BILL NO. S-26-10-16

SPECIAL ORDINANCE NO. S-130-26

AN ORDINANCE approving CONSULTING CONTRACT – CONSTRUCTION INSPECTION SERVICES FOR THE REPLACEMENT OF BRIDGE #550 ON TILLMAN RD OVER HIGHLAND DRAIN #4 - WO #0443X - ($347,638.00) between A&Z ENGINEERING, LLC and the City of Fort Wayne, Indiana by and through its Board of Public Works.

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

SECTION 1. That the CONSULTING CONTRACT - CONSTRUCTION INSPECTION SERVICES FOR THE REPLACEMENT OF BRIDGE #550 ON TILLMAN RD OVER HIGHLAND DRAIN #4 - WO #0443X - between A&Z ENGINEERING, LLC and the City of Fort Wayne, Indiana by and through its Board of Public Works is hereby ratified, and affirmed and approved in all respects, respectfully for:

> Consulting and construction inspection services for THE FULL REPLACEMENT OF BRIDGE #550 ON TILLMAN RD OVER HIGHLAND DRAIN #4;

involving a total cost of THREE HUNDRED FORTY-SEVEN THOUSAND SIX HUNDRED THIRTY-EIGHT AND 00/100 DOLLARS - ($347,638.00). A copy of said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

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

Malak Heiny, City Attorney

LPA - CONSULTING CONTRACT

This Contract ("**Contract**") is made and entered into effective as of Sept 22, 2026 ("**Effective Date**") by and between the City of Fort Wayne Public Works acting by and through its proper officials ("**LOCAL PUBLIC AGENCY**" or "**LPA**"), and A&Z Engineering LLC ("**CONSULTANT**"), [an individual residing in the State of Indiana] [a corporation/limited liability company organized under the laws of the State of Indiana].

Des. No.: 2201281

Project Description: Construction of New Bridge #550 on Tillman Rd over Highland Drain #4

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 ("**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 March 2028 Record Completion. 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 **$ $347,638.00.**

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 its SUB-CONSULTANTS, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the LPA or its authorized designees. Copies shall be furnished at no cost to the LPA if requested.

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 IC § 5-11-1, *et seq.*, and audit guidelines specified by the LPA.

   The LPA considers the CONSULTANT to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the CONSULTANT is a "subrecipient" and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), The CONSULTANT shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

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.

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. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the LPA and the CONSULTANT to determine whether the provisions of this Contract require formal modification.

B. The CONSULTANT and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the LPA as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the CONSULTANT has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the CONSULTANT shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the CONSULTANT is not familiar with these ethical requirements, the CONSULTANT should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at http://www.in.gov/ig/. If the CONSULTANT or its agents violate any applicable ethical standards, the LPA may, in its sole discretion, terminate this Contract immediately upon notice to the CONSULTANT. In addition, the CONSULTANT may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The CONSULTANT certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The CONSULTANT agrees that any payments currently due to the State of Indiana may be withheld from payments due to the CONSULTANT. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the CONSULTANT is current in its payments and has submitted proof of such payment to the State.

D. The CONSULTANT warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the CONSULTANT agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. Pursuant to IC § 5-22-3-1, the State and the CONSULTANT shall act in good faith in connection with the performance or administration of or any negotiations undertaken in accordance with or with respect to this Contract.

F. The CONSULTANT warrants that the CONSULTANT and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the LPA. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the LPA.

G. The CONSULTANT affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC § 5-22-3-7:

(1) The CONSULTANT and any principals of the CONSULTANT certify that:
(A) the CONSULTANT, except for de minimis and nonsystematic violations, has not violated the terms of:
(i) IC §24-4.7 [Telephone Solicitation Of Consumers];
(ii) IC §24-5-12 [Telephone Solicitations]; or
(iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];
in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
(B) the CONSULTANT will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The CONSULTANT and any principals of the CONSULTANT certify that an affiliate or principal of the CONSULTANT and any agent acting on behalf of the CONSULTANT or on behalf of an affiliate or principal of the CONSULTANT, except for de minimis and nonsystematic violations,
(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
(B) will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

I. i. The Company warrants that the Company, and (if applicable) any of its holding companies, affiliates, or subsidiaries, is not:
(1) listed in Section 889 of the 2019 National Defense Authorization Act;
(2) listed in Section 1260H of the 2021 National Defense Authorization Act;
(3) owned by the government of a country, or controlled by any governing or regulatory body located in a country, on the United States Department of Commerce's foreign adversaries list under 15 C.F.R. 791.4; or
(4) included on or controlled by an entity on the Specially Designated Nationals list maintained by the United States Department of the Treasury's Office of Foreign Asset Control.

ii. In accordance with Executive Order 25-64, if the LPA determines that the CONSULTANT has been added to any list or designation set forth in clauses (1) through (4) in subparagraph I.i above, after entering this Contract, the LPA shall investigate the reasons the CONSULTANT was added to any such list or designation. Depending upon the outcome of such investigation, the LPA may be required to terminate this Contract and/or dispose of any of the goods or cease the use of any of the goods or services procured under this Contract. In addition, the LPA shall not be required to pay for any goods or services tendered or provided under this Contract to the CONSULTANT on or after the date the CONSULTANT is added to any such list or designation.

8. **Condition of Payment.** All services provided by the CONSULTANT under this Contract must be performed to the LPA's reasonable satisfaction, as determined at the discretion of the undersigned LPA

representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The LPA shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

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. 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 or discussed with third parties without the prior written consent of the LPA.

B. The parties acknowledge that the services to be performed by CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers 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 CONSULTANT, 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.** Pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act ("ADA"):

A. The CONSULTANT covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran or any other characteristic protected by federal, state or local law ("Protected Characteristics"). The CONSULTANT certifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the CONSULTANT or any SUB-CONSULTANT.

B. CONSULTANT covenants that it does not and shall not operate any programs or engage in any practices promoting Diversity, Equity, and Inclusion (DEI), or other similar goals, that violate Indiana or Federal Civil Rights Laws by treating a person differently on the basis of race or sex, such as by considering race or sex when making recruitment, hiring, disciplinary, promotion, or employment decisions; requiring employees to participate in training or educational programs that employ racial or sex stereotypes; or attempting to achieve racial or sex balancing in the CONSULTANT's workforce. The Parties agree that a breach of this subparagraph is a material breach of this Contract, including for purposes of Indiana Code § 5-11-5.5-2, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the CONSULTANT or any SUB-CONSULTANT.

C. INDOT is a recipient of federal funds, and therefore, INDOT requires full compliance with all rules, regulations and statutes concerning nondiscrimination requirements and applications. Breach of this section may be regarded as a material breach of this 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 all 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 nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections).

D. During the performance of this Contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

1. Compliance with Regulations: The CONSULTANT shall comply with the regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49 CFR 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, sex, national origin, religion, disability, ancestry, or status as a veteran 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 Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, 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 SUB-CONSULTANT 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, sex, national origin, religion, disability, ancestry, or status as a veteran.

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 INDOT and the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to INDOT or the Federal Highway Administration 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, INDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding 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 5. 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 subcontract or procurement as INDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request INDOT to enter into such litigation to protect the interests of INDOT, and, in addition, the CONSULTANT may request the United States of America to enter into such litigation to protect the interests of the United States of America.

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.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The CONSULTANT will give written notice to the LPA within ten (10) days after receiving actual notice that the CONSULTANT, or an employee of the CONSULTANT in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this 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 for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of $25,000.00, the CONSULTANT certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them 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;

B. 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;

C. Notifying all employees in the statement required by subparagraph (A) 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;

D. Notifying the LPA in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (C)(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) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring 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

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

15. **Employment Eligibility Verification.** As a condition precedent to entering this contract, and as required by IC § 22-5-1.7 and Executive Order 25-29, the CONSULTANT swears or affirms under the penalties of perjury that the CONSULTANT has not knowingly employed, and will not knowingly employ, an unauthorized alien. The CONSULTANT further affirms that:

A. The CONSULTANT has enrolled in, and verified the work eligibility status of all his/her/its 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.

B. The CONSULTANT has not knowingly employed or contracted with, and shall not knowingly employ or contract with, an unauthorized alien. The CONSULTANT has not retained, and shall not retain, an employee, and has not contracted and shall not contract with a person, that the CONSULTANT subsequently learned or learns is an unauthorized alien.

C. The CONSULTANT has required and 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 and to provide any and all such certifications to the State promptly upon request.

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

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 natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of 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, and their agents, 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, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.

20. **Independent CONSULTANT.** 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 Contract, 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 Contact. 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**: Whenever any notice, statement, request, consent or other communication is required under this Contract (each, a "Notice"), it shall be effective only if it is in writing and: (a) personally delivered; or (b) sent by: (I) email; (II) first class U.S. mail service; or (III) a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid; to the following addresses, or to such other address or addresses as shall be furnished in writing by any party to the other party.

Notices to the LPA shall be sent to:

David S. Lutz, PE
City of Fort Wayne Indiana
200 East Berry Street, Fort Wayne IN, 46802

Notices to the CONSULTANT shall be sent to:

Mark G Voss
A&Z Engineering LLC
1220 Ruston Pass Fort Wayne IN 46825

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 (a) when personally delivered; (b) when sent in the case of an email properly addressed; (c) three (3) days after the date deposited with the United States mail properly addressed; or (d) the next day when delivered during business hours to an 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 shall not be effective.

As required by IC § 4-13-2-14.8, payments to the CONSULTANT shall be made via electronic funds transfer in accordance with instructions filed by the CONSULTANT with the Indiana State Comptroller.

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 shall 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 written amendments or supplements.

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 13). 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 Contract is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Contract 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 LPA contracts, as well as an imposition of a civil penalty.

40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the LPA 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. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

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

Signature

Warren J Zwick
(Print or type name and title)

Attest:

Signature

Mark G Voss
(Print or type name and title)

LOCAL PUBLIC AGENCY

Signature

Shan Gunawardena, Chair 9.22.24
(Print or type name and title)

Signature

Kumar Menon, member 9.22.24
(Print or type name and title)

ABSENT
Signature

Chris Guerrero
(Print or type name and title)

Attest:

9.22.24
Signature

Michelle Fulk-Vondran, Clerk
(Print or type name and title)

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:

A. Engineering Personnel
For the fulfillment of all services outlined in Section B below, the CONSULTANT will provide one (1) fulltime Project Supervisor/Engineer, and Inspection personnel as required for a period of time necessary to complete the construction project and final construction records. The qualifications and experiences of personnel provided by the CONSULTANT are subject to approval by the Local Public Agency and the Indiana Department of Transportation (INDOT) and no personnel will be assigned to the project until Local Public Agency and INDOT approval is obtained. The fulltime Project Engineer/Supervisor (PE/S) will take directions from and report to the Indiana Department of Transportation's Area Engineer on all matters concerning contract compliance and administration. The fulltime Project Engineer/Supervisor will coordinate project activities with the Local Public Agency's Project Coordinator and Indiana Department of Transportation's Area Engineer.

B. Description of Services

1. Construction Schedule: Review the construction schedule prepared by the Contractor for compliance with the Contract and give to the Local Public Agency detailed documentation concerning its acceptability.

2. Conferences: Attend pre-construction conferences as directed by the Local Public Agency, arrange a schedule of bi-weekly progress meetings, and such other job conferences as required for the timely and acceptable conduct of the job, and submit such schedules prepared, to the Local Public Agency, and assist in the notification to those who are expected to attend. Record for the Local Public Agency, as directed, minutes of such meetings. The CONSULTANT shall be available for conferences as requested by the Local Public Agency, State, and Federal Highway Administration to review working details of the project. The Local Public Agency, State and Federal Highway Administration may review and inspect the activities whenever desired during the life of the Agreement.

3. Liaison: Serve as the Local Public Agency's liaison with the contractor, working principally through the Contractor's field superintendent or such other person in authority as designated by the Contractor. Acting in liaison capacity, the fulltime Project Engineer/Supervisor shall be thoroughly familiar with the plans and specifications applicable to the project to ensure that all provisions therein are complied with. Any deviation observed shall be reported to the Local Public Agency and INDOT by the full-time Project Engineer/Supervisor .

4. Cooperate with the Local Public Agency in dealing with the various Federal, State and Local Agencies having jurisdiction over the project.

5. Assist the Local Public Agency and INDOT in obtaining from the Contractor a list of his proposed suppliers and sub-contractors.

6. Assist the Local Public Agency and INDOT in obtaining from the Contractor additional details or information when needed at the job site for proper execution of work.

7. Equipment – Furnish all equipment necessary to sample and test materials in accordance with INDOT's procedures.

8. Samples – Obtain field samples of materials delivered to the site as required by the State and deliver such samples to the appropriate INDOT laboratory office.

9. Shop Drawings:
   a. Receive shop drawings and falsework drawings. Check for completeness and then forward to INDOT personnel for approval.
   b. Review approved shop and falsework drawings, specifications and other submissions, record receipt of this data, maintain a file of all drawings and submissions, and check construction for compliance in accordance with the Contract Documents.
   c. Alert the Contractor's field superintendent when it is observed that materials or equipment are being or about to be used or installed before approval of shop drawings or samples, where such are required, and advise the Local Public Agency and INDOT when he believes it is necessary to disapprove work as failing to conform to the Contract Documents.

10. Review of Work, Inspection and Tests:
   a. Conduct on-site inspections for the Local Public Agency of the work in progress as a basis for determining that the project is proceeding in accordance with the Contract Documents.
   b. Provide on-site acceptance testing of materials in the manner and extent prescribed by the latest edition of the Indiana State Highway Commission Construction Manual and in accordance with current accepted practices.
   c. Accompany visiting inspectors, representing Local, State or Federal Agencies having jurisdiction over the project, and report details of such inspection to the Local Public Agency and Indiana Department of Transportation.
   d. Verify that required testing has been accomplished.

11. Modification(s): Consider and evaluate the Contractor's suggestions for modifications in drawings and/or specifications and report them with recommendations to the Local Public Agency and Indiana Department of Transportation.

12. Records:
   a. Prepare and maintain at the job site orderly files of correspondence, reports of job conferences, shop drawings and other submissions, reproductions of original Contract Documents, including all addenda, change orders, and additional drawings subsequent to the award of the Contract, progress reports and other project related documents.
   b. Keep a diary or logbook, recording hours on the job site, weather conditions, list of visiting officials, decisions, general observations, and specific observations with regard to test procedures. Upon request furnish copies of such a diary or logbook to the Local Public Agency.
   c. Maintain for the Local Public Agency, a record of names, addresses and telephone numbers of all sub-contractors and major material suppliers.
   d. Maintain a set of drawings on which authorized changes are noted, and deliver to the Local Public Agency upon request, but in any event at the completion of the project.
   e. Prepare the Final Construction Record and Final Estimate as required by the INDOT and the Local Public Agency.

13. Reports: Furnish to the INDOT and the Local Public Agency at periodic intervals, as required, progress reports of the project including the Contractor's compliance with the approved construction schedule. The reports will include weekly progress reports detailing the work performed and a monthly progress report summarizing both the construction and construction

engineering completion status. Furnish bi-weekly reports including photos of the progress for Local Public Agency use for public updates.

14. Progress Estimates: Prepare progress estimates for periodic partial payments to the Contractor and deliver to the Local Public Agency and Indiana Department of Transportation for review and processing. The payments to the Contractor will be based on estimates of the value of work performed and materials complete in place in accordance with the contract.

15. Project Responsibility: The Project Supervisor/Engineer will be responsible for the documentation of pay quantities and estimates, and the maintenance of appropriate records related to the construction of this project.

16. Work Schedule and Suspension: The consultant's crew will be required to regulate their work week to conform to the contractor's hours in accordance with the directions of the INDOT's Area Engineer. If work on the construction project is suspended and all matters concerning contract compliance and administration are complete, the services of the consultant may also be suspended without cost to the project.

17. Contract Administration: The CONSULTANT will administer the contract in accordance with Indiana Department of Transportation's procedures.

18. Conflict of Interest: The CONSULTANT acknowledges and agrees that the CONSULTANT, a firm associated with the CONSULTANT or an individual associated with the CONSULTANT cannot accept or perform any work (including but not limited to construction engineering, production staking, falsework drawings, shop drawings) for the contractor, material supplier of the contractor or for any of the contractor's subcontractors on this project. For purposes of this section a firm is associated with the CONSULTANT if the firm and CONSULTANT have a common director, common officer or a common owner. For purposes of this section an individual is associated with the CONSULTANT if the individual is an employee of the CONSULTANT or an employee of a firm associated with the CONSULTANT. For purposes of this section the following definitions shall be used:
    Director – Any member of the board of directors of a corporation.
    Officer – The president, secretary, treasurer, or such other officers as may be prescribed by the corporation bylaws.
    Owner – A sole proprietor, any partner in a partnership, or any shareholder of a corporation.

APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA:

The LPA shall furnish the CONSULTANT with the following:

(TO BE DETERMINED-MAY INCLUDE THE FOLLOWING)

1. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
2. Standard Specifications and standard drawings applicable to the project
3. Plans of existing bridge within the project limits
4. All written views pertinent to the location and environmental studies that are received by INDOT
5. Traffic assignments, Traffic Signal Warrants (New Signal), Traffic Lighting Warrants (New Lighting)
6. Necessary permit forms and permit processing (US Army Corps of Engineers, US Coast Guard, and/or Indiana Department of Natural Resources)
7. Available data from the transportation planning process
8. Utility plans available to INDOT covering utility facilities govern the location of signals and underground conduits throughout the affected areas
9. Provide access to enter upon public and private lands as required for the CONSULTANT to perform work under this Contract
10. Aerial Survey information
11. Existing water quality data
12. Laboratory tests for pavement investigation
13. Pavement design analysis
14. Geotechnical investigation, if applicable

APPENDIX "C"

SCHEDULE:

No work under this Contract shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the LPA.

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

No work under this Contract shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the LPA.

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

The CONSULTANT will be prepared to begin the work under this Agreement within five (5) days after a letter of notification to proceed is received from the Local Public Agency. The CONSULTANT shall complete and deliver the final construction record and final estimate to the District within forty-five (45) working days after the contractor's last day of work.

APPENDIX "D"

(See Attachment "D" to the INDOT-LPA Project Coordination Contract and need to include any Travel reimbursement provisions).

1. The CONSULTANT shall receive as payment for the work performed under this Contract the total amount NOT To Exceed **$347,638.00** unless a supplement is executed by the parties that increases the maximum amount payable.

2. The CONSULTANT will be paid for the actual hours of work performed exclusively on this Contract in accordance with the following negotiated hourly billing rates per classification:

Classification	Hourly Rates	
	Reg. Rate	Ovt. Rate
Sr. Project Manager/Principle (Licensed PE)	$ 238.00	
Project Manager	$ 173.00	
Sr Engineer Sr Designer	$ 125.00	
Sr Const. Manager (PE/S)	$ 114.00	$ 135.00
Project Engineer/Supervisor/RPR	$ 109.00	$ 129.00
Inspector	$ 99.00	$ 118.00

3. For those services performed by the CONSULTANT, the CONSULTANT will be reimbursed the direct non-salary costs (the actual costs of such out-of-pocket expenses directly attributable to the Contract such as fares, round trip mileage from CONSULTANTS' personnel place of residence to the INDOT's assigned job site including the mileage at the job site, long distance calls, equipment rentals, reproductions, etc.) as approved by INDOT. The direct non-salary costs for travel reimbursement shall not exceed the limitations on travel expenses set out in the current State of Indiana policy on travel reimbursement. The CONSULTANT shall provide personnel local to the assigned District, county, or project as published in the Request for Proposal or as otherwise agreed to and stated herein such that lodging and subsistence expenses are not incurred. Travel time will not be reimbursable for less than 50 miles commute each way from CONSULTANTS' personnel residence to the assigned work location.

4. For those services performed by other than the CONSULTANT, the CONSULTANT will be reimbursed for the actual invoice for the services performed by other than the CONSULTANT, provided that each such invoice shall be subject to approval as reasonable by INDOT prior to any reimbursement thereof.

5. The CONSULTANT shall submit biweekly timesheets for each employee working on this Contract to the INDOT Area Engineer or PE/S. Hours worked by the employee shall be recorded to the nearest 0.25 hour.

6. The CONSULTANT shall not bill for overtime premium for any individual until forty hours have been worked on the Contract for the week by that individual. Holiday hours not worked on the Contract do not apply to the forty hour weekly total.

7. The actual amount payable shall be determined in accordance with a final audit by INDOT's Division of Finance.

E-Verify Affidavit

Pursuant to Indiana Code 22-5-1.7, Contractor agrees and shall enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program. E-Verify means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208). Division C, Title IV, s.403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603). Contractor is not required to verify the work eligibility status of all newly hired employees of Contractor through the E-verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Contractor, being first duly sworn, deposes and states that the Contractor does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into its contract with the City, the undersigned Contractor will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

A&Z Engineering LLC

Name of Company

Company Representative Signature

Owner-Inspection Dept. Manager

Title

ACKNOWLEDGEMENT

STATE OF Indiana)
) **SS**
COUNTY OF Allen)

Before me, a Notary Public, in and for said State and County, personally appeared the within named Company by Name, Title, who being first duly sworn upon his/her oath states that he/she is a duly authorized agent of the Contractor, and as such duly authorized to execute the foregoing Declaration, and acknowledged the same as his/her voluntary act and deed.

WITNESS my hand and swear this 20 day of October, 20 26.

My Commission Expires: May 21, 2032

Signature of Notary Public

Resident of Dekalb County

Kirsten Gundlach

Printed Name

KIRSTEN GUNDLACH
Notary Public, State of Indiana
Dekalb County
Commission Number NP0756600
My Commission Expires
May 21, 2032

DIGEST SHEET

Department: Transportation Engineering

Resolution Number: 0443X

Title of Ordinance: Construction Inspection Services for the Replacement of Bridge #550 on Tillman Rd over Highland Drain #4 (PSA with A&Z Engineering LLC)

Amount of Contract: $347,638.00

Description of Project (Be Specific): This is one component of the larger project - the full replacement of Bridge #550 on Tillman Rd over Highland Drain #4. This bridge is currently rated a 3 out of 10 and is next in line for replacement due to its low rating. Construction is scheduled for 2027.

What Are The Implications If Not Approved: Without action, the bridge will continue to deteriorate, and its structure rating will fall even lower - leading to load ratings and eventual closure. Deferral of this project could result in the loss of federal funding for this project.

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

Additional Comments: This bridge is next in line for replacement due to its low rating. Federal grant funding is covering 80% of the cost for engineering, construction, and inspection.

Public Hearing Date: N/A
Read the first time in full and on motion by Councilperson Ensley.
Read the second time by title and referred to the Public Works Committee.
Read the third time in full and on motion by Councilperson Ensley, placed on passage by the following vote:

TOTAL VOTES	AYES	NAYS	ABSTAINED	ABSENT
BENDER	☒	☐	☐	☐
BOOKER	☒	☐	☐	☐
CHAMBERS	☒	☐	☐	☐
ENSLEY	☒	☐	☐	☐
FREISTROFFER	☒	☐	☐	☐
HARTMAN	☒	☐	☐	☐
JEHL	☒	☐	☐	☐
MYERS	☒	☐	☐	☐
PADDOCK	☒	☐	☐	☐

DATED: November 10, 2026

JOHN D. MCGAULEY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Special Ordinance No. S-26-10-16 on the 10th day of November , 2026

ATTEST:

JOHN D. MCGAULEY
CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th of November 2026, at the hour of 9:00 o'clock A.M. E.S.T.

JOHN D. MCGAULEY, CITY CLERK

Approved and signed by me this 12th day of November 2026, at the hour of 1:50 o'clock P.M. E. S.T.

Fort Wayne Indiana
Office of the City Clerk
NOV 12 2026
RECEIVED

SHARON TUCKER, MAYOR

BILL NO. S-26-10-16

REPORT OF COMMITTEE ON PUBLIC WORKS

November 10, 2026

Paul Ensley Chair

Michelle Chambers Co-Chair

All Council Members

An Ordinance approving Consulting Contract – Construction Inspection Services for the replacement of Bridge #550 on Tillman Rd over Highland Drain #4 – between A&Z Engineering, LLC and the City of Fort Wayne, Indiana by and through its Board of Public Works

Involving a total cost $347,638.00

COMMITTEE ON PUBLIC WORKS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

COUNCIL MEMBER	DO PASS	DO NOT PASS	ABSTAIN
BENDER			
BOOKER			
CHAMBERS			
ENSLEY			
FREISTROFFER			
HARTMAN			
JEHL			
MYERS			
PADDOCK			

JOHN D. MCGAULEY
CITY CLERK