plus reimbursement for actual out-of-pocket costs incurred in conjunction with providing the Engineering Services. No increase in the hourly rate and reimbursable expenses schedule shall be charged to or incurred by OWNER under this Agreement unless provided and agreed to by OWNER prior to CONSULTANT providing the services under this Agreement. An increase in rates or schedule of expenses shall permit OWNER to terminate this Agreement as provided in Section V. CONSULTANT will prepare a monthly invoice in accordance with CONSULTANT'S standard invoicing practices. Invoices are due and payable within 45 days. If OWNER fails to make any payment due CONSULTANT for services and expenses within 45 days after receipt of CONSULTANT's invoice, the amounts due CONSULTANT will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said forty fifth day. In addition, CONSULTANT may, without liability, after giving seven days written notice to OWNER, suspend services under this AGREEMENT until CONSULTANT has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited to interest and then the principal.

Section V – Term and Termination

1. Term

This Agreement shall commence upon execution by the parties and shall continue until completion of the Services and deliverables as set forth in EXHIBIT 1 or unless terminated as set forth below.

2. Termination

OWNER reserves the right to terminate or suspend this Agreement upon five days advance written notice to CONSULTANT. Upon termination of this Agreement, CONSULTANT shall deliver all Work Product (as defined herein) to OWNER. The dollar amount for any earned but unpaid Services performed by CONSULTANT shall be based upon an estimate of the portions of the total Services completed by CONSULTANT through the effective date of termination, which estimated shall be as made by OWNER in the exercise of its honest and reasonable judgment for all Services to be paid for on a lump sum basis and shall be based upon an audit by OWNER of those Services to be paid for on a cost basis or a cost plus fixed fee basis as described in Section IV hereof.

Section VI – General Provisions

1. Subcontracting

It is recognized that CONSULTANT may engage subconsultants to perform a portion of the work under this Agreement with prior written approval of OWNER. The engagement of subconsultants by CONSULTANT shall not relieve CONSULTANT of any responsibility for the fulfillment of this Agreement. No subconsultant shall subcontract any portion of its work under this Agreement. CONSULTANT notifies OWNER that it intends to utilize RWS South, Inc. as a sub consultant for land acquisition services.

2. Ownership of Documents

All reproducible materials prepared by CONSULTANT or its subconsultants in connection with this Agreement, alone or in combination with others, on any and all media, in whole or in part, and all copies thereof, whether created before, during, or after the term of this Agreement (collectively, the “Work Product”) will be the property of the OWNER.

CONSULTANT shall be allowed to retain copies of all documents included in the Work Product, unless prohibited for reasons of security and as mutually agreed by both parties.

CONSULTANT agrees that written agreements with any and all subconsultants used by CONSULTANT to fulfill CONSULTANT’s obligations hereunder shall contain language substantially similar to that of this Subsection to assign OWNER all Work Product by such subconsultants, and to require cooperation with CONSULTANT on the same terms and conditions as set forth herein.

The provisions of this Subsection shall survive the expiration, suspension, abandonment, termination, or completion of this Agreement.

3. Access to Records

Full access to the work during the progress of the Services shall be available to the OWNER. CONSULTANT and its subconsultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred under this Agreement and shall make such materials available at its respective offices at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment for Services is made by OWNER to CONSULTANT.

4. Liability for Damages

CONSULTANT assumes all risk of loss, damage or destruction to the Work Product, to all of its materials, tools, appliances and property of every description, and for injury to or deaths of its employees or agents arising out of or in connection with the performance of this Agreement, excluding that which occurs due to the acts or failure to act of any third party, and excluding that which is caused by the OWNER.

5. General Liability Insurance

- a. Amounts of Coverage. CONSULTANT shall procure and maintain at its expense insurance of the kind and in the amounts set forth in EXHIBIT 4 by companies authorized to do such business in the State of Indiana covering all Services and related activities performed by CONSULTANT.
- b. Evidence of Insurance. Before commencing its Services, CONSULTANT shall furnish to OWNER a certificate, or certificates, showing that it has complied with this insurance requirement and shall provide OWNER with a certificate or certification designating OWNER as an additional named insured. The policies shall not be changed or canceled unless thirty (30) days prior written notice has been given to OWNER.

6. Worker's Compensation

CONSULTANT shall be responsible for providing all necessary unemployment and Worker's Compensation Insurance for its employees. CONSULTANT shall provide the OWNER with a certificate of insurance indicating that it has complied with this requirement.

7. Changes in Work

- a. Prior Approval. CONSULTANT shall not commence any additional services or change of scope until authorized by OWNER.
- b. Additional Services. Additional services may include, but not be limited to:

- i. Services associated with significant changes in the scope, extent, or character of the portions of the Project required by, but not limited to, changes in scope, complexity or schedule and revisions required by changes in applicable laws and regulations or due to any other causes beyond CONSULTANT's control.
- ii. Preparing to serve or serving as a consultant or witness for OWNER in any litigation or other dispute resolution process related to the Project that does not involve a claim against CONSULTANT or a claim that is based on an alleged act of negligence or breach of contract by CONSULTANT.
- iii. Subject to other provisions of this Agreement, additional or extended services during the Project made necessary by (1) emergencies or Acts of God endangering the Project site, (2) an occurrence of a hazardous environmental condition, (3) damages to OWNER's facilities caused by fire, flood or other cause, (4) acceleration or deceleration of the Schedule involving services beyond normal working hours, (5) significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages and (6) default or failure to perform by other consultants.

8. Non-Discrimination

CONSULTANT and its subconsultants, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of the Services under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement. For all projects, where applicable, the consultant shall comply with the provisions relative to non-discrimination in federally assisted programs as identified on the attached Exhibit 5, Appendix A. For purposes of interpretation of Exhibit 5, contractor shall be synonymous with consultant.

9. Safety

- a. Responsibility. CONSULTANT shall be directly responsible for the safety requirements and programs applicable to its own employees, its subconsultants and other parties with whom it has contracted to perform Services with respect to the Project.
- b. Compliance. CONSULTANT's safety program shall comply with applicable federal, state and local statutes, rules, regulations and ordinances. CONSULTANT shall report to OWNER, in writing, any injury or accident at the Project site involving its employees, its subconsultants or other parties for which

To CONSULTANT: **Wessler Engineering, INC.**
 Attn: Robert Holden
 6219 South East Street
 Indianapolis, IN 46227

13. Authority to Bind Consultant

CONSULTANT warrants that it has the necessary authority to enter into this Agreement. The signatory for CONSULTANT represents that he/she has been duly authorized to execute this Agreement on behalf of CONSULTANT and has obtained all necessary or applicable approval to make this Agreement fully binding upon CONSULTANT when his/her signature is affixed hereto.

14. Successors and Assignees

This Agreement is binding upon and shall inure to the benefit of OWNER and CONSULTANT and their respective successors and permitted assigns. CONSULTANT shall not assign this Agreement without the written consent of OWNER.

15. Entire Agreement; Amendments

This Agreement and its Appendices, each of which is incorporated herein by reference and made a part of this Agreement, constitutes the entire Agreement of the parties with regard to the subject matter hereof and supersedes all prior discussions or agreements concerning any subject matter related hereto. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without giving effect to principles respecting conflicts of laws. Subject to Section 19, any action pursuant to this Agreement shall be brought and tried in a court of competent jurisdiction in Johnson County, Indiana, and each party hereby irrevocably consents to the personal and subject matter jurisdiction of any such court and waives any objection to such jurisdiction and venue.

17. Non-Waiver

It is agreed and acknowledged that no action or failure to act by OWNER or CONSULTANT as to a breach, act or omission of the other shall constitute a waiver of any right or duty afforded either of them under this Agreement, as to any subsequent breach, act or omission of the other nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereof, except as may be specifically agreed in writing. No right conferred on either party under this Agreement shall be deemed waived and no breach of this Agreement excused unless such a waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

18. Invalid Provisions

If any part of this Agreement is later found to be contrary to, prohibited by, or invalid under applicable law, rules or regulations, that provision shall not apply and shall be omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement shall not be invalidated and shall be given full force and effect insofar as possible.

19. Dispute Resolution

Any dispute arising out of this Agreement that cannot be resolved through informal discussions between the parties, shall be subject to this Section.

- a. The parties agree that the existence of a dispute notwithstanding, the parties shall continue without delay to carry out all of their respective responsibilities under this Agreement.
- b. Should any dispute arise with respect to this Agreement that cannot be resolved through informal discussions between the parties, a party shall serve written notice to the other party outlining the details of the dispute and demanding mediation. No later than twenty (20) days from the date of the notice demanding mediation, the parties shall confer to discuss the selection of the mediator and agree upon other mediation procedures.
- c. Submission of a dispute under this Agreement to a mediation procedure shall be a condition precedent to filing litigation. No litigation shall be initiated by either party unless the mediation has been completed (unsuccessfully) or a party has failed to participate in a mediation procedure.

20. Employment Eligibility Verification

CONSULTANT affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

CONSULTANT shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. CONSULTANT is not required to participate should the E-Verify program cease to exist. Additionally, CONSULTANT is not required to participate if CONSULTANT is self-employed and does not employ any employees.

CONSULTANT shall not knowingly employ or contract with an unauthorized alien. CONSULTANT shall not retain an employee or contract with a person that CONSULTANT subsequently learns is an unauthorized alien.

CONSULTANT shall require its subconsultants, who perform work under this Agreement, to certify to CONSULTANT that the subconsultant does not knowingly employ or contract with an unauthorized alien and that the subconsultant has enrolled and is

participating in the E-Verify program. CONSULTANT agrees to maintain this certification throughout the duration of the term of an agreement with a subconsultant.

OWNER may terminate for default if CONSULTANT fails to cure a breach of this provision no later than thirty (30) days after being notified by OWNER.

21. No Investment in Iran

As required by IC 5-22-16.5, CONSULTANT certifies that it is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Agreement and denial of future agreements, as well as an imposition of a civil penalty.

22. Certification of Compliance with Applicable Law

In consideration of entering into this agreement, Consultant agrees to the terms and conditions of the Certificate of Compliance with Applicable Law as set forth on Exhibit 5 and all attachments thereto and said terms and conditions are specifically incorporated herein.

23. Waiver of Claims for Hazardous Materials

The parties agree and the owner acknowledges that CONSULTANT is not being retained nor is CONSULTANT required to be in any way an arranger, generator, operator or transporter of hazardous materials present at or near the project site (as these terms are defined in applicable federal or state statutes and all related regulations). Owner agrees to make no claim or cause of action, including but not limited to negligence, breach of contract, strict liability or breach of express or implied warranty based upon the presence of hazardous substances.

24. Non-Collusion

The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears within this Agreement.

In Witness Whereof, the CONSULTANT and the OWNER have, through duly authorized representatives, entered into this Agreement. The parties having read and understand the forgoing terms of this Agreement do by their respective signatures dated below hereby agree to the terms thereof.

(Signature page follows)

WESSLER ENGINEERING, INC.
(CONSULTANT)

CITY OF FRANKLIN
BOARD OF PUBLIC WORKS AND SAFETY
FRANKLIN, INDIANA
(OWNER)

Robert W. Holden, II, Ph.D., P.E.
Vice President

Steve Barnett, Mayor

Melissa Jones, Member

Robert Swinehamer, Member

Attest:

Attest:

Gary L. Ruston
Senior Project Manager

(Signature)

(Print or type name and title)

SCOPE OF PROFESSIONAL SERVICES – BASIC SERVICES

A. Design

1. Description
 - a. Design and prepare drawings and specifications for the following:
 - i. Approximately 13,600 L.F. of 10" to 21" sanitary sewer from a point along CR 550E approximately 1800 feet south of CR 50S to a northern termination point at the existing Jim Black Lift Station.
 - ii. Demolish and decommission the Jim Black Lift Station and connect by gravity to the new sanitary interceptor sewer.
 - iii. New 3-pump submersible lift station located in the southeast corner of property known as Interstate Warehouse Incorporated, with approximately 3,000 L.F. of new force main to discharge to the existing 30" sanitary sewer on the east side of I-65. The lift station will have a permanent on-site back-up emergency generator.
2. Data Collection and Field Survey
 - a. Gather and study available pertinent information, including previous Master Plans and collection system studies, existing sanitary sewer maps, drawings, reports, studies, zoning maps, proposed land use information, Johnson County GIS parcel and right-of-way shape files, contour maps, USGS quadrangle maps, etc.
 - b. Conduct a topographic and route survey along the proposed alignment for a sanitary sewer extension. The survey shall include setting control points and temporary benchmarks, locating visible existing surface features, surface elevations, existing sewers with inverts, and utility facilities as marked in the field by the utility companies through contacting the Indiana 811 IUPPS website. Prepare a location control route survey plat per IAC 865 1-12 of the project area, including existing adjoining property owners, locating available section corners and property corners, and preparing a surveyor's report.
3. Prepare for and conduct a kick-off review meeting with the OWNER to confirm the OWNER's objectives and the ENGINEER's approach. This meeting will be used to review and verify the scope of work, clarify responsibilities and how information exchange will be managed between the OWNER and ENGINEER, and will provide both parties the opportunity to discuss design related issues and alignments and agree upon the final design criteria.
4. Prepare 30% Preliminary Design Phase documents consisting of final design criteria, preliminary site plan, preliminary plan drawings, and 30% Design Opinion of Probable Construction Cost. Prepare for and attend a 30% Design Review meeting. This meeting will include a presentation and discussion of the 30% Design documents. The format of the meeting will be to include sufficient

presentation materials so that each item can be adequately reviewed and decisions made by the OWNER on how to proceed with 60% Design documents.

5. Advise OWNER if additional reports, data, information, or services are necessary and assist OWNER in obtaining such reports, data, information, or services.
6. Based on the recommendations determined in the 30% Preliminary Design Phase, and after indication by OWNER of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by OWNER, ENGINEER shall proceed with 60% Design Phase.
7. Prepare 60% Design Phase documents incorporating the final design criteria and preliminary plan drawings. Prepare for and attend a 60% Design Review meeting. This meeting will include a presentation and discussion of the 60% Design documents. The format of the meeting will be to include sufficient presentation materials so that each item can be adequately reviewed and decisions made by the OWNER on how to proceed with 90% Final Design documents.
8. Advise OWNER if additional reports, data, information, or services are necessary and assist OWNER in obtaining such reports, data, information, or services.
9. Prepare 90% Design Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Specifications shall conform to the 16-division format of the Construction Specifications Institute.
10. Advise OWNER of any adjustments to the Opinion of Probable Construction Cost known to ENGINEER.
11. Prepare and furnish review copies of the 90% Design Drawings and Specifications and any other deliverables to OWNER, and review them with OWNER, its legal counsel, and other advisors. Within 15 days of receipt, OWNER shall submit to ENGINEER any comments and instructions for revisions.
12. Revise the 90% Design Drawings and Specifications in accordance with comments and instructions from the OWNER, as appropriate, and submit final copies of 100% Design Bid Documents, a revised Opinion of Probable Construction Cost, and any other deliverables to OWNER within 30 calendar days after receipt of 90% review comments and instructions from OWNER.
13. ENGINEER's services under the Design Phase will be considered complete on the date when the 100% Design Bid Documents have been delivered to OWNER.
14. In the event that the Work designed or specified by ENGINEER is to be performed or furnished under more than **one** prime contract, or if ENGINEER's

services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), OWNER and ENGINEER shall, prior to commencement of the 90% Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts.

15. The number of prime contracts for Work designed or specified by ENGINEER upon which the ENGINEER's compensation has been established under this Agreement is one (1). If more prime contracts are awarded, ENGINEER shall be entitled to an equitable increase in its compensation under this Agreement.

B. Bid Assistance

1. After acceptance by OWNER of the Bidding Documents and upon authorization by OWNER to proceed, ENGINEER shall:
 - a. Assist OWNER in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, and attend pre-Bid conference, if any.
 - b. Respond to Bidder questions and issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
 - c. Consult with OWNER as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the Bidding Documents.
 - d. Attend the Bid opening, prepare Bid tabulation sheets, and assist OWNER in evaluating Bids or proposals and in assembling and awarding a contract for the Work.
2. The Bidding Phase will be considered complete upon execution of the Agreement with the Contractor or upon cessation of negotiations with prospective contractors.

C. Permitting Assistance

Prepare reports, drawings, exhibits and applications for obtaining permits from Indiana Department of Environmental Management, Indiana Dept. of Natural Resources, County Soil and Water Conservation District, County Drainage and Highway, Army Corps of Engineers, Indiana Department of Transportation, and others as applicable for this Project.

D. Easement Exhibits

Following the OWNER's approval of the proposed sanitary sewer plans and proposed easement limits, prepare descriptions and exhibits (per IAC 865 1-12) for each affected property owner. The estimated fee is based on preparing exhibits for ten (10) parcels and

staking the easement limits once. If additional easement staking is required, it will be performed as an additional service.

E. Land Acquisition

Perform title research, appraisals, review appraisals, prepare transfer documents, buying, recording, and management for an estimated ten (10) parcels. All work performed will be in accordance with State regulations and the Uniform Standards of Professional Appraisal Practice. CONSULTANT intends to subcontract portions of the Professional Services to RWS South, Inc. for Land Acquisition Services.

The estimated fee is based on limited conceptual information. If the project requires significantly more or less land, the appraisal fees may require a revision. If title updates, right-of-entry, or closings are required they will be performed as an additional service.

ADDITIONAL PROFESSIONAL SERVICES

If pre-authorized in writing by the OWNER, the ENGINEER agrees to furnish, or obtain from others, Additional Professional Services in conjunction with the PROJECT, as set forth below:

- A. Services resulting from significant changes in the scope, extent, or character of the Project or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction; and revising previously accepted studies, reports, Drawings, Specifications, Task Orders, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the preparation of such documents or are due to any other causes beyond ENGINEER's control.
- B. Services required as a result of OWNER providing incomplete or incorrect Project information and such was not known to or reasonably discoverable by ENGINEER.
- C. OWNER requested revisions to the ENGINEER's work following previous approval, acceptance, or concurrence of that work by the OWNER.
- D. The evaluation of alternatives, means, or methods to determine options or ways to reduce costs after prior OWNER approval of the Project, or beyond those described in Basic Engineering Services.
- E. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER when existing drawings are incomplete or not available, and which ENGINEER has relied upon as being available, accurate and true.
- F. Engineering services related to "green" design, sustainable design, or to achieve any level of USGBC LEED certification.

- G. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
- H. Special project insurance requirements and associated premiums beyond that provided in the aforementioned Basic Services fee or in excess of that currently maintained by ENGINEER.
- I. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.
- J. Providing assistance with Environmental Assessments, archeological reconnaissance, environmental reviews performed by others, and/or in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.
- K. Coordinating geotechnical engineering, including soil borings and rock soundings, and providing results in a soils investigation report.
- L. Preparation of Land Title Survey and specific site surveys for obtaining easements and rights-of-way, preparing drawings and exhibits, and providing assistance to the OWNER in the obtaining of easements, rights-of-way and land for the Project.
- M. Conducting or attending meetings called by the OWNER with property owners, business leaders and residents to discuss easements and rights-of-way and land to be acquired, or other elements or matters of the Project.
- N. Appearances before courts, boards, or commissions on matters of public hearings, permit protests, bid protests or litigation related to the Project.

Exhibit 2

Information and Services to be Furnished by Owner

A. Information/Reports

OWNER shall provide CONSULTANT with reports, studies, site characterizations, regulatory decisions and similar information relating to the Services that CONSULTANT may rely upon without independent verification unless specifically identified as requiring such verification.

B. Representatives

OWNER shall designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define the OWNER's requirements and make decisions with respect to the Services.

C. Decisions

OWNER shall provide all criteria and full information as to OWNER's requirement for the Services and make timely decisions on matters relating to the Services.

D. Permits and Fees

OWNER shall be responsible for obtaining permits, with ENGINEER preparing application documents as noted in Exhibit 1. OWNER shall be responsible for payment of regulatory fees associated with permit applications.

Exhibit 3

Commencement of Services and Schedule

No work under this Agreement shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the OWNER.

Schedule

A. Design Phase

The 30% Design Review submittal and meeting shall occur within 90 calendar days, 60% Design Review submittal and meeting within 120 calendar days, and 90% Design Review Drawings and Specifications and other deliverables to Owner within 150 calendar days of authorization to proceed. The Final Design Documents shall be completed and submitted to Owner within 30 days after Owner's review of the 90% submittal. Permits shall be submitted within 14 days following the 90% Design Review meeting.

B. Bid Phase

Bid Phase services are anticipated for a four week advertising period and two months following until execution of the Agreement with the Contractor or upon cessation of negotiations with prospective contractors.

C. Easement Exhibit and Land Acquisition Phases

The easement exhibits shall be completed within 30 days after approval of the 90% Design Drawings and easement limits.

The appraisals shall be completed and submitted to the OWNER for review and approval within 60 days after the easement exhibits are completed.

With property owner cooperation and quick releases, the land acquisition could be completed within 75 to 90 days, following the OWNER's approval of the appraisals.

Exhibit 4

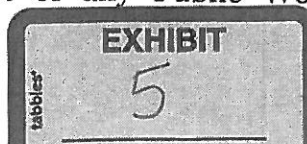
City of Franklin Insurance Requirements

<u>Coverage</u>	<u>Limits</u>
A. Workmen's Compensation & Disability	Statutory Requirements
B. Employer's Liability Bodily Injury by Accident	\$500,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$500,000 each employee
C. Commercial General Liability (Occurrence Basis)	\$1,000,000
Bodily Injury, personal injury, property damage, Contractual liability, products-completed operations	
General Aggregate Limit (other than Products/ Completed Operations)	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage (any one fire)	\$50,000
Medical Expense Limit (any one person)	\$5,000
D. Comprehensive Auto Liability (single limit, owned, Hired, and non-owned)	\$1,000,000 each accident
Bodily injury and property damage	\$1,000,000
Umbrella Excess Liability	\$2,000,000 each occurrence

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 Affidavit(s) to be provided and submitted on a form required by the State Board of Accounts;
- b. Applicable contract provisions pursuant to IC 5-16-13 for Public Works projects awarded after June 30th, 2015 the terms of which are specifically incorporated herein by reference and/or as required by law;
- c. Applicable anti-discrimination provisions as required by law;
- d. E-verify affidavit as required by law including but not limited to IC 22-5-1.7-11.1. 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.
- e. 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.
- f. The undersigned, if applicable, agrees to comply with the terms of IC 5-16-13-8 and represents that the project or work shall not be structured other than in the "tier" structure as required by law.
- g. The undersigned shall comply with the insurance requirements and hold harmless provisions of the City of Franklin incorporated by reference herein and where applicable shall comply with the requirements of IC 5-16-13-9 through 12.
- h. Pursuant to IC 36-1-12-24 Contractors and Subcontractors shall drug test employees when the cost of any Public Works project is greater than \$150,000.00.



- i. If applicable, the undersigned shall comply with IC 5-16-13-13; 14 in all respects including but not limited to document preservation and availability for inspection.
- j. If applicable to the project, the undersigned agrees to comply with, by bound by, and follow all regulations regarding non-discrimination as required by the City of Franklin's Title VI Plan and Non-Discrimination Agreement including the requirements identified on Appendix A attached hereto.

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 _____ DAY OF _____, 20____.

Duly Authorized Representative of Contracting Party

During the performance of this contract, the contractor/consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor/consultant") agrees as follows:

- (1) **Compliance with Regulations:** The contractor/consultant shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT" Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor/Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor/consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor/consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor/consultant of the contractor/consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.
- (4) **Information and Reports:** The contractor/consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation (INDOT) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor/consultant is in the exclusive possession of another who fails or refuses to furnish this information the contractor/consultant shall so certify to INDOT or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor/consultant's noncompliance with the nondiscrimination provisions of this contract, INDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - (a.) withholding of payments to the contractor/consultant under the contract until the contractor/consultant complies, and/or
 - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor/consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor/consultant shall take such action with respect to any subcontract or procurement as INDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor/consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor/consultant may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation and, in addition, the contractor/consultant may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX A

Exhibit 6

2019 HOURLY RATE and REIMBURSABLE EXPENSE SCHEDULE

<u>Position</u>	<u>Hourly Rate*</u>
Principal Engineer	\$220
Senior Project Manager I/II	\$180/\$205
Senior Project Engineer I/II	\$180/\$205
Project Manager I/II	\$150/\$160
Assistant Project Manager	\$125
Project Engineer I/II/III/IV	\$115/\$125/\$150/\$160
Engineer	\$105
Environmental Services Senior Project Manager I	\$150
Environmental Services Project Manager I/II	\$130/\$140
Environmental Services Assistant Project Manager	\$105
Environmental Scientist I/II	\$80/\$95
Senior Designer I/II	\$115/\$130
Designer	\$105
Control System Engineer I/II/III/IV	\$110/\$130/\$150/\$170
Senior Resident Project Representative	\$105
Technician I/II/III/IV	\$60/\$75/\$85/\$95
Resident Project Representative I/II/III/IV	\$60/\$75/\$85/\$95
Field Services Manager I/II	\$115/\$125
Survey Manager	\$130
Survey Crew Manager I/II	\$90/\$100
Survey Crew Chief I/II	\$80/\$90
Project Coordinator	\$90
Project Administrator	\$60

Reimbursable Expenses shall be charged as follows:

<u>Item and Unit</u>	<u>Unit Cost</u>
Mileage (per mile)	At current IRS published rate
Copies:(each) Black & White 8.5"x11" / 11"x17"	\$0.12
24"x36"	\$1.00
Color 8.5"x11" / 11"x17"	\$0.20/\$0.40
Plots-Bond: (each) 12"x18" / 24"x36"	\$0.50/\$1.00
GPS Survey Equipment/Robotic Total Station/Pole Camera	\$15.00 per hour
Postage/shipping/freight, Lodging and Per Diems	At Cost
Subcontractor/Subconsultant fees	Cost + 10%
eCommunication Construction Software License through Eastern Engineering (per project)	At Cost

*Expert Witness Services (Court Hearings or Testimony, Depositions, Arbitration or Mediation Hearings) shall be charged at 150% of the Hourly Rate listed in this Schedule.

This Schedule is subject to change.

January 1, 2019