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2 **BILL NO. S-13-05-23**

SPECIAL ORDINANCE NO. S-47-13

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4 AN ORDINANCE approving DESIGN SERVICES  
5 DURING CONSTRUCTION PROFESSIONAL  
6 SERVICES CONTRACT FOR WPCP EFFLUENT  
7 PUMP STATION AND POND IMPROVEMENTS -  
8 RES. #75824, W.O. #75824 between ARCADIS  
9 U.S. INC. and the City of Fort Wayne, Indiana, in  
10 connection with the Board of Public Works.

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

13 **SECTION 1.** That the DESIGN SERVICES DURING  
14 CONSTRUCTION PROFESSIONAL SERVICES CONTRACT FOR WPCP  
15 EFFLUENT PUMP STATION AND POND IMPROVEMENTS - RES. #75824,  
16 W.O. #75824 by and between ARCADIS U.S. INC. and the City of Fort  
17 Wayne, Indiana, in connection with the Board of Public Works, is hereby  
18 ratified, and affirmed and approved in all respects, respectfully for:

19 All labor, insurance, material, equipment, tools, power,  
20 transportation, miscellaneous equipment, etc., necessary for  
21 Professional engineering services during construction that  
22 include construction progress meetings, responding to  
23 contractor request for information, shop drawing review,  
24 preparation of operational and maintenance manual,  
25 preparation of record drawings, system training, and system  
26 startup services:

27 involving a total cost of SEVEN HUNDRED TWENTY-NINE THOUSAND,  
28 EIGHT HUNDRED SIXTY-EIGHT AND 00/100 DOLLARS - (\$729,868.00). A  
29 copy said Contract is on file with the Office of the City Clerk and made  
30 available for public inspection, according to law.

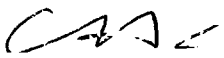
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**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.



Council Member

APPROVED AS TO FORM AND LEGALITY



Carol Helton, City Attorney

**PROFESSIONAL SERVICES AGREEMENT**  
**EFFLUENT PUMP STATION AND POND IMPROVEMENTS ("PROJECT")**  
**"DESIGN SERVICES DURING CONSTRUCTION"**

This Agreement is by and between

**CITY OF FORT WAYNE ("CITY")**

by and through its

Board of Public Works  
City of Fort Wayne  
420 City-County Building  
One Main Street  
Fort Wayne, IN 46802

and

**ARCADIS U.S. INC. ("DESIGN ENGINEER")**  
130 East Main Street, Suite 23  
Fort Wayne, Indiana 46802

Who agree as follows.

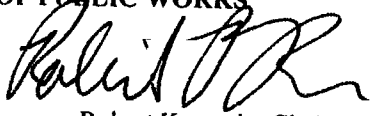
CITY hereby engages ENGINEER to perform the services set forth in Part I - Services ("Services") and DESIGN ENGINEER agrees to perform the Services for the compensation set forth in Part III - Compensation ("Compensation"). DESIGN ENGINEER shall be authorized to commence the Services upon execution of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

**APPROVALS**

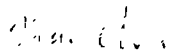
**APPROVED FOR CITY**

**BOARD OF PUBLIC WORKS**

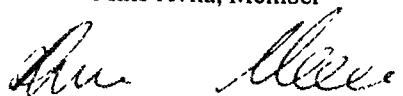
BY:

  
Robert Kennedy, Chairman

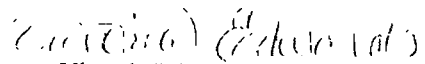
BY:

  
Mike Avila, Member

BY:

  
Kumar Menon, Member

ATTEST:

  
Victoria Edwards, Clerk


DATE:

January 20, 2013

**APPROVED FOR ENGINEER**

**ARCADIS U.S. INC. (DESIGN ENGINEER)**

BY:

  
Paul H. Powers, Principal Engineer

DATE:

2/14/13

## PART I

### SCOPE OF BASIC ENGINEERING SERVICES

#### A. GENERAL

DESIGN ENGINEER shall provide the CITY professional engineering (Design Services During Construction) services for the construction of the Effluent Pump Station (EPS), Pond Improvements and St Joe Interceptor Control Structure. The CITY will retain a firm, hereinafter called the ENGINEER, to act as the CITY's representative whose duties and responsibilities are defined in accordance with the CITY's *Construction Management and Resident Project Representative Services Agreement* for this project. The DESIGN ENGINEER will consult with, advise, and assist the ENGINEER in connection with the completion of the work in the construction of the EPS, Pond 3 Improvements and St. Joe Interceptor Control Structure.

The DESIGN ENGINEER will also prepare operation and maintenance (O&M) manual documents and will provide operational procedures and training services associated with the construction phase of the project improvements and other customary services incidental thereto.

#### B. PROJECT DESCRIPTION

The project includes the construction of the Effluent Pump Station, Pond Improvements and St Joe Interceptor Control Structure generally described as follows:

Construction of EPS, Pond 3 Improvements and St Joe Interceptor Control Structure including site work, yard piping, buried cast-in-place and precast wastewater diversion structures and conduits, Pond 3 pipe, Pond 3 discharge structure, dechlorination chamber and associated equipment, effluent meter chamber, standby generator and improvements to existing Chlorine Contact Tank, structural and architectural work associated with EPS, electrical building and Pond 3 discharge structure, process piping, structure gates, pumps and associated equipment, effluent meter, heating, ventilation, electrical work including power feed from CSPA, electrical power distribution equipment, automatic transfer switch, effluent pump variable speed drives and transformer located at EPS facility, and instrumentation and control work.

#### C. SCOPE OF WORK

The ENGINEER shall provide the following services:

##### Task 1 – Construction Phase (Design Services During Construction)

1. *Power Coordination Study during Construction.* Perform final power coordination study based on actual equipment furnished by the contractor for the project. Study will include a short circuit analysis, power coordination, equipment evaluation and arc flash analysis. A report will be prepared to document assumptions and results of the study. Based on results of the study, equipment labels will be prepared for all electrical equipment. Labels to be installed concurrent with DESIGN ENGINEER's regularly scheduled project site visits.
2. *Construction Schedule QA/QC Reviews.* DESIGN ENGINEER shall coordinate and assist independent Construction Schedule Advisor in conducting bi-monthly construction schedule reviews to verify proper interrelationships and dependencies among project work elements and identify potential critical path and overall schedule completion issues. *These services will be provided through the CITY controlled Design/Construction Services Allowance*
3. *General Administration of the Contract Documents.* Consult with, advise and assist the ENGINEER in the role as CITY's representative. DESIGN ENGINEER's communications with the CITY and the Contractor shall be through, or with the knowledge, of the ENGINEER.

*Pre-Construction Conference* Prepare for and participate in the Pre-Construction Conference. The pre-construction conference will be conducted by the ENGINEER.

- a. *Visits to Site and Observation of Construction.* In connection with observations of the work while it is in progress:

Make visits to the site at intervals as requested by the ENGINEER and at the monthly construction progress meeting in order to observe, as an experienced and qualified design professional, the progress and quality of the work specifically identified by the Resident Project Representative ("RPR"). Such visits and observations by DESIGN ENGINEER are not intended to be exhaustive or to extend to every aspect of the work or to involve detailed inspections of the work, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the work based on DESIGN ENGINEER's exercise of professional judgment as assisted by the RPR. Based on information obtained during such visits and such observations, DESIGN ENGINEER will determine in general if the work identified by the RPR is proceeding in accordance with the Contract Documents, and report findings to the ENGINEER.

The purpose of DESIGN ENGINEER's visits to the Site will be to enable the ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by the ENGINEER during the Construction Phase; and in addition, by exercise of DESIGN ENGINEER's efforts as an experienced and qualified design professional, to provide the ENGINEER a greater degree of confidence that the completed work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by the Contractor. DESIGN ENGINEER shall not, during such visits or as result of such observations of the work in progress, supervise, direct, or have control over the work, nor shall DESIGN ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work or for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the work. Accordingly, DESIGN ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

*Defective Work.* Recommend to ENGINEER that the work be disapproved and rejected while it is in progress if DESIGN ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

*Site Visits and Monthly Construction Progress Meetings.* Attend monthly construction progress meetings and make site visits. DESIGN ENGINEER attendance at the monthly construction progress meetings is at the direction of the CITY.

*Monthly Construction Progress Meetings via Conference Call.* Attend monthly construction progress meetings via conference call at the direction of CITY.

- b. *I&C Coordination:* Attend four (4) coordination meetings with the CITY and the Programmer selected by the CITY to program the PLC system. During the first coordination meeting, DESIGN ENGINEER will review the functional description for the system prepared for the PLC system and clarify initial questions raised by the Programmer as to the design intent. The remaining three (3) meetings will be conducted to provide further clarification of intent of the functional description for the system as requested by the CITY. *These services will be provided through the CITY controlled Design/Construction Services Allowance.*
- c. *Process Control System Field Testing:* Attend three (3) days of field testing of the process control system program to verify operation of the complete process control system for compliance with the established functional description of the system and design intent. Based on the testing,

identify areas of the new process control system that do not comply with the established functional description of the system that will require re-programming. *These services will be provided through the CITY controlled Design/Construction Services Allowance*

- d. *Clarification and Interpretations; Field Orders.* Provide clarifications and interpretations of the Contract Documents as requested by the ENGINEER appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Provide input as requested by the ENGINEER so that the ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents. The clarifications will be transmitted electronically through the CITY's Project Management Information System (PMIS)
- e. *Request for Information (RFI).* Provide clarification and interpretations of the Contract Documents, as requested by the Contractor and/or ENGINEER. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. The RFI responses will be issued normally within 7 calendar days of receipt and transmitted electronically through the CITY's Project Management Information System (PMIS).
- f. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to the ENGINEER, as appropriate, and provide support documentation to the ENGINEER, as appropriate, so the ENGINEER can prepare Change Orders and Work Change Directives.
- g. *Shop Drawings and Samples:* Review and approve or take other appropriate action in respect to shop drawings, samples and other data which Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. DESIGN ENGINEER has an obligation to complete submittal reviews within the time limits specified in the Contract Documents. The shop drawings will be transmitted electronically through the CITY's Project Management Information System (PMIS).
- h. *Substitutes.* Evaluate and determine the acceptability of substitute materials and equipment proposed by the Contractor, and forward recommendation to ENGINEER. *These services will be provided through the CITY controlled Design/Construction Services Allowance.*
- i. *Inspections and Tests.* The RPR will review certificates of inspections, tests, and approvals of general construction work as required by laws and regulations and the Contract Documents. DESIGN ENGINEER shall review certificates of inspections, tests, and approvals of mechanical, electrical, and instrumentation work as required by laws and regulations and the Contract Documents. Review of such certificates will be for the purpose of determining that the results certified indicated compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. DESIGN ENGINEER shall be entitled to rely on the results of such tests.
- j. *Disagreements between CITY and Contractor* Assist the ENGINEER in rendering formal written decisions on claims of the CITY and the Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. In assisting in such decisions, DESIGN ENGINEER shall be fair and not show partiality to the CITY or Contractor and shall not be liable in connection with any decision rendered in good faith.
- k. *Record Drawings.* Prepare record drawings from Contractor's annotated set (redline markup) of contract drawings showing changes made during construction. Prepare record drawings with AutoCAD 2008 or greater. Furnish four copies of 11" x 17" record drawings. Furnish three copies of a CD that contains AutoCad and PDF files of the record drawings.
- l. *Substantial Completion* If requested by the CITY, make site visit(s) to participate in an inspection with the ENGINEER, the CITY, and the Contractor, to determine if the work is

Substantially Complete. Provide recommendation to the ENGINEER relative to issuance of certificate of Substantial Completion. *These services would be provided through the CITY Controlled Design/Construction Services Allowance.*

- m *Final Notice of acceptability of the work.* If requested by the CITY, make site visit(s) to assist the ENGINEER in conducting a final inspection to determine if the completed work is acceptable so that the ENGINEER may recommend, in writing, that final payment be made to Contractor. *These services would be provided through the CITY Controlled Design/Construction Services Allowance*
- n *Limitation of Responsibilities.* DESIGN ENGINEER shall not be responsible for the acts or omissions of any Contractor or of any of their subcontractors, suppliers, or any other individual or entity performing or furnishing any of the work. DESIGN ENGINEER shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

4. *Operation and Maintenance (O&M) Manual*

- 1) Revise the existing WPCP O&M manual to reflect changes and additions made as part of the construction contract. The revised sections of the O&M manual prepared for the Project shall match the format of the existing O&M manual. Prepare the O&M manual using Microsoft Word 2007 or greater. New drawings will be in AutoCAD 2008 or greater.
- 2) Furnish 25 copies of the edited O&M manual before startup of the facilities for CITY review, and use during training and startup.
- 3) After startup of the facilities is complete, modify the revised sections to incorporate CITY review comments.
- 4) Furnish 10 copies of the final revised O&M manual sections and deliver the electronic files on CD. Also provide the final 10 copies with new binders and tabs.
- 5) Review manufacturer's O&M literature for conformance to the Contract Documents. Deliver approved manufacturer's O&M literature to the CITY.

5. *Operational Procedures, Training and Startup Services.*

a. *Standard Operating Procedures (SOP) and Training. (Contingency Allowance)*

- 1) Develop SOPs, using the CITY's existing format, for normal operation of the EPS and Pond 3 components under various scenarios such as river elevations, plant effluent flow and DO control. Furnish 10 copies for CITY review and comments. Furnish 25 copies of the final SOPs and electronic files on CD.
- 2) Develop SOPs for normal operation of the St Joe Interceptor Control Structure. Furnish 25 copies of the final SOPs and electronic files on CD.
- 3) Develop operating procedures for emergency operations (equipment or control failures, power failures, etc.).
- 4) Provide operational flow chart outlining the operational strategies for the EPS and Pond 3 Improvements. The operational flow charts will provide a holistic view of operations of the facility for dry weather and wet weather periods
- 5) Prepare and deliver operator training in three sessions for operations and maintenance staff. Training shall include drawings, visual aids, and operational information including flow chart(s) that provides decision-making guide for operators under routine operational conditions as outlined in the EPS, Pond 3 and St Joe Interceptor Control Structure SOPs.
- 6) Prepare training materials for up to 25 City staff.

- 7) The DESIGN ENGINEER shall review the vendor training information for conformance with the Contract Documents prior to training sessions with City staff.

*The services under 1.5.a will be provided through the CITY controlled Design/Construction Services Allowance.*

b. *Startup Services.(Contingency Allowance)*

- i. Assist the ENGINEER in preparing startup plans to coordinate the responsibilities of the Contractor, Programmer, and the CITY at the time when construction is complete on each individual component of the project and the facilities are ready for operation.
- ii. Startup plan shall include components related to the construction sequencing of the EPS, Pond 3 Improvements and St Joe Interceptor Control Structure projects. The plan will outline how operations will evolve as the various components of the project are completed. Intermediate and final operational strategies will be discussed as part of the overall startup plan.
- iii. Provide startup operation services to assist in the startup of the facilities.
- iv. Provide process control troubleshooting services during startup of improvements.

*The services under 1.5.b will be provided through the CITY controlled Design/Construction Services Allowance*

#### **D. SCHEDULE**

DESIGN ENGINEER will be authorized to proceed with the Services as outlined herein upon execution of this Agreement. DESIGN ENGINEER shall perform Services consistent with the schedule of the construction contractor. Contractor's construction phase is expected to begin in 2013 and be substantially completed in 2014.

#### **E. OPTIONAL SERVICES**

Upon separate written authorization by CITY, and negotiated fees, DESIGN ENGINEER may provide additional services of the types listed below.

- Preparing to serve or serving as a consultant or witness for CITY in any litigation, arbitration, or other dispute resolution process related to construction project.
- Providing Construction Phase services beyond the original construction contract date for completion of the Work.
- Aeration design services for the Chlorine Contact Tank.
- Other services performed or furnished by DESIGN ENGINEER not otherwise provided for in this Agreement

#### **F. CONTINGENCY ALLOWANCE TASKS:**

Contingency items are authorized by the CITY and shall have prior approval of fees prior to commencement. Allowance budget amounts are reflected in ATTACHMENT 1. Contingency tasks may include (but not specifically limited to) the following services:

1. Project Management and Budget/Schedule Control Allowance.
  - a. Upon authorization from the CITY perform Project Management and Budget/Schedule Control. The scope will be determined by the CITY.

2. Final Design for the St. Joe Interceptor Control Structure Allowance.
  - a. Upon authorization from the CITY perform final design services for the St. Joe Interceptor Control Structure.
  
3. Design/Construction Services Allowance.
  - a. Upon authorization from the CITY perform Task 1.2, Construction Schedule QA/QC Reviews.
  - b. Upon authorization from the CITY perform Task 1.3.b, I&C Coordination.
  - c. Upon authorization from the CITY perform Task 1.3.c, Process Control System Field Testing.
  - d. Upon authorization from the CITY perform Task 1.3.h, Substitutes Reviews.
  - e. Upon authorization from the CITY perform Task 1.3.l, Substantial Completion Inspection services.
  - f. Upon authorization from the CITY perform Task 1.3.m, Final Completion Inspection services.
  - g. Upon authorization from the CITY perform Task 1.5.a, SOPs and Training services.
  - h. Upon authorization from the CITY perform Task 1.5.b, Startup Services.

## PART II

### CITY'S RESPONSIBILITIES

City shall, at its expense, do the following in a timely manner so as not to delay the services:

- A. CITY'S REPRESENTATIVE**

Designate a representative for the project who shall have the authority to act as the City's representative to respond to questions, transmit instructions, receive information, interpret and define City's requirements, serve as liaison with the DESIGN ENGINEER and make decisions with respect to the Services. The City representative for this Agreement will be Zach Schortgen P.E.
- B. DATA**

Provide all available information, including previous reports, environmental assessments, investigations and other studies in the possession of City relevant to the design or construction of the Project.
- C. DECISIONS**

Provide all criteria and full information as to City's requirements for the Services and make timely decisions on matters relating to the Services.
- D. MEETINGS**

Attend the pre-construction conference, construction progress and other job related meetings, and Substantial Completion and final payment inspections.
- E. DOCUMENT REVIEWS**

Examine documents submitted by DESIGN ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as City deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- F. ACCESS**

Provide access to Project premises for DESIGN ENGINEER and the DESIGN ENGINEER'S representatives and/or subcontractors to provide services as defined under this Agreement.
- G. OTHER CONSULTANTS**

Advise DESIGN ENGINEER of the scope of services of any independent consultants employed by City to perform or furnish services in regard to the Project.
- H. PROJECT MANAGEMENT INFORMATION SYSTEM (PMIS)**

Provide access and support for the City's Project Management Information System (PMIS) for duration of Project.
- I. PROJECT DEVELOPMENTS**

Give prompt written notice to DESIGN ENGINEER whenever the CITY becomes aware of any event, occurrence, condition or circumstance which may affect the DESIGN ENGINEER'S performance of services, or any defect or nonconformance in DESIGN ENGINEER'S services, the Work, or in

**PART III**  
**COMPENSATION**

**A. COMPENSATION**

Compensation for services performed in accordance with Part I – Scope of Basic Engineering Services of this Agreement will be based on hours actually spent and expenses actually incurred with a not-to-exceed engineering fee of \$ 729,868.00 as summarized in attached Attachment 1.

DESIGN ENGINEER's costs will be based on the hours incurred to complete the project times the hourly rates of the various personnel, per Attachment 2 – Hourly Rate Schedule. All Reimbursable costs incurred for the project will be invoiced at cost. These may include, but not limited to: shipping charges, printing services; special supplies not furnished by the City; or traveling and lodging expenses, as required, to perform duties. Mileage for travel will be billed at the IRS business rate per mile for automobile.

Payment for outside consulting and/or professional services performed by a Subconsultant will be invoiced at actual cost plus 10 percent for administrative costs. The DESIGN ENGINEER will obtain written CITY approval before authorizing these services.

**B. BILLING AND PAYMENT**

1. Timing/Format

a. DESIGN ENGINEER shall invoice City monthly for Services completed at the time of billing. Such invoices shall be prepared in a form and supported by documentation as City may reasonably require.

b. City shall pay DESIGN ENGINEER within 45 days of receipt of approved invoice.

2. Billing Records

DESIGN ENGINEER shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this agreement and for 3 years after completion.

## 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. No warranty or guarantee, express or implied, are provided, including warranties or guarantees contained in any uniform commercial code.
- 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 ENGINEER and CITY. ENGINEER will promptly notify CITY of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.
- 3 **SAFETY.** ENGINEER shall establish and maintain programs and procedures for the safety of its employees. ENGINEER specifically disclaims any authority or responsibility for general job site safety and safety of persons other than ENGINEER employees.
- 4 **DELAYS.** If events beyond the control of ENGINEER, 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 extended for a period equal to the delay. In the event such delay exceeds 90 days, ENGINEER will be entitled to an equitable adjustment in compensation.
- 5 **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. CITY shall pay ENGINEER for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.
- ENGINEER or CITY, for purposes of convenience, may at any time by written notice terminate the services under this Agreement. In the event of such termination, ENGINEER shall be paid for all authorized services rendered prior to termination including reasonable profit and expenses relating thereto.
- 6 **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 CITY's sole risk.
- 7 **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by ENGINEER is supplied for the general guidance of the CITY only. Since ENGINEER has no control over competitive bidding or market conditions, ENGINEER cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.
- 8 **RELATIONSHIP WITH CONTRACTORS.** ENGINEER shall serve as CITY's professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY's contractors, but ENGINEER specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY's contractors.
- 9 **MODIFICATION.** This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.
- 10 **PROPRIETARY INFORMATION.** Information relating to the Project, unless in the public domain, shall be kept confidential by ENGINEER and shall not be made available to third parties without written consent of CITY.
- 11 **INSURANCE.** ENGINEER 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.
- Worker's Compensation per statutory requirements
  - 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).
  - Automobile Liability \$1,000,000 per occurrence
  - Products Liability \$1,000,000 per occurrence
  - 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 Purchasing Department  
1 E Main Street, Rm B-91  
Fort Wayne, IN 46802

- 12 **INDEMNITIES.** To the fullest extent permitted by law, ENGINEER shall indemnify and save harmless the City from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or death to persons or damage to tangible property to the extent caused directly by the negligent errors or omissions of ENGINEER, its agents or employees.
- 13 **LIMITATIONS OF LIABILITY.** Each party's liability to the other for any loss, cost, claim, liability, damage, or expense (including attorneys' fees) relating to or arising out of any negligent act or omission in its performance of obligations arising out of this Agreement, shall be limited to the amount of direct damage actually incurred. Absent gross negligence or knowing and willful misconduct which causes a loss, neither party shall be liable to the other for any indirect, special or consequential damage of any kind whatsoever.
- 14 **ASSIGNMENT.** 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 insure to the benefit of any permitted assigns.
- 15 **ACCESS.** CITY shall provide ENGINEER safe access to any premises necessary for ENGINEER to provide the Services.
- 16 **PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs from the other party.
- 17 **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 another section of this Agreement or operate as a waiver of any future default, whether like or different in character.
- 18 **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.
- 19 **AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the part for whom they are signing.
- 20 **STATUTE OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims regarding ENGINEER's performance under this Agreement shall expire one year after Project Completion.
- 21 **CONSENT/DECREE NOTIFICATION.** ENGINEER shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workman-like manner and in conformance with the terms of the Consent Decree entered in the U.S. District Court on April 1, 2008 by the United States and State of Indiana. ENGINEER 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/full/1494/1566>
- 22 **DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, ENGINEER agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within ENGINEER'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, ENGINEER 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 ENGINEER. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the ENGINEER 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.

**ATTACHMENT #1**

**SUMMARY SHEET**

**SCOPE OF BASIC ENGINEERING SERVICES - FEE PROPOSAL**

**Construction Phase – (Task 1 less Allowance Tasks) \$ 425,130.00**

**Contingency Allowance Tasks - As authorized by CITY**

Task F.1 – Project Management and Budget/Schedule Control Allowance \$ 180,814.00

Task F.2 - Final Design Services for St Joe Control Structure Allowance \$ 39,986 00

Task F.4 – Design/Construction Services Allowance \$ 83,938.00

**TOTAL NOT TO EXCEED FEE: \$ 729,868.00**

**ATTACHMENT #2**

**EMPLOYEE HOURLY RATE SCHEDULE**

**for**

**WPCP EFFLUENT PUMP STATION AND POND IMPROVEMENTS**

1. Payment of actual hourly rates for services rendered by ARCADIS employees working directly on the Project. Hourly rates will be in accordance with the following schedule:

<b>EMPLOYEE/SERVICE DESCRIPTION</b>	<b>RATE</b>
Officer	\$246.00/hr
Sr. Associate	\$225.00/hr
Associate	\$199.00/hr
Sr. Project Engineer – Grade 6	\$178.00/hr
Project Engineer - Grade 5	\$150.00/hr
Project Engineer - Grade 4	\$129.00/hr
Engineer – Grade 3	\$120.00/hr
Engineer – Grade 2	\$108.00/hr
Engineer – Grade 1	\$ 97.00/hr
Technician – Grade 8	\$158.00/hr
Technician – Grade 7	\$135.00/hr
Technician – Grade 6	\$122.00/hr
Technician – Grade 5	\$105.00/hr
Technician – Grade 4	\$ 99.00/hr
Technician – Grade 3	\$ 76.00/hr
Technician – Grade 2	\$ 64.00/hr
Technician – Grade 1	\$ 56.00/hr
Principal Consultant II	\$225.00/hr
Sr. Consultant	\$189.00/hr
Consultant	\$153.00/hr
Analyst I	\$133.00/hr

Payment for reimbursable costs, as authorized by the City will be invoiced at cost. These items may include, but not limited to: shipping charges; printing services; special supplies not furnished by the City; or traveling and lodging expenses, as required, to perform management duties. Mileage for travel will be billed at the IRS business rate per mile for automobile.

CITY OF FORT WAYNE, INDIANA

ARCADIS-US
(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).
  1. Assistance with LTCP Program Management
  2. On-Call Modeling Support 2012
  3. Contract Compliance PMIS Management Module
  4. PMIS Support and transition
  5. Real Time Utility System Monitoring
  6. Effluent Pump Station & Pond 3 Improvements
  7. WPCP Northside Project Coordination
  8. Water Utility Program Management Assistance
- 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 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

ARCADIS-US  
(Name of Vendor)


130 West Main Street, Suite 23, Fort Wayne, IN  
Address

( 260 ) 424-0401  
Telephone

Paul.Powers@Arcadis-us.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) Paul H. Powers Title Principal Engineer

Signature  Date 2/14/13

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

# Interoffice Memo

City Utilities  
Engineering

Date: **May 15, 2013**  
To: Common Council Members  
From: Zach Schortgen-Program Manager- City Utilities Engineering  
RE: **Design Services during Construction Professional Services Contract for WPCP Effluent Pump Station and Pond Improvements  
Res. #75824, W.O. #75824**

Council District # City Wide

Consultant Selected: ARCADIS

Contract Value: \$729,868.

The consultant shall provide: Professional engineering services during construction that include construction progress meetings, responding to contractor request for information, shop drawing review, preparation of operational and maintenance manual, preparation of record drawings, system training, and system startup services.

Project Description: **WPCP Effluent Pump Station and Pond Improvements** is a single project with four project elements, all interrelated. All elements will be combined together and will be constructed as a single project by a single general contractor. ARCADIS is the design engineer for Elements A and D:

***Element A - Effluent Pump Station and Pond 3 Improvements***

The Effluent Pump Station includes construction of a new Effluent Pump Station between Ponds 2 & Pond 3 at the ponds site (on north side of Maumee River). The pump station will be rated for a firm capacity of 85-mgd when river level is at the 25 year flood stage.

***Element D - St. Joe Interceptor Control Structure***

The St. Joe Interceptor Control Structure includes construction of structures over the existing 84 inch St. Joe interceptor and twin parallel 96 inch pipes. Associated work includes sitework, concrete structures, flow control gates, electrical and instrumentation and control Work.

Implications of not being approved: This work is an integral part of compliance with the CSO Control Measure 2 of the consent decree, which increases the overall treatment capacity of the WPCP. The CD specifies a 2015 date for achievement of full operation that will be treated by the non-approval of this project. The designer has a critical role in determining that the proper equipment is purchased and installed and that the overall intent of the project is delivered.

Selection and Approval Process:

The consultant was selected in 2011 through the RFQ process (Request for Qualifications) based on their prior experiences and qualifications. The RFQ announcement was sent to over 120 firms and 5 firms submitted statements of qualification. Planning and Design Services has reviewed the qualifications and finds the not-to-exceed fee to be competitive.

The Board of Public Works approved the agreement on February 20, 2012.

The cost of said project funded by Sewer Revenue.

**Council Introduction Date: May 28, 2013**

CC: BOW  
Matthew Wirtz  
Diane Brown  
Program Manager  
Chrono  
File

Public Hearing Date, if applicable

Read the first time in full and on motion by Councilman *Mitch Harper*,  
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  
*Harper*, placed on passage by the following vote:

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

DATED:

*6-11-13*

*Sandra E. Kennedy*  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
(ANNEXATION) (AMPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE  
(RESOLUTION) NO. *S-47-13* on the *11<sup>th</sup>* day of  
*June*, 2013

*Sandra E. Kennedy*  
ATTEST:  
SANDRA E. KENNEDY,  
CITY CLERK

*T. Hines Didier*  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the *13<sup>th</sup>* day  
of *June*, 2013, at the hour of *3:00* o'clock *PM* . E.S.T.

*Sandra E. Kennedy*  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this *17<sup>th</sup>* day of *June*  
2013, at the hour of *8:30* o'clock *P.M.* . E.S.T.

*Mark D. Becker*  
Mark D. Becker, Deputy Mayor

THOMAS C. HENRY, MAYOR

BILL NO. S-13-05-23

# REPORT OF THE COMMITTEE ON CITY UTILITIES

**JUNE 4, 2013**

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

AN ORDINANCE improving Design Services during Construction Professional Services Contract for WPCP Effluent Pump Station and Pond Improvements - RES. #75824, W.O. #75824 between Arcadis U.S. Inc. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works. HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE

DO PASS

DO NOT PASS

ABSTAIN

NO REC

*DO PASS*  
*W.S.*  
*Richard A. R. L.*  
*G. Honer - Under*  
*W. K.*  
*Tommy Smith*  
*Gregory W. Casper*  
*Jeff. O'Connell*  
*W. G.*  
*John Davis*

SANDRA E. KENNEDY  
CITY CLERK