

211

BILL NO. S-13-03-16

SPECIAL ORDINANCE NO. S-24-13

AN ORDINANCE certifying and approving the need for the services of a consultant to provide professional On-Call Resident Project Representative/Inspection Services - 2013/2014 to the Division of City Utilities through its Board of Public Works.

WHEREAS, the City of Fort Wayne through its Board of Public Works desires to provide professional On-Call Resident Project Representative/Inspection Services – 2013/2014- to the Division of City Utilities for new sanitary sewers, water mains and stormwater facilities on private developments and Utility funded Capital Improvement projects; and

WHEREAS, the City of Fort Wayne does not have the capability of performing this work with in-house forces; and

WHEREAS, the Board of Public Works believes that there is a need to employ GAI Consultants (Bonar Group), Construction Support Services, DLZ of Indiana, Butler, Fairman & Seifer, A&Z Engineering and VS Engineering, Inc. to perform this service; and

WHEREAS, it is anticipated that the amount to be paid to said consultants on an annual basis, will be in excess of \$100,000.00

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The Common Council of the City of Fort Wayne hereby certifies and approves the need for the services of consultants to provide professional On-Call Resident Project Representative/Inspection Services – 2013/2014 - to the Division of City Utilities for new sanitary sewers, water mains and stormwater facilities on private developments and Utility Funded Capital Improvement project

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.


Council Member

APPROVED AS TO FORM AND LEGALITY


Carol Helton, City Attorney

Public Hearing Date, if applicable

Read the first time in full and on motion by Councilman *John Shoaff*;
Read the second time by title and referred to the *City Utilities Committee*
Committee. Read the third time in full and on motion by Councilman
Shoaff, placed on passage by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8			1
BENDER	✓			
CRAWFORD	✓			
DIDIER	✓			
HARPER	✓			
HINES	✓			
JEHL				✓
PADDOCK	✓			
SHOAFF	✓			
SMITH	✓			

DATED: *3-26-13* *Sandra E. Kennedy*
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. *S-24-13* on the *26th* day of
March, 2013

ATTEST: *Sandra E. Kennedy* SANDRA E. KENNEDY, CITY CLERK
Thomas F. Richter PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the *29th* day
of *March*, 2013, at the hour of *10:00* o'clock *A.m.* .E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this *29th* day of *MARCH*
2013, at the hour of *3:30* o'clock *PM* .E.S.T.
Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. S-13-03-16

REPORT OF THE COMMITTEE ON CITY UTILITIES

MARCH 19, 2013

JOHN SHOAFF – CHAIR
MITCH HARPER – CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN ORDINANCE certifying and approving the need for the services of a consultant to provide professional On-Call Resident Project Representative/Inspection Services - 2013/2014 to the Division of City Utilities through its Board of Public Works. HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE

DC PASS

DO NOT PASS

ABSTAIN

NO REC

Handwritten signatures and initials:
- [Signature]
- [Signature] AB
- [Signature]
- [Signature]
- [Signature]
- [Signature]
- [Signature]
- [Signature]

SANDRA E. KENNEDY
CITY CLERK

Interoffice Memo

*11/2/13
Michael Kiester
3-1-13*

Date: March 1, 2013
To: Common Council Members
From: Michael Kiester, Manager, City Utilities Engineering / ESS
RE: **City Utilities-On Call Resident Project Representative/Inspection Services-2013/2014**

City Utilities has utilized the services of outside consultants for inspection services for many years. With the fluctuation of construction activity levels throughout the year, having a fixed in-house staff does not meet the needs of the construction program. By utilizing consultant firms for these services, the Utility is able to meet the fluctuation of high construction activity during the summer months, low construction during the winter months by relying on the consultant firms for the flexibility of staff.

The ordinance for 2013/2014 services includes the same six firms that have been utilized since 2011; GAI Consultants, Construction Support Services, DLZ of Indiana, Butler, Fairman & Seufert, A&Z Engineering and VS Engineering, Inc. All six of these firms have a local Fort Wayne office.

The hourly rate for these services will remain the same as it has been since 2011. The hourly rate for Developer Project Inspection will be \$50.00 per hour and the hourly rate for the Capital Project Inspection will be tiered at \$55.00 and \$65.00 per hour. The lower rate will be paid for services rendered by professionals with a minimum of five years of experience while the higher rate will go to professionals with a minimum of ten years of experience. These are straight time hourly rates with no travel time paid and no premium for hours worked beyond the normal 8-hour day.

In 2012, consultants provided 11,940 hours of service for a total of \$741,899.50.

As a result of increased construction activity, it is anticipated that the compensation to these firms could exceed \$100,000 for the year; therefore we are asking Council to approve this ordinance.

The Board of Public Works approved the Professional Services Agreement with these firms through the 2013/2014 period on March 6, 2013.

What Are The Implications If Not Approved?

The Utility will not be able to provide adequate construction oversight on projects without the use of these consultant services without increasing staff. It would take a minimum of five additional staff members to cover projects if workload was constant. With the fluctuation of construction activities, personnel requirements would be greater in the summer months and reduced during the winter.

If Prior Approval Is Being Requested, Justify:

Prior approval NOT requested

The cost of said services is funded by the Water, Sewer, and Storm Utilities.

Council Introduction Date: March 12, 2013

CC: BOW
Matthew Wirtz
Diane Brown
Chrono
File

PROFESSIONAL SERVICES AGREEMENT

City Utilities- Resident Project Representative / Inspection Services

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
City of Fort Wayne
200 East Berry Street
Suite 240
Fort Wayne, IN 46802

and,

PROJECT ENGINEER ("FIRM"):

Construction Support Services
PO Box 85048
Fort Wayne, IN 46885

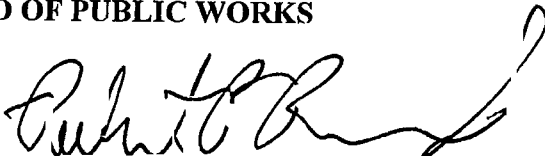
Who agree as follows:

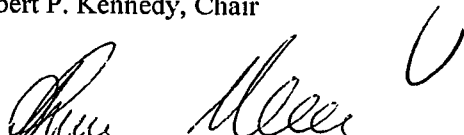
CITY hereby engages FIRM to perform the services set forth in Part I-Services ("Services") and FIRM agrees to perform the Services for the compensation set forth in Part III- Compensation ("Compensation"). FIRM shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from CITY. CITY and FIRM agree that these signature pages, together with Parts I- IV and attachments referred to therein, constitute the entire Agreement ("Agreement") between them relating to this Project.

APPROVALS

APPROVED FOR CITY:

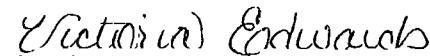
BOARD OF PUBLIC WORKS

BY: 
Robert P. Kennedy, Chair

BY: 
Kumar Menon, Member

BY:
Mike Avila, Member

ATTEST:

BY: 
Victoria Edwards, Clerk

APPROVED FOR FIRM: Construction Support Services

BY: 

PRINTED NAME THOMAS J. BAKUC

TITLE: PRESIDENT

DATE: 02/25/13

**PART I
FIRMS RESPONSIBILITIES**

A. GENERAL RESPONSIBILITIES

FIRM Shall:

1. Certify and warrant that it has the capacity to perform the services required by CITY with high professional quality, ability and expertise and further certify and warrant that it has the capacity and authority to enter into this Agreement.
2. Perform Resident Project Representative (RPR) and inspection services during the construction of sanitary sewers, water mains, and stormwater sewer facilities in assigned projects to determine whether said infrastructure is constructed in substantial conformance with plans and specifications approved by Fort Wayne City Utilities Development Services or Engineering Department and Chapters 51, 52 and 53 of the City Code of Fort Wayne, Indiana, as set forth in Service by Firm section included herein.
3. Review project National Pollutant Discharge Elimination System (NPDES) Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with approved permit / plan requirements.
4. Keep appropriate records, as instructed by CITY and submit all records to CITY'S (City Utilities Engineering Department) as set forth in Services by Firm section.

B. SERVICES BY FIRM:

Services to be provided for the project are as follows:

1. FIRM shall provide professional RPR, inspection, observation and testing services during the construction of facilities on assigned projects.
2. FIRM shall provide one (1) Inspector, clerical, and secretarial personnel as required for a period of time necessary to complete the construction project and prepare a final construction report.
 - a. The qualifications and experiences of personnel provided by FIRM are subject to approval by CITY. No personnel shall be assigned to the project until such approval is obtained.
 - b. The Inspector shall take directions from and report to CITY'S assigned Contract Manager on all matters concerning contract compliance and administration.
 - c. The Inspector shall coordinate project activities with CITY'S assigned Contract Manager.
3. FIRM shall also do the following:
 - a. FIRMS will be expected to fully utilize the Program Management Information System (PMIS), a web based system that will allow for FIRMS to submit inspection reports, photographs, and other various forms of project documentation electronically to City Utilities Engineering.

- b. Serve as CITY'S Liaison with the Developer / Contractor, working principally through the Developer / Contractor's field superintendent or such other person in authority as designated by the Developer / Contractor. Acting in liaison capacity, the Inspector shall be thoroughly familiar with the plans and specifications applicable to the project and observe the construction for compliance with respect to all provisions therein.
- c. Review the NPDES Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with the approved permit / plan requirements. Any deviation observed shall be reported in writing promptly to CITY by the Inspector.
- d. Review the construction schedule prepared by the Developer / Contractor and assist CITY in making sure schedule is being held and updated monthly with pay application.
- e. Cooperate with CITY in dealing with the various local agencies having jurisdiction over the project.
- f. Provide observation of construction activities performed by the Contractor to ensure work complies with the contract documents and related project permits.
 - 1. Daily logs – to be loaded into PMIS for both Developer and Capital projects each day of active construction
 - 2. Photos for construction progress (minimum of 3 per day of active construction) as well as for any potential claim situations- to be loaded into PMIS at minimum of every week
 - 3. Record on project drawings all field changes and daily production information
 - 4. Keep quantity records and accurate materials stored on site records for submittal to Contract Manager for progress payment reviews
 - 5. Keep detailed records on time and materials for work authorized as reimbursable
 - 6. Verify that all applicable permits required for the successful completion of the project have been obtained and are being complied with. Copies of permits should be loaded into PMIS
- g. Inspect, at a minimum, the following:
 - 1. Bedding and backfill of stormwater and sanitary sewers and related structures
 - 2. Bedding, backfill and restraint of water mains, elbows, hydrants, valves, auxiliary valves, blow-offs, services and related appurtenances.
 - 3. Installation of manholes, lift stations and/or force mains
 - 4. Subgrade for horizontal and vertical alignment and compaction
 - 5. Rough and final grading of swales, ditches, and detention/retention facilities
 - 6. Testing of construction materials by private testing company may be called for on any of the above phases as required by the City Utilities Engineering Department or as requested by CITY.
 - 7. On-site verification of all required testing and as-built survey information including review of all record drawing plans by design engineer.
 - 8. Verification of invert elevations at each manhole during construction of sanitary and storm sewer main trunk lines to ensure design elevations (and associated design capacity) is being maintained.
- h. Furnish all equipment necessary to sample and test materials and/or provide on-site independent assurance testing of materials in accordance with standards and specifications of the Fort Wayne procedures and in accordance with current accepted practices, ordinances, and the most recent standards and specifications of the Division of Utilities, City Utilities Engineering Department as approved and adopted by the Board of Public Works.
- i. Verify that required testing has been accomplished and results of the testing are satisfactory
- J. Notify the Developer / Contractor and CITY in writing of any substandard work
- k. Consider and evaluate the Developer / Contractor's suggestions for modifications in drawings and/or

specifications and report them with recommendations to CITY'S assigned Contract Manager.

- l. Representative of the firm shall notify CITY of any additional work requested by the CONTRACTOR beyond the original approved design prior to the work occurring. Representatives are not empowered to make changes to projects; all changes must be approved by CITY staff.
- m. On the PMIS Inspectors Daily Report, record hours on the job site (both inspector & contractor(s)), weather conditions, field superintendent/foreman's name, crew size, list of visiting officials, decisions, interaction with the public or property owners/renters, safety observations, general observations, and specific observations with regard to test procedures and results of testing – to be loaded into PMIS daily.
- n. Provide a short weekly summary/status report of any major contractor's activities, issues, as well as work planned for the following week (during the active construction periods only)- to be loaded into PMIS every week
- o. Provide meeting minutes of all construction related meetings .
- p. Assist City CM with management of contractor's request for information (RFI's) on clarification and interpretations, field orders, change orders and work change directives.
- q. Assist the City Construction Manager (CM) in reviewing the Contractor's monthly pay quantities and application
- r. Assist City CM in preparing and coordinating change management documents, issuing defective work notices, performing final inspection and developing final punch lists
- s. Assist City CM to coordinate any necessary vendor installation certifications as well as startup and training activities
- t. Assist City CM with final project closeout documentation and help ensure that compliance efforts are completed so that project can be accepted by CU and the Board of Public Works and final payment be made to Contractor.
- u. Provide timely invoices to CITY.
- v. Deliver the final project records to the Construction Manager within ten (10) calendar days after satisfactory completion of the project.

C. LIST OF KEY PERSONEL

FIRM'S key personnel to provide services under this agreement are as listed in Attachment #1.

FIRM'S key personal will be assigned on a project basis and as mutually agreed to by FIRM and CITY prior to the commencement of any work in accordance with this Agreement. On all projects, but specifically on Capital projects the City believes that continuity of RPR services is important to maintain quality and accountability. Upon assignment of a project to a FIRM and the FIRM'S proposed staff person(s) are confirmed, CU desires the staff person(s) be assigned to the project until completion. To accommodate the difficulties of FIRMS complying with this requirement under this on-call type arrangement, CU will allow (unless otherwise agreed upon during project assignment discussions) for the key staff person(s) to be substituted by other pre-approved staff person(s) a

maximum of one incident or day per week.

City Utilities will also consider allowing RPR's with less experience than required (requirements noted above) for substitution on projects. These exceptions will need to be pre-approved on project by project basis.

D. SCHEDULE

Services under this contract are to be completed from date of NTP until December 31, 2014.

1. FIRM shall commence its services on assigned PROJECT upon notification by CITY.
2. FIRM shall attend a pre-construction meeting with the DEVELOPER/CONTRACTOR before commencement of construction.

PART II

CITY'S RESPONSIBILITIES

CITY, at its expense, shall provide the following in a timely manner so as not to delay the Services.

A. INFORMATION AND REQUIREMENTS

1. Provide all criteria and full information as to CITY'S requirements for the Project, including without limitation, design objectives and constraints capacity and performance requirements, flexibility, the project scope, the comprehensive engineering report, the general and special provisions of the construction agreement/contract and any budgetary limitations; and furnish copies or notify FIRM of all design and construction standards which CITY will require to be included in the required reports and all other items as described in PART 1.
2. CITY shall provide a CITY Representative with decision-making authority on all inquiries.
3. CITY shall supply FIRM with One (1) set of approved Sub-Division or Commercial Plans at least 2 calendar days prior to work.
4. CITY shall supply FIRM with One (1) set of approved Bid Documents (Plans & Specifications) at least 14 calendar days prior to a pre-construction meeting.

B. REPRESENTATIVE:

Designate representative for the project who shall have authority to transmit instructions, receive information, interpret and define CITY'S policies and make decisions with respect to the services.

Contract Managers: Michael Kiester, Ron Sheppard, Dan Smith, Ray Wigfield, Andrea Adams, Patrick Dooley, Bill Maxwell, Zach Schortgen

PART III

COMPENSATION, BILLING, PAYMENT AND SCHEDULE

A. COMPENSATION

FIRM'S COMPENSATION FOR SERVICES

1. For those services performed by FIRM, FIRM will be paid by CITY on the basis of actual hours of work performed by FIRM'S Inspector on this Agreement at the hourly rate listed below.
2. FIRM shall not include time spent commuting from office or home to and/or from a project site when computing monies owed on payment claims as outlined in Part 1. Costs for commuting between multiple projects will be compensated for in the following manner: Travel time between project A and B shall be charged to project B. Return travel time from project B to project A shall be charged to project A.
3. For those testing services performed by other than FIRM at the request of the CITY, FIRM shall be reimbursed by CITY for the actual invoice for the services performed by other than FIRM, provided that each such invoice shall be subject to approval as reasonable by CITY prior to any reimbursement therefore.

PRIVATE/DEVELOPER PROJECTS

City Private Developer projects are inspected approximately four hours per day during construction activities. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required.

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per hour** per Inspector per DEVELOPER/CONTRACTOR'S crew for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of two years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

CAPITAL PROJECTS

City Capital projects are inspected approximately four to eight hours per day depending on phase of construction. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required. Experience with trenchless construction methods/technologies is also expected (CIPP lining, HDD, etc.) for certain projects.

1. FIRM shall be compensated at a rate of **fifty-five dollars (\$55.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of five years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

2. FIRM shall be compensated at a rate of **sixty-five dollars (\$65.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment #1 that have a minimum of ten years of experience for larger projects or projects with more complex work- such as projects with electrical/mechanical facilities. Staff with experience in electrical/mechanical disciplines will be required on facility projects.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

TAP INSPECTIONS

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per tap** for tap inspections performed at the CITY'S request after the 2:00 PM call in time deadline. CITY'S request will come through the NEW WATER & SEWER DEPARTMENT.

B. BILLING AND PAYMENT

METHOD OF PAYMENT

FIRM shall submit a properly itemized invoice to CITY on a monthly basis. CITY shall pay FIRM within forty five (45) days after receipt of such properly itemized claim forms, unless claim is objected to in writing, in which case claim shall be paid within 15 days of resolution of any dispute.

PART IV

STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the Services are performed.
2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by City. For some projects involving conceptual or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that scope must be redefined. FIRM will promptly provide City with a proposed amendment to this Agreement to recognize such change, which the CITY shall approve or reject in writing within 15 days of receipt.
3. **SAFETY.** Engineer shall establish and maintains corporate programs and procedures for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, FIRM specifically disclaims any authority or responsibility for general job site safety and safety of persons other than FIRM employees.
4. **DELAYS.** If events beyond the control of CITY or FIRM, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be amended to the extent necessary to compensate for such delay.
5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party. CITY shall pay FIRM for all Services, including profit relating thereto, rendered prior to termination.
6. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by FIRM is supplied for the general guidance of the CITY only. Since FIRM has no control over competitive bidding or market conditions, FIRM cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.
7. **RELATIONSHIP WITH CONTRACTORS.** FIRM shall serve as CITY'S professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY'S contractors, but FIRM shall have no authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY'S contractors, without specific written provision to do so in this agreement.
9. **INSURANCE.** FIRM shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;
 - a) Worker's Compensation per statutory requirements
 - b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
 - c) Automobile Liability \$1,000,000 per occurrence
 - d) Products Liability \$1,000,000 per occurrence
 - e) Completed Operations Liability \$1,000,000 minimum per occurrence

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal. All Certificates of Insurance should be sent to the following address:

City of Fort Wayne Board of Public Works
200 East Berry Street, Suite 240
Fort Wayne, IN 46802

10. INDEMNITIES. To the fullest extent permitted by law, FIRM shall indemnify and save harmless CITY from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or (including reasonable litigation costs) death to persons or damage to tangible property to the extent caused directly by the willful misconduct or failure to adhere to the standard of care described in Paragraph 1 above of FIRM, its agents or employees.

To the fullest extent permitted by law, CITY shall defend, indemnify, and save harmless FIRM, its agents, employees, and representatives from and against loss, liability, and damages (including reasonable litigation costs) arising from or relating to claims for injury or death to persons, damages to tangible property, or other losses alleged to be caused by persons directly within the control of CITY when the loss, injury, or damage attributable to CITY'S willful misconduct.

11. LIMITATIONS OF LIABILITY. CITY agrees that, to the fullest extent permitted by law, FIRM'S total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, FIRM'S negligence, errors, omissions, strict liability, or breach of contract shall not exceed the total compensation received by FIRM under this Agreement. If CITY desires a limit of liability greater than that provided above, CITY and FIRM shall include in Part III of this Agreement the amount of such limit and the additional compensation, if any, to be paid to FIRM for assumption of such additional risk.

12. ACCESS. CITY shall provide FIRM reasonably safe access to any premises as necessary for FIRM to provide the Services.

13. REUSE OF PROJECT DELIVERABLES. Reuse of any documents or other deliverables including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at the CITY'S risk. CITY agrees to defend, indemnify, and hold harmless FIRM from all claims, damages, and expenses, (including reasonable litigation costs), arising out of such reuse or alteration by CITY or others acting through CITY.

14. AMENDMENT. This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

15. ASSIGNMENT. Except for assignments (a) to entities which control, or are controlled by, the parties hereto or (b) resulting from operation of law, the rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assigns.

16. STATUTES OF LIMITATION. To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project completion.

- 17. PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to seek its litigation costs from the other party.
- 18. NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.
- 19. NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including CITY'S contractors, if any.
- 20. SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
- 21. AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

IF FIRM IS ADVISED THAT THE PROJECT IT IS BEING ASSIGNED IS A CONSENT DECREE PROJECT, THEN THE FOLLOWING ITEMS MUST BE CONFORMED TO:

- 22. CONSENT DECREE NOTIFICATION.** FIRM shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workmen-like manner and in conformance with the terms of the City of Fort Wayne Consent Decree entered in the U.S. District Court on April 1, 2008 by the United States and State of Indiana. FIRM acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:
<http://www.cityoffortwayne.org/index.php/content/view/1494/1566/>
- 23. DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, FIRM agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within FIRM's possession or control and which relate, in any manner, to the performance of the work undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, FIRM shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the FIRM. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the FIRM attesting that it has provided the City with complete copies of all documents, records and other information which relates to the work contemplated by the Agreement.

PROFESSIONAL SERVICES AGREEMENT

Attachment #1

LIST OF KEY PERSONEL

LIST OF PERSONEL ELIGIBLE FOR IDGHER \$50.00 PAY RATE FOR DEVELOPER
PROJECTS PER PART III, SECTION A, PRIVATE/DEVELOPER PROJECTS, PARAGRAPH 1:

Personnel: THOMAS J. BAKER
JACK POBUK

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$55.00 PAY RATE FOR CAPITAL PROJECTS
PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 1:

Personnel:

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$65.00 PAY RATE FOR CAPITAL PROJECTS
PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 2:

Personnel: THOMAS J. BAKER
JACK POBUK

PROFESSIONAL SERVICES AGREEMENT

City Utilities- Resident Project Representative / Inspection Services

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
City of Fort Wayne
200 East Berry Street
Suite 240
Fort Wayne, IN 46802

and,

PROJECT ENGINEER ("FIRM"):

GAI Consultants
1502 Magnavox Way
Fort Wayne, IN 46804

Who agree as follows:

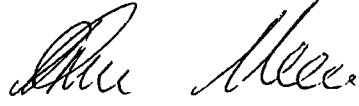
CITY hereby engages FIRM to perform the services set forth in Part I-Services ("Services") and FIRM agrees to perform the Services for the compensation set forth in Part III- Compensation ("Compensation"). FIRM shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from CITY. CITY and FIRM agree that these signature pages, together with Parts I- IV and attachments referred to therein, constitute the entire Agreement ("Agreement") between them relating to this Project.

APPROVALS

APPROVED FOR CITY:

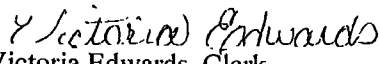
BOARD OF PUBLIC WORKS

BY:  
Robert P. Kennedy, Chair

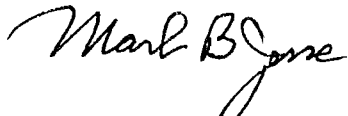
BY: 
Kumar Menon, Member

BY:
Mike Avila, Member

ATTEST:

BY: 
Victoria Edwards, Clerk

APPROVED FOR FIRM: GAI Consultants

BY: 

PRINTED NAME Mark B. Jesse

TITLE: Assistant Vice President

DATE: 2-20-2013

**PART I
FIRMS RESPONSIBILITIES**

A. GENERAL RESPONSIBILITIES

FIRM Shall:

1. Certify and warrant that it has the capacity to perform the services required by CITY with high professional quality, ability and expertise and further certify and warrant that it has the capacity and authority to enter into this Agreement.
2. Perform Resident Project Representative (RPR) and inspection services during the construction of sanitary sewers, water mains, and stormwater sewer facilities in assigned projects to determine whether said infrastructure is constructed in substantial conformance with plans and specifications approved by Fort Wayne City Utilities Development Services or Engineering Department and Chapters 51, 52 and 53 of the City Code of Fort Wayne, Indiana, as set forth in Service by Firm section included herein.
3. Review project National Pollutant Discharge Elimination System (NPDES) Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with approved permit / plan requirements.
4. Keep appropriate records, as instructed by CITY and submit all records to CITY'S (City Utilities Engineering Department) as set forth in Services by Firm section.

B. SERVICES BY FIRM:

Services to be provided for the project are as follows:

1. FIRM shall provide professional RPR, inspection, observation and testing services during the construction of facilities on assigned projects.
2. FIRM shall provide one (1) Inspector, clerical, and secretarial personnel as required for a period of time necessary to complete the construction project and prepare a final construction report.
 - a. The qualifications and experiences of personnel provided by FIRM are subject to approval by CITY. No personnel shall be assigned to the project until such approval is obtained.
 - b. The Inspector shall take directions from and report to CITY'S assigned Contract Manager on all matters concerning contract compliance and administration.
 - c. The Inspector shall coordinate project activities with CITY'S assigned Contract Manager.
3. FIRM shall also do the following:
 - a. FIRMS will be expected to fully utilize the Program Management Information System (PMIS), a web based system that will allow for FIRMS to submit inspection reports, photographs, and other various forms of project documentation electronically to City Utilities Engineering.

- b. Serve as CITY'S Liaison with the Developer / Contractor, working principally through the Developer / Contractor's field superintendent or such other person in authority as designated by the Developer / Contractor. Acting in liaison capacity, the Inspector shall be thoroughly familiar with the plans and specifications applicable to the project and observe the construction for compliance with respect to all provisions therein.
- c. Review the NPDES Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with the approved permit / plan requirements. Any deviation observed shall be reported in writing promptly to CITY by the Inspector.
- d. Review the construction schedule prepared by the Developer / Contractor and assist CITY in making sure schedule is being held and updated monthly with pay application.
- e. Cooperate with CITY in dealing with the various local agencies having jurisdiction over the project.
- f. Provide observation of construction activities performed by the Contractor to ensure work complies with the contract documents and related project permits.
 - 1. Daily logs – to be loaded into PMIS for both Developer and Capital projects each day of active construction
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 - 6. Verify that all applicable permits required for the successful completion of the project have been obtained and are being complied with. Copies of permits should be loaded into PMIS
- g. Inspect, at a minimum, the following:
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 - 2. Bedding, backfill and restraint of water mains, elbows, hydrants, valves, auxiliary valves, blow-offs, services and related appurtenances.
 - 3. Installation of manholes, lift stations and/or force mains
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 - 6. Testing of construction materials by private testing company may be called for on any of the above phases as required by the City Utilities Engineering Department or as requested by CITY.
 - 7. On-site verification of all required testing and as-built survey information including review of all record drawing plans by design engineer.
 - 8. Verification of invert elevations at each manhole during construction of sanitary and storm sewer main trunk lines to ensure design elevations (and associated design capacity) is being maintained.
- h. Furnish all equipment necessary to sample and test materials and/or provide on-site independent assurance testing of materials in accordance with standards and specifications of the Fort Wayne procedures and in accordance with current accepted practices, ordinances, and the most recent standards and specifications of the Division of Utilities, City Utilities Engineering Department as approved and adopted by the Board of Public Works.
- i. Verify that required testing has been accomplished and results of the testing are satisfactory
- J. Notify the Developer / Contractor and CITY in writing of any substandard work
- k. Consider and evaluate the Developer / Contractor's suggestions for modifications in drawings and/or

specifications and report them with recommendations to CITY'S assigned Contract Manager.

- l. Representative of the firm shall notify CITY of any additional work requested by the CONTRACTOR beyond the original approved design prior to the work occurring. Representatives are not empowered to make changes to projects; all changes must be approved by CITY staff.
- m. On the PMIS Inspectors Daily Report, record hours on the job site (both inspector & contractor(s)), weather conditions, field superintendent/foreman's name, crew size, list of visiting officials, decisions, interaction with the public or property owners/renters, safety observations, general observations, and specific observations with regard to test procedures and results of testing – to be loaded into PMIS daily.
- n. Provide a short weekly summary/status report of any major contractor's activities, issues, as well as work planned for the following week (during the active construction periods only)- to be loaded into PMIS every week
- o. Provide meeting minutes of all construction related meetings .
- p. Assist City CM with management of contractor's request for information (RFI's) on clarification and interpretations, field orders, change orders and work change directives.
- q. Assist the City Construction Manager (CM) in reviewing the Contractor's monthly pay quantities and application
- r. Assist City CM in preparing and coordinating change management documents, issuing defective work notices, performing final inspection and developing final punch lists
- s. Assist City CM to coordinate any necessary vendor installation certifications as well as startup and training activities
- t. Assist City CM with final project closeout documentation and help ensure that compliance efforts are completed so that project can be accepted by CU and the Board of Public Works and final payment be made to Contractor.
- u. Provide timely invoices to CITY.
- v. Deliver the final project records to the Construction Manager within ten (10) calendar days after satisfactory completion of the project.

C. LIST OF KEY PERSONEL

FIRM'S key personnel to provide services under this agreement are as listed in Attachment #1.

FIRM'S key personal will be assigned on a project basis and as mutually agreed to by FIRM and CITY prior to the commencement of any work in accordance with this Agreement. On all projects, but specifically on Capital projects the City believes that continuity of RPR services is important to maintain quality and accountability. Upon assignment of a project to a FIRM and the FIRM'S proposed staff person(s) are confirmed, CU desires the staff person(s) be assigned to the project until completion. To accommodate the difficulties of FIRMS complying with this requirement under this on-call type arrangement, CU will allow (unless otherwise agreed upon during project assignment discussions) for the key staff person(s) to be substituted by other pre-approved staff person(s) a

maximum of one incident or day per week.

City Utilities will also consider allowing RPR's with less experience than required (requirements noted above) for substitution on projects. These exceptions will need to be pre-approved on project by project basis.

D. SCHEDULE

Services under this contract are to be completed from date of NTP until December 31, 2014.

1. FIRM shall commence its services on assigned PROJECT upon notification by CITY.
2. FIRM shall attend a pre-construction meeting with the DEVELOPER/CONTRACTOR before commencement of construction.

PART II

CITY'S RESPONSIBILITIES

CITY, at its expense, shall provide the following in a timely manner so as not to delay the Services.

A. INFORMATION AND REQUIREMENTS

1. Provide all criteria and full information as to CITY'S requirements for the Project, including without limitation, design objectives and constraints capacity and performance requirements, flexibility, the project scope, the comprehensive engineering report, the general and special provisions of the construction agreement/contract and any budgetary limitations; and furnish copies or notify FIRM of all design and construction standards which CITY will require to be included in the required reports and all other items as described in PART 1.
2. CITY shall provide a CITY Representative with decision-making authority on all inquiries.
3. CITY shall supply FIRM with One (1) set of approved Sub-Division or Commercial Plans at least 2 calendar days prior to work.
4. CITY shall supply FIRM with One (1) set of approved Bid Documents (Plans & Specifications) at least 14 calendar days prior to a pre-construction meeting.

B. REPRESENTATIVE:

Designate representative for the project who shall have authority to transmit instructions, receive information, interpret and define CITY'S policies and make decisions with respect to the services.

Contract Managers: Michael Kiester, Ron Sheppard, Dan Smith, Ray Wigfield, Andrea Adams, Patrick Dooley, Bill Maxwell, Zach Schortgen

PART III

COMPENSATION, BILLING, PAYMENT AND SCHEDULE

A. COMPENSATION

FIRM'S COMPENSATION FOR SERVICES

1. For those services performed by FIRM, FIRM will be paid by CITY on the basis of actual hours of work performed by FIRM'S Inspector on this Agreement at the hourly rate listed below.
2. FIRM shall not include time spent commuting from office or home to and/or from a project site when computing monies owed on payment claims as outlined in Part 1. Costs for commuting between multiple projects will be compensated for in the following manner: Travel time between project A and B shall be charged to project B. Return travel time from project B to project A shall be charged to project A.
3. For those testing services performed by other than FIRM at the request of the CITY, FIRM shall be reimbursed by CITY for the actual invoice for the services performed by other than FIRM, provided that each such invoice shall be subject to approval as reasonable by CITY prior to any reimbursement therefore.

PRIVATE/DEVELOPER PROJECTS

City Private Developer projects are inspected approximately four hours per day during construction activities. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required.

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per hour** per Inspector per DEVELOPER/CONTRACTOR'S crew for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of two years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

CAPITAL PROJECTS

City Capital projects are inspected approximately four to eight hours per day depending on phase of construction. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required. Experience with trenchless construction methods/technologies is also expected (CIPP lining, HDD, etc.) for certain projects.

1. FIRM shall be compensated at a rate of **fifty-five dollars (\$55.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of five years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

2. FIRM shall be compensated at a rate of **sixty-five dollars (\$65.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment #1 that have a minimum of ten years of experience for larger projects or projects with more complex work- such as projects with electrical/mechanical facilities. Staff with experience in electrical/mechanical disciplines will be required on facility projects.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

TAP INSPECTIONS

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per tap** for tap inspections performed at the CITY'S request after the 2:00 PM call in time deadline. CITY'S request will come through the NEW WATER & SEWER DEPARTMENT.

B. BILLING AND PAYMENT

METHOD OF PAYMENT

FIRM shall submit a properly itemized invoice to CITY on a monthly basis. CITY shall pay FIRM within forty five (45) days after receipt of such properly itemized claim forms, unless claim is objected to in writing, in which case claim shall be paid within 15 days of resolution of any dispute.

PART IV

STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the Services are performed.
2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by City. For some projects involving conceptual or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that scope must be redefined. FIRM will promptly provide City with a proposed amendment to this Agreement to recognize such change, which the CITY shall approve or reject in writing within 15 days of receipt.
3. **SAFETY.** Engineer shall establish and maintains corporate programs and procedures for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, FIRM specifically disclaims any authority or responsibility for general job site safety and safety of persons other than FIRM employees.
4. **DELAYS.** If events beyond the control of CITY or FIRM, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be amended to the extent necessary to compensate for such delay.
5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party. CITY shall pay FIRM for all Services, including profit relating thereto, rendered prior to termination.
6. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by FIRM is supplied for the general guidance of the CITY only. Since FIRM has no control over competitive bidding or market conditions, FIRM cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.
7. **RELATIONSHIP WITH CONTRACTORS.** FIRM shall serve as CITY'S professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY'S contractors, but FIRM shall have no authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY'S contractors, without specific written provision to do so in this agreement.
9. **INSURANCE.** FIRM shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;
 - a) Worker's Compensation per statutory requirements
 - b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
 - c) Automobile Liability \$1,000,000 per occurrence
 - d) Products Liability \$1,000,000 per occurrence
 - e) Completed Operations Liability \$1,000,000 minimum per occurrence

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal. All Certificates of Insurance should be sent to the following address:

City of Fort Wayne Board of Public Works
200 East Berry Street, Suite 240
Fort Wayne, IN 46802

10. INDEMNITIES. To the fullest extent permitted by law, FIRM shall indemnify and save harmless CITY from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or (including reasonable litigation costs) death to persons or damage to tangible property to the extent caused directly by the willful misconduct or failure to adhere to the standard of care described in Paragraph 1 above of FIRM, its agents or employees.

To the fullest extent permitted by law, CITY shall defend, indemnify, and save harmless FIRM, its agents, employees, and representatives from and against loss, liability, and damages (including reasonable litigation costs) arising from or relating to claims for injury or death to persons, damages to tangible property, or other losses alleged to be caused by persons directly within the control of CITY when the loss, injury, or damage attributable to CITY'S willful misconduct.

11. LIMITATIONS OF LIABILITY. CITY agrees that, to the fullest extent permitted by law, FIRM'S total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, FIRM'S negligence, errors, omissions, strict liability, or breach of contract shall not exceed the total compensation received by FIRM under this Agreement. If CITY desires a limit of liability greater than that provided above, CITY and FIRM shall include in Part III of this Agreement the amount of such limit and the additional compensation, if any, to be paid to FIRM for assumption of such additional risk.

12. ACCESS. CITY shall provide FIRM reasonably safe access to any premises as necessary for FIRM to provide the Services.

13. REUSE OF PROJECT DELIVERABLES. Reuse of any documents or other deliverables including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at the CITY'S risk. CITY agrees to defend, indemnify, and hold harmless FIRM from all claims, damages, and expenses, (including reasonable litigation costs), arising out of such reuse or alteration by CITY or others acting through CITY.

14. AMENDMENT. This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

15. ASSIGNMENT. Except for assignments (a) to entities which control, or are controlled by, the parties hereto or (b) resulting from operation of law, the rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assigns.

16. STATUTES OF LIMITATION. To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project completion.

- 17. PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to seek its litigation costs from the other party.
- 18. NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.
- 19. NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including CITY'S contractors, if any.
- 20. SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
- 21. AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

IF FIRM IS ADVISED THAT THE PROJECT IT IS BEING ASSIGNED IS A CONSENT DECREE PROJECT, THEN THE FOLLOWING ITEMS MUST BE CONFORMED TO:

- 22. CONSENT DECREE NOTIFICATION.** FIRM shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workmen-like manner and in conformance with the terms of the City of Fort Wayne Consent Decree entered in the U.S. District Court on April 1, 2008 by the United States and State of Indiana. FIRM acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:
<http://www.cityoffortwayne.org/index.php/content/view/1494/1566/>
- 23. DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, FIRM agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within FIRM's possession or control and which relate, in any manner, to the performance of the work undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, FIRM shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the FIRM. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the FIRM attesting that it has provided the City with complete copies of all documents, records and other information which relates to the work contemplated by the Agreement.

PROFESSIONAL SERVICES AGREEMENT

Attachment #1

LIST OF KEY PERSONNEL

LIST OF PERSONNEL ELIGIBLE FOR HIGHER \$50.00 PAY RATE FOR DEVELOPER PROJECTS PER PART III, SECTION A, PRIVATE/DEVELOPER PROJECTS, PARAGRAPH 1:

Personnel:

LIST OF PERSONNEL ELIGIBLE FOR HIGHER \$55.00 PAY RATE FOR CAPITAL PROJECTS PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 1:

Personnel:

Scott Randle
Bud McQuade
Pam Risner
Mike Murray
Gary Neumann
Mike Miller

LIST OF PERSONNEL ELIGIBLE FOR HIGHER \$65.00 PAY RATE FOR CAPITAL PROJECTS PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 2:

Personnel:

Gary Randle
Matthew Bobay
Matthew Knepper
Jason Price

PROFESSIONAL SERVICES AGREEMENT

City Utilities- Resident Project Representative / Inspection Services

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
City of Fort Wayne
200 East Berry Street
Suite 240
Fort Wayne, IN 46802

and,

PROJECT ENGINEER ("FIRM"):

Butler, Fairman and Seufert, Inc.
6401 Constitution Drive
Fort Wayne, IN 46804

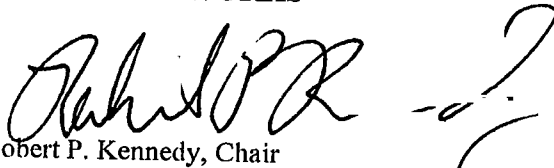
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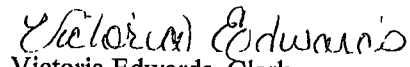
BOARD OF PUBLIC WORKS

BY: 
Robert P. Kennedy, Chair


BY: 
Kumar Menon, Member

BY:
Mike Avila, Member

ATTEST:

BY: 
Victoria Edwards, Clerk

APPROVED FOR FIRM: Butler, Fairman and Seufert, Inc.

BY: 

PRINTED NAME GARY L. POHL

TITLE: EXECUTIVE VICE PRESIDENT

DATE: 2-18-2013

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 - 6. Testing of construction materials by private testing company may be called for on any of the above phases as required by the City Utilities Engineering Department or as requested by CITY.
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- h. Furnish all equipment necessary to sample and test materials and/or provide on-site independent assurance testing of materials in accordance with standards and specifications of the Fort Wayne procedures and in accordance with current accepted practices, ordinances, and the most recent standards and specifications of the Division of Utilities, City Utilities Engineering Department as approved and adopted by the Board of Public Works.
- i. Verify that required testing has been accomplished and results of the testing are satisfactory
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- m. On the PMIS Inspectors Daily Report, record hours on the job site (both inspector & contractor(s)), weather conditions, field superintendent/foreman's name, crew size, list of visiting officials, decisions, interaction with the public or property owners/renters, safety observations, general observations, and specific observations with regard to test procedures and results of testing – to be loaded into PMIS daily.
- n. Provide a short weekly summary/status report of any major contractor's activities, issues, as well as work planned for the following week (during the active construction periods only)- to be loaded into PMIS every week
- o. Provide meeting minutes of all construction related meetings .
- p. Assist City CM with management of contractor's request for information (RFI's) on clarification and interpretations, field orders, change orders and work change directives.
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- r. Assist City CM in preparing and coordinating change management documents, issuing defective work notices, performing final inspection and developing final punch lists
- s. Assist City CM to coordinate any necessary vendor installation certifications as well as startup and training activities
- t. Assist City CM with final project closeout documentation and help ensure that compliance efforts are completed so that project can be accepted by CU and the Board of Public Works and final payment be made to Contractor.
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FIRM'S key personal will be assigned on a project basis and as mutually agreed to by FIRM and CITY prior to the commencement of any work in accordance with this Agreement. On all projects, but specifically on Capital projects the City believes that continuity of RPR services is important to maintain quality and accountability. Upon assignment of a project to a FIRM and the FIRM'S proposed staff person(s) are confirmed, CU desires the staff person(s) be assigned to the project until completion. To accommodate the difficulties of FIRMS complying with this requirement under this on-call type arrangement, CU will allow (unless otherwise agreed upon during project assignment discussions) for the key staff person(s) to be substituted by other pre-approved staff person(s) a

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CITY, at its expense, shall provide the following in a timely manner so as not to delay the Services.

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1. Provide all criteria and full information as to CITY'S requirements for the Project, including without limitation, design objectives and constraints capacity and performance requirements, flexibility, the project scope, the comprehensive engineering report, the general and special provisions of the construction agreement/contract and any budgetary limitations; and furnish copies or notify FIRM of all design and construction standards which CITY will require to be included in the required reports and all other items as described in PART 1.
2. CITY shall provide a CITY Representative with decision-making authority on all inquiries.
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Designate representative for the project who shall have authority to transmit instructions, receive information, interpret and define CITY'S policies and make decisions with respect to the services.

Contract Managers: Michael Kiester, Ron Sheppard, Dan Smith, Ray Wigfield, Andrea Adams, Patrick Dooley, Bill Maxwell, Zach Schortgen

PART III

COMPENSATION, BILLING, PAYMENT AND SCHEDULE

A. COMPENSATION

FIRM'S COMPENSATION FOR SERVICES

1. For those services performed by FIRM, FIRM will be paid by CITY on the basis of actual hours of work performed by FIRM'S Inspector on this Agreement at the hourly rate listed below.
2. FIRM shall not include time spent commuting from office or home to and/or from a project site when computing monies owed on payment claims as outlined in Part 1. Costs for commuting between multiple projects will be compensated for in the following manner: Travel time between project A and B shall be charged to project B. Return travel time from project B to project A shall be charged to project A.
3. For those testing services performed by other than FIRM at the request of the CITY, FIRM shall be reimbursed by CITY for the actual invoice for the services performed by other than FIRM, provided that each such invoice shall be subject to approval as reasonable by CITY prior to any reimbursement therefore.

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City Private Developer projects are inspected approximately four hours per day during construction activities. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required.

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per hour** per Inspector per DEVELOPER/CONTRACTOR'S crew for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of two years of experience.
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 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

TAP INSPECTIONS

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per tap** for tap inspections performed at the CITY'S request after the 2:00 PM call in time deadline. CITY'S request will come through the NEW WATER & SEWER DEPARTMENT.

B. BILLING AND PAYMENT

METHOD OF PAYMENT

FIRM shall submit a properly itemized invoice to CITY on a monthly basis. CITY shall pay FIRM within forty five (45) days after receipt of such properly itemized claim forms, unless claim is objected to in writing, in which case claim shall be paid within 15 days of resolution of any dispute.

PART IV

STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the Services are performed.
2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by City. For some projects involving conceptual or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that scope must be redefined. FIRM will promptly provide City with a proposed amendment to this Agreement to recognize such change, which the CITY shall approve or reject in writing within 15 days of receipt.
3. **SAFETY.** Engineer shall establish and maintains corporate programs and procedures for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, FIRM specifically disclaims any authority or responsibility for general job site safety and safety of persons other than FIRM employees.
4. **DELAYS.** If events beyond the control of CITY or FIRM, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be amended to the extent necessary to compensate for such delay.
5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party. CITY shall pay FIRM for all Services, including profit relating thereto, rendered prior to termination.
6. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by FIRM is supplied for the general guidance of the CITY only. Since FIRM has no control over competitive bidding or market conditions, FIRM cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.
7. **RELATIONSHIP WITH CONTRACTORS.** FIRM shall serve as CITY'S professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY'S contractors, but FIRM shall have no authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY'S contractors, without specific written provision to do so in this agreement.
9. **INSURANCE.** FIRM shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;
 - a) Worker's Compensation per statutory requirements
 - b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
 - c) Automobile Liability \$1,000,000 per occurrence
 - d) Products Liability \$1,000,000 per occurrence
 - e) Completed Operations Liability \$1,000,000 minimum per occurrence

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal. All Certificates of Insurance should be sent to the following address:

City of Fort Wayne Board of Public Works
200 East Berry Street, Suite 240
Fort Wayne, IN 46802

- 10. INDEMNITIES.** To the fullest extent permitted by law, FIRM shall indemnify and save harmless CITY from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or (including reasonable litigation costs) death to persons or damage to tangible property to the extent caused directly by the willful misconduct or failure to adhere to the standard of care described in Paragraph 1 above of FIRM, its agents or employees.

To the fullest extent permitted by law, CITY shall defend, indemnify, and save harmless FIRM, its agents, employees, and representatives from and against loss, liability, and damages (including reasonable litigation costs) arising from or relating to claims for injury or death to persons, damages to tangible property, or other losses alleged to be caused by persons directly within the control of CITY when the loss, injury, or damage attributable to CITY'S willful misconduct.

- 11. LIMITATIONS OF LIABILITY.** CITY agrees that, to the fullest extent permitted by law, FIRM'S total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, FIRM'S negligence, errors, omissions, strict liability, or breach of contract shall not exceed the total compensation received by FIRM under this Agreement. If CITY desires a limit of liability greater than that provided above, CITY and FIRM shall include in Part III of this Agreement the amount of such limit and the additional compensation, if any, to be paid to FIRM for assumption of such additional risk.

- 12. ACCESS.** CITY shall provide FIRM reasonably safe access to any premises as necessary for FIRM to provide the Services.

- 13. REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at the CITY'S risk. CITY agrees to defend, indemnify, and hold harmless FIRM from all claims, damages, and expenses, (including reasonable litigation costs), arising out of such reuse or alteration by CITY or others acting through CITY.

- 14. AMENDMENT.** This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

- 15. ASSIGNMENT.** Except for assignments (a) to entities which control, or are controlled by, the parties hereto or (b) resulting from operation of law, the rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assigns.

- 16. STATUTES OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project completion.

- 17. PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to seek its litigation costs from the other party.
- 18. NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.
- 19. NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including CITY'S contractors, if any.
- 20. SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
- 21. AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

IF FIRM IS ADVISED THAT THE PROJECT IT IS BEING ASSIGNED IS A CONSENT DECREE PROJECT, THEN THE FOLLOWING ITEMS MUST BE CONFORMED TO:

- 22. CONSENT DECREE NOTIFICATION.** FIRM shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workmen-like manner and in conformance with the terms of the City of Fort Wayne Consent Decree entered in the U.S. District Court on April 1, 2008 by the United States and State of Indiana. FIRM acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:
<http://www.cityoffortwayne.org/index.php/content/view/1494/1566/>
- 23. DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, FIRM agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within FIRM's possession or control and which relate, in any manner, to the performance of the work undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, FIRM shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the FIRM. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the FIRM attesting that it has provided the City with complete copies of all documents, records and other information which relates to the work contemplated by the Agreement.

PROFESSIONAL SERVICES AGREEMENT
Attachment #1

LIST OF PERSONEL ELIGIBLE FOR \$50.00 PAY RATE FOR DEVELOPER PROJECTS PER PART III, SECTION A, PRIVATE/.DEVELOPER PROJECTS, PARAGRAPH 1:

Personnel: Please Insert Inspector Names Here

Mark Chapin
Ryan Armin
Brian Swenson

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$55.00 PAY RATE FOR CAPITAL PROJECTS PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 1:

Personnel: Please Insert Names Eligible for Higher Rate Here

Andrew Harris
Cory Staley
Bret Dirbas
John Wiedman
Matt Dorsch
Ben Hosinski
Henry Stultz

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$65.00 PAY RATE FOR CAPITAL PROJECTS PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 2:

Personnel: Please Insert Names Eligible for Higher Rate Here

Bret Campbell
Chad Whitesel
Curt Sowers

Subconsultant Etica
Sean Mettert

PROFESSIONAL SERVICES AGREEMENT

City Utilities- Resident Project Representative / Inspection Services

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
City of Fort Wayne
200 East Berry Street
Suite 240
Fort Wayne, IN 46802

and,

PROJECT ENGINEER ("FIRM"):

DLZ Indiana, LLC
111 W. Columbia St. Ste 100
Fort Wayne, IN 46802

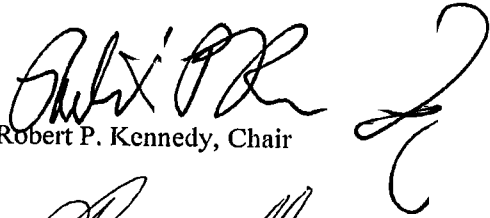
Who agree as follows:

CITY hereby engages FIRM to perform the services set forth in Part I-Services ("Services") and FIRM agrees to perform the Services for the compensation set forth in Part III- Compensation ("Compensation"). FIRM shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from CITY. CITY and FIRM agree that these signature pages, together with Parts I- IV and attachments referred to therein, constitute the entire Agreement ("Agreement") between them relating to this Project.

APPROVALS

APPROVED FOR CITY:

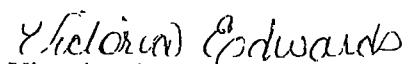
BOARD OF PUBLIC WORKS

BY: 
Robert P. Kennedy, Chair

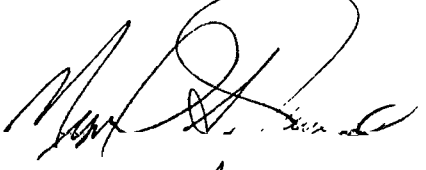
BY: 
Kumar Menon, Member

BY:
Mike Avila, Member

ATTEST:

BY: 
Victoria Edwards, Clerk

APPROVED FOR FIRM: DLZ Indiana, LLC

BY: 

PRINTED NAME Miguel A. Revino

TITLE: VICE PRESIDENT

DATE: 2-27-13

PART I
FIRMS RESPONSIBILITIES

A. GENERAL RESPONSIBILITIES

FIRM Shall:

1. Certify and warrant that it has the capacity to perform the services required by CITY with high professional quality, ability and expertise and further certify and warrant that it has the capacity and authority to enter into this Agreement.
2. Perform Resident Project Representative (RPR) and inspection services during the construction of sanitary sewers, water mains, and stormwater sewer facilities in assigned projects to determine whether said infrastructure is constructed in substantial conformance with plans and specifications approved by Fort Wayne City Utilities Development Services or Engineering Department and Chapters 51, 52 and 53 of the City Code of Fort Wayne, Indiana, as set forth in Service by Firm section included herein.
3. Review project National Pollutant Discharge Elimination System (NPDES) Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with approved permit / plan requirements.
4. Keep appropriate records, as instructed by CITY and submit all records to CITY'S (City Utilities Engineering Department) as set forth in Services by Firm section.

B. SERVICES BY FIRM:

Services to be provided for the project are as follows:

1. FIRM shall provide professional RPR, inspection, observation and testing services during the construction of facilities on assigned projects.
2. FIRM shall provide one (1) Inspector, clerical, and secretarial personnel as required for a period of time necessary to complete the construction project and prepare a final construction report.
 - a. The qualifications and experiences of personnel provided by FIRM are subject to approval by CITY. No personnel shall be assigned to the project until such approval is obtained.
 - b. The Inspector shall take directions from and report to CITY'S assigned Contract Manager on all matters concerning contract compliance and administration.
 - c. The Inspector shall coordinate project activities with CITY'S assigned Contract Manager.
3. FIRM shall also do the following:
 - a. FIRMS will be expected to fully utilize the Program Management Information System (PMIS), a web based system that will allow for FIRMS to submit inspection reports, photographs, and other various forms of project documentation electronically to City Utilities Engineering.

- b. Serve as CITY'S Liaison with the Developer / Contractor, working principally through the Developer / Contractor's field superintendent or such other person in authority as designated by the Developer / Contractor. Acting in liaison capacity, the Inspector shall be thoroughly familiar with the plans and specifications applicable to the project and observe the construction for compliance with respect to all provisions therein.
- c. Review the NPDES Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with the approved permit / plan requirements. Any deviation observed shall be reported in writing promptly to CITY by the Inspector.
- d. Review the construction schedule prepared by the Developer / Contractor and assist CITY in making sure schedule is being held and updated monthly with pay application.
- e. Cooperate with CITY in dealing with the various local agencies having jurisdiction over the project.
- f. Provide observation of construction activities performed by the Contractor to ensure work complies with the contract documents and related project permits.
 - 1. Daily logs – to be loaded into PMIS for both Developer and Capital projects each day of active construction
 - 2. Photos for construction progress (minimum of 3 per day of active construction) as well as for any potential claim situations- to be loaded into PMIS at minimum of every week
 - 3. Record on project drawings all field changes and daily production information
 - 4. Keep quantity records and accurate materials stored on site records for submittal to Contract Manager for progress payment reviews
 - 5. Keep detailed records on time and materials for work authorized as reimbursable
 - 6. Verify that all applicable permits required for the successful completion of the project have been obtained and are being complied with. Copies of permits should be loaded into PMIS
- g. Inspect, at a minimum, the following:
 - 1. Bedding and backfill of stormwater and sanitary sewers and related structures
 - 2. Bedding, backfill and restraint of water mains, elbows, hydrants, valves, auxiliary valves, blow-offs, services and related appurtenances.
 - 3. Installation of manholes, lift stations and/or force mains
 - 4. Subgrade for horizontal and vertical alignment and compaction
 - 5. Rough and final grading of swales, ditches, and detention/retention facilities
 - 6. Testing of construction materials by private testing company may be called for on any of the above phases as required by the City Utilities Engineering Department or as requested by CITY.
 - 7. On-site verification of all required testing and as-built survey information including review of all record drawing plans by design engineer.
 - 8. Verification of invert elevations at each manhole during construction of sanitary and storm sewer main trunk lines to ensure design elevations (and associated design capacity) is being maintained.
- h. Furnish all equipment necessary to sample and test materials and/or provide on-site independent assurance testing of materials in accordance with standards and specifications of the Fort Wayne procedures and in accordance with current accepted practices, ordinances, and the most recent standards and specifications of the Division of Utilities, City Utilities Engineering Department as approved and adopted by the Board of Public Works.
- i. Verify that required testing has been accomplished and results of the testing are satisfactory
- J. Notify the Developer / Contractor and CITY in writing of any substandard work
- k. Consider and evaluate the Developer / Contractor's suggestions for modifications in drawings and/or

specifications and report them with recommendations to CITY'S assigned Contract Manager.

- l. Representative of the firm shall notify CITY of any additional work requested by the CONTRACTOR beyond the original approved design prior to the work occurring. Representatives are not empowered to make changes to projects; all changes must be approved by CITY staff.
- m. On the PMIS Inspectors Daily Report, record hours on the job site (both inspector & contractor(s)), weather conditions, field superintendent/foreman's name, crew size, list of visiting officials, decisions, interaction with the public or property owners/renters, safety observations, general observations, and specific observations with regard to test procedures and results of testing – to be loaded into PMIS daily.
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1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per tap** for tap inspections performed at the CITY'S request after the 2:00 PM call in time deadline. CITY'S request will come through the NEW WATER & SEWER DEPARTMENT.

B. BILLING AND PAYMENT

METHOD OF PAYMENT

FIRM shall submit a properly itemized invoice to CITY on a monthly basis. CITY shall pay FIRM within forty five (45) days after receipt of such properly itemized claim forms, unless claim is objected to in writing, in which case claim shall be paid within 15 days of resolution of any dispute.

PART IV

STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the Services are performed.
2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by City. For some projects involving conceptual or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that scope must be redefined. FIRM will promptly provide City with a proposed amendment to this Agreement to recognize such change, which the CITY shall approve or reject in writing within 15 days of receipt.
3. **SAFETY.** Engineer shall establish and maintains corporate programs and procedures for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, FIRM specifically disclaims any authority or responsibility for general job site safety and safety of persons other than FIRM employees.
4. **DELAYS.** If events beyond the control of CITY or FIRM, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be amended to the extent necessary to compensate for such delay.
5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party. CITY shall pay FIRM for all Services, including profit relating thereto, rendered prior to termination.
6. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by FIRM is supplied for the general guidance of the CITY only. Since FIRM has no control over competitive bidding or market conditions, FIRM cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.
7. **RELATIONSHIP WITH CONTRACTORS.** FIRM shall serve as CITY'S professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY'S contractors, but FIRM shall have no authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY'S contractors, without specific written provision to do so in this agreement.
9. **INSURANCE.** FIRM shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;
 - a) Worker's Compensation per statutory requirements
 - b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
 - c) Automobile Liability \$1,000,000 per occurrence
 - d) Products Liability \$1,000,000 per occurrence
 - e) Completed Operations Liability \$1,000,000 minimum per occurrence

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal. All Certificates of Insurance should be sent to the following address:

City of Fort Wayne Board of Public Works
200 East Berry Street, Suite 240
Fort Wayne, IN 46802

- 10. INDEMNITIES.** To the fullest extent permitted by law, FIRM shall indemnify and save harmless CITY from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or (including reasonable litigation costs) death to persons or damage to tangible property to the extent caused directly by the willful misconduct or failure to adhere to the standard of care described in Paragraph 1 above of FIRM, its agents or employees.

To the fullest extent permitted by law, CITY shall defend, indemnify, and save harmless FIRM, its agents, employees, and representatives from and against loss, liability, and damages (including reasonable litigation costs) arising from or relating to claims for injury or death to persons, damages to tangible property, or other losses alleged to be caused by persons directly within the control of CITY when the loss, injury, or damage attributable to CITY'S willful misconduct.

- 11. LIMITATIONS OF LIABILITY.** CITY agrees that, to the fullest extent permitted by law, FIRM'S total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, FIRM'S negligence, errors, omissions, strict liability, or breach of contract shall not exceed the total compensation received by FIRM under this Agreement. If CITY desires a limit of liability greater than that provided above, CITY and FIRM shall include in Part III of this Agreement the amount of such limit and the additional compensation, if any, to be paid to FIRM for assumption of such additional risk.

- 12. ACCESS.** CITY shall provide FIRM reasonably safe access to any premises as necessary for FIRM to provide the Services.

- 13. REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at the CITY'S risk. CITY agrees to defend, indemnify, and hold harmless FIRM from all claims, damages, and expenses, (including reasonable litigation costs), arising out of such reuse or alteration by CITY or others acting through CITY.

- 14. AMENDMENT.** This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

- 15. ASSIGNMENT.** Except for assignments (a) to entities which control, or are controlled by, the parties hereto or (b) resulting from operation of law, the rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assigns.

- 16. STATUTES OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project completion.

- 17. PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to seek its litigation costs from the other party.
- 18. NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.
- 19. NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including CITY'S contractors, if any.
- 20. SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
- 21. AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

IF FIRM IS ADVISED THAT THE PROJECT IT IS BEING ASSIGNED IS A CONSENT DECREE PROJECT, THEN THE FOLLOWING ITEMS MUST BE CONFORMED TO:

- 22. CONSENT DECREE NOTIFICATION.** FIRM shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workmen-like manner and in conformance with the terms of the City of Fort Wayne Consent Decree entered in the U.S. District Court on April 1, 2008 by the United States and State of Indiana. FIRM acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:
<http://www.cityoffortwayne.org/index.php/content/view/1494/1566/>
- 23. DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, FIRM agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within FIRM's possession or control and which relate, in any manner, to the performance of the work undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, FIRM shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the FIRM. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the FIRM attesting that it has provided the City with complete copies of all documents, records and other information which relates to the work contemplated by the Agreement.

PROFESSIONAL SERVICES AGREEMENT
Attachment #1

LIST OF PERSONEL ELIGIBLE FOR \$50.00 PAY RATE FOR DEVELOPER PROJECTS PER PART III, SECTION A, PRIVATE/DEVELOPER PROJECTS, PARAGRAPH 1:

Personnel: Rick Evans, Mitch Green, Phil Hibbert, Rick Jennings LS, Gerald Johnson, Philip LaBrash EI, David Lutz, Alex Fleet EI, Adam Grabill EI, Jay Stankiewicz PE, Brian Stoodly LS, Todd Thurber, Kristine Thurston, Miguel Trevino PE, Ruperto Trevino PE, Matthew VerBryck, Tim Warren

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$55.00 PAY RATE FOR CAPITAL PROJECTS PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 1:

Personnel: Mitch Green, Phil Hibbert, Philip LaBrash EI, David Lutz, Alex Fleet EI, Adam Grabill EI, Todd Thurber, Matthew VerBryck,

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$65.00 PAY RATE FOR CAPITAL PROJECTS PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 2:

Personnel: Rick Evans, Rick Jennings LS, Gerald Johnson, Jay Stankiewicz PE, Brian Stoodly LS, Kristine Thurston, Miguel Trevino PE, Ruperto Trevino PE, Tim Warren

PROFESSIONAL SERVICES AGREEMENT

City Utilities- Resident Project Representative / Inspection Services

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
City of Fort Wayne
200 East Berry Street
Suite 240
Fort Wayne, IN 46802

and,

PROJECT ENGINEER ("FIRM"):

VS Engineering, Inc.
10305 Dawsons Creek Boulevard, Suite A
Fort Wayne, IN 46825

Who agree as follows:

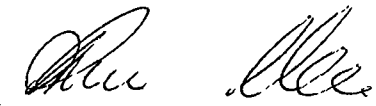
CITY hereby engages FIRM to perform the services set forth in Part I-Services ("Services") and FIRM agrees to perform the Services for the compensation set forth in Part III- Compensation ("Compensation"). FIRM shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from CITY. CITY and FIRM agree that these signature pages, together with Parts I- IV and attachments referred to therein, constitute the entire Agreement ("Agreement") between them relating to this Project.

APPROVALS

APPROVED FOR CITY:

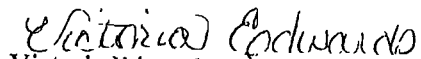
BOARD OF PUBLIC WORKS

BY: 
Robert P. Kennecy, Chair

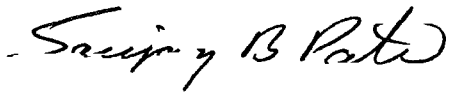
BY: 
Kumar Menon, Member

BY: Mike Avila, Member

ATTEST:

BY: 
Victoria Edwards, Clerk

APPROVED FOR FIRM: VS Engineering, Inc.

BY: 

PRINTED NAME *SANJAY B. PATEL*

TITLE: *PRESIDENT*

DATE: *02/19/13*

**PART I
FIRMS RESPONSIBILITIES**

A. GENERAL RESPONSIBILITIES

FIRM Shall:

1. Certify and warrant that it has the capacity to perform the services required by CITY with high professional quality, ability and expertise and further certify and warrant that it has the capacity and authority to enter into this Agreement.
2. Perform Resident Project Representative (RPR) and inspection services during the construction of sanitary sewers, water mains, and stormwater sewer facilities in assigned projects to determine whether said infrastructure is constructed in substantial conformance with plans and specifications approved by Fort Wayne City Utilities Development Services or Engineering Department and Chapters 51, 52 and 53 of the City Code of Fort Wayne, Indiana, as set forth in Service by Firm section included herein.
3. Review project National Pollutant Discharge Elimination System (NPDES) Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with approved permit / plan requirements.
4. Keep appropriate records, as instructed by CITY and submit all records to CITY'S (City Utilities Engineering Department) as set forth in Services by Firm section.

B. SERVICES BY FIRM:

Services to be provided for the project are as follows:

1. FIRM shall provide professional RPR, inspection, observation and testing services during the construction of facilities on assigned projects.
2. FIRM shall provide one (1) Inspector, clerical, and secretarial personnel as required for a period of time necessary to complete the construction project and prepare a final construction report.
 - a. The qualifications and experiences of personnel provided by FIRM are subject to approval by CITY. No personnel shall be assigned to the project until such approval is obtained.
 - b. The Inspector shall take directions from and report to CITY'S assigned Contract Manager on all matters concerning contract compliance and administration.
 - c. The Inspector shall coordinate project activities with CITY'S assigned Contract Manager.
3. FIRM shall also do the following:
 - a. FIRMS will be expected to fully utilize the Program Management Information System (PMIS), a web based system that will allow for FIRMS to submit inspection reports, photographs, and other various forms of project documentation electronically to City Utilities Engineering.

- b. Serve as CITY'S Liaison with the Developer / Contractor, working principally through the Developer / Contractor's field superintendent or such other person in authority as designated by the Developer / Contractor. Acting in liaison capacity, the Inspector shall be thoroughly familiar with the plans and specifications applicable to the project and observe the construction for compliance with respect to all provisions therein.
- c. Review the NPDES Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with the approved permit / plan requirements. Any deviation observed shall be reported in writing promptly to CITY by the Inspector.
- d. Review the construction schedule prepared by the Developer / Contractor and assist CITY in making sure schedule is being held and updated monthly with pay application.
- e. Cooperate with CITY in dealing with the various local agencies having jurisdiction over the project.
- f. Provide observation of construction activities performed by the Contractor to ensure work complies with the contract documents and related project permits.
 - 1. Daily logs – to be loaded into PMIS for both Developer and Capital projects each day of active construction
 - 2. Photos for construction progress (minimum of 3 per day of active construction) as well as for any potential claim situations-to be loaded into PMIS at minimum of every week
 - 3. Record on project drawings all field changes and daily production information
 - 4. Keep quantity records and accurate materials stored on site records for submittal to Contract Manager for progress payment reviews
 - 5. Keep detailed records on time and materials for work authorized as reimbursable
 - 6. Verify that all applicable permits required for the successful completion of the project have been obtained and are being complied with. Copies of permits should be loaded into PMIS
- g. Inspect, at a minimum, the following:
 - 1. Bedding and backfill of stormwater and sanitary sewers and related structures
 - 2. Bedding, backfill and restraint of water mains, elbows, hydrants, valves, auxiliary valves, blow-offs, services and related appurtenances.
 - 3. Installation of manholes, lift stations and/or force mains
 - 4. Subgrade for horizontal and vertical alignment and compaction
 - 5. Rough and final grading of swales, ditches, and detention/retention facilities
 - 6. Testing of construction materials by private testing company may be called for on any of the above phases as required by the City Utilities Engineering Department or as requested by CITY.
 - 7. On-site verification of all required testing and as-built survey information including review of all record drawing plans by design engineer.
 - 8. Verification of invert elevations at each manhole during construction of sanitary and storm sewer main trunk lines to ensure design elevations (and associated design capacity) is being maintained.
- h. Furnish all equipment necessary to sample and test materials and/or provide on-site independent assurance testing of materials in accordance with standards and specifications of the Fort Wayne procedures and in accordance with current accepted practices, ordinances, and the most recent standards and specifications of the Division of Utilities, City Utilities Engineering Department as approved and adopted by the Board of Public Works.
- i. Verify that required testing has been accomplished and results of the testing are satisfactory
- J. Notify the Developer / Contractor and CITY in writing of any substandard work
- k. Consider and evaluate the Developer / Contractor's suggestions for modifications in drawings and/or

specifications and report them with recommendations to CITY'S assigned Contract Manager.

- l. Representative of the firm shall notify CITY of any additional work requested by the CONTRACTOR beyond the original approved design prior to the work occurring. Representatives are not empowered to make changes to projects; all changes must be approved by CITY staff.
- m. On the PMIS Inspectors Daily Report, record hours on the job site (both inspector & contractor(s)), weather conditions, field superintendent/foreman's name, crew size, list of visiting officials, decisions, interaction with the public or property owners/renters, safety observations, general observations, and specific observations with regard to test procedures and results of testing – to be loaded into PMIS daily.
- n. Provide a short weekly summary/status report of any major contractor's activities, issues, as well as work planned for the following week (during the active construction periods only)- to be loaded into PMIS every week
- o. Provide meeting minutes of all construction related meetings .
- p. Assist City CM with management of contractor's request for information (RFI's) on clarification and interpretations, field orders, change orders and work change directives.
- q. Assist the City Construction Manager (CM) in reviewing the Contractor's monthly pay quantities and application
- r. Assist City CM in preparing and coordinating change management documents, issuing defective work notices, performing final inspection and developing final punch lists
- s. Assist City CM to coordinate any necessary vendor installation certifications as well as startup and training activities
- t. Assist City CM with final project closeout documentation and help ensure that compliance efforts are completed so that project can be accepted by CU and the Board of Public Works and final payment be made to Contractor.
- u. Provide timely invoices to CITY.
- v. Deliver the final project records to the Construction Manager within ten (10) calendar days after satisfactory completion of the project.

C. LIST OF KEY PERSONEL

FIRM'S key personnel to provide services under this agreement are as listed in Attachment #1.

FIRM'S key personal will be assigned on a project basis and as mutually agreed to by FIRM and CITY prior to the commencement of any work in accordance with this Agreement. On all projects, but specifically on Capital projects the City believes that continuity of RPR services is important to maintain quality and accountability. Upon assignment of a project to a FIRM and the FIRM'S proposed staff person(s) are confirmed, CU desires the staff person(s) be assigned to the project until completion. To accommodate the difficulties of FIRMS complying with this requirement under this on-call type arrangement, CU will allow (unless otherwise agreed upon during project assignment discussions) for the key staff person(s) to be substituted by other pre-approved staff person(s) a

maximum of one incident or day per week.

City Utilities will also consider allowing RPR's with less experience than required (requirements noted above) for substitution on projects. These exceptions will need to be pre-approved on project by project basis.

D. SCHEDULE

Services under this contract are to be completed from date of NTP until December 31, 2014.

1. FIRM shall commence its services on assigned PROJECT upon notification by CITY.
2. FIRM shall attend a pre-construction meeting with the DEVELOPER/CONTRACTOR before commencement of construction.

PART II

CITY'S RESPONSIBILITIES

CITY, at its expense, shall provide the following in a timely manner so as not to delay the Services.

A. INFORMATION AND REQUIREMENTS

1. Provide all criteria and full information as to CITY'S requirements for the Project, including without limitation, design objectives and constraints capacity and performance requirements, flexibility, the project scope, the comprehensive engineering report, the general and special provisions of the construction agreement/contract and any budgetary limitations; and furnish copies or notify FIRM of all design and construction standards which CITY will require to be included in the required reports and all other items as described in PART 1.
2. CITY shall provide a CITY Representative with decision-making authority on all inquiries.
3. CITY shall supply FIRM with One (1) set of approved Sub-Division or Commercial Plans at least 2 calendar days prior to work.
4. CITY shall supply FIRM with One (1) set of approved Bid Documents (Plans & Specifications) at least 14 calendar days prior to a pre-construction meeting.

B. REPRESENTATIVE:

Designate representative for the project who shall have authority to transmit instructions, receive information, interpret and define CITY'S policies and make decisions with respect to the services.

Contract Managers: Michael Kiester, Ron Sheppard, Dan Smith, Ray Wigfield, Andrea Adams, Patrick Dooley, Bill Maxwell, Zach Schortgen

PART III

COMPENSATION, BILLING, PAYMENT AND SCHEDULE

A. COMPENSATION

FIRM'S COMPENSATION FOR SERVICES

1. For those services performed by FIRM, FIRM will be paid by CITY on the basis of actual hours of work performed by FIRM'S Inspector on this Agreement at the hourly rate listed below.
2. FIRM shall not include time spent commuting from office or home to and/or from a project site when computing monies owed on payment claims as outlined in Part 1. Costs for commuting between multiple projects will be compensated for in the following manner: Travel time between project A and B shall be charged to project B. Return travel time from project B to project A shall be charged to project A.
3. For those testing services performed by other than FIRM at the request of the CITY, FIRM shall be reimbursed by CITY for the actual invoice for the services performed by other than FIRM, provided that each such invoice shall be subject to approval as reasonable by CITY prior to any reimbursement therefore.

PRIVATE/DEVELOPER PROJECTS

City Private Developer projects are inspected approximately four hours per day during construction activities. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required.

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per hour** per Inspector per DEVELOPER/CONTRACTOR'S crew for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of two years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

CAPITAL PROJECTS

City Capital projects are inspected approximately four to eight hours per day depending on phase of construction. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required. Experience with trenchless construction methods/technologies is also expected (CIPP lining, HDD, etc.) for certain projects.

1. FIRM shall be compensated at a rate of **fifty-five dollars (\$55.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of five years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

2. FIRM shall be compensated at a rate of **sixty-five dollars (\$65.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment #1 that have a minimum of ten years of experience for larger projects or projects with more complex work- such as projects with electrical/mechanical facilities. Staff with experience in electrical/mechanical disciplines will be required on facility projects.
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9. **INSURANCE.** FIRM shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;
 - a) Worker's Compensation per statutory requirements
 - b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
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City of Fort Wayne Board of Public Works
200 East Berry Street, Suite 240
Fort Wayne, IN 46802

- 10. INDEMNITIES.** To the fullest extent permitted by law, FIRM shall indemnify and save harmless CITY from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or (including reasonable litigation costs) death to persons or damage to tangible property to the extent caused directly by the willful misconduct or failure to adhere to the standard of care described in Paragraph 1 above of FIRM, its agents or employees.

To the fullest extent permitted by law, CITY shall defend, indemnify, and save harmless FIRM, its agents, employees, and representatives from and against loss, liability, and damages (including reasonable litigation costs) arising from or relating to claims for injury or death to persons, damages to tangible property, or other losses alleged to be caused by persons directly within the control of CITY when the loss, injury, or damage attributable to CITY'S willful misconduct.

- 11. LIMITATIONS OF LIABILITY.** CITY agrees that, to the fullest extent permitted by law, FIRM'S total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, FIRM'S negligence, errors, omissions, strict liability, or breach of contract shall not exceed the total compensation received by FIRM under this Agreement. If CITY desires a limit of liability greater than that provided above, CITY and FIRM shall include in Part III of this Agreement the amount of such limit and the additional compensation, if any, to be paid to FIRM for assumption of such additional risk.

- 12. ACCESS.** CITY shall provide FIRM reasonably safe access to any premises as necessary for FIRM to provide the Services.

- 13. REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at the CITY'S risk. CITY agrees to defend, indemnify, and hold harmless FIRM from all claims, damages, and expenses, (including reasonable litigation costs), arising out of such reuse or alteration by CITY or others acting through CITY.

- 14. AMENDMENT.** This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

- 15. ASSIGNMENT.** Except for assignments (a) to entities which control, or are controlled by, the parties hereto or (b) resulting from operation of law, the rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assigns.

- 16. STATUTES OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project completion.

- 17. PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to seek its litigation costs from the other party.
- 18. NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.
- 19. NO THIRD-PARTY BENEFICIARY.** Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including CITY'S contractors, if any.
- 20. SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
- 21. AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

IF FIRM IS ADVISED THAT THE PROJECT IT IS BEING ASSIGNED IS A CONSENT DECREE PROJECT, THEN THE FOLLOWING ITEMS MUST BE CONFORMED TO:

- 22. CONSENT DECREE NOTIFICATION.** FIRM shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workmen-like manner and in conformance with the terms of the City of Fort Wayne Consent Decree entered in the U.S. District Court on April 1, 2008 by the United States and State of Indiana. FIRM acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:
<http://www.cityoffortwayne.org/index.php/content/view/1494/1566/>
- 23. DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, FIRM agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within FIRM's possession or control and which relate, in any manner, to the performance of the work undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, FIRM shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the FIRM. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the FIRM attesting that it has provided the City with complete copies of all documents, records and other information which relates to the work contemplated by the Agreement.

PROFESSIONAL SERVICES AGREEMENT

Attachment #1

LIST OF KEY PERSONEL

LIST OF PERSONEL ELIGIBLE FOR IDGHER \$50.00 PAY RATE FOR DEVELOPER
PROJECTS PER PART III, SECTION A, PRIVATE/DEVELOPER PROJECTS, PARAGRAPH 1:

Personnel: Andy Holman
Jerry Crothers
Mark Herald

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$55.00 PAY RATE FOR CAPITAL PROJECTS
PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 1:

Personnel: Andy Holman
Jerry Crothers
Mark Herald

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$65.00 PAY RATE FOR CAPITAL PROJECTS
PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 2:

Personnel: Andy Holman
Jerry Crothers
Mark Herald
Richard Romes

PROFESSIONAL SERVICES AGREEMENT

City Utilities- Resident Project Representative / Inspection Services

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
City of Fort Wayne
200 East Berry Street
Suite 240
Fort Wayne, IN 46802

and,

PROJECT ENGINEER ("FIRM"):

A & Z Engineering, Inc.
9017 Coldwater Road, Suite 500
Fort Wayne, IN 46825

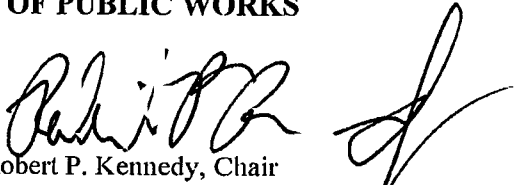
Who agree as follows:


CITY hereby engages FIRM to perform the services set forth in Part 1-Services ("Services") and FIRM agrees to perform the Services for the compensation set forth in Part III- Compensation ("Compensation"). FIRM shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from CITY. CITY and FIRM agree that these signature pages, together with Parts I- IV and attachments referred to therein, constitute the entire Agreement ("Agreement") between them relating to this Project.

APPROVALS

APPROVED FOR CITY:

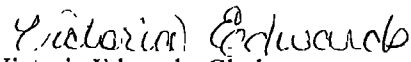
BOARD OF PUBLIC WORKS

BY: 
Robert P. Kennedy, Chair

BY: 
Kumar Menon, Member

BY: Mike Avila, Member

ATTEST:

BY: 
Victoria Edwards, Clerk

APPROVED FOR FIRM: A & Z Engineering, Inc.

BY: 

PRINTED NAME JAMAL T. ANABTAWI

TITLE: Member, Co-owner

DATE: 2 14 '13

**PART I
FIRMS RESPONSIBILITIES**

A. GENERAL RESPONSIBILITIES

FIRM Shall:

1. Certify and warrant that it has the capacity to perform the services required by CITY with high professional quality, ability and expertise and further certify and warrant that it has the capacity and authority to enter into this Agreement.
2. Perform Resident Project Representative (RPR) and inspection services during the construction of sanitary sewers, water mains, and stormwater sewer facilities in assigned projects to determine whether said infrastructure is constructed in substantial conformance with plans and specifications approved by Fort Wayne City Utilities Development Services or Engineering Department and Chapters 51, 52 and 53 of the City Code of Fort Wayne, Indiana, as set forth in Service by Firm section included herein.
3. Review project National Pollutant Discharge Elimination System (NPDES) Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with approved permit / plan requirements.
4. Keep appropriate records, as instructed by CITY and submit all records to CITY'S (City Utilities Engineering Department) as set forth in Services by Firm section.

B. SERVICES BY FIRM:

Services to be provided for the project are as follows:

1. FIRM shall provide professional RPR, inspection, observation and testing services during the construction of facilities on assigned projects.
2. FIRM shall provide one (1) Inspector, clerical, and secretarial personnel as required for a period of time necessary to complete the construction project and prepare a final construction report.
 - a. The qualifications and experiences of personnel provided by FIRM are subject to approval by CITY. No personnel shall be assigned to the project until such approval is obtained.
 - b. The Inspector shall take directions from and report to CITY'S assigned Contract Manager on all matters concerning contract compliance and administration.
 - c. The Inspector shall coordinate project activities with CITY'S assigned Contract Manager.
3. FIRM shall also do the following:
 - a. FIRMS will be expected to fully utilize the Program Management Information System (PMIS), a web based system that will allow for FIRMS to submit inspection reports, photographs, and other various forms of project documentation electronically to City Utilities Engineering.

- b. Serve as CITY'S Liaison with the Developer / Contractor, working principally through the Developer / Contractor's field superintendent or such other person in authority as designated by the Developer / Contractor. Acting in liaison capacity, the Inspector shall be thoroughly familiar with the plans and specifications applicable to the project and observe the construction for compliance with respect to all provisions therein.
- c. Review the NPDES Stormwater permit / plans and conduct on-site observations as a basis for determining that the project is proceeding in substantial conformance with the approved permit / plan requirements. Any deviation observed shall be reported in writing promptly to CITY by the Inspector.
- d. Review the construction schedule prepared by the Developer / Contractor and assist CITY in making sure schedule is being held and updated monthly with pay application.
- e. Cooperate with CITY in dealing with the various local agencies having jurisdiction over the project.
- f. Provide observation of construction activities performed by the Contractor to ensure work complies with the contract documents and related project permits.
 - 1. Daily logs – to be loaded into PMIS for both Developer and Capital projects each day of active construction
 - 2. Photos for construction progress (minimum of 3 per day of active construction) as well as for any potential claim situations- to be loaded into PMIS at minimum of every week
 - 3. Record on project drawings all field changes and daily production information
 - 4. Keep quantity records and accurate materials stored on site records for submittal to Contract Manager for progress payment reviews
 - 5. Keep detailed records on time and materials for work authorized as reimbursable
 - 6. Verify that all applicable permits required for the successful completion of the project have been obtained and are being complied with. Copies of permits should be loaded into PMIS
- g. Inspect, at a minimum, the following:
 - 1. Bedding and backfill of stormwater and sanitary sewers and related structures
 - 2. Bedding, backfill and restraint of water mains, elbows, hydrants, valves, auxiliary valves, blow-offs, services and related appurtenances.
 - 3. Installation of manholes, lift stations and/or force mains
 - 4. Subgrade for horizontal and vertical alignment and compaction
 - 5. Rough and final grading of swales, ditches, and detention/retention facilities
 - 6. Testing of construction materials by private testing company may be called for on any of the above phases as required by the City Utilities Engineering Department or as requested by CITY.
 - 7. On-site verification of all required testing and as-built survey information including review of all record drawing plans by design engineer.
 - 8. Verification of invert elevations at each manhole during construction of sanitary and storm sewer main trunk lines to ensure design elevations (and associated design capacity) is being maintained.
- h. Furnish all equipment necessary to sample and test materials and/or provide on-site independent assurance testing of materials in accordance with standards and specifications of the Fort Wayne procedures and in accordance with current accepted practices, ordinances, and the most recent standards and specifications of the Division of Utilities, City Utilities Engineering Department as approved and adopted by the Board of Public Works.
- i. Verify that required testing has been accomplished and results of the testing are satisfactory
- J. Notify the Developer / Contractor and CITY in writing of any substandard work
- k. Consider and evaluate the Developer / Contractor's suggestions for modifications in drawings and/or

specifications and report them with recommendations to CITY'S assigned Contract Manager.

- l. Representative of the firm shall notify CITY of any additional work requested by the CONTRACTOR beyond the original approved design prior to the work occurring. Representatives are not empowered to make changes to projects; all changes must be approved by CITY staff.
- m. On the PMIS Inspectors Daily Report, record hours on the job site (both inspector & contractor(s)), weather conditions, field superintendent/foreman's name, crew size, list of visiting officials, decisions, interaction with the public or property owners/renters, safety observations, general observations, and specific observations with regard to test procedures and results of testing – to be loaded into PMIS daily.
- n. Provide a short weekly summary/status report of any major contractor's activities, issues, as well as work planned for the following week (during the active construction periods only)- to be loaded into PMIS every week
- o. Provide meeting minutes of all construction related meetings .
- p. Assist City CM with management of contractor's request for information (RFI's) on clarification and interpretations, field orders, change orders and work change directives.
- q. Assist the City Construction Manager (CM) in reviewing the Contractor's monthly pay quantities and application
- r. Assist City CM in preparing and coordinating change management documents, issuing defective work notices, performing final inspection and developing final punch lists
- s. Assist City CM to coordinate any necessary vendor installation certifications as well as startup and training activities
- t. Assist City CM with final project closeout documentation and help ensure that compliance efforts are completed so that project can be accepted by CU and the Board of Public Works and final payment be made to Contractor.
- u. Provide timely invoices to CITY.
- v. Deliver the final project records to the Construction Manager within ten (10) calendar days after satisfactory completion of the project.

C. LIST OF KEY PERSONEL

FIRM'S key personnel to provide services under this agreement are as listed in Attachment #1.

FIRM'S key personal will be assigned on a project basis and as mutually agreed to by FIRM and CITY prior to the commencement of any work in accordance with this Agreement. On all projects, but specifically on Capital projects the City believes that continuity of RPR services is important to maintain quality and accountability. Upon assignment of a project to a FIRM and the FIRM'S proposed staff person(s) are confirmed, CU desires the staff person(s) be assigned to the project until completion. To accommodate the difficulties of FIRMS complying with this requirement under this on-call type arrangement, CU will allow (unless otherwise agreed upon during project assignment discussions) for the key staff person(s) to be substituted by other pre-approved staff person(s) a

maximum of one incident or day per week.

City Utilities will also consider allowing RPR's with less experience than required (requirements noted above) for substitution on projects. These exceptions will need to be pre-approved on project by project basis.

D. SCHEDULE

Services under this contract are to be completed from date of NTP until December 31, 2014.

1. FIRM shall commence its services on assigned PROJECT upon notification by CITY.
2. FIRM shall attend a pre-construction meeting with the DEVELOPER/CONTRACTOR before commencement of construction.

PART II

CITY'S RESPONSIBILITIES

CITY, at its expense, shall provide the following in a timely manner so as not to delay the Services.

A. INFORMATION AND REQUIREMENTS

1. Provide all criteria and full information as to CITY'S requirements for the Project, including without limitation, design objectives and constraints capacity and performance requirements, flexibility, the project scope, the comprehensive engineering report, the general and special provisions of the construction agreement/contract and any budgetary limitations; and furnish copies or notify FIRM of all design and construction standards which CITY will require to be included in the required reports and all other items as described in PART 1.
2. CITY shall provide a CITY Representative with decision-making authority on all inquiries.
3. CITY shall supply FIRM with One (1) set of approved Sub-Division or Commercial Plans at least 2 calendar days prior to work.
4. CITY shall supply FIRM with One (1) set of approved Bid Documents (Plans & Specifications) at least 14 calendar days prior to a pre-construction meeting.

B. REPRESENTATIVE:

Designate representative for the project who shall have authority to transmit instructions, receive information, interpret and define CITY'S policies and make decisions with respect to the services.

Contract Managers: Michael Kiester, Ron Sheppard, Dan Smith, Ray Wigfield, Andrea Adams, Patrick Dooley, Bill Maxwell, Zach Schortgen

PART III

COMPENSATION, BILLING, PAYMENT AND SCHEDULE

A. COMPENSATION

FIRM'S COMPENSATION FOR SERVICES

1. For those services performed by FIRM, FIRM will be paid by CITY on the basis of actual hours of work performed by FIRM'S Inspector on this Agreement at the hourly rate listed below.
2. FIRM shall not include time spent commuting from office or home to and/or from a project site when computing monies owed on payment claims as outlined in Part 1. Costs for commuting between multiple projects will be compensated for in the following manner: Travel time between project A and B shall be charged to project B. Return travel time from project B to project A shall be charged to project A.
3. For those testing services performed by other than FIRM at the request of the CITY, FIRM shall be reimbursed by CITY for the actual invoice for the services performed by other than FIRM, provided that each such invoice shall be subject to approval as reasonable by CITY prior to any reimbursement therefore.

PRIVATE/DEVELOPER PROJECTS

City Private Developer projects are inspected approximately four hours per day during construction activities. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required.

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per hour** per Inspector per DEVELOPER/CONTRACTOR'S crew for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of two years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

CAPITAL PROJECTS

City Capital projects are inspected approximately four to eight hours per day depending on phase of construction. Staff with relevant inspection experience in construction of sanitary/stormwater collection systems and water distribution systems is required. Experience with trenchless construction methods/technologies is also expected (CIPP lining, HDD, etc.) for certain projects.

1. FIRM shall be compensated at a rate of **fifty-five dollars (\$55.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment# 1 that have a minimum of five years of experience.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

2. FIRM shall be compensated at a rate of **sixty-five dollars (\$65.00) per hour** per Inspector per CAPITAL project for the inspection services performed under this Agreement, inclusive of any clerical and/or administrative/management cost by FIRM. This rate will be paid for the employees of the FIRM listed in Attachment #1 that have a minimum of ten years of experience for larger projects or projects with more complex work- such as projects with electrical/mechanical facilities. Staff with experience in electrical/mechanical disciplines will be required on facility projects.
 - If requested by CITY, CITY shall compensate FIRM at above specified hourly rate for time spent attending the preconstruction conference, making visual on-site inspections after construction is complete, and evaluating the design or the construction as may be required.

TAP INSPECTIONS

1. FIRM shall be compensated at a rate of **fifty dollars (\$50.00) per tap** for tap inspections performed at the CITY'S request after the 2:00 PM call in time deadline. CITY'S request will come through the NEW WATER & SEWER DEPARTMENT.

B. BILLING AND PAYMENT

METHOD OF PAYMENT

FIRM shall submit a properly itemized invoice to CITY on a monthly basis. CITY shall pay FIRM within forty five (45) days after receipt of such properly itemized claim forms, unless claim is objected to in writing, in which case claim shall be paid within 15 days of resolution of any dispute.

PART IV

STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the Services are performed.
2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by City. For some projects involving conceptual or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that scope must be redefined. FIRM will promptly provide City with a proposed amendment to this Agreement to recognize such change, which the CITY shall approve or reject in writing within 15 days of receipt.
3. **SAFETY.** Engineer shall establish and maintains corporate programs and procedures for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, FIRM specifically disclaims any authority or responsibility for general job site safety and safety of persons other than FIRM employees.
4. **DELAYS.** If events beyond the control of CITY or FIRM, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be amended to the extent necessary to compensate for such delay.
5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party. CITY shall pay FIRM for all Services, including profit relating thereto, rendered prior to termination.
6. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by FIRM is supplied for the general guidance of the CITY only. Since FIRM has no control over competitive bidding or market conditions, FIRM cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.
7. **RELATIONSHIP WITH CONTRACTORS.** FIRM shall serve as CITY'S professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY'S contractors, but FIRM shall have no authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY'S contractors, without specific written provision to do so in this agreement.
9. **INSURANCE.** FIRM shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;
 - a) Worker's Compensation per statutory requirements
 - b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
 - c) Automobile Liability \$1,000,000 per occurrence
 - d) Products Liability \$1,000,000 per occurrence
 - e) Completed Operations Liability \$1,000,000 minimum per occurrence

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal. All Certificates of Insurance should be sent to the following address:

City of Fort Wayne Board of Public Works
200 East Berry Street, Suite 240
Fort Wayne, IN 46802

- 10. INDEMNITIES.** To the fullest extent permitted by law, FIRM shall indemnify and save harmless CITY from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or (including reasonable litigation costs) death to persons or damage to tangible property to the extent caused directly by the willful misconduct or failure to adhere to the standard of care described in Paragraph 1 above of FIRM, its agents or employees.

To the fullest extent permitted by law, CITY shall defend, indemnify, and save harmless FIRM, its agents, employees, and representatives from and against loss, liability, and damages (including reasonable litigation costs) arising from or relating to claims for injury or death to persons, damages to tangible property, or other losses alleged to be caused by persons directly within the control of CITY when the loss, injury, or damage attributable to CITY'S willful misconduct.

- 11. LIMITATIONS OF LIABILITY.** CITY agrees that, to the fullest extent permitted by law, FIRM'S total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, FIRM'S negligence, errors, omissions, strict liability, or breach of contract shall not exceed the total compensation received by FIRM under this Agreement. If CITY desires a limit of liability greater than that provided above, CITY and FIRM shall include in Part III of this Agreement the amount of such limit and the additional compensation, if any, to be paid to FIRM for assumption of such additional risk.

- 12. ACCESS.** CITY shall provide FIRM reasonably safe access to any premises as necessary for FIRM to provide the Services.

- 13. REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at the CITY'S risk. CITY agrees to defend, indemnify, and hold harmless FIRM from all claims, damages, and expenses, (including reasonable litigation costs), arising out of such reuse or alteration by CITY or others acting through CITY.

- 14. AMENDMENT.** This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

- 15. ASSIGNMENT.** Except for assignments (a) to entities which control, or are controlled by, the parties hereto or (b) resulting from operation of law, the rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assigns.

- 16. STATUTES OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project completion.

- 17. PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to seek its litigation costs from the other party.
- 18. NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.
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- 20. SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
- 21. AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

IF FIRM IS ADVISED THAT THE PROJECT IT IS BEING ASSIGNED IS A CONSENT DECREE PROJECT, THEN THE FOLLOWING ITEMS MUST BE CONFORMED TO:

- 22. CONSENT DECREE NOTIFICATION.** FIRM shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workmen-like manner and in conformance with the terms of the City of Fort Wayne Consent Decree entered in the U.S. District Court on April 1, 2008 by the United States and State of Indiana. FIRM acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:
<http://www.cityoffortwayne.org/index.php/content/view/1494/1566/>
- 23. DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, FIRM agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within FIRM's possession or control and which relate, in any manner, to the performance of the work undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, FIRM shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the FIRM. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the FIRM attesting that it has provided the City with complete copies of all documents, records and other information which relates to the work contemplated by the Agreement.

PROFESSIONAL SERVICES AGREEMENT

Attachment #1

LIST OF KEY PERSONEL

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$50.00 PAY RATE FOR DEVELOPER
PROJECTS PER PART III, SECTION A, PRIVATE/DEVELOPER PROJECTS, PARAGRAPH 1:

Personnel:

Zane J. Anabtawi
Michael Saadeh

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$55.00 PAY RATE FOR CAPITAL PROJECTS
PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 1:

Personnel:

JUSTIN M. YORK

LIST OF PERSONEL ELIGIBLE FOR HIGHER \$65.00 PAY RATE FOR CAPITAL PROJECTS
PER PART III, SECTION A, CAPITAL PROJECTS, PARAGRAPH 2:

Personnel:

MARK G. VOSS
PAUL BERCOFF

CITY OF FORT WAYNE, INDIANA

A&Z Engineering, LLC
(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:
1. FINANCIAL INTERESTS;
2. POTENTIAL CONFLICTS OF INTERESTS;
3. CURRENT AND PENDING CONTRACTS OR PROCUREMENTS

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$25,000 or more. Vendors shall disclose the financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration of an award of contract by the City. This Disclosure Statement must be completed and submitted together with Vendor's contract, bid, proposal, or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1. Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (i) Equity ownership exceeding 5% (X)
(ii) Distributable income share exceeding 5% ()
(iii) Not Applicable (If N/A, go to Section 2) ()

Name: Jamal T. Anabtawi Name: Warren J. Zwick

Address: 6927 Pintail Drake Ct Fort Wayne IN 46845 Address: 12226 Wood Glen Dr Fort Wayne IN 46814

b. For each individual listed in Section 1a., show his/her type of equity ownership: sole proprietorship () stock () partnership interest () units (LLC) (X) other (explain)

c. For each individual listed in Section 1a., show the percentage of ownership interest in Vendor (or its parent): ownership interest: 50 %

Section 2. Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a., check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

a. City employment, currently or in the previous 3 years, including contractual employment for services. Yes No. X

- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years. Yes No. _X_
- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years. Yes No. _X_
- d. Relationship to Member of Immediate Family holding appointive City office currently or in the previous 3 years Yes No _X_

Section 3. DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have current contracts (including leases) with the City? Yes _X_ No .
- b. If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact using space below (attach additional pages as necessary).

Six Mile Creek Trail – Trail Design	PO 90640103-000	Dawn Ritchie	11-04-2009
Maplecrest Rd – Roadway Design	PO 10640019-000	Shan Gunawardena	02-17-2010
Covington Rd Trail - Trail Design	PO 11640010-000	Dawn Ritchie	01-05-2011
Fairfax Storm Sewer – Sewer Design	PO 11905077-000	Kelly Bajic	07-06-2011
On-call Surveying & Drafting	PO 12905006-000	Nathan Baggett	02-01-2012
On-call Inspection	PO 12905021-000	Mike Kiester	01-04-2012
Taylor-Hale Phase I – Sewer Design	PO 12905105-000	Kelly Bajic	10-25-2012

- c. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes _X_ No.

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

SRTS E State Blvd/Lahmeyer Rd/Maysville Rd - Inspection	Pending contract	Dawn Ritchie
Covington Rd Trail – Inspection	Pending contract	Dawn Ritchie

Section 4. CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;

- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating
- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

A&Z Engineering, LLC
(Name of Vendor)

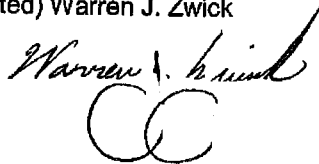
9017 Coldwater Rd Ste 500 Fort Wayne IN 46825
Address
260-485-7077
Telephone
warren@az-engineering.net
E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Warren J. Zwick

Title Member

Signature



Date 01/09/2013

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

CITY OF FORT WAYNE, INDIANA

Butler, Fairman and Seufert, Inc.
(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

1. FINANCIAL INTERESTS;
2. POTENTIAL CONFLICTS OF INTERESTS;
3. CURRENT AND PENDING CONTRACTS OR PROCUREMENTS

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$25,000 or more. Vendors shall disclose the financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration of an award of contract by the City. This Disclosure Statement must be completed and submitted together with Vendor's contract, bid, proposal, or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1. Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (I) Equity ownership exceeding 5% (X)
- (II) Distributable income share exceeding 5% ()
- (III) Not Applicable (if N/A, go to Section 2) ()

Name: See Attached

Name: _____

Address: _____

Address: _____

b. For each individual listed in Section 1a., show his/her type of equity ownership: sole proprietorship (___) stock (*) partnership interest (___) units (LLC) (___) other (explain) _____

c. For each individual listed in Section 1a., show the percentage of ownership interest in Vendor (or its parent): ownership interest: _____ %

Section 2. Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a., check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable sub-section (attach additional pages as necessary):

a. City employment, currently or in the previous 3 years, including contractual employment for services. Yes No (X)

- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years. Yes No.
- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years. Yes No.
- d. Relationship to Member of Immediate Family holding appointive City office currently or in the previous 3 years. Yes No.

Section 3. DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have current contracts (including leases) with the City? Yes No.
- b. If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact using space below (attach additional pages as necessary).
City Utilities On Call Resident Project Representative/Inspection Services PO No. 10905159 Michael Kiester
 Right of Way Engineering associated with the acquisition of the former New York Central Railroad in Allen County PO No. 11640006 Dawn Ritchie
- c. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes No.

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

Section 4. CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a, is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a, has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other

unit of local government; and

9. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a, is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

Butler, Fairman and Seufert, Inc.
(Name of Vendor)

8450 Westfield Blvd, Ste. 300, Indpls., IN 46240

Address
(217) 713-4615

Telephone
bvatson@bfsengr.com

E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Bradley D. Watson

Title Executive Vice President

Signature *B. Watson*

Date February 16, 2012

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

Principals:

John W. Brand
President
% Ownership: 35%

David Lahey
Executive Vice President
% Ownership: 10%

Gary L. Pohl
Executive Vice President
% Ownership: 26.5%

Bradley D. Watson
Executive Vice President
% Ownership: 26.5%

Michael A. Smith
Executive Vice President
% Ownership: 2%

CITY OF FORT WAYNE, INDIANA
Construction Support Services Inc
 (Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

1. **FINANCIAL INTERESTS;**
2. **POTENTIAL CONFLICTS OF INTERESTS;**
3. **CURRENT AND PENDING CONTRACTS OR PROCUREMENTS**

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$25,000 or more. Vendors shall disclose the financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration of an award of contract by the City. This Disclosure Statement must be completed and submitted together with Vendor's contract, bid, proposal, or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1. Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (I) Equity ownership exceeding 5% (X)
- (II) Distributable income share exceeding 5% ()
- (III) Not Applicable (If N/A, go to Section 2) ()

Name: *Thomas J. Baker*

Name: *Joanne C Baker*

Address: *1310 Bunker Hill Pl. Fort Wayne IN*

Address: *1310 Bunker Hill Pl Fort Wayne*

b. For each individual listed in Section 1a., show his/her type of equity ownership: sole proprietorship () stock () partnership interest () units (LLC) () other (explain) *Sub-S Corp.*

c. For each individual listed in Section 1a., show the percentage of ownership interest in Vendor (or its parent):
 ownership interest: *100% Thomas - 51% Joanne 49%*

Section 2. Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a., check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

a. City employment, currently or in the previous 3 years, including contractual employment for services.

Yes

No. *X*

- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years. Yes No
- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years. Yes No
- d. Relationship to Member of Immediate Family holding appointive City office currently or in the previous 3 years. Yes No

Section 3. DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have current contracts (including leases) with the City? Yes No
- b. If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact using space below (attach additional pages as necessary).
*City Utilities - On-Call RPR/Inspection Services.
 Board of Public Works. Contract Date Oct 2010. with Amendment #1
 extending to December 31, 2012.*
- c. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes No

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

Section 4. CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other

unit of local government; and

- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

Construction Support Services Inc
(Name of Vendor)

Po Box 85048 Fort Wayne IN 46885

Address

705-9671

Telephone

Tom.Baker@ConstructionSupportServices.net

E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Thomas J Baker Title President

Signature *Thomas J Baker* Date 2-17-12

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

CITY OF FORT WAYNE, INDIANA

DLZ INDIANA, LLC
(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:
1. FINANCIAL INTERESTS;
2. POTENTIAL CONFLICTS OF INTERESTS;
3. CURRENT AND PENDING CONTRACTS OR
PROCUREMENTS

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

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A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1. Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (i) Equity ownership exceeding 5% (X)
(ii) Distributable income share exceeding 5% ()
(iii) Not Applicable (If N/A, go to Section 2) ()

Name: **Vikram Rajadhyaksha**

Name:

Address: Powell, Ohio

Address: _

b. For each individual listed in Section 1a., show his/her type of equity ownership: sole proprietorship (_)
stock (X) partnership interest () units (LLC) () other (explain)

c. For each individual listed in Section 1a., show the percentage of ownership interest in Vendor (or its parent):
ownership interest: **53.99%**

Section 2. Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a., check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

a. City employment, currently or in the previous 3 years,
including contractual employment for services. Yes No, X

- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years. Yes No. X
- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years. Yes — No. X
- d. Relationship to Member of Immediate Family holding appointive City office currently or in the the previous 3 years Yes No. X

Section 3. DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have **current** contracts (including leases) with the City? Yes X No .
- b. If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact using space below (attach additional pages as necessary).

On-Call Inspection Svc – Mike Kiester – 90905028-000
LTCP Program Projects – Matthew Wirtz
On-Call Survey – Nathan Baggett – 10905042-000
Plan Reviews – Nancy Townsend – N/A
Engle Road Trail – Dawn Ritchie
Cougar Trail – Dawn Ritchie

- c. Does Vendor have **pending** contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes X No.

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

Proposal – RFQ 2012-03 – Item No. 3 WPCP Construction Management Project

Proposal – RFQ 2012-04:
Item No. 1 – On-Call Combined Sewer System Capacity Improvement Design 2013
Item No. 2 – On-Call Water Main Project Design Assistance 2013
Item No. 6 – On-Call Surveying and Drafting 2013
Item No. 7 – Junk Ditch Relief Sewer
Item No. 8 – CSO 52 Satellite Disinfection Facility
Item No. 9 – On-Call Resident Project Representative (RPR) Services

Section 4. CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;

- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating
- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

DLZ Indiana, LLC
(Name of Vendor)

111 West Columbia Street, Suite 100
Address
(260) 420-3114
Telephone
bglaze@dlz.com
E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Brian Glaze, P.E. Title President

Signature  Date January 17, 2013

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

CITY OF FORT WAYNE, INDIANA

GAI Consultants, Inc.
(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

- 1. **FINANCIAL INTERESTS;**
- 2. **POTENTIAL CONFLICTS OF INTERESTS;**
- 3. **CURRENT AND PENDING CONTRACTS OR PROCUREMENTS**

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$25,000 or more. Vendors shall disclose the financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration of an award of contract by the City. This Disclosure Statement must be completed and submitted together with Vendor's contract, bid, proposal, or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1. Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (I) Equity ownership exceeding 5% ()
- (II) Distributable income share exceeding 5% ()
- (III) Not Applicable (if N/A, go to Section 2) (x)

Name: _____ Name: _____
Address: _____ Address: _____

b. For each individual listed in Section 1a., show his/her type of equity ownership: sole proprietorship (____) stock (____) partnership interest (____) units (LLC) (____) other (explain) _____

c. For each individual listed in Section 1a., show the percentage of ownership interest in Vendor (or its parent):
ownership interest: _____ %

Section 2. Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a., check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

a. City employment, currently or in the previous 3 years, including contractual employment for services. Yes _____ No _____

- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years. Yes No
- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years. Yes No
- d. Relationship to Member of Immediate Family holding appointive City office currently or in the the previous 3 years Yes No

Section 3. DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have current contracts (including leases) with the City? Yes No
- b. If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact using space below (attach additional pages as necessary).

[see attached sheet]

- c. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes No

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

[see attached sheet]

Section 4. CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other

unit of local government; and

- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

GAI Consultants, Inc.
(Name of Vendor)

1602 Magnavox Way, Ft Wayne IN 468

Address
Rm 909, 9800

Telephone

tedwards@gaiconsultants.com

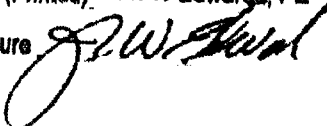
E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) John W Edwards, PE

Title Vice President

Signature



Date July 16, 2012

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

GAI Consultants, Inc
City of Fort Wayne, Indiana
July 16, 2012

GAI Proj #	Project Name	PO # (Award #)	Final Date (Invoice received)	City Contact	EMR Contact	Auth. Fee	GAI Proj Mgr
D0034475	Time Coners Key, N. Main (new)	INDOT	08/09/06	Gallaway, Jene, Nishantha	Curran, Steve, Nishantha	\$12,717.80	Mark
D010490.00	NW Corner Main, Phase 4	PO #1041092-000	02/17/10	Penunudi, Paul	Penunudi, Paul	\$188,000.00	Mark
D06024 00	Johnny Apple to Shuff Park Trail	#PC7-09995	up to Suppl #6	Richie, Dawn	RiJie, Debbie	\$23,058.00	Mark
D101167.00	Headworks Pump Station CM	PO #10935144-000	09/01/10	Maxwell, Bill	Schnywer, Andrew	\$77,300.00	Mark
D101408.XX	2010-2011 On-Call Professional Services	PO #10905157-000	10/20/10	Kiesler, Mike	Kiesler, Mike	***	Gary
D101152.00	Duport Road Lima to Coldwater	PO #11640012-000	11/15/10	Gunawardena, Nishantha	Gunawardena, Nishantha	*** Fee will be identified for individual assignments	Gary
D101152.01	Duport Road Lima to Coldwater, Amend #1	pending	pending	Gunawardena, Nishantha	Gunawardena, Nishantha	\$1,067,200.00	Chad
D101489.00	Digester Ph 3 CWS	WO #75386	07/16/11	Schortgen, Zachary	Schortgen, Zachary	\$165,180.00	Chad
D11008.00	CSPS RPR	PO #11905173-000	09/07/11	Schortgen, Zachary	Schortgen, Zachary	\$275,000.00	Gary
D111441.00	2012 On-Call RPR	PO #12905018-000	01/14/12	Kiesler, Mike	Kiesler, Mike	\$421,723.00	Gary
D111003.00	CSPS RPR	PO #11905123-000	09/07/11	Schortgen, Zachary	Schortgen, Zachary	*** Fee will be identified for individual assignments	Gary
				Schortgen, Zachary	Schortgen, Zachary	\$421,723.00	Gary

CITY OF FORT WAYNE, INDIANA

VS ENGINEERING, INC.
(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

- 1. FINANCIAL INTERESTS;
- 2. POTENTIAL CONFLICTS OF INTERESTS;
- 3. CURRENT AND PENDING CONTRACTS OR PROCUREMENTS

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$25,000 or more. Vendors shall disclose the financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration of an award of contract by the City. This Disclosure Statement must be completed and submitted together with Vendor's contract, bid, proposal, or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1. Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (i) Equity ownership exceeding 5% ()
- (ii) Distributable income share exceeding 5% ()
- (iii) Not Applicable (If N/A, go to Section 2) (X)

Name: _____ Name: _____

Address: _____ Address: _____

b. For each individual listed in Section 1a., show his/her type of equity ownership: sole proprietorship () stock () partnership interest () units (LLC) () other (explain)

c. For each individual listed in Section 1a., show the percentage of ownership interest in Vendor (or its parent): ownership interest: %

Section 2. Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a., check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

a. City employment, currently or in the previous 3 years, including contractual employment for services. Yes No X

- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years. Yes No X
- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years. Yes No X
- d. Relationship to Member of Immediate Family holding appointive City office currently or in the the previous 3 years Yes No X

Section 3. DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have **current** contracts (including leases) with the City? Yes X No
- b. If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact using space below (attach additional pages as necessary).

Project Name	P.O. Number	Contract Date	City Contact
Willowdale Ditch Improvements	2905087-000	8/8/2012	Anne Marie Smrchek, P.E.
On-Call Field Survey & Drafting		2/1/2012	Nathan Baggett, P.E.
St. Joe Dam Concrete & Structural Repairs	2308-2010	2/23/2012	Mike Kiester
On-Call Inspection Services Utility Projects	10905158-000	10/20/2010	Mike Kiester
Lake Av. from Anthony Blvd. to Stanley Av.	12640008-000	1/11/2012	Shan Gundwardena, P.E.
Auburn Rd. from Clinton St. to Cook Rd.	11640013-000	12/1/2010	Shan Gundwardena, P.E.
Lenox Avenue-Fairfax Phase II	12905123-000	12/19/2012	Kelly Bajic, P.E.

- c. Does Vendor have **pending** contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes No X

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

Section 4. CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared

- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating
- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

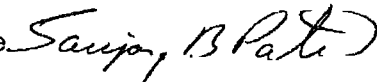
VS ENGINEERING, INC.
(Name of Vendor)

10305 Dawson Creek Blvd. Ft Wayne. IN 46825
Address
(260) 489-6635
Telephone
sbpatel@vsengineering.com
E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Sanjay B. Patel

Title President

Signature 

Date January 15, 2013

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.