

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:	09/16/20	Meeting Date:	09/21/20
Contact Information:			
Requested by:	Sally Brown		
On Behalf of Organization or Individual	Jim Kovacs, Wessler Engineering		
Telephone:	317-788-4551		
Email address:	JimK@wesslerengineering.com		
Mailing Address:	6219 South East Street, Indianapolis, IN 46227		
Describe Request			
Request approval of Assessment plan contract with Wessler Engineering for the US 31 Interceptor repair project			
List Supporting Documentation Provided:			
Professional Services Agreement			
Who will present the request?			
Name:	Jim Kovacs	Telephone:	317-788-4551

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 21st day of September, 2020, 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 US 31 Sanitary Sewer Interceptor Assessment Plan; field investigation and assessment activities including wet weather inspections, smoke testing, night flow isolations, and manhole inspections to identify significant contributors of infiltration and inflow to the US 31 Sanitary Sewer Interceptor; and corresponding Report of Findings for the **US 31 Sanitary Sewer Assessment** 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 of Exhibit 1 shall be on the basis 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 2020 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.A	US 31 San. Sewer Int. Assessment Plan	\$ 6,900.00
I.B	Field Inv. and Assessment Activities	<u>\$ 184,300.00</u>
Total Not to Exceed Amount		\$ 191,200.00

2. 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 2020 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 it is responsible, within forty-eight (48) hours or a shorter period of time if required by law.
- c. Notification. CONSULTANT shall not be responsible for the safety requirements or programs applicable to any other person or entity involved with the Project other than CONSULTANT and its subconsultants.

10. Independent Contractor

OWNER and CONSULTANT are acting in an individual capacity in the performance of this Agreement and will not act as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed

to be the employees or agents of the other party for any purpose whatsoever. Neither party will assume any liability for any injury (including death) to any persons, nor damage to any property, arising out of the acts or omissions of the agents, employees, or subconsultants of the other party. CONSULTANT shall be responsible for providing all necessary unemployment and worker's compensation insurance for its employees.

11. Indemnification

The work performed by the CONSULTANT shall be at the risk of the CONSULTANT exclusively subject to paragraph 23 below. To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless the City of Franklin and its employees, officers and officials ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damages to property, demands, damages, action, cause of action, suits, losses, judgments, obligations and any liabilities, costs and expenses, including but not limited to investigative and repair costs, reasonable attorneys' fees and costs ("claims") to the extent caused by negligent performance of services provided under this Agreement by CONSULTANT or its agents. These indemnity obligations shall apply to any negligent acts or omissions or willful misconduct of the CONSULTANT, its employees or agents, whether active or passive. The CONSULTANT'S indemnification obligations hereunder shall extend to claims occurring after this Agreement is concluded or terminated as well as while it is in force.

12. Notification

All written notices required by this Agreement shall be sent to the parties at the following addresses by certified mail, return receipt:

To OWNER; **City of Franklin**
 Department of Public Works Superintendent
 796 South State Street
 Franklin, Indiana 46131

To CONSULTANT: **Wessler Engineering, INC.**
 Attn: Brent Siebenthal
 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.

WESSLER ENGINEERING, INC.
(CONSULTANT)



Brent A. Siebenthal, P.E.
President

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

Steve Barnett, Mayor

Melissa Jones, Member

Robert Swinehamer, Member

Attest:



Gary L. Ruston
Senior Project Manager

Attest:

Jayne Rhoades, Clerk-Treasurer

EXHIBIT 1

I. SCOPE OF PROFESSIONAL SERVICES – BASIC SERVICES

A. US 31 Sanitary Sewer Interceptor Assessment Plan

Prepare a plan for of the assessment of the structural and operating condition of the US 31 Sanitary Sewer Interceptor without the bypass of flows. The assessment plan shall address the type of technology to be employed (e.g., multi-sensor); access; maintenance of traffic; and information gathering goals/requirements. Upon OWNER review and approval of the assessment plan, it is anticipated a procurement package shall be prepared for securing the services of a contractor to perform the activities.

B. Field Investigation and Assessment Activities

Perform field investigation and assessment activities in the pursuit of identifying significant contributors of infiltration and inflow (I/I) to the US 31 Sanitary Sewer Interceptor.

1. Wet Weather Inspections

Perform up to four (4) days of wet weather inspections following a sizeable wet weather event at strategic collection system locations to further isolate portions of said collection system that may be contributing excessive amounts of I/I. The wet weather inspections shall be used to assist in the determination and prioritization of areas of the US 31 Sanitary Sewer Interceptor Subbasin to be smoke tested.

2. Sanitary Sewer Smoke Testing

a. Property Owner Notification

- i. Prepare draft property owner notification language for OWNER review. The language shall notify property owners of smoke testing operations to be completed, what to expect, and provide a contact number for property owners to call if necessary.
- ii. Incorporate OWNER's review comments and prepare final property owner notification language. The Scope of Services and fee is based upon OWNER coordinating with emergency responders, schools, etc. and ENGINEER completing door-to-door notification through delivery of "door hangers" prior to testing.

b. Smoke Testing

- i. Perform smoke testing of up to 250,000 LF of sanitary sewers in the US 31 Sanitary Sewer Subbasin. Field observations shall be made of areas where smoke is detected, including digital photographs, GPS locations, and a description of the location and potential contributing surface water areas. Individual smoke testing defect sheets will be provided.
- ii. The Scope of Services and fee is based upon two (2) staff members from ENGINEER performing the smoke testing.

EXHIBIT 1

3. Night Flow Isolation (NFI) Inspections

- a. Conduct Night Flow Isolations (NFI) at up to 20 strategic locations throughout the project area to determine instantaneous I/I rates. The NFI study is conducted between midnight and 5:00 AM when the theoretical flow through the sewer is zero. Volumetric weirs are used to quantify the actual flow which can then be compared area to area and against standards for reasonable I/I to determine which portions of the system are producing the most I/I.
- b. Complete NFI forms documenting the measured flows

4. Manhole Inspections

Perform non-man entry manhole inspections at up to 850 manholes, focused on identifying I/I sources and major structural and maintenance issues. Findings shall be documented with photos and by editing previously completed manhole inspection forms.

5. Flow Monitoring

Assist Owner in the procurement of flow monitoring services at one (1) location entering the US 31 Sanitary Interceptor. Review and analyze flow monitoring data on a bi-weekly basis to estimate baseline (dry weather) and average and peak I/I contribution from wet weather events. This information shall be used as a baseline for determination of I/I removal provided by future I/I removal and sanitary sewer improvement projects.

6. Report of Findings

- a. Prepare a draft Report of Findings detailing the results of the field work and investigations performed.

For smoke testing, the Report shall contain a detailed breakdown of the defects found, the potential sources of I/I in relation to the defects found, and an analysis of private smoke testing defects; figures highlighting the locations of the private and public defects; a smoke testing field observations spreadsheet that notes the details; a defect tracking spreadsheet for OWNER's use, smoke testing data sheets that include pictures and details of the defects found; and a recommendations section that provides OWNER with next-steps to address public and private defects, and also recommends possible follow-up field investigations to assist in identifying the sources of I/I.

For wet weather and night flow isolations, the Report shall identify those portions of the US 31 Sanitary Sewer Interceptor Subbasin which experience the highest levels of I/I.

The analysis of the flow monitoring data shall be included the Report.

The results of the manhole inspections shall be documented via photos and revised manhole inspection forms. A prioritized list of recommended manhole rehabilitation work shall be prepared to address I/I, and major structural and maintenance issues discovered.

EXHIBIT 1

- b. Review the draft Report with OWNER, address OWNER's review comments, and prepare the final Report. Three (3) hardcopies and an electronic copy of the final Report shall be provided to OWNER.

II. ADDITIONAL PROFESSIONAL SERVICES

If 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 haracter of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, and revising previously accepted Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the preparation of such documents or due to any other causes beyond Engineer's control.
- B. Other services performed or furnished by Engineer not otherwise provided for in this Agreement. Subject to other provisions of this Agreement, services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
- C. Furnishing services of Engineer's Consultants for other than Basic Engineering Services.
- D. Owner requested revisions to the Engineer's work following previous approval, acceptance, or concurrence of that work by the Owner.
- E. 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
- F. 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.
- G. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer, including incomplete or inaccurate record drawings, which Engineer has relied upon as being accurate and true.
- H. Appearances before courts, boards, or commissions on matters of public hearings, permit protests, bid protests or litigation related to the Project.
- I. Engineering services related to "green" design, sustainable design, or to achieve any level of USGBC LEED certification.

EXHIBIT 1

- J. 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.
- K. Providing renderings or models for Owner's use.
- L. 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.
- M. 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.
- N. Coordinating geotechnical engineering, including soil borings and rock soundings, and providing results in a soils investigation report.
- O. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in the approved Engineering Report or prior Studies.
- P. Destructive or invasive structural investigation to uncover suspected hidden structural deficiencies.
- Q. Preparation of Operation and Maintenance Manuals for the Project and providing training to the Owner's personnel for the new or existing facilities.
- R. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
- S. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
- T. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.
- U. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.

EXHIBIT 1

- V. Engineering services related to re-bidding of the entire Project or any portion of the Project due to bids exceeding the established budget, cost overruns, or other matters which are beyond the control of the Engineer.
- W. Providing construction surveys and staking to enable Contractor to perform its work, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
- X. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
- Y. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
- Z. Providing Construction Phase services beyond the original Contract Final Completion date of the Work.
- AA. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
- BB. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
- CC. Subject to other provisions of this Agreement, additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire, flood or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by a Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by a Contractor.
- DD. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
- EE. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
- FF. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
- GG. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Contract in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.

Exhibit 2

Information and Services to be Furnished by Owner

A. Information/Reports

OWNER shall provide ENGINEER with reports, studies, site characterizations, regulatory decisions and similar information relating to the Services that ENGINEER 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.

E. Geotechnical Evaluation

OWNER is responsible for contracting directly with and paying all fees for a geotechnical engineering firm to conduct soil borings and provide a geotechnical evaluation report. ENGINEER will assist OWNER by preparing a request for proposals, evaluating the submitted proposals, and recommending award.

F. Labor Standards Administration

SRF requires that the Contractor's payroll be submitted and reviewed by OWNER to verify compliance with the applicable wage rates. OWNER is responsible for contracting directly with and paying all fees for a firm to provide labor standards administration.

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. US 31 Sanitary Sewer Interceptor Plan

A draft plan will be submitted for Owner review within 45 days. The final plan will be submitted within 15 days of receipt of the Owner review comments.

B. Field Investigation and Assessment Activities

Field investigation and assessment activities shall be weather dependent. Weather permitting, all field investigation and assessment activities shall be completed by July 31, 2021. The Draft Report of Findings will be submitted for Owner review by August 31, 2021. The Final Report of Findings will be submitted within 30 days of receipt of the Owner review comments.

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

EXHIBIT 5

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.
- k. The undersigned has been advised of the indemnification and insurance requirements of the City of Franklin on the attached Addendum (page 3) and agree to be bound by these requirements.

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 16 DAY OF September, 2020.



Duly Authorized Representative of Contracting Party

CITY OF FRANKLIN, INDIANA
CONTRACTOR INDEMNIFICATION & INSURANCE REQUIREMENTS

The Work performed by the Contractor shall be at the risk of that Contractor exclusively. To the fullest extent permitted by law, Contractor 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 Work performed, Materials furnished, or Services provided under this Agreement by the Contractor or its agents. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of the Contractor, its employees or agents, whether active or passive. The Contractor's indemnification and defense obligations hereunder shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated.

INSURANCE REQUIREMENTS

Upon execution of this Agreement, and prior to the Contractor commencing any work or services, the Contractor shall provide the City of Franklin with a Certificate of Insurance as evidence of Commercial General Liability insurance, Workers' Compensation and Automobile Liability for any employees, agents, or Subcontractors of the Contractor. The City of Franklin shall be listed as an Additional Insured on Commercial General Liability, Automobile Liability, and Umbrella as noted below.

The Contractor's liability coverage shall use ISO form CG 00 01 10 01 (or equivalent coverage) and include the City of Franklin as an Additional Insured using ISO Form CG 20 10 11 85 (or equivalent coverage) or on the combination of ISO Forms CG 20 10 10 01 and CG 20 37 10 01 (or equivalent coverage). Such insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the Commercial General Liability form arising from explosion, collapse, underground property damage or work performed by subcontractors.

The coverage limits shall not be less than the following:

Commercial General Liability Insurance:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal and Advertising Injury

Workers' Compensation and Employers' Liability Insurance: (or Exemption)

\$ 100,000 Bodily Injury by Accident
\$ 500,000 Bodily Injury by Disease - Policy Limit
\$ 100,000 Bodily Injury by Disease - Each Employee

Automobile Liability:

\$1,000,000 Each Accident

All coverage shall be placed with an insurance company duly admitted in the State of Indiana and have an AM Best rating of "A-" or better. Each Certificate of Insurance shall provide that the insurer must give the City of Franklin at least 30 days' prior written notice of cancellation and termination of the Contractor's coverage.

'As approved by the Franklin Board of Public Works & Safety: Mayor Joe McGuinness, Stephen Barnett & Bob Swinehamer at their meeting held March 18, 2013)

Addendum to Certification of Compliance with Applicable Law

Exhibit "B"

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EXHIBIT 6

2020 HOURLY RATE and REIMBURSABLE EXPENSE SCHEDULE

<u>Position</u>	<u>Hourly Rate*</u>
Principal Engineer	\$230
Senior Project Manager I/II	\$190/\$215
Senior Project Engineer I/II	\$190/\$215
Project Manager I/II	\$155/\$165
Assistant Project Manager	\$130
Project Engineer I/II/III/IV	\$120/\$130/\$155/\$165
Engineer	\$105
Electrical Senior Project Manager I/II	\$195/\$220
Electrical Senior Project Engineer I/II	\$195/\$220
Electrical Project Manager I/II	\$160/\$170
Electrical Project Engineer I/II/III/IV	\$125/\$135/\$160/\$170
Control System Engineer I/II/III/IV	\$110/\$130/\$150/\$170
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
CAD Manager I/II	\$120/\$150
Senior Designer I/II	\$115/\$130
Designer	\$105
GIS Technician	\$90
Technician I/II/III/IV	\$65/\$80/\$90/\$100
Senior Resident Project Representative I/II	\$110/\$120
Resident Project Representative I/II/III/IV	\$65/\$80/\$90/\$100
Field Services Manager I/II	\$120/\$130
Registered/Professional Land Surveyor	\$160
Survey Manager	\$130
Survey Crew Manager I/II	\$90/\$100
Survey Crew Chief I/II	\$85/\$95
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, 2020