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2 **BILL NO. S-14-05-01**

SPECIAL ORDINANCE NO. S-45-14

3
4 AN ORDINANCE approving ENGINEERING
5 CONSULTING CONTRACT FOR ST. JOE
6 CENTER ROAD - CENTER TURN LANE
7 IMPROVEMENTS BETWEEN CLINTON ST. AND
8 CAMPUS COURT - WO #12014 between DLZ
INDIANA, LLC and the City of Fort Wayne,
Indiana, in connection with the Board of Public
Works.

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

11 **SECTION 1.** That the ENGINEERING CONSULTING
12 CONTRACT FOR ST. JOE CENTER ROAD - CENTER TURN LANE
13 IMPROVEMENTS BETWEEN CLINTON ST. AND CAMPUS COURT - WO
14 #12014 by and between DLZ INDIANA, LLC and the City of Fort Wayne,
15 Indiana, in connection with the Board of Public Works, is hereby ratified, and
16 affirmed and approved in all respects, respectfully for:
17

18 All labor, insurance, material, equipment, tools, power,
19 transportation, miscellaneous equipment, etc., necessary for
20 the engineering associated with the engineering design,
21 ROW engineering, bidding, and construction administration
22 of the Center turn lane improvements on St. Joseph Center
23 Road between Clinton Street and Campus Court including
dual left turn lanes on Clinton Street and pedestrian
infrastructure on St. Joseph Center Road between Clinton
Street and the St. Joseph River Bridge:

24 involving a total cost of FOUR HUNDRED NINETY-THREE THOUSAND,
25 THREE HUNDRED TEN AND 00/100 DOLLARS - (\$493,310.00) - (80%
26 Federal, 20% Local/CEDIT). A copy of said Contract is on file with the Office
27 of the City Clerk and made 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

DIGEST SHEET

Department: Transportation Engineering

Resolution Number: N/A (W/O# 12014)

Title of Ordinance: St. Joe Center Road – Center Turn Lane Improvements between Clinton St. and Campus Court – (LPA Consultants Agreement – DLZ Inc.)

Awarded To: DLZ Inc.

Amount of Contract:

Agreement fee of \$493,310 which will set the original contract amount at \$493,310 (80% Federal, 20% Local/CEDIT)

Number of Bidders: 4 Proposals

Description of Project (Be Specific):

Contract is between the City of Fort Wayne and DLZ Inc. for the engineering associated with the engineering design, ROW engineering, bidding, and construction administration of the St. Joe Center Rd center turn lane improvements between Clinton St. and Campus Ct. The fees include the following:

- Topographic Survey
- Environmental Documentation (CE Level 3 and Section 106)
- Roadway Design and Plan Development
- Utility Coordination
- Subsurface Utility Engineering (SUE)
- Geotechnical Investigation and Report
- Public Hearings
- Traffic Signal Design
- Lighting Design
- Small Structure Design
- Permits Preparation
- Landscaping Design
- Public Information Meetings
- Local Control Route Survey Plat
- Right-of-Way Engineering and Services
- ROW Staking
- Bidding Assistance / Pre-Construction Meeting
- Construction Administration

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of _____, 2014 ("Effective Date") by and between **City of Fort Wayne Board of Public Works**, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and **DLZ Indiana, LLC** ("the CONSULTANT"), a corporation/limited liability company organized under the laws of the State of Indiana.

Des. No.: **0710322**

Project Description: **Center turn lane improvements on St. Joseph Center Road between Clinton Street and Campus Court including dual left turn lanes on Clinton Street and pedestrian infrastructure on St. Joseph Center Road between Clinton Street and the St. Joseph River Bridge (a distance of approximately 4,375 feet).**

RECITALS

WHEREAS, the LPA has entered into an agreement to utilize federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

The "Recitals" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I SERVICES BY CONSULTANT. The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA. The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be **November 2017**. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed **\$493,310.00**.

SECTION V NOTICE TO PROCEED AND SCHEDULE. The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA, and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION VI GENERAL PROVISIONS

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration (“FHWA”) or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. **Assignment; Successors.**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA’s prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise (“DBE”) SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT’s Economic Opportunity Division Director.

3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

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


5. **Certification for Federal-Aid Contracts Lobbying Activities.**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

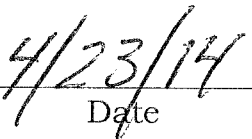
What Are The Implications If Not Approved:

The project improvements will not occur and the city will lose and 80% match of federal funds. This would also stop a front door project from enhancing the entrance into the City from the east side. This section is congested at times and is in need of the added capacity. Also there is currently no pedestrian infrastructure along this section of roadway. Drainage is also a concern and is currently accommodated with some storm sewers but primarily side ditches. This project has been in the long range transportation plan for many years and we have received requests for this widening from area residents and businesses. If this contract is not approved, existing and future traffic conditions will continue to deteriorate.

If Prior Approval Is Being Requested, Justify: N/A

Additional Comments: DLZ Engineering was selected to perform the preliminary engineering services on this project through INDOT's RFP process. The request for proposals was posted on INDOT's website and we received four proposals. These proposals were scored per INDOT's guidelines and DLZ Engineering was selected as the most responsive firm. They were responsible for the design of the Auburn Road widening, where they did a great job of layout of several project items in a tight area. They have been involved with designing many projects for the City of Fort Wayne and we have been very pleased with their services. The contract, including the overhead rates and man hour justifications have been reviewed and approved by INDOT.


Signature


Date

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.
6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.
7. **Compliance with Laws.**
 - A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
 - B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the LPA.
 - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of any such actions. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONSULTANT or who has managerial or supervisory responsibilities for the Services.
 - vi. *Debarment and Suspension of any SUB-CONSULTANTS.* The CONSULTANT's SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA's request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT'S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
 - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT's liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA's reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA's reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, "deficiencies") until all deficiencies are remedied in a timely manner.

9. **Confidentiality of LPA Information.**

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

10. **Delays and Extensions.** The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

11. **DBE Requirements.**

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

The CONSULTANT, sub recipient or SUB-CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. Non-Discrimination.

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability.)
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.

- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration ("FHWA") within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT's assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:
- (1) **Compliance with Regulations:** The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) **Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) **Information and Reports:** The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) **Sanctions for Noncompliance:** In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - (6) **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

13. Disputes.

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

14. Drug-Free Workplace Certification.

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

- iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. **Employment Eligibility Verification.** The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

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

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

The CONSULTANT shall require his/her/its subcontractors, who perform work under this Contract, to certify to the CONSULTANT that the SUB-CONSULTANT does not knowingly employ or contract with an unauthorized alien and that the SUB-CONSULTANT has enrolled and is participating in the E-Verify program. The CONSULTANT agrees to maintain this certification throughout the duration of the term of a contract with a SUB-CONSULTANT.

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

16. **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, its officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages.**
 - A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
 - C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 - 10.4, 11.1, 13.1, 14.1 - 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form, and include contractual liability. The policy shall be amended to include the following extensions of coverage:

1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
2. The policy shall provide thirty (30) days notice of cancellation to LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

III. Automobile Liability

The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.
2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
 - a. United States Longshoremen & Harbor workers
 - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

23. **Notice to Parties:** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

**City of Fort Wayne City Engineer
Attn: Shan Gunawardena, P.E., P.T.O.E.
Fort Wayne, Indiana 46802**

Notices to the CONSULTANT shall be sent to:

**DLZ Indiana, LLC
Attn: Miguel A. Treviño, P.E.
111 West Columbia Street, Suite 100
Fort Wayne, Indiana 46802**

**with copy to:
DLZ Corporation
Attn: Legal Department
6121 Huntley Road
Columbus, Ohio 43229**

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.

27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.
28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
 - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.
29. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:
31. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and represents and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
34. **Termination for Convenience.**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be effected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
 - B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered

within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

35. **Termination for Default.**

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 3. Make progress so as to endanger performance of this Contract; or
 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 14). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

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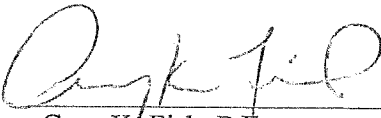
Non-Collusion.

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

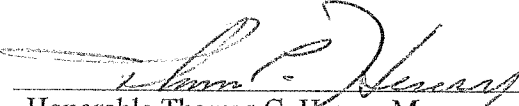
In Witness Whereof, the CONSULTANT and the LPA have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

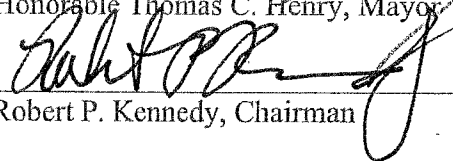
**CONSULTANT
DLZ Indiana, LLC**

**LOCAL PUBLIC AGENCY
City of Fort Wayne**



Gary K. Fisk, P.E.
Vice President



Honorable Thomas C. Henry, Mayor


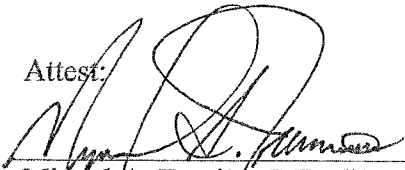
Robert P. Kennedy, Chairman

Kumar Menon, Member



Mike Avila, Member

Attest:



Miguel A. Treviño, P.E., C.P.E.
Vice President

Attest:



Patricia A. Roller, Controller

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of _____, 2014 ("Effective Date") by and between **City of Fort Wayne Board of Public Works**, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and **DLZ Indiana, LLC** ("the CONSULTANT"), a corporation/limited liability company organized under the laws of the State of Indiana.

Des. No.: **0710322**

Project Description: **Center turn lane improvements on St. Joseph Center Road between Clinton Street and Campus Court including dual left turn lanes on Clinton Street and pedestrian infrastructure on St. Joseph Center Road between Clinton Street and the St. Joseph River Bridge (a distance of approximately 4,375 feet).**

RECITALS

WHEREAS, the LPA has entered into an agreement to utilize federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

The "Recitals" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I SERVICES BY CONSULTANT. The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA. The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be **November 2017**. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed **\$493,310.00**.

SECTION V NOTICE TO PROCEED AND SCHEDULE. The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA, and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION VI GENERAL PROVISIONS

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration (“FHWA”) or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. **Assignment; Successors.**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA’s prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise (“DBE”) SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT’s Economic Opportunity Division Director.

3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

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

5. **Certification for Federal-Aid Contracts Lobbying Activities.**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.

7. **Compliance with Laws.**

- A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
- B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the LPA.
 - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of any such actions. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONSULTANT or who has managerial or supervisory responsibilities for the Services.
 - vi. *Debarment and Suspension of any SUB-CONSULTANTS.* The CONSULTANT's SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA's request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT'S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
 - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT's liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA's reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA's reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, "deficiencies") until all deficiencies are remedied in a timely manner.

9. **Confidentiality of LPA Information.**

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

10. **Delays and Extensions.** The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

11. **DBE Requirements.**

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

The CONSULTANT, sub recipient or SUB-CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. **Non-Discrimination.**

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability.)
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.

- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration ("FHWA") within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT's assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:
- (1) Compliance with Regulations: The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) Nondiscrimination: The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) Information and Reports: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) Sanctions for Noncompliance: In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - (6) Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

13. Disputes.

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

14. Drug-Free Workplace Certification.

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

- iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. **Employment Eligibility Verification.** The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

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

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

The CONSULTANT shall require his/her/its subcontractors, who perform work under this Contract, to certify to the CONSULTANT that the SUB-CONSULTANT does not knowingly employ or contract with an unauthorized alien and that the SUB-CONSULTANT has enrolled and is participating in the E-Verify program. The CONSULTANT agrees to maintain this certification throughout the duration of the term of a contract with a SUB-CONSULTANT.

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

16. **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, its officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages.**
 - A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
 - C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 - 10.4, 11.1, 13.1, 14.1 - 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form, and include contractual liability. The policy shall be amended to include the following extensions of coverage:

1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
2. The policy shall provide thirty (30) days notice of cancellation to LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

III. Automobile Liability

The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.
2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
 - a. United States Longshoremen & Harbor workers
 - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

23. **Notice to Parties:** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

**City of Fort Wayne City Engineer
Attn: Shan Gunawardena, P.E., P.T.O.E.
Fort Wayne, Indiana 46802**

Notices to the CONSULTANT shall be sent to:

**DLZ Indiana, LLC
Attn: Miguel A. Treviño, P.E.
111 West Columbia Street, Suite 100
Fort Wayne, Indiana 46802**

**with copy to:
DLZ Corporation
Attn: Legal Department
6121 Huntley Road
Columbus, Ohio 43229**

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.

27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.
28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
 - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.
29. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:
31. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
34. **Termination for Convenience.**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be effected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
 - B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered

within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

35. **Termination for Default.**

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 3. Make progress so as to endanger performance of this Contract; or
 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 14). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

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Non-Collusion.

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

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

CONSULTANT

(DLZ Indiana, LLC)

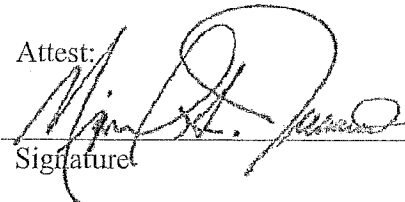


Signature

Gary K. Fisk, P.E.

Vice President

Attest:



Signature

Miguel A. Treviño, P.E., C.P.E.

Vice President

LOCAL PUBLIC AGENCY

(City of Fort Wayne Board of Public Works)

Robert P. Kennedy, Chairman

Kumar Menon, Member

Matthew Wirtz, Member

Mike Avila, Member

Attest:

Victoria Edwards, Clerk

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT:

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the Indiana Department of Transportation and Federal Highway Administration.

The CONSULTANT shall be responsible for performing the following activities:

I - BASIC SERVICES BY CONSULTANT

- A. The CONSULTANT will provide the field survey required for preparation of design plans in conformance with the requirements of the *Indiana Department of Transportation Design Manual, Part III, Location Surveys*, except that a copy of which is on file with the CONSULTANT and same is incorporated herein by reference and is made a part hereof. Necessary field survey to include:
1. Complete topographic data along St. Joseph Center Road from the intersection with Clinton Street to 500 feet east of the intersection of St. Joseph Center Road and River Run Trail for a distance of approximately 3,150 feet as shown in **Exhibit 1**.
 2. Between the termination point described in item A.1. and the St. Joseph River Bridge, complete topographic data will be needed for the north side of the roadway (from the crown of the road to the north) only for a distance of approximately 1,000 feet as shown in **Exhibit 1**.
 3. The survey width on St. Joseph Center Road will be 30-feet beyond the apparent right-of-way or a minimum of 80 feet on either side of the centerline of St. Joseph Center Road (including the area described in item 2.).
 4. Complete topographic data along Washington Center Road from 1,200 feet west of the intersection of Washington Center Road and Clinton Street to the intersection itself as shown in **Exhibit 1**.
 5. The survey width on Washington Center Road will be 30-feet beyond the apparent right-of-way or a minimum of 80 feet on either side of the centerline of Washington Center Road.
 6. Complete topographic data along Clinton Street from 800 feet north and 1,200 feet south of the intersection of Washington Center Road/St. Joseph Center Road and Clinton Street to the intersection itself as shown in **Exhibit 1**.
 7. The survey width on Clinton Street will be 30-feet beyond the apparent right-of-way or a minimum of 105 feet on either side of the centerline of Clinton Street.

8. Complete topographic data of the intersection of Washington Center Road/St. Joseph Center Road and Clinton Street as shown in **Exhibit 1**.
9. Centerline crown and edge of pavement survey elevations along St. Joseph Center Road, Washington Center Road, and Clinton Street and all side streets (unnamed entrance on north side of Washington Center Road to the Washington Square Mall, Inland Trail, Concordia Drive, Campus Court, River Run Trail, and Colony Drive) for an additional distance of 400 feet on the approach of each roadway beyond the limits defined above.
10. Establish and reference temporary benchmarks at each end of the project and at approximately 1,000-foot intervals along the alignment (maximum of seven).
11. The ENGINEER shall verify the existing R/W for all streets within the proposed improvements. Subdivision plats and recorded documents pertaining to the R/W will be obtained from the Allen County Recorder's Office. Field crews will search for existing right-of-way monuments, property irons and block corners; all monuments will be located. Field evidence and recorded documents will be analyzed to establish the existing R/W lines. Property lines and owners names will be extracted from the City of Fort Wayne GIS. Existing R/W will be field verified and adjusted accordingly by searching for and locating property corners throughout the project limits and making comparisons with recorded documents. Recorded documents will be retrieved from the Allen County Recorder's office and through commissioner's records. Documentation of the validity of existing R/W will be provided to the client, if it can be obtained. The areas where documentation does not exist will be noted. For those individual parcels where existing R/W documents cannot be found, but there is evidence leading to believe existing R/W exists, further attempts at finding research will be made. For those parcels, a title company will be contracted to research the chain of title to determine if there are sell-offs for right-of-way and provide the documents needed.
12. Provide information regarding existing known surface utilities and subsurface utilities marked in the field by each respective utility owner.
13. Provide minimum of seven (7) control points for the contractor to establish the construction centerline.
14. Alignment points will be staked and witnessed at 500-foot intervals.
15. A Location Control Route Survey will be performed for the length of the project in accordance with IAC 865 – Rule 12 “Competent Practice for Land Surveyors”.
 - a. The Location Control Route Survey will be used to provide a basis for the acquisition Right-of-way as necessary for the project.
 - b. The Location Control Route Survey will be recorded in the Office of the Recorder of Allen County, Indiana.

- B. The Project will consist of the following (for clarity, St. Joseph Center Road is located east of Clinton Street; west of Clinton Street, the roadway is called Washington Center Road):
1. The lane reconfiguration and widening of St. Joseph Center Road from Clinton Street to Campus Court.
 2. The pavement on all four legs of the intersection of Clinton Street and St. Joseph Center Road/Washington Center Road will be rehabilitated. Widening of the pavement will be necessary. The limits of the improvements at the intersection consist of:
 - a. Western leg – easternmost Bishop Dwenger entrance (approximately 875 feet west of the intersection)
 - b. Southern leg – southern entrance to Bishop Dwenger (approximately 900 feet south of the intersection)
 - c. Northern leg – Colony Drive approach (approximately 500 feet north of the intersection)
 3. The INDOT pavement design process will be followed for the proposed treatments on St. Joseph Center Road, Clinton Street; and Washington Center Road. The CONSULTANT understands that the CLIENT's preference is for the existing concrete (PCCP) pavement on Washington Center and Clinton Street to be widened using HMA materials and overlaid with HMA materials. The CONSULTANT also understands that the CLIENT's preference is for any widening on St. Joseph Center Road to consist of PCCP pavement. The prescribed pavement treatments will be designed in accordance with INDOT pavement design practices, which will utilize various pieces of information including, but not limited to, geotechnical information and falling weight deflectometer (scheduled and performed by INDOT Testing personnel) results to develop the proposed pavement improvements.
 4. The typical section of St. Joseph Center Road will consist of four (4) 11-foot wide lanes (two lanes in each direction) with dedicated 11-foot wide turn lanes when applicable.
 - a. Curb and gutter will be installed in order to contain storm water.
 - b. A Two Way Center Left Turn Lane (TWCLTL) will be provided the length of the roadway where a mountable median curb is currently located.
 - c. Refuge locations will be incorporated into the median islands at the two signalized intersections (Clinton Street and River Run Trail).
 - d. Landscaping features such as low-mow grasses and flowers will be provided within the median islands.
 - e. Where possible, a six (6)-foot wide tree lawn is preferred by the LPA
 - f. Landscaping will be incorporated into the oversized existing refuge island located in the SW quadrant of the intersection of Clinton Street and St. Joseph Center Road/Washington Center Road.

5. Storm water on St. Joseph Center Road from the pavement will be conveyed to an enclosed storm sewer via curb and gutter. Proposed outfalls for the enclosed storm sewer system consist of the existing enclosed network on the western end of the corridor (which outfalls to the Kramer Ditch on the north side of Washington Center Road west of Clinton Street – see **Exhibit 2**), and the existing drainage swale located approximately 350' west of River Run Trail (near the eastern end of the project limits). The CONSULTANT will coordinate with CLIENT's designated representatives.
6. Storm water on Washington Center Road will be conveyed via the existing enclosed storm sewer (which outfalls to the Kramer Ditch on the north side of Washington Center Road west of Clinton Street – see **Exhibit 2**).
7. Storm water from the roadway/sidewalk on Clinton Street will be conveyed via existing roadside ditches.
8. The pedestrian access routes (PAR) on the north and south sides of St. Joseph Center Road will be improved. The PAR will comply with current accessibility standards. Proposed improvements are as follows:
 - a. The proposed PAR will consist of concrete sidewalks and will be five (5) feet wide in areas with a tree lawn and six (6) feet wide when placed adjacent to the curb.
 - b. On the south side of St. Joseph Center Road, the proposed PAR will connect to the existing sidewalk at River Run Trail at the eastern end of the project limits.
 - c. On the north side of St. Joseph Center Road, the proposed PAR will connect Clinton Street and the new sidewalk at the bridge over the St. Joseph River Bridge.
 - d. At the southern leg of the intersection of Clinton Street with St. Joseph Center Road/Washington Center Road, the proposed PAR will be located on both the west and east sides of Clinton Street. On the east side, the proposed PAR will extend to the Walgreens entrance south of the intersection. On the west side, the PAR will extend from the intersection to the Bishop Dwenger entrance. The LPA desires that the PAR be located between the existing drainage swale and the existing right-of-way line.
 - e. At the northern leg of the intersection of Clinton Street with St. Joseph Center Road/Washington Center Road, the proposed PAR will be located on both the west and east sides of Clinton Street from the intersection to the Colony Drive/Washington Square Mall entrance. The LPA desires that the PAR be located between the existing drainage swale and the existing right-of-way line.
 - f. An existing refuge island located in the SW quadrant of the intersection on Clinton Street and St. Joseph Center Road/Washington Center Road will need to be improved to meet current accessibility standards.
9. Dual left turn lanes will be provided for northbound and southbound traffic on Clinton Street at the intersection with St. Joseph Center

Road/Washington Center Road. The CLIENT prefers the widening to consist of HMA materials.

10. The right turn lane for northbound traffic on Clinton Street at the intersection with St. Joseph Center Road/Washington Center Road may need to be reconfigured due to its excessive width.
11. Anticipated pavement rehabilitation measures on St. Joseph Center Road will consist of joint repair, concrete pavement repair, slab repair/replacement and full depth patching. The CLIENT prefers that the existing concrete pavement not be cracked and sealed and that any new pavement for widening consist of PCCP pavement. As described in B.3., the proposed improvements are subject to INDOT pavement design analysis.
12. Two traffic signals along the project corridor will require modification, St. Joseph Road/Washington Center Road and Clinton Street and St. Joseph Road and River Run Trail. The CONSULTANT shall prepare traffic signal design plans for both intersections which include the following modifications:
 - a. Traffic signals currently consist of strain poles and span wire configuration. It is not anticipated that any of the existing strain poles will need to be relocated.
 - b. Signal heads will be adjusted, or replaced as needed.
 - c. Pedestrian push buttons, audible alarms, and pedestrian indications with countdown timers will be added to accommodate pedestrians.
 - d. The proposed detection system will be comprised of wireless detectors.
 - e. The controllers and cabinets will be updated in order to accommodate the new detection system.
 - f. Additional overhead lane use signs will be specified as needed, due to the proposed widening and lane reconfiguration.
 - g. New wiring and new conduit.
 - h. The LPA will provide existing signal plans. The CONSULTANT shall conduct a field visit to inventory existing signal equipment and controller cabinet components. LPA will provide access to the controller cabinets for this inventory purposes.
13. The CONSULTANT shall prepare street lighting plans and coordinate electrical service connection points with the utility. The LPA will provide detailed specifications of ornamental pole and light fixtures desired for this project (pending INDOT approval). It is assumed that the LPA or the light fixture manufacturer will provide the pole spacing and the CONSULTANT will not be required to perform lighting spread calculations. The CONSULTANT shall perform voltage drop calculations, identify service point locations, and have plans stamped by a Professional Engineer.
14. The existing public road approaches along St. Joseph Center Road/Washington Center Road/Clinton Street (within the project limits)

will be removed and replaced in accordance with the standard INDOT public road approach construction details.

15. In an effort to span the existing drainage swale located on the south side of St. Joseph Center Road approximately 350 feet west of River Run Trail, the CONSULTANT shall provide a brief two-three page study analyzing the alternatives (each of which is approximately 250 feet long). The study shall identify the opinion of probable construction costs, discuss maintenance concerns, and itemize a listing of positive/negative (utility impacts, constructability, permitting, right-of-way) impacts of each option. Alternatives to be investigated are:
 - a. A pedestrian bridge with H-5 load capacity and concrete deck.
 - b. A boardwalk system, to carry pedestrian loading only.
 - c. Sidewalk mounted atop a retaining wall system.

The CONSULTANT shall incorporate plans for the preferred alternative into the roadway plans.

16. The existing bus stop on St. Joseph Center Road immediately east of Clinton Street shall be replaced as part of the improvements with one that meets current accessibility standards.
 17. The CONSULTANT shall analyze whether the existing guardrail on Clinton Street near the intersection with Washington Center Road/St. Joseph Center Road is warranted or not and recommend to the LPA whether it should be replaced or removed altogether.
 18. The design speed of St. Joseph Center Road/Washington Center Road will be 40 mph. The design speed of Clinton Street will be 45 mph. The design of the project improvements (for Clinton Street, Washington Center Road, and St. Joseph Center Road) will be in accordance with INDOT 3R (Non-Freeway) Standards for a Urban Minor Arterial as a high speed urban roadway.
 19. Maintenance of Traffic plans shall be based on the roadway remaining open to traffic (one lane per direction at a minimum).
 20. All drive approaches located within the project limits will be designed in accordance with the INDOT Standard Drawings for Class I and Class III Drives.
 21. If required and as requested by the LPA, the CONSULTANT shall prepare and submit the proprietary material justification for INDOT's consideration. It is understood that there is no guarantee that INDOT will approve the request. It is assumed that two proprietary material justifications will be required for the ornamental street lighting, one each for the pole and light fixture. The LPA will provide the specifications for the ornamental pole and light fixtures to be used for this project.
- C. The CONSULTANT shall prepare an Abbreviated Engineering Assessment. The report shall be developed in accordance with the *Indiana Department of Transportation Design Manual – Part I Project Development*.

The Abbreviated Engineering Assessment will describe the project, the existing conditions, the planned improvements, an engineer's statement of probable project costs for the planned improvements and the different considerations utilized in developing the design of the project. The statement of probable project costs shall include separate amounts for land acquisition.

- D. The CONSULTANT shall implement the INDOT Utility Coordination Process for this project. This work shall be in accordance with "*Title 105 of the Indiana Administrative Code Article 13*" and will include performing the roles of Designer, Surveyor, Utility Coordinator, and Consultant Project Manager as defined in Chapter 104 "*Utility Coordination*" of the Indiana Department of Transportation Design Manual which includes: notifying all affected utilities in the project corridor, coordination and meetings with affected utilities, reviewing relocation plans, managing the schedule for utility relocation work, attend weekly construction meetings, report the weekly progress of utility relocation work to the INDOT utility oversight agent, construction engineer, and consultant Project manager.
1. Upon submission of the Stage One plans, the Consultant shall attend and participate in the monthly LPA-conducted utility coordination meetings.
 2. The Consultant shall attend the monthly meetings until the project has been constructed.

- E. The CONSULTANT shall perform Subsurface Utility Engineering (SUE) along the corridor in order to verify the depths of subsurface utilities.

The SUE performed under this agreement will be in accordance with ASCE Standard 38-02 "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" and industry standards as of the notice to proceed date.

The SUE will be performed as a Quality Level "A" as defined in ASCE Standard 38-02. The existing underground utilities will be designated by utilizing the Indiana 811 notification system which will mark out "toneable" underground utilities. "Toneable" is defined as any utility capable of carrying an electromagnetic signal. CONSULTANT will survey the marked utilities and place the information on the preliminary plans. As part of the utility coordination process, the plans will be reviewed by the owners of the utilities in order to confirm the veracity of the information presented. Any discrepancies will be addressed on the plans.

After the Preliminary Field Check, up to 20 test holes will be created via air/vacuuming methods in order to determine actual depths of buried utilities in key locations along the corridor (where conflicts are anticipated) as identified by the CONSULTANT. Horizontal and vertical datum will be provided at each test hole at the top of each utility that is exposed. The outside diameter, type of utility, and pipe material composition will be identified at each test hole. An above ground marker will be placed above the centerline of the utility to be used for horizontal and vertical reference information.

Maintenance of traffic devices will be the responsibility of the SUE SUBCONSULTANT.

- F. The CONSULTANT shall perform the following services to complete a Level 3 Categorical Exclusion Environmental Study (CE) to satisfy State and Federal environmental documentation requirements for the St. Joseph Center Road improvements within the City of Fort Wayne, Indiana. The environmental services shall also include the appropriate level of Section 106 coordination and documentation for INDOT/FHWA approval, or, approval of a finding of No Historic Properties Affected or No Adverse Effect.

The environmental compliance services shall consist of the following work elements:

1. Perform a field reconnaissance to verify that the INDOT Level 3 CE impact criteria and thresholds would not be exceeded by the project, and to collect information on potentially historic properties.
2. Prepare preliminary resource information about the project and project area including supporting maps and photographs (aerial and ground).
3. Perform Early Coordination with appropriate Federal, State and local agencies. Assess early coordination comments received from agencies.
4. Identify Section 106 consulting parties and invite consulting parties to participate in the Section 106 review.
5. Preliminary investigation by the CONSULTANT indicates that there are no Section 4(f) concerns.
6. Prepare preliminary Section 106 documentation for determinations of the Area of Potential Affect (APE) and the identification of properties listed in or eligible for listing in the NRHP (full or short version Historic Properties Report, and if determined necessary, archaeological records check), and a preliminary finding of No Historic Properties Affected or No Adverse Effect. Subconsultant services may be required.
7. Perform initial Section 106 consultation with the SHPO and consulting parties that accept the invitation to participate.
8. Assess comments received from State Historic Preservation Officer (SHPO) and other consulting parties pertaining to the Preliminary Section 106 documentation, and prepare Final No Historic Properties Affected or No Adverse Effect and INDOT/FHWA Findings documentation to be submitted to INDOT for approval on behalf of FHWA. Subconsultant services are required.
9. Submit INDOT-approved No Historic Properties Affected or No Adverse Effect and Findings documentation to SHPO and other consulting parties for a final 30-day comment period for concurrence or objection to the Finding.
10. Prepare a Public Notice in accordance with INDOT public involvement procedures, for publication in a widely circulated project area newspaper, for

a concurrent 30-day comment period in order to solicit public comments on the Finding.

11. Perform environmental studies including Waters of the U.S. report and Wetlands Determination.
12. Prepare a Draft Level 3 CE, using the appropriate current INDOT document template, for Client review/comment. Revise the Draft Level 3 CE, as necessary, and submit to INDOT for review and comment.
13. Revise the Level 3 CE per INDOT comments, and submit the Level 3 CE to INDOT for Release for Public Involvement.
14. Address any comments received as a result of public involvement, as required, and submit the CE for final INDOT approval.
15. Complete the Environmental Commitments Database Spreadsheet and submit to the INDOT Project Manager.
16. Prepare requested duplicate copies of approved Level 3 CE and Section 106 documentation for INDOT distribution and the Client files.

The above described environmental compliance services shall be performed in accordance with the *Procedural Manual for Preparing Environmental Documents* (INDOT, 2008), the *Indiana Categorical Exclusion Manual* (INDOT/FHWA-IN, 2013), the *Procedural Manual for Preparing Environmental Studies* (INDOT, July 1996) and revisions thereto on file with INDOT, the *Indiana Cultural Resources Manual* (INDOT, 2007) and other guidance and/or procedures for compliance so issued by INDOT and FHWA including the *Indiana Procedures for Categorical Exclusions and Environmental Assessments* (FHWA – IN, August 1, 2002) and *FHWA – IN Section 106 Consultation Procedures* (March 5, 2002).

- G. A Traffic Noise Analysis will be performed in accordance with the requirements of the INDOT Traffic Noise Analysis Procedure, dated 2011, and 23 CFR 772 Procedures for Abatement of Highway Traffic Noise and Construction Noise effective July 13, 2011. A design level noise barrier analysis of the proposed noise mitigation measure will be performed using TNM 2.5 (if necessary).
- H. The CONSULTANT shall attend and participate in the first of the City-sponsored “Public Outreach” meetings.
 1. The CONSULTANT shall prepare a minimum of two (2) unique renderings prior to the City’s first “Public Outreach” meeting.
 2. The renderings shall be from a user’s perspective and be at a pedestrian scale/viewpoint. The rendering shall depict the sidewalk, street lighting, and landscaping features
 3. For the “Public Outreach” meeting, each rendering shall be at least 24” x 36” in size and be printed in color. A minimum of four (4) sets of the renderings shall be available at the “Public Outreach” meeting.
 4. The renderings shall be provided to the City in electronic format (.jpeg) for use by the City in future meetings and on their website.

- I. The CONSULTANT shall provide the following services as required for requesting certification of the public involvement process for an LPA project (INDOT-required Public Hearing):
 1. Prepare presentation materials for the Public Hearing (INDOT).
 2. Prepare legal notices for publication concerning opportunity to provide comment, request a hearing (INDOT), or to attend a Public Hearing (INDOT) with details such as location, date, etc.
 3. Prepare a strip map, as required.
 4. Prepare the Public Hearing (INDOT) transcript and recommended responses to the comments received as part of the public involvement process.

- J. The CONSULTANT shall perform all phases of the work described in this Agreement necessary to accomplish the complete design of the project. The project will be designed in English units and shall be in accordance with the following documents (or as modified by any supplemental specifications and special provisions) in effect at the time the plans or reports are submitted:
 - Road and Bridge Memoranda*, Indiana Department of Transportation
 - Design Manuals – Part I, II, V, and VII to IX*, Indiana Department of Transportation
 - Standard Specifications*, Indiana Department of Transportation
 - A Policy on Geometric Design of Highways and Streets*, American Association of State Highway and Transportation Officials
 - Roadside Design Guide*, American Association of State Highway and Transportation Officials
 - Americans with Disabilities Act (ADA)*, U.S. Department of Justice
 - Public Right of Way Access Guidelines (PROWAG)*, U.S. Access Board
 - Department of Justice
 - Indiana Supplement to the Manual on Uniform Traffic Control Devices for Streets and Highways*, Federal Highway Administration
 - Right Of Way Engineering Manual*, Indiana Department of Transportation
 - Guide for the Development of Bicycle Facilities, 2012 (AASHTO Bike Guide)*, American Association of State Highway and Transportation Officials
 - Urban Street Design Guide, 2013*, National Association of City Transportation Officials (NACTO)

- K. The CONSULTANT shall make or cause to be made, a complete roadway geotechnical investigation to be in accordance with *INDOT's Geotechnical Manual, 2010 edition* of which a copy is on file with the Indiana Department of Transportation and same is incorporated herein by reference and is made a part hereof.
 1. Prior to making the borings, the CONSULTANT shall submit boring specifications and boring locations and sketches for approval by the Client. Borings shall extend sufficiently in depth to obtain characteristic data for the proper design of the pavement. The CONSULTANT shall backfill bore hole or cause to be backfilled in accordance with *Aquifer Protection*

Guidelines, dated October 30, 1996. A copy of the document is on file with the Indiana Department of Transportation, Division of Materials and Tests, Geotechnical Section.

2. The CONSULTANT will provide equipment, labor, and associated materials to drill and sample twelve (12) soil borings to a depth of ten (10) to thirty (30) feet each. Four (4) of the borings will be performed shortly after the survey has been completed in order to use the geotechnical information in the development of the drainage swale study referenced in B.15.
 3. All borings will be continuously sampled with 2-foot long split barrel samplers.
 4. A field soils engineer will monitor drilling activities, maintain daily field notes, log the soil boring, as well as classify and prepare soil samples for laboratory analysis. The field CONSULTANT will perform penetrometer and Rimac unconfined compressive strength test on cohesive soil samples and will also measure groundwater levels in boreholes.
 5. The CONSULTANT will submit the boring locations and depths to INDOT for approval prior to the commencement of exploration program.
 6. Split spoon samples will be obtained according to the Standard Specification AASHTO T-206-03 "Penetration Test and Split-Barrel Sampling of Soils." As needed, Shelby tubes will be obtained for the consolidation testing and resilient modulus determination according to the Standard Specification AASHTO T-207-03 "Thin-Walled Tube Sampling of Soils." Bulk samples will be obtained for CBR testing.
 7. The soils-testing program will include natural moisture content, Atterberg limits, particle size analysis, organic content (if needed), pH determination, unconfined compressive strength, hydraulic conductivity, one dimension consolidation, CBR value, and resilient modulus determination.
 8. The geotechnical report will include a detailed description of the project, field and laboratory testing procedures, a characterization of the soil and groundwater conditions, and recommendations for the design and improvements of St. Joseph Center Road/Washington Center Road/Clinton Street. The report will also contain a site location map, a summary of laboratory test results, and recommendations for preliminary pavement design roadway subgrade treatment underdrain and storm sewer design considerations. The boring locations and soil profiles will be presented on the Plan and Profile Drawings. One original and five copies of the report will be provided.
 9. INDOT will review the geotechnical report.
- L. The CONSULTANT shall prepare pavement designs in accordance with current INDOT standards. It is not anticipated, but if INDOT requires a Life Cycle Cost Analysis (LCCA), it will be considered additional services. If INDOT requires an

alternate bid or additional pavement designs are required, it will be considered additional services.

M. The CONSULTANT shall prepare and design roadway regulatory signing and pavement marking plans for this project. All signing and pavement marking plans will be in accordance with the Indiana Supplement to the FHWA Manual on Uniform Traffic Control Devices.

1. The CONSULTANT shall develop three (3) options for signage at the intersection of Clinton Street and St. Joseph Center Road/Washington Center Road to provide positive guidance for roadway users at the intersection. The options shall be presented to the LPA and INDOT for selection of a preferred alternate.

N. The CONSULTANT shall prepare plans and submissions in accordance with "Part II – Plan Development" of the INDOT Design Manual, and the INDOT-LPA Process Guidance Document for local federal aid projects, dated April 18, 2012, generally as described below:

1. The CONSULTANT shall prepare Stage I Plans.
2. The CONSULTANT shall prepare Preliminary Field Check Plans and schedule the Preliminary Field Check meeting.
3. Following the Preliminary Field Check Meeting, the CONSULTANT shall prepare Stage 2 plans.
4. The CONSULTANT shall coordinate the certification of the Public Involvement Process.
5. After the Public Involvement Certification, the CONSULTANT shall prepare Stage 3 plans and submit to the CLIENT and INDOT for review.

The Stage 3 Plans shall include all construction details, show all impacts including access provisions to adjacent properties, show rights of way required for construction of the project and include any maintenance of traffic provisions necessary for the roads at all ends of the project.

The statement of probable cost for construction shall be prepared in accordance with *Indiana Department of Transportation Design Manual, Part II, Plan Development* and shall include all items of work required for the complete construction of the work, including all temporary work necessary in connection therewith, but shall not include the cost of such items of work for which the Client, through its own forces or through other party or parties will prepare detail plans. The unit prices to be used shall be in accordance with the methods used by the Indiana Department of Transportation.

6. After approval of the Stage 3 Plans by the CLIENT and INDOT; the CONSULTANT shall prepare Final Tracings.

O. The CONSULTANT shall prepare and submit the application and back-up documentation for the following permits:

1. Rule 5 – Stormwater Pollution Prevention Plan (SWPPP)
 - a. Prepare a Notice of Intent Letter, Proof of Publication
 - b. Prepare a Project Location Map
 - c. Prepare a Plan and Profile Sheets and Erosion Control Plan to show existing vegetation, drainage patterns, adjacent land use, stormwater discharge locations, ultimate receiving waters, the proposed stormwater system, construction details of outlet protection below the stormwater outlets and watercourses on and adjacent to the project site.
 - d. The erosion control plan will show the location, dimensions and construction details for the initial perimeter protection. The plan shall also show the location, dimensions and construction details of all Temporary Erosion Control Measures.
 - e. Provide a plan showing the location, dimensions, and construction details of all Permanent Erosion Control Measures.
 - f. Provide the specifications and details for proposed storm inlet protection, stable construction entrances and erosion and sediment control on individual lots, as required.
 - g. Provide maps showing the Floodplains, Floodways, and Floodway Fringes.
 - h. Determine soil types within the project area.
 - i. Provide a schedule when disturbed areas will be stabilized and specifications for permanent seeding.
 - j. Delineate the disturbed and preserved areas and proposed locations of soil stockpiles and borrow areas.
 - k. Complete permit application form
2. Indiana Department of Environmental Management (IDEM) 401 “Water Quality Certification” (WQC)
3. Army Corps of Engineers (ACOE) Section 404 – Regional General Permit.

The CONSULTANT shall monitor the approval process in order to secure permit(s).

- P. The CONSULTANT shall provide right-of-way engineering in accordance with the procedures and standards as indicated in the Indiana Department of Transportation (INDOT) Division of Land Acquisition Right-of-Way Engineering Procedures Manual including but not limited to the following:
1. Prepare and provide the final right-of-way plans. Deliverables include two sets of prints. This work include:
 - a. Review of the Title & Encumbrance Report
 - b. Calculation and placement of existing parcel lines and encumbrances from title reports
 - c. Calculations to determine stations, offsets and placement on plans
 - d. Changes in Right-of-Way based on parcel lines

- e. Revise right of way plans for parcels previously approved by the LPA as a result of design changes requested by the LPA or INDOT.
 2. Title Work
 - a. Provide a documented preliminary title search covering an interval of time including one valid transfer of fee title beyond a twenty-year period from the date of the search.
 - b. Each title search shall be updated at the time of the right-of-way acquisition, as required.
 3. Provide acquisition descriptions and transfer documents for each parcel. The descriptions shall be certified by an Indiana registered land surveyor.
 4. Provide individual plats for each parcel.
 - a. Each plat shall be certified by an Indiana registered land surveyor and include the following:
 - i. Total area before taking
 - ii. Area of existing Right-of-Way; and
 - iii. Area of all residue
 - iv. No plat will be prepared for temporary parcels
 5. Provide separate folders for each parcel containing information obtained from items 1 through 4 listed above and provide the appropriate transfer document for each permanent and temporary parcel.
 6. Provide in the field a stake-out (one time) locating the new Right-of-Way line (including temporary and permanent Right-of-Way) for the partial takings included in all parcels. The stake-out shall be made using wooden hubs located at changes in bearing and other points necessary to show the location of the proposed Right-of-Way takings.
- Q. The CONSULTANT shall provide an Appraisal Problem Analysis prepared by a review appraiser as approved by INDOT as follows:
 1. Examine the R/W plans and determine the extent of the taking.
 2. Perform an on-site inspection of each parcel requiring R/W acquisition.
 3. Determine the type of appraisal needed for each parcel according to FHWA Regulations (49 CFR Part 24, dated March 2, 1989).
 4. Complete an Appraisal Problem Analysis form for each parcel to be acquired.
 5. Prepare a summary sheet setting out:
 - a. Parcel Number
 - b. Name of Owner
 - c. Size of Property
 - d. Amount of R/W to be acquired

- e. Types of R/W to be acquired
 - f. Recommended Appraisal form
- 6. Transmit two copies of the completed report to the appropriate Client official for submission to INDOT for review.
- R. All right-of-way activities associated with this project shall be in accordance with INDOT's and FHWA's procedure. After certification of the Public Hearing/Involvement, and the Notice to Proceed from the LPA, Right-of-Way Engineering shall commence. All activities and items associated with Right-of-Way Acquisition, including but not limited to appraising, review appraising, buying, right-of-way acquisition coordination and management services are not included in the current scope of work or fee. If requested, these items will be added at a later date through a separate agreement approved by the LPA and CONSULTANT.
- S. Upon completion and final approval of the work by LPA and INDOT (if necessary), the CONSULTANT shall deliver to the LPA the following, which shall become the property of the LPA:
 - One (1) - Copy of final approved tracings of the contract plans drawn to a suitable scale on standard 36" x 24" sheets.
 - One (1) - Set (copy) of all electronic survey field notes (Transit & Level Notes), section plats, and subdivision plats for all surveys the CONSULTANT has performed on the project. The field notes will be provided to the LPA in a digital format and a hard copy of electronic field survey data in ASCII format and an AutoCAD drawing of the topographic survey.
 - One (1) - Set of Special Provisions for the Specifications.
 - One (1) - Copy of the statement of probable construction cost.
 - One (1) - Copy of all design computations, indexed, paged and bound.
- The CONSULTANT shall deliver to the LPA two (2) draft copies for review and two (2) completed copies of the Categorical Exclusion Environmental Document.
- The CONSULTANT shall review the contract proposal package, as prepared by the LPA or INDOT.
- T. Following approval of the tracings, the CONSULTANT shall follow INDOT procedures regarding the bidding process such as answering questions posed by INDOT staff and contractors, issuing addenda to the contract documents as needed, and reviewing/certifying the INDOT-developed Contract Information Book (CIB). Following the bidding process, the CONSULTANT will be responsible for attending the Pre-Construction Meeting.
- U. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, LPA's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract

Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports, or documents, or are due to any other causes beyond CONSULTANT's control, shall require a change in work as provided by Section VI, Paragraph 6 titled "Changes in Work".

- V. In fulfillment of this Agreement, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the Indiana Department of Transportation and Federal Highway Administration.
- W. The CONSULTANT shall attend such conferences with the LPA and other interested agencies, as may be required, in connection with this work, and to make his services available to the LPA during the construction of the work for the interpretation of the plans where disagreement may arise and for consultation during construction in the event unforeseen or unusual conditions arise.
- X. The Consultant shall provide construction phase office services that shall include the following:
 - 1. The CONSULTANT will provide design support to the LPA's Resident Project Engineer, as required and as directed by the LPA. The CONSULTANT will meet at the project site with the LPA or their Resident Project Engineer, as required and as directed by the LPA, to assist in any matter that may arise during the construction of the project related to the design.
 - 2. The CONSULTANT shall review or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The CONSULTANT's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the LPA, Contractor or separate contractors, while allowing sufficient time in the CONSULTANT's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract. The CONSULTANT's review shall not constitute approval of safety precautions or, of any construction means, methods, techniques, sequences, or procedures. The CONSULTANT's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
 - 3. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the CONSULTANT shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear

such professional's written approval when submitted to the CONSULTANT. The CONSULTANT shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

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APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE CLIENT:

- A. The LPA shall furnish the CONSULTANT with the following in a timely manner so as not to delay the services of the CONSULTANT:
1. Provide an Employee in Responsible Charge (ERC) to act as LPA's representative with respect to the services to be rendered under this Agreement. Such person shall transmit instructions, receive information, interpret and define LPA's policies and decisions with respect to the CONSULTANT's services for the Project.
 4. Provide all criteria and full information as to LPA's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations.
 5. Furnish all City specifications and standard drawings applicable to the project and all criteria for design and details including, but not limited to, signage, highways, structures, grades, curves, sight distances, clear zones, clearances, and design loadings
 6. Review the two-three page study analyzing the alternatives for spanning the drainage swale as submitted by the CONSULTANT and convey a preference in a timely manner.
 7. Assist the CONSULTANT by placing at CONSULTANT's disposal all available information pertinent to the Project including, but not limited to, the following:
 - a. Previous reports and any other data relative to design or construction of the project.
 - b. Available data from the transportation planning process.
 - c. Utility plans available to the LPA.
 8. Furnish to CONSULTANT, as required for performance of CONSULTANT's Basic Services (except to the extent provided otherwise in Appendix 'A') the following:
 - a. Data prepared by or services of others and appropriate professional interpretations of such.
 - b. All written views pertinent to the location and environmental studies that are received by the LPA.
 - c. Existing ambient air quality data available from State and Local Air Pollution Control Agency.
 - d. Existing water quality data.
 9. Arrange for access to and make all provisions for CONSULTANT and/or Subcontractors to enter upon public and private property as required to perform services under this Agreement.

10. Authorize and execute applications for necessary permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. LPA shall pay permit fees at time of submission of said applications.
 11. Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by CONSULTANT, obtain advice of attorney, insurance counselor, and other consultants as LPA deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.
 12. Furnish all legal services as may be required for the development of the project.
 13. Provide written approval of completed work phases as described in Appendix 'A' of this Agreement. Accomplish reviews and provide written approvals in a timely manner.
 14. Furnish, or direct CONSULTANT to provide, As Required Services as described in Appendix 'A' of this Agreement or other services required
 15. Provide existing, design year no-build, and design year build AM and PM peak hour traffic data (Design Hourly Volumes) for Clinton Street, Washington Center Road, St. Joseph Center Road, River Run Trail, and Campus Court. Traffic data shall contain the directional splits and percentage of heavy trucks for each travel direction.
 16. Provide an INDOT-approved Red Flag Investigation to identify resources or issues that may affect the project's design.
- B. The LPA shall be responsible to perform the following in accordance with FHWA Regulations (49 CFR Part 24, dated March 2, 1989):
1. Manage the right-of-way acquisition process.
 2. Appraise the properties.
 3. Have the appraisals reviewed.
 4. Buy the right-of-way.
 5. Manage the right-of-way acquisition process.
 6. Transmit two (2) copies of the completed parcel packets to INDOT – Fort Wayne District Real Estate Department for review
 7. Sign the “LPA Right of Way Clear Certification” letter.

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APPENDIX "C"

SCHEDULE:

All work by the CONSULTANT under this Contract shall be completed and delivered to the LPA in accordance with the project schedule, attached as **Exhibit 3** and as outlined below: (does not include right-of-way acquisition activities) after the notification to proceed from the LPA and INDOT, exclusive of LPA's and INDOT's review times.

- A. Field Survey
 - 1. Electronic Field Survey within 60 calendar days after receipt of the notice to proceed from the LPA and INDOT.
- B. Abbreviated Engineer's Assessment
 - 1. Preliminary Draft at the time of submission of Preliminary Field Check Meeting.
 - 2. Draft at the time of offering for a Public Involvement.
 - 3. Final at time of submission of Stage 3 Plans.
- C. Environmental Compliance Services
 - 1. Data collection and field reconnaissance within 30 calendar days after receipt of notice to proceed from the LPA.
 - 2. Submit an early coordination package and Section 106 consulting party invitation within 15 calendar days after completion of data collection and field reconnaissance.
 - 3. Assess early coordination comments received from resource agencies to complete environmental studies of social, economic and environmental resources within 10 calendar days after receipt of comments from early coordination.
 - 4. Prepare a Historic Properties Report (HPR), perform archaeological records check and field reconnaissance, and prepare an archaeological report. Obtain INDOT approval of these documents within 75 days of notice to proceed.
 - 5. Prepare Preliminary Section 106 Documentation for submittal to the SHPO and the consulting parties that accepted the invitation, along with the Historic Properties Report (HPR) and archaeological report, within 75 days of notice to proceed. A 30-day comment period is afforded to the SHPO and consulting parties.
 - 6. Assess comments received on the Preliminary Section 106 documentation and prepare Findings and Final Section 106 documentation for INDOT approval within 15 calendar days after receipt of comments on the Preliminary Section 106 documentation. INDOT is afforded a 15-day review/approval period.

7. Submit signed Findings and Final Section 106 documentation to SHPO and other consulting parties concurrent with publication of a legal notice requesting public comment, upon completion of step 6 above. The SHPO and consulting parties are afforded a final 30-day comment period.
8. Perform environmental studies and prepare a Draft Environmental Study within 30 calendar days after approval of the Section 106 Consultation. INDOT is afforded a 15-day review/approval period.
9. Prepare final CE for INDOT release for public involvement within 5 calendar days after receipt of INDOT comments on Draft Environmental Study. INDOT is afforded a 15-day review/approval period.
10. Address any comments received as a result of public involvement, as required, and submit the CE for final INDOT approval within 15 calendar days of completion of the public involvement process). INDOT is afforded a 15-day review/approval period.

D. Roadway Design and Plans

1. Study analyzing the preferred means of spanning the drainage swale within 30 calendar days after topographic survey in the vicinity of the drainage swale has been completed and downloaded. Geotechnical information in the vicinity of the drainage swale will be acquired within thirty (30) days after receipt of the notice to proceed from the LPA and INDOT.
2. Stage 1 Plans within ninety (90) calendar days after receipt of Client approval of the Field Survey.
3. Preliminary Field Check Meeting within forty-five (45) calendar days after receipt of review comments from the Client on Stage 1 plans.
4. Stage 2 Plans within ninety (90) calendar days after holding the Preliminary Field Check Meeting.
5. Stage 3 Plans within one hundred and twenty (120) calendar days after receipt of review comments from the Client on Stage 2 Plans and approval of the Design Hearing process.
6. Final Tracings with Statement of Probable Construction Cost and Special Provisions within forty-five (45) calendar days after receipt of review comments from the Client and INDOT on Stage 3 plans.

E. Right-of-way Engineering

1. Preliminary Right-of-way Plans, title search, legal descriptions, transfer documents and land plats for each parcel within 150 calendar days after receipt of review comments from the LPA on Stage 2 plans.
2. Final Right-of-way Plans within forty-five (45) calendar days after receipt of review comments from the LPA on Preliminary Right-of-Way Plans.
3. Right-of-way Stake-out within twenty (20) calendar days after notification to proceed with the stake-out from the appraiser.

The approximate Letting date for this project is February 2017 (INDOT FY 2017), assuming a notice to proceed date of June 15, 2014.

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APPENDIX "D"

Y. Amount of Payment

1. The CONSULTANT shall receive as payment for the work performed under this Agreement a **Total Fee Not to Exceed of \$493,310.00**, unless a modification of agreement is approved in writing by the Client.
2. The CONSULTANT will be paid for the work performed under Appendix "A" of this Agreement on a Lump Sum basis in accordance with the following schedule except as noted in the items below:

	Description	Amount
<u>DESIGN ENGINEERING SERVICES</u>		
A	Topographic Survey	\$35,400.00
B	Environmental Documentation (CE Level 3 and Section 106) and Noise	\$58,200.00
C	Roadway Design and Plan Development	\$109,920.00
D	Utility Coordination	\$18,900.00
E	Subsurface Utility Engineering (SUE)	\$22,200.00
F	Geotechnical Investigation and Report	\$21,000.00
G	Public Hearing (INDOT) (Hourly Rate)	\$10,600.00
H	Traffic Signal Design	\$22,900.00
I	Lighting Design	\$21,900.00
J	Small Structure Design	
	Study and Pedestrian Bridge/Boardwalk/Ret Wall Design	\$24,210.00
K	Permits	\$10,580.00
L	Landscaping	\$9,100.00
M	Public Info/Meetings (City-Sponsored Public Outreach) (Hourly Rate)	\$7,800.00
N	Reimbursable (Permit Fees, Publication costs, etc.)	\$1,000.00
DESIGN ENGINEERING SERVICES SUBTOTAL w/MAX SMALL STRUCTURE		\$373,710.00
<u>RIGHT OF WAY ENGINEERING</u>		
O	Location Control Route Survey Plat	\$10,200.00
P	Title and Encumbrance Report (20 @ \$295.00 EA)	\$5,900.00
Q	Title update (20 @ \$100.00 EA)	\$2,000.00
R	R/W Calcs and Plans (Based on 20 Parcels)	\$30,000.00
S	Legal Descriptions (30 @ \$420.00 EA)	\$12,600.00
T	Parcel Plats (20 @ \$420.00 EA)	\$8,400.00
U	Transfer Documents (30 @ \$100.00 EA)	\$3,000.00
V	R/W Staking (One Time Only)	\$7,500.00
W	Contingency for Right of Way Revisions (Hourly Rate)	\$10,000.00

X	Appraisal Problem Analysis (20 @ \$240.00 EA)	\$4,800.00
RIGHT OF WAY ENGINEERING SERVICES SUBTOTAL		\$94,400.00
CONSTRUCTION (DESIGN) SERVICES		
Y	Bidding/Pre-Construction Conference (Bid Phase Services)	\$2,500.00
Z	Construction Admin (Construction Phase Office Services – Hourly Rate)	\$22,700.00
CONSTRUCTION (DESIGN) SERVICES SUBTOTAL		\$25,200.00
Total		\$493,310.00

Toll telephone calls, printing, mailing, FAX costs required for the permits enumerated hereinabove will not be reimbursable expenses and the costs thereof are included in the itemized costs as shown herein in Appendix "D", Section A.2.

The cost of subconsultants, permit application, and/or regulatory fees will be paid for by the LPA as a reimbursable fee at actual cost incurred by the CONSULTANT plus an administrative cost of up to 20%, but not exceed the final amount shown in the table above.

The CONSULTANT shall not be paid for any services performed by the Client or not required to develop this project.

For those services performed by the ENGINEER which are included in the itemized costs, as shown herein in Appendix "D", Section 2 as an "Hourly Rate", the CONSULTANT will be paid on the basis of an Hourly Rate in accordance with the Rate Schedule attached as **Exhibit 4**. The basis for payment includes the direct salary and wages of each employee, PLUS a provisional overhead rate of 165.97%, PLUS a 9.70% profit, PLUS the facilities capital cost of money at 1.88%, PLUS direct non-salary costs as approved by the LPA. Profit will only be applied to direct salary and wages plus applicable overhead. The provisional overhead rate will include the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, sick leave, vacation holiday pay and other group benefits.

3. The CONSULTANT shall receive as payment from the Client for the Additional Services rendered under this Agreement as follows:
 - a. For Additional Services of CONSULTANT's principals and employees engaged on the project, except services to appear as a consultant or witness, on the basis of actual hours of work performed by essential personnel exclusively on this Agreement at the direct salary and wages of each employee, PLUS a provisional overhead rate of 165.97%, PLUS a 9.70% profit, PLUS the facilities capital

cost of money at 1.88%, PLUS direct non-salary costs as approved by the Indiana Department of Transportation (INDOT). Profit will only be applied to direct salary and wages plus applicable overhead. The provisional overhead rate will include the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, sick leave, vacation holiday pay and other group benefits.

- b. For services and Reimbursable expenses of independent professional associates and consultants employed by CONSULTANT to render Additional Services, the amount billed to CONSULTANT plus an administrative cost of up to 20%.
- c. For services rendered by CONSULTANT's principals and employees to appear as consultants or witnesses in any litigation, arbitration or other legal or administrative proceeding, except for time spent in preparing to appear in any such litigation, arbitration or proceeding, at the rate of \$2,500.00 per principal or employee per day or any portion thereof.
- d. The hourly rates, mean salaries and wages (basic and incentive) paid to all CONSULTANT's personnel engaged directly on the project, including, but not limited to, engineers, architects, surveyors, planners, designers, draftsmen, specification writers, estimators, other technical and business personnel, and include the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, sick leave, vacation and holiday pay, other group benefits, overhead expenses and profit.
- e. Reimbursable Expenses mean the actual expenses incurred by CONSULTANT or CONSULTANT's independent professional associates or consultants, directly or indirectly in connection with the project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids for proposals from Contractor(s); overnight mail; reproduction of reports, drawings, specifications, bidding documents, and similar project related items in addition to those required under Appendix A; and, if authorized in advance by the Client, overtime work requiring higher than regular rates.

Z. Method of Payment for Design Services

- 1. The CONSULTANT may submit a maximum of one invoice voucher per calendar month for work covered under this Agreement. The invoice voucher shall be submitted to the Client. The invoice voucher shall represent the value, to the Client, of the partially completed work as of the date of the invoice voucher. The CONSULTANT shall attach thereto a summary of each pay item in Section A.2 of this Appendix, percentage completed and prior payments.

2. The Client, for and in consideration of the rendering of the engineering services provided for in Appendix "A", agrees to pay to the CONSULTANT for rendering such services the fees established above in the following manner:
 - a. The amount invoiced based upon percent complete or the contract unit price, except that:
 - i. The maximum payment for design plans shall be in accordance with the following schedule:

a)	Stage 1 Plans	30%
b)	Preliminary Field Check Meeting	45%
c)	Stage 2 Plans	70%
d)	Public Hearing Certification	75%
e)	Stage 3 Plans	95%
e)	Tracings	100%
 - ii. Utility coordination will be invoiced 50% after the Preliminary Field Check Meeting has been held. The remaining balance will be invoiced upon review of Utility Relocation Plans.
 - iii. The maximum payment for the geotechnical investigation shall be in accordance with the following schedule:

a)	Field Investigation (borings)	80%
b)	Final Report	20%
 - iv. Payment for any item not otherwise set out herein shall be made based upon percentage of completion.
3. The Client for and in consideration of the rendering of the engineering services provided for in Appendix "A", agrees to pay the CONSULTANT for rendering such services the fee established above upon completion of the work there under and acceptance thereof by the Client.
4. If design changes are required during construction due to design errors in the final plans or specifications, the CONSULTANT will make such necessary design changes without additional cost to the Client. However, if design changes are required during construction which are occasioned by changed conditions or conditions which could not have been reasonably foreseen by the CONSULTANT prior to construction, the CONSULTANT will be paid for such modifications at the direct salary and wages of each employee, PLUS a provisional overhead rate of 148.76%, PLUS a 15% profit, PLUS direct non-salary costs as approved by the Client. Profit will only be applied to direct salary and wages plus applicable overhead. The provisional overhead rate will include the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, sick leave, vacation holiday pay and other group benefits.

5. If the Client fails to make any payment due CONSULTANT for services and expenses within thirty (30) days after receipt of CONSULTANT's statement therefore, the amounts due CONSULTANT shall be increased at the rate of 1% per month from said thirtieth day, and in addition, CONSULTANT may, after giving seven (7) days' written notice to Client, suspend services under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and changes.
6. In the event of a substantial change in scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted in accordance with Section VIII, titled "Changes" of this Agreement.

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EXHIBIT 1

TOPOGRAPHIC SURVEY LIMITS



CITY OF FORT WAYNE
 PUBLIC UTILITIES DEPARTMENT

LEGEND

- MANHOLE
- STORM MANHOLE
- ABANDONED MANHOLE
- CATCH BASIN
- STORM INLET
- CLEAROUT
- HEADWALL
- HEADWALL WITH LAP DATE
- WELP
- REGULATOR
- WATER VALVE
- STORM VALVE
- STORM PIPE
- CHURNED PIPE
- FORCE MAIN
- PRIVATE MAIN
- RELIEF PIPE
- ABANDONED MAIN
- FP22 165 STRUCTURED
- FP22 165 PRODUCT 10
- POOR DIRECTION

CITY OF FORT WAYNE
 SEWER UTILITY
 ONE EAST MAIN STREET
 FORT WAYNE, IN 46802

SE 1/4 SEC. 13
 TOWNSHIP 31 N, RANGE 12 E
 WASHINGTON TWP, ALLEN CO.
 MAP SCALE: 1" = 200'

038
 MAP NO.

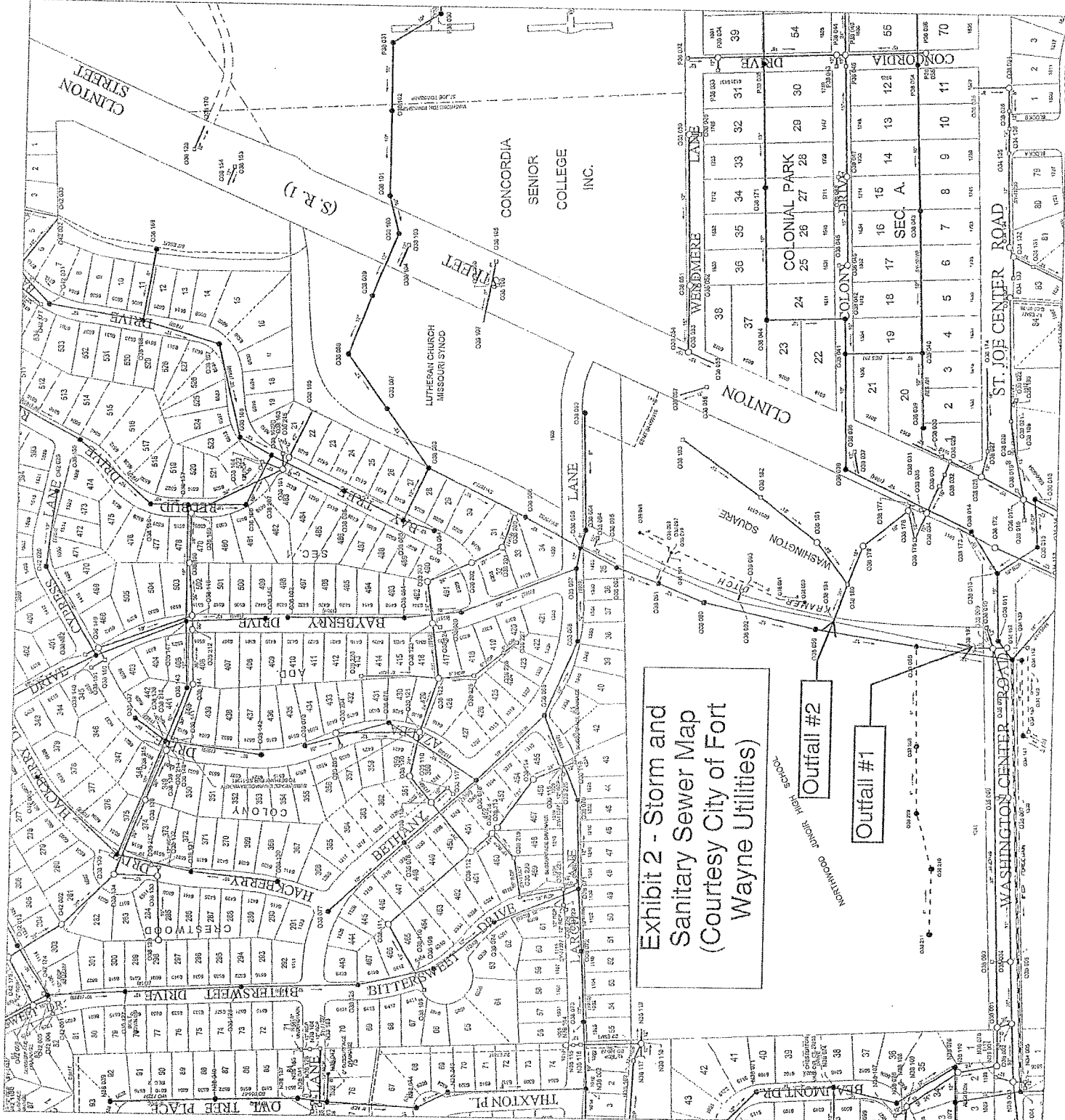


Exhibit 2 - Storm and Sanitary Sewer Map (Courtesy City of Fort Wayne Utilities)

Outfall #2

Outfall #1

Rate of Increase	2014 current	2015 2.7%	2016 2.7%	AVG Rates Used	Inflation Rate 2.7%
Principal/Officer	\$62.19	\$63.87	\$65.59	\$63.88	
Division Manager	\$58.39	\$59.97	\$61.59	\$59.98	
Department Manager	\$51.27	\$52.65	\$54.08	\$52.67	
Project Manager	\$44.42	\$45.62	\$46.85	\$45.63	
Engineer III	\$37.01	\$38.01	\$39.04	\$38.02	
Engineer II	\$31.13	\$31.97	\$32.83	\$31.98	
Engineer I	\$25.12	\$25.80	\$26.49	\$25.80	
Landscape Architect III	\$32.50	\$33.38	\$34.28	\$33.39	
Landscape Architect I	\$20.00	\$20.54	\$21.09	\$20.54	
Designer I	\$24.69	\$25.36	\$26.04	\$25.36	
Technician II	\$18.61	\$19.11	\$19.63	\$19.12	
Construction Observer Mgr	\$29.22	\$30.01	\$30.82	\$30.02	
Construction Observer	\$25.69	\$26.38	\$27.10	\$26.39	
Clerical II	\$19.87	\$20.41	\$20.96	\$20.41	
Party Chief	\$38.01	\$39.04	\$40.09	\$39.05	
Rodman	\$24.18	\$24.83	\$25.50	\$24.84	
Suveyor	\$31.31	\$32.16	\$33.02	\$32.16	
Environmental Scientist III	\$31.52	\$32.37	\$33.25	\$32.38	
Environmental Scientist II	\$0.00	\$0.00	\$0.00	\$0.00	

Overhead Rate 165.97%
Profit Rate 9.70%
Cost of Money 1.88%

1/10/2014

**NEGOTIATED HOURLY BILLING RATES
DLZ**

CLASSIFICATION	2014 AVERAGE HOURLY LABOR RATE	2014 AVERAGE HOURLY LABOR RATE TIMES OVERHEAD @ 165.97%	2014 AVERAGE HOURLY LABOR RATE + OH	2014 AVERAGE HOURLY LABOR RATE x PROFIT @ 9.70%	2014 AVERAGE HOURLY LABOR RATE TIMES COST OF MONEY @ 1.88%	PROPOSED 2014 HOURLY BILLING RATE
Principal**	\$62.19	\$103.22	\$165.41	\$16.04	\$1.17	\$182.62
Division Manager	\$58.39	\$96.91	\$155.30	\$15.06	\$1.10	\$171.46
Department Manager	\$51.27	\$85.09	\$136.36	\$13.23	\$0.96	\$150.55
Project Manager	\$44.42	\$73.72	\$118.14	\$11.46	\$0.84	\$130.44
Architect V	\$41.95	\$69.62	\$111.57	\$10.82	\$0.79	\$123.19
Architect III	\$29.15	\$48.38	\$77.53	\$7.52	\$0.55	\$85.60
Architect II	\$33.45	\$55.52	\$88.97	\$8.63	\$0.63	\$98.23
Architect I	\$24.70	\$40.99	\$65.69	\$6.37	\$0.46	\$72.53
Architectural Intern	\$23.75	\$39.42	\$63.17	\$6.13	\$0.45	\$69.74
Landscape Arch./Planner III	\$32.50	\$53.94	\$86.44	\$8.38	\$0.61	\$95.44
Landscape Arch./Planner I	\$20.00	\$33.19	\$53.19	\$5.16	\$0.38	\$58.73
Structural Engineer V	\$47.70	\$79.17	\$126.87	\$12.31	\$0.90	\$140.07
Structural Engineer III	\$36.97	\$61.36	\$98.33	\$9.54	\$0.70	\$108.56
Structural Engineer II	\$31.31	\$51.97	\$83.28	\$8.08	\$0.59	\$91.94
Structural Engineer I	\$24.17	\$40.11	\$64.28	\$6.24	\$0.45	\$70.97
Civil Engineer VI	\$40.00	\$66.39	\$106.39	\$10.32	\$0.75	\$117.46
Civil Engineer IV	\$43.00	\$71.37	\$114.37	\$11.09	\$0.81	\$126.27
Civil Engineer III	\$37.01	\$61.43	\$98.44	\$9.55	\$0.70	\$108.68
Civil Engineer II	\$31.13	\$51.67	\$82.80	\$8.03	\$0.59	\$91.41
Civil Engineer I	\$25.12	\$41.69	\$66.81	\$6.48	\$0.47	\$73.76
Surveyor V	\$45.00	\$74.69	\$119.69	\$11.61	\$0.85	\$132.14
Party Chief	\$38.01	\$63.09	\$101.10	\$9.81	\$0.71	\$111.62
Instrumentperson	\$31.68	\$52.58	\$84.26	\$8.17	\$0.60	\$93.03
Rodman	\$24.18	\$40.13	\$64.31	\$6.24	\$0.45	\$71.00
Surveyor Coordinator		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Surveyor	\$31.31	\$51.97	\$83.28	\$8.08	\$0.59	\$91.94
Environmental Scientist III	\$31.52	\$52.31	\$83.83	\$8.13	\$0.59	\$92.56
Environmental/Geo Scientist III	\$34.25	\$56.84	\$91.09	\$8.84	\$0.64	\$100.57
Environmental/Geo Scientist II		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mechanical Engineer III	\$39.23	\$65.11	\$104.34	\$10.12	\$0.74	\$115.20
Mechanical Engineer VI	\$50.00	\$82.99	\$132.99	\$12.90	\$0.94	\$146.82
Electrical Engineer Specialist		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Electrical Engineer II	\$28.30	\$46.97	\$75.27	\$7.30	\$0.53	\$83.10
Electrical Engineer III	\$42.60	\$70.70	\$113.30	\$10.99	\$0.80	\$125.09
Electrical Engineer VI	\$50.00	\$82.99	\$132.99	\$12.90	\$0.94	\$146.82
Construction Observer Mgr	\$29.22	\$48.50	\$77.72	\$7.54	\$0.55	\$85.80
Construction Observer	\$25.69	\$42.64	\$68.33	\$6.63	\$0.48	\$75.44
Designer III	\$30.75	\$51.04	\$81.79	\$7.93	\$0.58	\$90.30
Designer II	\$27.66	\$45.91	\$73.57	\$7.14	\$0.52	\$81.22
Designer I	\$24.69	\$40.98	\$65.67	\$6.37	\$0.46	\$72.50
Technician IV	\$20.05	\$33.28	\$53.33	\$5.17	\$0.38	\$58.88
Technician III	\$27.20	\$45.14	\$72.34	\$7.02	\$0.51	\$79.87
Technician II	\$18.61	\$30.89	\$49.50	\$4.80	\$0.35	\$54.65
Technician I	\$13.30	\$22.07	\$35.37	\$3.43	\$0.25	\$39.06
Planner II		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Planner III		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Planner V	\$46.15	\$76.60	\$122.75	\$11.91	\$0.87	\$135.52
Clerical II	\$19.87	\$32.98	\$52.85	\$5.13	\$0.37	\$58.35
Clerical I	\$13.88	\$23.04	\$36.92	\$3.58	\$0.26	\$40.76
Office Clerk	\$16.80	\$27.88	\$44.68	\$4.33	\$0.32	\$49.33
Office Services Coord.	\$23.68	\$39.30	\$62.98	\$6.11	\$0.45	\$69.54
Receptionist	\$14.35	\$23.82	\$38.17	\$3.70	\$0.27	\$42.14
** \$62.19/HR @ Max rate						

Public Hearing Date, if applicable _____

Read the first time in full and on motion by Councilman Tom Smith,
Read the second time by title and referred to the Public Works Committee
Committee. Read the third time in full and on motion by Councilman
Smith, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
TOTAL VOTES	<u>9</u>	_____	_____	_____
BENDER	<u>✓</u>	_____	_____	_____
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAFF	<u>✓</u>	_____	_____	_____
SMITH	<u>✓</u>	_____	_____	_____

DATED: 5-27-14 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-45-14 on the 27th day of
May, 2014

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

Martin A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day
of May, 2014, at the hour of 11:30 o'clock A.M. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of MAY
2014, at the hour of 9:00 o'clock A.M. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

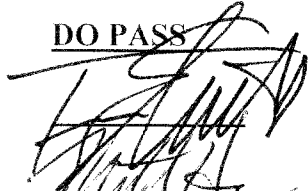
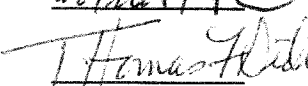
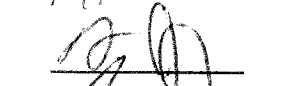



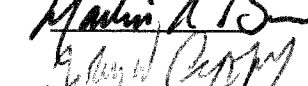

BILL NO. S-14-05-01

REPORT OF COMMITTEE ON PUBLIC WORKS

MAY 20, 2014

*Tom Smith, Chair
Glynn Hines, Co-Chair
All Council Members*

AN ORDINANCE approving Engineering Consulting Contract for St. Joe Center Road - Center Turn Lane Improvements Between Clinton Street and Campus Court - WO #12014 between DLZ Indiana, LLC and the City of Fort Wayne, Indiana, in connection with the Board of Public Works. **COMMITTEE ON PUBLIC WORKS HAVE HAD SAID** Ordinance under consideration and beg leave to report back to the Common Council that said ordinance

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

SANDRA E. KENNEDY
CITY CLERK