

**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:	October 30, 2023	Meeting Date:	November 6, 2023
Contact Information:			
Requested by:	Mark Richards		
On Behalf of Organization or Individual: City of Franklin			
Telephone:	317-736-3631		
Email address:	mrichards@franklin.in.gov		
Mailing Address:	70 E. Monroe Street, Franklin, IN 46131		
Describe Request:			
Request approval of PSA with USI Consultants, Inc. for design of replacement of the Forsythe Street culvert over Hurricane Creek.			
List Supporting Documentation Provided:			
Professional Services Agreement			
Who will present the request?			
Name:	Mark Richards	Telephone:	317-736-3631

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 _____, 2023, is made by and between the **City of Franklin**, acting by and through its Board of Public Works and Safety ("CITY") and **USI Consultants, Inc.**, ("CONSULTANT") an Indiana corporation organized under the laws of the State of Indiana.

Project Description: Culvert Replacement - Forsythe Street over the Hurricane Creek

RECITALS

WHEREAS, CITY 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 are 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 CITY

The information and services to be furnished by CITY 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 under this Agreement, in accordance with the terms of this Agreement, CITY shall pay the CONSULTANT in accordance with the fees and charges established in EXHIBIT 4, which is attached to this Agreement, and incorporated herein by reference. The terms of payment of said compensation is as set forth on Exhibit 4. Compensation for the services rendered shall not exceed the sum of \$ 299,950.00 without specific written authorization of CITY prior to incurring the charge.

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

CITY 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 CITY. 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 CITY 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 CITY 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. 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.

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 CITY.

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 CITY 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 CITY. 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 CITY 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 CITY.

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 5 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 CITY a certificate, or certificates, showing that it has complied with this Section VI.5.b, which certificate or certificates, shall also designate CITY as an additional named insured. The policies shall not be changed or canceled unless thirty (30) days prior written notice has been given to CITY.

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 CITY 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 CITY.

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 CITY 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 CITY'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 federal aid projects, where applicable, the consultant shall comply with the provisions relative to non-discrimination in federally assisted programs as identified on the attached Exhibit 6, Appendix A. For purposes of interpretation of Exhibit A, 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 CITY, 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

CITY 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, defend (at its sole expense) 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, attorneys' fees and costs ("claims") which arise or are any way connected with the work performed or services provided under this Agreement by CONSULTANT or its agents. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of the CONSULTANT, its employees or agents, whether active or passive. The CONSULTANT'S indemnification and defense obligations hereunder shall extend to claims occurring after this Agreement is concluded or terminated as well as while it is in force, and shall continue until it is finally adjudicated. CITY shall not provide such indemnification to the CONSULTANT.

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 CITY:

City of Franklin
Mark Richards, City Engineer
70 E. Monroe Street
Franklin, IN 46131
mrichards@franklin.in.gov

To CONSULTANT: USI Consultants, Inc.
8415 E. 56th Street
Indianapolis, IN 46216
accounting@usiconsultants.com

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 CITY and CONSULTANT and their respective successors and permitted assigns. CONSULTANT shall not assign this Agreement without the written consent of CITY.

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 CITY 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.

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

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 6 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 CITY 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). CITY 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.

(Signature page follows)

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 CITY 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.

USI CONSULTANTS, INC.
(CONSULTANT)

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


(Signature)

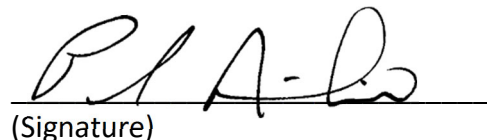
Steve Barnett, Mayor

Philip D. Beer II, PE, PS, President
(Print or type name and title)

Melissa Jones, Member

Robert Swinehamer, Member

Attest:


(Signature)

Attest:

(Signature)

Paul R. Aikins, PE, PS, Vice President
(Print or type name and title)

(Print or type name and title)

EXHIBIT 1

SERVICES BY CONSULTANT

SERVICES BY CONSULTANT:

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate guidelines, regulations and requirements of the CITY.

General Project Scope

The general project scope includes the survey, design, permitting and real estate services for the replacement of culverts carrying Forsythe Street over the Hurricane Creek with minimal roadway approach work in the City of Franklin, Indiana.

The CONSULTANT shall be responsible for performing the following activities:

- TASK 1. Topographic Survey Data Collection
- TASK 2. Design and Plan Development
- TASK 3. Utility & Railroad Coordination
- TASK 4. Subsurface Utility Engineering
- TASK 5. Geotechnical Services
- TASK 6. Waters of the US Report
- TASK 7. Environmental Permitting
- TASK 8. Special Investigations
- TASK 9. Right of Way Engineering
- TASK 10. Construction Phase Services
- TASK 11. Professional Service Exclusions

Remainder of this page left blank intentionally.

TASK 1. TOPOGRAPHIC SURVEY DATA COLLECTION

When directed, the CONSULTANT shall survey the project location; and prepare and record a location control route survey plat. The CONSULTANT shall obtain deeds of record, subdivision plats, survey plats, section corner location information, highway plans, and commissioners records for all properties within the project limits. The CONSULTANT's survey shall be in accordance with the following, listed in order of precedence, and incorporated by reference:

- A. Title 865 IAC 1-12 et sequential
- B. I.C. 25-21.5
- C. 865 I.A.C. 1-12
- D. INDOT Design Manual

Deliverables: if requested, the consultant shall provide the CITY with all pertinent survey information relative to the project, including survey book.

TASK 2. DESIGN AND PLAN DEVELOPMENT

Preliminary: The CONSULTANT shall perform a hydraulic analysis and abbreviated structure size and type investigation to determine the type and geometrics of the replacement structure. The CONSULTANT shall prepare preliminary plans and preliminary estimates of cost, which shall be in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted: INDOT 3-R Design Standards, American Association of State Highway and Transportation Officials "A Policy on Geometric Design of Highways and Streets", Indiana Department of Transportation's Standard Specifications, Road and Bridge Memoranda, and INDOT's "Indiana Design Manual" except as modified by supplemental specifications and special provisions, if any, and shall be completed to the point required to fulfill the requirements for a Public Meeting. No further work shall be done on the plans, unless and until specifically directed by the CITY.

Final: Following approval of the preliminary plans, the CONSULTANT shall prepare contract plans, special provisions for the specifications, and final cost estimates for the construction of the signs, road and bridge. The cost estimates for construction shall be prepared according to the current practices of the Indiana Department of Transportation and shall include all types of work required for the complete construction of the work, including all temporary work necessary in connection therewith, but shall not include the cost of such items of work for which the CITY, through its own forces or through other party or parties will perform the actual construction, or engineering. The unit prices to be used shall be in accordance with the methods used by the CITY.

Following approval of the Final Plans, the CONSULTANT shall assist in the preparation of necessary application materials for submittal to the CITY for use in applying for various Funding mechanisms.

Following notification of receipt of Funding by the CITY, the CONSULTANT shall prepare construction bid documents, including project specific special provisions, for submittal to the CITY.

The CONSULTANT shall attend up to one meeting(s) with the officials of the CITY and other interested agencies as may be required in connection with the work and to make his services available to the CITY during construction of the work for the interpretation of the plans where disagreement may arise and for consultation during construction in the even unforeseen or unusual conditions may arise.

Professional design services by the CONSULTANT for the design of steel I-beams are not included in this agreement. If the use of steel I-beams become necessary or requested by the CITY, the fees for designing them shall be negotiated in good faith at the time under a Supplemental Agreement to this contract.

Professional design services by the CONSULTANT for the design of a bridge with more than one span is not included in this agreement. If more than one span becomes necessary or requested by the CITY, the fees for designing them shall be negotiated in good faith at the time under a Supplemental Agreement to this contract.

The CONSULTANT shall design and detail a traffic detour route for the CITY's approval as part of traffic maintenance. Designing and detailing phased traffic during construction is not included in the scope of work in this agreement. If it becomes necessary, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

A public hearing is not anticipated for this project and is not included in the scope. If a public hearing becomes necessary, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

TASK 3. UTILITY & RAILROAD COORDINATION

The CONSULTANT shall perform utility coordination in accordance with the following:

- A. Utility coordination activities, as presented during Utility Coordinator Certification Training
- B. 105 IAC 13 Utility Facility Relocations on Construction Contracts
- C. Indiana Design Manual (IDM) Chapter 104 Utility Coordination INDOT Accommodation Policy
- D. FHWA Program Guide: Utility Relocation and Accommodation on Federal Aid Highway Projects

The CONSULTANT shall coordinate, review, and approve the utility relocation work plan; sign the utility coordination certificate, if applicable; and develop the utility special provision in accordance with the IDM.

At the start of a project, the CONSULTANT shall develop and thereafter maintain a schedule of activities to deliver the project. The CONSULTANT shall design the project to potentially avoid the relocation of utility facilities when feasible and to minimize the financial impact to the project and to the utilities.

The project scope does not include the substation adjacent to the project. If design or coordination for the substation become necessary, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

Reimbursable utility agreements are not anticipated and excluded from the scope of work for this project. If a reimbursable agreement is required, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

TASK 4. SUBSURFACE UTILITY ENGINEERING

The CONSULTANT shall perform the required services in two phases. The first phase consists of the CONSULTANT's designating services. For the purposes of this contract, "designate" means to indicate, by marking, the presence and approximate horizontal location of subsurface utilities using geophysical prospecting techniques, including, without limitation, electromagnetic and sonic techniques. This phase is defined as Quality Level B (QL-B). The second phase consists of subsurface utility location (test hole) services. For the purposes of this contract, "locate" means to obtain the accurate horizontal and vertical position of subsurface utilities by excavating a test hole.

This phase is defined as Quality Level A (QL-A). The CONSULTANT shall provide these services as identified in the fee schedule listed in Exhibit 4 and as requested in writing by CITY to aid in the design of the project, rights-of-way or construction plans for the project.

Exclusion: This work does not include robotic camera services. If CITY determines robotic camera services are required, fees shall be negotiated in good faith at the time under a Supplemental Agreement to this contract.

TASK 5. GEOTECHNICAL SERVICES

The work shall be performed in accordance with the requirements set out in the most current Geotechnical Design Manual.

Prior to entering upon private property for performing the work, the CONSULTANT shall follow the "Instruction for Entering upon Private Property" as established by Legislative Acts of 1963. A copy of these instructions is on file with INDOT and is incorporated by reference.

The CONSULTANT shall obtain necessary permits for maintenance of traffic before drilling operations can proceed.

The CONSULTANT shall obtain and preserve samples of the subsoil as required, perform the necessary laboratory tests, perform the required geotechnical engineering analyses and prepare and furnish the necessary reports covering the information obtained. If the CONSULTANT is requested to perform the laboratory test on the soil samples and rock cores, these samples shall be delivered to its laboratory no later than the end of each workweek.

The format for the Geotechnical Reports and drawings/logs should be a Windows based version and should be as specified in the Geotechnical Design Manual with the addition that all borings shall have northern and eastern coordinates in a global system and the name of the system utilized. Scanning should be kept to a minimum unless absolutely necessary such as hand calculations, and drawings, etc.

The scope the geotechnical investigation assumes that the proposed structure will be single span and two soil borings will be required. If additional soil borings become necessary or is requested by the CITY, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

Lead Based Paint Testing is not included in this agreement. If it becomes necessary or is requested by the CITY, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

Pavement cores and pavement design are not included in this agreement. If they become necessary or is requested by the CITY, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

Professional design services by the CONSULTANT for the design of steel I-beams are not included in this agreement. If the use of steel I-beams become necessary or requested by the CITY, the fees for designing them shall be negotiated in good faith at the time under a Supplemental Agreement to this contract.

The CONSULTANT shall design and detail a traffic detour route for the CITY's approval as part of traffic maintenance. Designing and detailing phased traffic during construction is not included in the scope of work in this

agreement. If it becomes necessary, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

A public hearing is not anticipated for this project and is not included in the scope. If a public hearing becomes necessary, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

TASK 6. WATERS OF THE US REPORT

The CONSULTANT shall prepare a Wetland Determination/Delineation and Waters of the U.S. Determination. A field reconnaissance shall be conducted during the growing season, which is typically April 15 through October 15, by a wetland scientist in accordance with the U.S. Army Corps of Engineers Wetland Delineation Manual of January 1987 and the August 2010 Midwest Regional Supplement manual (Version 2.0). A delineation of identified wetland areas shall also be conducted. Identified waterways shall be surveyed to determine if they meet the definition of Waters of the U.S. If necessary, the CONSULTANT shall submit the report to the USACE for approval and determination.

TASK 7. ENVIRONMENTAL PERMITTING

When directed, the CONSULTANT shall survey the project location; and prepare and record a location control route survey plat

The CONSULTANT shall assist the CITY in securing the necessary environmental permits for the project by developing permit-compliant drawings, drafting the permit applications, and coordinating, applying for, and tracking the status of the permits until they are received. The CONSULTANT shall assist the CITY in securing the environmental permits marked with an "x" in the box below:

- ☐ Indiana Department of Environmental Management (IDEM) Section 401 Individual Permit
- ☒ Indiana Department of Environmental Management (IDEM) Section 401/United States Army Corps of Engineers (USACE) Section 404 Regional General Permit.
- ☐ Indiana Department of Environmental Management (IDEM) Section 401/United States Army Corps of Engineers (USACE) Section 404 Nationwide Permit
- ☐ Indiana Department of Natural Resources (IDNR) Construction in a Floodway Permit with Replacement-in-Kind Worksheet, excluding hydraulic analysis and modeling
- ☒ Indiana Department of Natural Resources (IDNR) Construction in a Floodway Permit including hydraulic analysis and modeling
- ☐ IDEM Construction Stormwater General Permit (Formally Rule 5)
- ☐ County Regulated Drainage Permit
- ☐ Federal Aviation Administration Permit
- ☐ Other (i.e. US Coast Guard Permit, IDEM Section 10, etc.): _____
- ☐ Coordination for the Acquisition of mitigation credits

The CONSULTANT shall track the status of permits and permit expiration dates to determine if valid permits will be available for the current project construction schedule.

If the CONSULTANT is requested or required to assist the CITY in securing a permit not selected above, the work to provide such assistance shall be considered a change in the scope of the work. If additional permitting, outside the scope listed above, is required, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

Neither Federal Emergency Management Agency's (FEMA) Letter of Map Revision (LOMR) nor Conditional Letter of Map Revision (CLOMR) are included in the scope of this agreement. If one of them becomes necessary to obtain, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

Environmental mitigation design, implementation, or acquisition of mitigation credits are not included in this agreement. If they become necessary, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

TASK 8. SPECIAL INVESTIGATIONS

During the design and plan development, certain special investigations, such as, but not limited to septic exploration, endangered species study, bat study, Subsurface Utility Engineering (SUE), etc. may become necessary. If something is discovered and is outside the scope of services and become(s) necessary, fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

TASK 9. RIGHT OF WAY ENGINEERING

The following Right-of-Way Engineering services will be provided to secure the permanent and temporary right-of-way needed for this project. A parcel shall be defined as all temporary and permanent right-of-way being acquired from a single existing parcel of land. This means a single parcel could have several legal descriptions based on its configuration. The CONSULTANT shall be available for assistance in interpretation of the Right-of-Way documents.

- A. Determine the owners of all properties located adjacent to and in the immediate area of the project alignment, along with the legal descriptions of those properties.
- B. Provide legal descriptions for all parcel takings. The descriptions shall be prepared and certified by a registered land surveyor.
- C. Provide individual plats for each parcel. Each plat shall include the following:
 - I. Legal descriptions.
 - II. Total area before taking.
 - III. Existing Right-of-Way.
 - IV. Area of taking.
 - V. Areas of residue.
 - VI. Existing Right-of-Way to be reacquired.
 - VII. Sketch of the parcel, drawn to scale.
- D. Provide Legal Instruments required for Transfer of Title and Recording.
- E. Provide separate folders for each parcel containing information obtained above to be utilized by appraisers, negotiators and attorneys to provide the required right-of-way services.
- F. Provide in the field a stake-out locating the new right-of-way line for the partial takings included in the parcels. The stake-out shall be made using wooden hubs located at appropriate property lines and at other changes in bearing.

If additional parcels become necessary to acquire, above and beyond the number listed in the fee schedule in Exhibit 4, and/or additional right-of-way staking becomes necessary, additional fees shall be negotiated in good faith at the time under a Supplemental Agreement of this contract.

TASK 10. CONSTRUCTION PHASE SERVICES

Following the award of the construction contract, the CONSULTANT shall be responsible for attending the pre-construction meeting. During the course of construction, the CONSULTANT shall be available at reasonable times during normal working hours to respond to reasonable inquiries concerning the accuracy or intent of the CONSULTANT's plans. All such inquiries shall be made only by persons designated by CITY to interpret the plans and Contract documents for the benefit of the contractors and subcontractors performing the work. The CONSULTANT shall not be required to respond to inquiries by persons other than CITY 's designated representative and shall not be required to engage in exhaustive or extensive analysis or interpretation of the plans.

The CONSULTANT shall review all shop drawings as described in IDM 14-1.02(08). This includes Mechanically Stabilized Earth (MSE) retaining walls, Sound Barrier Systems, and Precast Concrete 3-Sided Structures and Box Culverts.

If during the construction phase it is determined that unforeseen or unusual conditions arise, the CONSULTANT shall revise the plans with CITY's approval.

If requested by CITY, the CONSULTANT shall have the CONSULTANT's project design engineer attend and participate in partnering (1) a workshop with employees of INDOT, contractor, subcontractors, etc. to develop a statement of goals, and (2) follow-up meetings.

TASK 11. EXCLUDED PROFESSIONAL SERVICES

The professional services listed below and marked with an "x" are excluded from this agreement:

- ☐ Topographic or Route Survey
- ☐ Hydraulic Analysis
- ☐ Utility Coordination
- ☐ Railroad Coordination
- ☐ Environmental Permitting
- ☒ Environmental Documentation Preparation (i.e. SEPA, CE-1, etc.)
- ☐ Geotechnical Investigation
- ☒ Lead Based Paint Testing (structure built prior to 1978, assumption is lead based paint)
- ☐ Pavement Design
- ☐ Asbestos Investigation
- ☐ Right-of-Way Engineering
- ☒ Right-of-Way Services
- ☐ Bid Documents, except special provisions, and Bid Assistance
- ☐ Construction Phases Services
- ☒ Construction Inspection

EXHIBIT 2

INFORMATION AND SERVICES TO BE FURNISHED BY CITY

INFORMATION AND SERVICES TO BE FURNISHED BY THE CITY:

The CITY shall furnish the CONSULTANT with the following (if requested):

1. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
2. Standard Specifications and standard drawings applicable to the project
3. Plans of existing bridge within the project limits
4. All written views pertinent to the location and environmental studies that are received by INDOT
5. Traffic assignments, Traffic Signal Warrants (New Signal), Traffic Lighting Warrants (New Lighting)
6. Available data from the transportation planning process
7. Utility plans available to INDOT covering utility facilities govern the location of signals and underground conduits throughout the affected areas
8. Provide access to enter upon public and private lands as required for the CONSULTANT to perform work under this Contract

Remainder of this page left blank intentionally.

EXHIBIT 3

COMMENCEMENT OF SERVICES AND SCHEDULE

SCHEDULE:

The CONSULTANT shall begin the work to be performed under this agreement within thirty (30) days upon receipt of the written Notice-to-Proceed (NTP) from the CITY and shall deliver the work to the CITY in accordance with the Schedule shown below. The CONSULTANT shall not begin work prior to the date of the Notice to Proceed.

All work by the CONSULTANT under this Contract shall be completed and delivered to the CITY for review and approval within the approximate time periods shown in the following submission schedule:

Stage 1	05/22/2024
Stage 3	08/15/2025
Anticipated Bid Date	10/13/2025

Remainder of this page left blank intentionally.

EXHIBIT 4

COMPENSATION

COMPENSATION:

The CONSULTANT shall receive as payment for the services performed under this Agreement the total fee not to exceed **\$299,950.00** unless a modification of the Agreement is approved in writing by the CITY.

The CONSULTANT will be paid for the services described in Exhibit 1 on a lump sum basis unless otherwise noted in accordance with the following fee schedule:

Topographic Survey	\$ 29,700.00	
Design and Plan Development	\$ 158,200.00	
Utility Coordination	\$ 35,700.00	Hourly NTE
SUE Coordination and Survey (USI)	\$ 7,300.00	Hourly NTE
Subsurface Utility Engineering Provider (SUE)(Sub)	\$ 10,000.00	Unit NTE
Geotechnical Services including (Terracon)	\$ 21,900.00	
Geotechnical Report		
Pavement Investigation		
Pavement Design		
Environmental Services including	\$ 5,500.00	
Waters of the US Report		
Environmental Permitting including	\$ 11,700.00	
IDEM 401/Army Corp 404 RGP		
IDNR Construction in a Floodway Permit (w/ Hydraulic Modeling)		
Right-of-Way Engineering (1 parcel) including	\$ 5,200.00	
R/W Verification		
R/W Engineering		
R/W Management		
T&E Reports (1 @ \$450/ea.)	\$ 450.00	Unit NTE
R/W Staking (per site visit)	\$ 4,300.00	
Construction & Utility Phase Services	\$ 10,000.00	Hourly NTE
<u>TOTAL NOT-TO-EXCEED FEE =</u>	<u>\$ 299,950.00</u>	

The proposed fees listed above are valid for 120 days. If the proposed fees listed above are not accepted by the proper CITY authority within 120 days of the date the fees were received by an employee of the CITY, the CONSULTANT reserves the right to renegotiate the fees and/or schedule.

The CONSULTANT shall not be paid for any service performed by the CITY or services not required to develop this project. If notice to proceed with any portion of the work is not given prior to one year from the date of this Agreement, the fees for that portion of the work may be renegotiated as mutually agreed upon by the CITY and the CONSULTANT. Costs for routine photocopy and paper reproduction, cellular phone costs, pager costs and computer time costs will not be paid as a reimbursable but is to be included in the above fees and overhead costs.

1. Method of Payment

The CONSULTANT shall submit invoices to the CITY, not more often than once per month during the progress of the work, for partially completed work as of the date of the invoice. Such invoices shall represent the value, to the CITY, of the partially completed work based on the proportion which its percentage of completion bears to the total cost of the fully completed work.

Invoices shall be submitted to:

Attn: Mark Richards
CITY Contact Name

mrichards@franklin.in.gov
Email

The CITY for and in consideration of the rendering of the engineering services provided for in Exhibit 1, agrees to pay the CONSULTANT for rendering such services the fee established above upon completion of the work there under, acceptance thereof by the CITY and upon the CONSULTANT submitting an invoice as described above.

In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted.

Hourly Not-to-Exceed (NTE) fees to be paid at the USI Billable Hourly Rates Per Classification and direct expense rates listed below. Any NTE fees occurring after July 1 of the year listed in the effective date below shall have hourly rates updated as submitted by CONSULTANT to the CITY.

2023 – 2024 USI Billable Hourly Rates Per Classification

Effective: 07/02/2023

CLASSIFICATION		BILLABLE HOURLY RATE
1	Business Development	\$188.00
2	CADD Technician	\$ 92.00
3	Clerical	\$126.00
4	Construction Project Manager I	\$139.00
5	Construction Project Manager II	\$144.00
6	Construction Project Manager III	\$172.00
7	Construction Project Manager IV	\$195.00
8	Construction Project Manager V - Dept Manager	\$228.00
9	Designer/Detailer I	\$194.00
10	Designer/Detailer II	\$213.00
11	Drone Operator	\$145.00
12	Engineer Intern	\$149.00
13	Engineer I - Project Engineer/Non-PE PM	\$160.00
14	Engineer II - Project Manager	\$192.00
15	Engineer III - Senior Project Engineer	\$216.00
16	Engineer IV - Senior Project Manager	\$223.00
17	Engineer V - Department Manager	\$287.00
18	Engineer VI - Principal Engineer*	\$292.00

19	Environmental Specialist I	\$129.00
20	Environmental Specialist II	\$151.00
21	Environmental Specialist III	\$175.00
22	Intern	\$ 78.00
23	Project Coordinator	\$161.00
24	Right of Way I - ROW Technician	\$105.00
25	Right of Way II - Project Manager/Buying Agent	\$136.00
26	Right of Way III - Senior Project Manager	\$192.00
27	Surveyor I - Survey Technician I	\$92.00
28	Surveyor II - Survey Technician II	\$100.00
29	Surveyor III - Party Chief I	\$140.00
30	Surveyor IV - Party Chief II	\$165.00
31	Surveyor V - Project Surveyor	\$184.00
32	Surveyor VI - Construction Survey Manager	\$210.00
33	Surveyor VII - Design Survey Manager	\$261.00
34	Urban Planner I	\$118.00
35	Utility Coordinator I	\$ 94.00
36	Utility & Railroad Coordinator II	\$196.00

NOTES:

1. The base rate shown will be multiplied by a factor of 1.5 for overtime rates (over 8 hrs. per day).
2. Same rates will apply for travel time.
3. Motel expenses will be reimbursed at the rate charged to USI Consultants, Inc.
4. Per Diem expense will be \$41.00 per night per individual
5. Mileage Rates will be \$0.655 per mile (Federal Mileage Rate)
6. Unmanned Aircraft System (UAS/Drone) Rate will be \$275.00

EXHIBIT 5

INSURANCE REQUIREMENTS

Exhibit 5

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