

1316 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830



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CITY OF SOUTH BEND JAMES MUELLER, MAYOR  
**BOARD OF PUBLIC WORKS**

September 10, 2024

Mr. Nitin V. Timble  
A&Z Engineering, LLC  
1220 Ruston Pass  
Ft. Wayne, Indiana 46825  
[ntimble@az-engineering.net](mailto:ntimble@az-engineering.net)

RE: Professional Services Agreement

Dear Mr. Timble:

At its September 10, 2024 meeting, the Board of Public Works approved the above referenced agreement for design, bidding, construction, and engineering services for Lincoln Way E. & Miami Intersection Improvements Project No. 123-078 in an amount not to exceed \$148,520.

Enclosed please find a copy of the agreement for your records.

If you have any further questions, please call this office at (574) 235-9251.

Sincerely,

/s/ Theresa Heffner

Theresa Heffner, Clerk

Enclosures  
TH/hh

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Laws and Regulations.

AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*A Practice Division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, EJCDC E-001, 2009 Edition.

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ENGINEERS JOINT CONTRACT  
DOCUMENTS COMMITTEE

**AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ , \_\_\_\_\_ (“Effective Date”) between  
Board of Public Works, City of South Bend, Indiana (“Owner”) and  
A&Z Engineering, LLC (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Miami Road And Lincoln Way East Intersection Improvements / #123-078 ("Project").

Engineer's services under this Agreement are generally identified as follows:

Miami Road and Lincoln Way East Intersection Improvements including removal of bypass right turn lane from Lincoln Way East, pedestrian access with signal improvements and configuration of turn lanes from Miami Road.

Owner and Engineer further agree as follows:

**ARTICLE 1 – SERVICES OF ENGINEER**

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

**ARTICLE 2 – OWNER'S RESPONSIBILITIES**

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Exhibit C.

- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

### **ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES**

#### *3.01 Commencement*

- A. The Engineer is authorized to begin rendering services as of the Effective Date.

#### *3.02 Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If the Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

### **ARTICLE 4 – INVOICES AND PAYMENTS**

#### *4.01 Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 35 days of receipt.

#### *4.02 Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:

1. ~~amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and~~
  2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all **non-disputed** amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

## ARTICLE 5 – OPINIONS OF COST

### 5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

### 5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.

### 5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

## ARTICLE 6 – GENERAL CONSIDERATIONS

### 6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer’s services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer’s services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
  - 1. Engineer and Owner shall comply with applicable Laws and regulations.
  - 2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement. provided to Engineer in writing. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
  - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner’s responsibilities or to Engineer’s scope of services, times of performance, or compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. The general conditions for any construction contract documents prepared hereunder are to be the “Standard General Conditions of the Construction Contract” as prepared by the Engineers Joint



Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.

- H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.
- L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

#### 6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.06. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, review and response to Contractor claims, contract administration, processing Change Orders, revisions to the Contract Documents during construction, construction surety bonding and insurance requirements, construction observation and review, review of payment applications, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase engineering or professional services except for those services that are expressly required of Engineer in Exhibit A, Paragraph A1.06.

#### 6.03 *Use of Documents*

- A. The Owner acknowledges the Engineer's construction documents, including all electronic files, as instruments of professional services. Nevertheless, the final construction documents, including all electronic files, prepared under this agreement shall become the property of the Owner upon completion of services and payment in full of all monies due to the Engineer. The Owner shall not reuse or make any modification to the construction documents without the prior written authorization of the Engineer. ~~All Documents are instruments of service in respect to this Project,~~

~~and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.~~

- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit J.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- F. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.
- G. At completion of any survey services and upon payment of monies due the Engineer for those services, the Engineer shall provide the owner with all survey data and drawings, upon which it will become the property of the Owner.

- H. At completion of any traffic study services and upon payment of monies due the Engineer for those services, the Engineer shall provide the owner with all data and models, upon which it will become the property of the Owner.
- I. At completion of any geotechnical or material investigation services and upon payment of monies due the Engineer for those services, the Engineer shall provide the owner with all data, upon which it will become the property of the Owner.

#### 6.04 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies and as loss payees on any property insurance policies carried by Owner which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. ~~Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.~~
- D. ~~Owner and~~ Engineer shall ~~each~~ deliver to the **Owner** ~~other~~ certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner ~~and Engineer~~ and to each other additional insured (if any) to which a certificate of insurance has been issued.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

#### 6.05 *Suspension and Termination*

- A. Suspension:

1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
  2. By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.
- B. *Termination*: The obligation to provide further services under this Agreement may be terminated:
1. For cause,
    - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
    - b. By Engineer:
      - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
      - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
      - 3) Engineer shall have no liability to Owner on account of such termination.
    - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
  2. For convenience,
    - a. By Owner effective upon Engineer's receipt of notice from Owner.
- C. *Effective Date of Termination*: The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. *Payments Upon Termination*:

1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

#### 6.06 *Controlling Law*

- A. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.

#### 6.07 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
  1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
  2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
  3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

## 6.08 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights under law.
- B. If the parties fail to resolve a dispute through negotiation, under Paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.

## 6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

## 6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages arising out of or relating to the

Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**

- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.
- C. *Environmental Indemnification:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

#### 6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to

replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

## ARTICLE 7 – DEFINITIONS

### 7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
  - 1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
  - 2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
  - 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
  - 4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
  - 5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
  - 6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
  - 7. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C.



§§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

8. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer’s independent professional associates and consultants; subcontractors; or vendors.
9. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
10. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
11. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
12. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
13. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
14. *Engineer* – The individual or entity named as such in this Agreement.
15. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
16. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
17. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
18. *PCBs* – Polychlorinated biphenyls.

19. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
20. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
21. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
22. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
23. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
24. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. ~~The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.~~
25. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
26. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
27. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
28. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
29. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
30. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the

Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

31. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
32. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.
33. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

## ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

### 8.01 *Exhibits Included:*

- A. Exhibit A, Engineer’s Services.
- B. Exhibit B, Owner’s Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. ~~Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.~~ **NOT INCLUDED**
- E. ~~Exhibit E, Notice of Acceptability of Work.~~ **NOT INCLUDED**
- F. ~~Exhibit F, Construction Cost Limit.~~ **NOT INCLUDED**
- G. Exhibit G, Insurance.
- H. ~~Exhibit H, Dispute Resolution.~~ **NOT INCLUDED**
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Special Provisions.
- K. ~~Exhibit K, Amendment to Owner-Engineer Agreement.~~ **NOT INCLUDED**

8.02 *Total Agreement:*

- A. This Agreement, (together with the exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives:*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications:*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
  3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

**CITY OF SOUTH BEND, INDIANA  
BOARD OF PUBLIC WORKS**



Elizabeth A. Maradik, President



Joseph R. Molnar, Vice President



Gary A. Gilot, Member



Briana Micou, Member



Murray L. Miller, Member

ATTEST:



Theresa M. Heffner, Clerk

Date: September 10, 2024

Address for giving notices:  
227 West Jefferson Boulevard  
South Bend, Indiana 46601

Designated Representative (Paragraph 8.03.A):

Kara M. Boyles, Ph.D., P.E.

Title: City Engineer

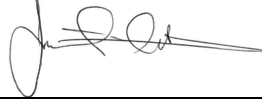
Phone Number: (574) 235-5933

Facsimile Number: (574) 235-9171

E-Mail Address: [kboyles@southbendin.gov](mailto:kboyles@southbendin.gov)

Engineer:  
A&Z Engineering, LLC

By:



Title: Jamal T. Anabtawi, PE, Member

Date: 05/03/2024

Engineer License or Firm's  
Certificate No. PE 63053

State of: Indiana

Address for giving notices:  
1220 Ruston Pass  
Ft. Wayne, IN 46825

Designated Representative (Paragraph 8.03.A):

Nitin V. Timble, PE, PS

Title: Project Manager

Phone Number: (260) 485-7077 ext 125

Facsimile Number: (260) 485-7071

E-Mail Address: [ntimble@az-engineering.net](mailto:ntimble@az-engineering.net)

This is **EXHIBIT A**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

## **Engineer's Services**

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Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

### **PART 1 – BASIC SERVICES**

#### *A1.01 30% Preliminary Design Plans*

A. Engineer shall:

1. Perform survey of the project area.
2. Perform project cost analysis for intersection improvements and a path from the Miami and Lincoln Way Intersection on the Northwest side of Lincoln Way East on St. Joseph Riverbank to be improved and continued to the Railroad bridge. The three alternatives are provided below,
  - a. Cost estimation for constructing a 10ft path at curb face replacing the existing 5ft sidewalk with grass strip and extending it approximately 470 ft to meet the existing 10ft path at the Railroad bridge.
  - b. Cost estimation for constructing a 5ft sidewalk extending from the existing 5ft sidewalk with grass strip approximately 122ft to meet the existing 10ft path at the Railroad bridge.
  - c. Cost estimation for constructing alternate at 2b together with replacement of existing uneven, sunk, cracked and deteriorated sections of existing 5ft path.
3. Analyze traffic counts and traffic study for Miami Road turn lane configuration at Lincoln Way East. Traffic analysis to consider,
  - a. Two (2) left turn lanes and No dedicated right turn lane.
  - b. One (1) left turn lane and One (1) dedicated right turn lane
4. Perform two (2) pavement cores under Geotechnical Investigations
5. Perform or provide the following 30% Preliminary Design Phase tasks or deliverables:
  - a. Facilitate kickoff meeting with INDOT and other stakeholders to gather input.
  - b. Demolition plans
  - c. Typical Cross-Sections
  - d. Maintenance of Traffic Schemes
  - e. Plan and Profile Sheets
  - f. Pavement Marking and Signage Plans
  - g. Handicap Ramp Layouts

- h. Cross-sections
  - i. Coordinate with Utilities to confirm location of their facilities.
  - j. Provide right-of-way impacts.
  - k. Provide legal description for 1210 Miami Street property and sidewalk parcels (5) along Lincoln Way East that need to be dedicated as public right-of-way.
6. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
  7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in collating the various cost categories which comprise Total Project Costs.
  8. Furnish electronic copy of the Preliminary Design Phase documents and any other deliverables to Owner within 30 calendar days of authorization to proceed with this phase and review them with Owner. Within 10 calendar days of receipt, Owner shall submit to Engineer any comments regarding the Preliminary Design Phase documents and any other deliverables.
  9. Revise the 30% Preliminary Design Phase documents and any other deliverables in response to Owner's comments, as appropriate, and furnish electronic copy of the revised 30% Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within 7 calendar days after receipt of Owner's comments. Legal Descriptions and exhibits to be completed and submitted to Owner within 28 calendar days after receipt of Owner's comments.
- B. Engineer's services under the 30% Preliminary Design Phase will be considered complete on the date when the revised 30% Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables have been delivered to Owner.

#### A1.02 60% Preliminary Design Plans

A. After acceptance by Owner of the 30% Preliminary Plans, Engineer shall:

1. Perform or provide the following 60% Preliminary Design Phase tasks or deliverables:
  - a. Demolition Plans
  - b. Finalize Pavement Marking and Signage Plans
  - c. Traffic Signal Plan
  - d. Lighting Plans - Add ornamental mast arm with luminaires on existing traffic poles at the project intersection and replace those existing along the northwest side of Lincoln Way East from project intersection to the Railroad bridge with 30ft pole ornamental pole with 18ft pedestrian light fixture. Replace existing 5 light poles along Miami Street from the project intersection south to Railroad underpass with ornamental poles similar to those along Miami Road further south of Railroad underpass.
  - e. Erosion Control Plan
  - f. Tables for Pavement, Structure, Sign/Post

- g. Details Sheets
  - h. Cross-Sections
  - i. CSGP permit application
  - j. Coordinate with Utilities regarding conflicts, their resolution and request Work Plans and Schedule.
  - k. Landscape plan
2. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
  3. Based on the information contained in the 60% Preliminary Design Phase documents, prepare the Preliminary Construction Cost Estimate.
  4. Perform or provide the following additional 60% Preliminary Design Phase tasks or deliverable such as Specifications, Utility Coordination, CSGP permit Application.
  5. Furnish electronic review copy of the Preliminary Design Phase documents and any other deliverables to Owner within 30 calendar days of authorization to proceed with this phase and review them with Owner. Within 10 calendar days of receipt, Owner shall submit to Engineer any comments regarding the 60% Preliminary Design Phase documents and any other deliverables. Engineer shall concurrently submit plans to INDOT LaPorte District for review and comments.
  6. Revise the 60% Preliminary Design Phase documents and any other deliverables in response to Owner's and INDOT's comments, as appropriate, and furnish to Owner and INDOT electronic copies of the revised 60% Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within 7 calendar days after receipt of Owner's and INDOT's comments.
  7. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits form and/or approvals of governmental authorities having jurisdiction to review and/or approve the final design of the Project; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities.
- B. Engineer's services under the 60% Preliminary Design Phase will be considered complete on the date when the revised 60% Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables have been delivered to Owner and INDOT.

#### *A 1.03 90% Final Design Plans*

- A. Advise Owner of any adjustments to the opinion of probable Construction after acceptance by Owner of the 60% Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other deliverables subject to any Owner-directed modifications and/or changes in the scope, extent, character, and/or design requirements for the Project, and upon written authorization from Owner, Engineer shall:



1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the work to be performed and furnished by Contractor.
  2. Provide detailed Construction Cost Estimates in Excel format to Owner.
  3. Perform or provide the following additional Final Design Phase Tasks or deliverables,
    - a. Provide a rendered plan (colored version of CAD plan sheet) for public information.
  4. Prepare and furnish electronic review copies of the bidding documents for review by Owner, its legal counsel, and other advisors, and assist Owner in the preparation of other related documents. Within 10 days of receipt, Owner shall submit to Engineer any comments and, subject to the provisions of Paragraph 6.01.G, instructions for revisions.
  5. Revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit electronic final copies of the bidding documents, a revised Construction Cost Estimate, and any other deliverables to Owner within 7 calendar days after receipt of Owner's comments and instructions.
  6. Submission of 90% plans to City will be made within 168 calendar days from the date of City's notice to proceed.
- B. Engineer's services under the 100% Final Design Plans will be considered complete on the date when the submittals required by Paragraph A1.03.A.5 have been delivered to and approved by Owner.

1. Tentative project schedule could be as follows,

Notice to Proceed.....	June 2024
30% Preliminary Design Plans Submittal.....	November 2024
Legals Submittal upon City Review.....	December 2024
60% Preliminary Design Plans Submittal.....	March 2025
90% Final Design Plans Submittal.....	April 2025
100% Final Design Plans Complete.....	May 2025
Project Bid.....	June 2025
Project Award.....	July 2025
Project Construction Complete.....	November 2025

*A 1.04 Bidding or Negotiating Phase*

- C. After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Plans, and upon written authorization by Owner to proceed, Engineer shall:
1. Assist Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the bidding documents.

2. Issue addenda as appropriate to clarify, correct, or change the bidding documents.
  3. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.
  4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.
  5. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.
  6. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
- D. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

#### *A1.05 Construction Phase*

- E. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
1. *Pre-Construction Conference*: Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
  2. *Shop Drawings and Samples*: Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
  3. *Substitutes and "or-equal"*: Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

## **PART 2 – ADDITIONAL SERVICES**

#### *A2.01 Additional Services Requiring Owner's Written Authorization*

- F. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with

- the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
  3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
  4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in Paragraph A1.01
  5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
  6. Providing renderings or models for Owner's use other than those for Public Information Meetings.
  7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
  8. Furnishing services of Consultants for other than Basic Services.
  9. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
  10. Services during out-of-town travel required of Engineer other than for visits to the Site or Owner's office.
  11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
  12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.

13. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
14. Providing construction surveys and staking to enable Contractor to perform its work, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
15. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor.
16. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
17. Preparing Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor and furnishing such Record Drawings to Owner.
18. Preparation of operation and maintenance manuals.
19. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
20. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
21. Assistance in connection with the adjusting of Project equipment and systems.
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.
24. Overtime work requiring higher than regular rates.
25. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

*A2.02 Additional Services Not Requiring Owner's Written Authorization*

- A. Engineer shall advise Owner in advance that Engineer is will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
  1. Services in connection with work change directives and change orders to reflect changes requested by Owner.

2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
7. Services during the Construction Phase rendered outside of A1.06
8. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.
9. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.

This is **EXHIBIT B**, consisting of \_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_, \_\_\_\_.

## **Owner's Responsibilities**

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Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.
- D. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- F. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- G. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- H. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
  - 1. Accounting, bond and financial advisory, independent cost estimating, agency permit fees and insurance counseling services.

2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
  3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
- I. Place and pay for advertisement for Bids in appropriate publications.
  - J. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
  - K. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
  - L. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
  - M. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
  - N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.
  - O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.
  - P. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.
  - Q. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
  - R. Provide Engineer with eight (8) hour traffic count for the project intersection.

**1. Compensation for Basic Services (not including Resident Project Representative) (as described in Exhibit A, Part I)**

Decision Question: Which method of compensation is to be used?

	<b>Lump Sum</b>	<b>Standard Hourly Rates</b>	<b>Percentage of Construction Costs</b>	<b>Direct Labor Costs Times a Factor</b>	<b>Direct Labor Costs Plus Overhead Plus a Fixed Fee</b>	<b>Salary Costs Times a Factor</b>
Use This Base Compensation Packet	Packet BC-1	Packet BC-2	Packet BC-3	Packet BC-4	Packet BC-5	Packet BC-6
Include This Appendix	N/A	Appendices 1 and 2	N/A	Appendix 1	Appendix 1	Appendix 1

**2. Compensation for Resident Project Representative (as described in Exhibit A, Paragraph A1.05.A.2, and in Exhibit D)**

Decision Question: Which method of compensation is to be used?

	<b>Lump Sum</b>	<b>Standard Hourly Rates</b>	<b>Percentage of Construction Costs</b>	<b>Direct Labor Costs Times a Factor</b>	<b>Salary Costs Times a Factor</b>
Use This RPR Compensation Packet	Packet RPR-1	Packet RPR-2	Packet RPR-3	Packet RPR-4	Packet RPR-5
Include This Appendix	N/A	Appendices 1 and 2	N/A	Appendix 1	Appendix 1



3. **Compensation for Additional Services (as described in Exhibit A, Part 2)**

Decision Question: Which method of compensation is to be used?

	<b>Standard Hourly Rates</b>	<b>Direct Labor Costs Times a Factor</b>	<b>Salary Costs Times a Factor</b>
Use This Additional Services Compensation Packet	Packet AS-1	Packet AS-2	Packet AS-3
Include This Appendix	Appendices 1 and 2	Appendix 1	Appendix 1

Example: If Basic Services (other than RPR) will be compensated using Lump Sum; RPR services using Direct Labor Times a Factor; and Additional Services using Standard Hourly Rates; then use Packet BC-1; Packet RPR-4; Packet AS-1; and Appendices 1 and 2 to form Exhibit C.

SUGGESTED FORMAT  
(for use with E-500, 2008 Edition)

This is **EXHIBIT C**, consisting of \_\_\_\_ pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated \_\_\_\_\_, \_\_\_\_\_.

**Payments to Engineer for Services and Reimbursable Expenses**  
**COMPENSATION PACKET BC-1: Basic Services – Lump Sum**

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Article 2 of the Agreement is supplemented to include the following agreement of the parties:

**ARTICLE 2 – OWNER’S RESPONSIBILITIES**

*C2.01 Compensation for Basic Services (other than Resident Project Representative) – Lump Sum Method of Payment*

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. A Lump Sum amount of \$148,520 based on the following estimated distribution of compensation (Task description as outlined in Attachment A):

a. 30% Preliminary Design Plans	<u>\$83,515</u>
Topo Survey and Drawing	\$8,880
Project Cost Analysis	\$3,730
Traffic Analysis	\$11,620
Geotechnical Investigations	\$2,240
Plan Drawings	\$29,155
R/W Engineering	\$27,890
b. 60% Preliminary Design Plans	<u>\$36,400</u>
c. 90% Final Design Plans	<u>\$ 11,590</u>
d. 100% Final Design Plans	<u>\$ 4,600</u>
e. Bidding and Negotiating Phase	<u>\$ 4,980</u>
f. Construction Phase	<u>\$ 5,920</u>
g. Reimbursable Expenses	<u>\$ 1,515</u>

2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.
  3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
  4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.
- B. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding 24 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

**COMPENSATION PACKET AS-1:  
Additional Services – Standard Hourly Rates**

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Article 2 of the Agreement is supplemented to include the following agreement of the parties:

**C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment**

A. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

B. *Compensation For Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of 1.0.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of 01/01/2025) to reflect equitable changes in the compensation payable to Engineer.

C. *Other Provisions Concerning Payment For Additional Services:*

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.10.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

This is **Appendix 1 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

### **Reimbursable Expenses Schedule**

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Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

8"x11" Copies/Impressions	\$1.00/page
Reproducible Copies (24"x36" Paper)	\$1.82/Sheet
Mileage (auto)	\$0.65/mile
Mileage (Field Truck)	\$0.67/mile
Meals and Lodging	At cost

This is **Appendix 2 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

## **Standard Hourly Rates Schedule**

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### *A. Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Article C2.

### *B. Schedule:*

Hourly rates for services performed on or after the date of the Agreement are:

Billing Class VIII / Principal	\$ 190.00/hour
Billing Class VII / Sr.PM	\$ 155.00/hour
Billing Class VI / Sr. Project Engr	\$ 145.00/hour
Billing Class V / Sr. Engr, Sr Designer	\$ 130.00 /hour
Billing Class IV / Engr, Designer	\$ 120.00/hour
Billing Class III / Sr. Technician	\$ 108.00/hour
Billing Class II / One Person Crew	\$ 135.00/hour
Billing Class I / Two Person Crew	\$ 180.00/hour
Support Staff / Admin	\$ 85.00/hour

This is **EXHIBIT G**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

**Insurance**

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Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 *Insurance*

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Engineer:

- a. Workers' Compensation: Statutory
- b. Employer's Liability --
  - 1) Each Accident: \$1,000,000
  - 2) Disease, Policy Limit: \$1,000,000
  - 3) Disease, Each Employee: \$1,000,000
- c. General Liability --
  - 1) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
  - 2) General Aggregate: \$3,000,000
- d. Excess or Umbrella Liability --
  - 1) Each Occurrence: \$5,000,000
  - 2) General Aggregate: \$5,000,000
- e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):  
Each Accident \$1,000,000
- f. Professional Liability --
  - 1) Each Claim Made \$3,000,000
  - 2) Annual Aggregate \$3,000,000
- g. Other (specify): \$ \_\_\_\_\_

2. By Owner:

- a. The City of South Bend is a municipal corporation organized under the laws of the State of Indiana, and is self-insured under provisions of Indiana statutes and local



ordinance. Specifically, the City of South Bend maintains blanket insurance coverage over real and personal property and is covered by a non-reverting insurance premium and liability reserve fund created by the City of South Bend, Ordinance #6657-79, pursuant to Indiana Code 34-13-3-4, as amended from time to time. Under said statute, the City's liability is limited to:

- 1) Seven hundred thousand dollars (\$700,000) for a cause of action that accrues on or after January 1, 2008; and
- 2) Five million dollars (\$5,000,000) for injury to or death of all persons in that occurrence; and
- 3) A governmental entity or an employee of a governmental entity acting within the scope of employment is not liable for punitive damages.

B. *Additional Insureds:*

~~1. The following persons or entities are to be listed on Owner's general liability policies of insurance as additional insureds, and on any applicable property insurance policy as loss payees, as provided in Paragraph 6.04.B:~~

a. \_\_\_\_\_  
Engineer

b. \_\_\_\_\_  
Engineer's Consultant

e. \_\_\_\_\_  
Engineer's Consultant

~~2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability and property policies of insurance.~~

3. The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.04.A.

This is **EXHIBIT I**, consisting of \_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

## **Limitations of Liability**

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Paragraph 6.10 of the Agreement is supplemented to include the following agreement of the parties:

### *A. Limitation of Engineer's Liability*

1. *Engineer's Liability Limited to Amount of Insurance Proceeds:* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). ~~If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's Claims shall not exceed \$ \_\_\_\_\_~~

- B. *Indemnification by Owner:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

This is **EXHIBIT J**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

**Special Provisions**

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Paragraph(s) \_\_\_\_ of the Agreement is/are amended to include the following agreement(s) of the parties:

ATTACHMENT A – MANHOUR JUSTIFICATION



Client:  
 Project Name:  
 South Bend Project No.:

City of South Bend  
 Miami Road & Lincoln Way East Intersection Improvements  
 123-078



Manhour Justification	Principle	Sr. PM	Sr PE/Eng	Sr Designer/ Sr Surveyor	Engineer/Designer	Technician	Admin	2 Person Survey Crew	1 Person Survey Crew	Total Hrs	Total Fee	
	Task Description											
<b>Task 1</b>	<b>30% Preliminary Design Plans / Submission</b>	8	81	44	229	184	12	2	10	60	630	\$ 83,515
	<b>Topographic Survey and Drawing</b>											\$ -
	1a Survey notices, records research, 811 locates,				6			2				\$ 950
	1b Set Benchmarks, Horz Control, Level Circuit, Structure Data							10				\$ 1,800
	1c Site topo survey and data collection, property corners recon								30			\$ 4,050
	2a Data processing, cleanup, prop lines, r/w				8							\$ 1,040
	2b Existing pipe network, topo cleanup				8							\$ 1,040
	<b>Project Cost Analysis</b>											\$ -
	3 Cost of Path fully replaced		2		2	16						\$ 2,490
	4 Cost of Gaps to be filled with path				2	2						\$ 500
	5 Cost of Gap to be filled and replace dangerous sections				2	4						\$ 740
	<b>Traffic Study</b>											\$ -
	6 Coordination with INDOT LaPorte District and City		4									\$ 620
	7 Traffic Consultant SEH Traffic Analysis			40	40							\$ 11,000
	<b>Geotechnical Investigations</b>											\$ -
	8 Pavement Cores (2)			4	4		12					\$ 2,240
	<b>Plan Drawings - 30% Plan Set</b>											\$ -
	9 Facilitate Kick-off mtg with INDOT and Stakeholders		4		4	4						\$ 1,620
	10 Demolition Plan/2 Sht		2		4	12						\$ 2,270
	11 Preliminary Typical Cross Sections - 1 sht		2		6	8						\$ 2,050
	12 Prel. Maint. of Traffic - 4 Phases max incl Detour(1" = 50') / 4 Shts		4		16	32						\$ 6,540
	13 Prel Plan and Profile (1" = 20') / 3 Shts		2		8	20						\$ 3,750
	14 Preliminary Pavement Markings and Signage (1"=40')/ 1 Sht		1		2	6						\$ 1,135
	15 Ramp Layout / 1 Sht		1		1	6						\$ 1,005
	16 Cross-Sections / 12 Shts		4		8	24						\$ 4,540
	17 Preliminary Quantity Calcs and Cost Estimates		1		4	6						\$ 1,395
	18 Utility Coordination					8						\$ 960
	19 QA/QC time	8				4						\$ 2,000
	20 Virtual Mtg with City / 30 % review		4			4						\$ 1,100
	21 Compliance of City review at 30%		2			4						\$ 790
	<b>RW Engineering</b>											\$ -
	22 Title & Encumbrance Report (6)				32							\$ 4,160
	23 Legal Description (6)		24		24	12						\$ 8,280
	24 Plat Exhibit (6)		24		48	12						\$ 11,400
	25 R/W Staking (6)								30			\$ 4,050

Client:  
Project Name:  
South Bend Project No.:

City of South Bend  
Miami Road & Lincoln Way East Intersection Improvements  
123-078



Manhour Justification	Principle	Sr. PM	Sr PE/Eng	Sr Designer/ Sr Surveyor	Engineer/Designer	Technician	Admin	2 Person Survey Crew	1 Person Survey Crew	Total Hrs	Total Fee
	Task Description										
<b>Task 2</b> 60% Preliminary Design Plans / Submission	4	49	57	34	128	0	0	0	0	272	\$ 36,400
26 Title Sheet/1 sht					2						\$ 240
27 Finalize Index Sheet with Pertinent Utility Information/1 sht					2						\$ 240
28 Demolition Plan and Quantities/2 Sht				2	4						\$ 740
29 Preliminary Typical Cross Sections - 1 sht					2						\$ 240
30 Prel. Maint of Traffic - 4 Phases max (1" = 50') incl Detour / 4 Shts w/Summary				8	16						\$ 2,960
31 Prel Plan and Profile (1" = 20') / 3 Shts				4	8						\$ 1,480
32 Signal Plan / 1 Sht	4			4	8						\$ 2,240
33 Traffic Control Plans and Signage w/Summary/ 1 Sht				2	4						\$ 740
34 Lighting Design / Subconsultant Scheele Engg			57								\$ 8,265
35 Coordination with Lighting Consultant Scheele		2			2						\$ 550
36a Lighting Plan and Details/ 2 Shts				2	8						\$ 1,220
36b Landscape Plan and Details/ 1 Sht				2	4						\$ 740
37 Erosion Control Plans (1"= 40') / 1Plan+ 1detail Sht				2	8						\$ 1,220
38 Pavement Marking and Signage Plan and Summary Sheet/ 1 Sht				2	4						\$ 740
39 Ramp Design and details / 1 Sht				2	8						\$ 1,220
40 Cross-Section Sheets/ 12 Shts		1		4	8						\$ 1,635
41 Details Sheet		2			6						\$ 1,030
42 Qty Calcs and Cost Estimate					4						\$ 480
43 Specifications		24									\$ 3,720
44 QA/QC time		8			4						\$ 1,720
45 Utility Coordination					8						\$ 960
46 CSGP Permit Application					4						\$ 480
47 City and INDOT review / Site Visit		8			8						\$ 2,200
48 Compliance of City and INDOT review at 60%		4			6						\$ 1,340

Client:  
 Project Name:  
 South Bend Project No.:

City of South Bend  
 Miami Road & Lincoln Way East Intersection Improvements  
 123-078



Manhour Justification	Principle	Sr. PM	Sr PE/Ingr	Sr Designer/ Sr Surveyor	Engineer/Designer	Technician	Admin	2 Person Survey Crew	1 Person Survey Crew	Total Hrs	Total Fee
	Task Description										
<b>Task 3 90% Final Design Plans / Submission</b>	5	20	0	10	52	0	0	0	0	87	\$ 11,590
49 Title Sheet / 1 Sht					2						\$ 240
50 Finalize Index Sheet with Pertinent Utility Information / 1 Sht					2						\$ 240
51 Typical Cross Sections / 1 Sht					2						\$ 240
52 Demolition Plans (1"= 20') / 1 Sht					2						\$ 240
53 Maintenance of Traffic - 3 Phases max (1" = 50') / 4 Shts					4						\$ 480
54 Plan and Profile (1" = 20') / 2 Shts					4						\$ 480
55 Signal Plan / 1 Sht	2			2	4						\$ 1,120
56 Lighting Plan and Details/ 2 Shts		2			4						\$ 790
57 Erosion Control Plans (1"= 40') / 1Plan+ 1detail Sht					2						\$ 240
58 Pavement, Sign and Marking Summary Sheet/ 1 Sht					2						\$ 240
59 Ramp Design and details / 1 Sht					2						\$ 240
60 Cross-Section Sheets/ 12 Shts					4						\$ 480
61 Qty Calcs and Cost Estimate					4						\$ 480
62 Specifications		4									\$ 620
63 Rendering (Public Mtg)	1	2		8	2						\$ 1,780
64 QA/QC time	2	8			2						\$ 1,860
65 Utility Coordination					4						\$ 480
66 CSGP Permit Application					2						\$ 240
67 Mtg - City review		2			2						\$ 550
68 Compliance of City review at 90%		2			2						\$ 550

Client:  
 Project Name:  
 South Bend Project No.:

City of South Bend  
 Miami Road & Lincoln Way East Intersection Improvements  
 123-078



Manhour Justification	Principle	Sr. PM	Sr PE/Ingr	Sr Designer/ Sr Surveyor	Engineer/Designer	Technician	Admin	2 Person Survey Crew	1 Person Survey Crew	Total Hrs	Total Fee	
	Task Description											
<b>Task 4</b>	<b>100% Final Design Plans / Submission</b>	0	8	0	0	28	0	0	0	0	36	\$ 4,600
	69 Title Sheet / 1 Sht					1						\$ 120
	70 Finalize Index Sheet with Pertinent Utility Information / 1 Sht					1						\$ 120
	71 Typical Cross Sections / 1 Sht					1						\$ 120
	72 Demolition Plans (1"= 20') / 2 Sht					1						\$ 120
	73 Maintenance of Traffic - 3 Phases max (1" = 50') / 4 Shts					2						\$ 240
	74 Plan and Profile (1" = 20') / 3 Shts					2						\$ 240
	75 Signal Plan / 1 Sht					2						\$ 240
	76 Lighting Plan and Details/ 2 Shts					2						\$ 240
	77 Erosion Control Plans (1"= 40') / 1Plan+ 1detail Sht					2						\$ 240
	78 Pavement, Sign and Marking Summary Sheet/ 1 Sht					2						\$ 240
	79 Ramp Design and details / 1 Sht					2						\$ 240
	80 Cross-Section Sheets/ 12 Shts					2						\$ 240
	81 Qty Calcs and Cost Estimate					2						\$ 240
	82 Specifications		2									\$ 310
	83 QA/QC time		4			2						\$ 860
	84 Utility Coordination					2						\$ 240
	85 CSGP Permit Application		2									\$ 310
	86 City Tracing Submittal					2						\$ 240



Client:  
Project Name:  
South Bend Project No.:

City of South Bend  
Miami Road & Lincoln Way East Intersection Improvements  
123-078



Manhour Justification											Total Hrs	Total Fee
	Principle	Sr. PM	Sr PE/Ingr	Sr Designer/ Sr Surveyor	Engineer/Designer	Technician	Admin	2 Person Survey Crew	1 Person Survey Crew			
Task Description											Total Hrs	Total Fee
<b>Task 5 Bidding and Negotiating Phase / Prebid Assistance</b>	0	16	0	0	18	0	4	0	0	0	38	\$ 4,980
87 Attend Prebid Mtg		6			6							\$ 1,650
88 Prebid Mtg Minutes		2			4							\$ 790
89 Issue Addendums		8			8		4					\$ 2,540
<b>Task 6 Construction Phase / Precon Mtg &amp; Const Admin</b>	0	32	0	0	8	0	0	0	0	0	40	\$ 5,920
90 Attend Precon		8			8							\$ 2,200
91 Shop Drawings		24										\$ 3,720
<b>Labor Total</b>	<b>17</b>	<b>206</b>	<b>101</b>	<b>273</b>	<b>418</b>	<b>12</b>	<b>6</b>	<b>10</b>	<b>60</b>	<b>1103</b>	<b>\$ 147,005</b>	

Labor Summary												
Task Description											Total Hrs	Total Fee
Task 1 30% Preliminary Design Plans / Submission	8	81	44	229	184	12	2	10	60	630	\$ 83,515	
Task 2 60% Preliminary Design Plans / Submission	4	49	57	34	128	0	0	0	0	272	\$ 36,400	
Task 3 90% Final Design Plans / Submission	5	20	0	10	52	0	0	0	0	87	\$ 11,590	
Task 4 100% Final Design Plans / Submission	0	8	0	0	28	0	0	0	0	36	\$ 4,600	
Task 5 Bidding and Negotiating Phase / Prebid Assistance	0	16	0	0	18	0	4	0	0	38	\$ 4,980	
Task 6 Construction Phase / Precon Mtg & Const Admin	0	32	0	0	8	0	0	0	0	40	\$ 5,920	
<b>Labor Total</b>											<b>\$ 147,005</b>	
<b>Reimbursable Expenses Total (See below)</b>												<b>\$ 1,515</b>
<b>TOTAL LABOR AND REIMBURSABLE FEES</b>	<b>17</b>	<b>206</b>	<b>101</b>	<b>273</b>	<b>418</b>	<b>12</b>	<b>6</b>	<b>10</b>	<b>60</b>	<b>1103</b>	<b>\$ 148,520</b>	
Labor Rate	\$190.00	\$155.00	\$145.00	\$130.00	\$120.00	\$95.00	\$85.00	\$180.00	\$135.00			
Labor Cost	\$ 3,230	\$ 31,930	\$ 14,645	\$ 35,490	\$ 50,160	\$ 1,140	\$ 510	\$ 1,800	\$ 8,100	\$ 147,005		
Labor Multiplier										1.000		
Labor Total	\$ 3,230	\$ 31,930	\$ 14,645	\$ 35,490	\$ 50,160	\$ 1,140	\$ 510	\$ 1,800	\$ 8,100	\$ 147,005		

Reimbursable Expenses						Total Sub Exp
	Mileage	Copies	Full Size Plans	Hotel		
Task Description	Miles			Each		Total Sub Exp
Mileage	900					\$ 615
Printing		\$ 200				\$ 200
Hotel				7		\$ 700
Totals	900	\$ 200	\$ -	7		\$ -
Expense Rate	\$ 0.67	1.00	2.00	\$ 100.00		
<b>Reimbursable Expenses Total</b>	<b>\$ 615.00</b>	<b>\$ 200</b>	<b>\$ -</b>	<b>\$ 700</b>		<b>\$ 1,515</b>

ATTACHMENT B – CONSTRUCTION COST ESTIMATE



**Created By:** DNP                      **Checked by:** LSG  
**Date:** 1/16/2024                      **Date Checked:** 2/7/2024  
**Updated By:** LAG  
**Date Updated:** 2/7/2024

PRELIMINARY CONSTRUCTION COST ESTIMATE					
Item No.	DESCRIPTION	Miami and Lincolnway			
		QUANTITY	UNIT	UNIT COST	ITEM COST
1	Excavation, Common	300	CYS	\$63.00	\$18,900.00
2	Concrete, Remove	85	SYS	\$62.00	\$5,270.00
3	HMA Surface, PG70-22P, Type B	130	TON	\$115.00	\$14,950.00
4	HMA Patching, Full Depth, Type B	65	TON	\$347.00	\$22,555.00
5	Milling, Asphalt, 2 IN.	1150	SYS	\$11.00	\$12,650.00
6	Asphalt for Tack Coat	1	TON	\$682.00	\$682.00
7	Joint Adhesive, Surface	810	LFT	\$0.50	\$405.00
8	Liquid Asphalt Sealant	810	LFT	\$0.50	\$405.00
9	Compacted Aggregate, No. 53	60	TON	\$36.00	\$2,160.00
10	Subgrade Treatment, Type II	250	SYS	\$86.00	\$21,500.00
11	PCCP for Approaches, 6 IN.	40	SYS	\$134.00	\$5,360.00
12	Sidewalk, Concrete	200	SYS	\$58.00	\$11,600.00
13	Curbside, Concrete	30	SYS	\$135.00	\$4,050.00
14	Curb, Concrete	355	LFT	\$66.00	\$23,430.00
15	Curb Ramp, Concrete	45	SYS	\$273.00	\$12,285.00
16	Detectable Warning Surfaces	10	SYS	\$432.00	\$4,320.00
17	Line, Thermoplastic, Solid, Yellow, 4 IN.	570	LFT	\$5.00	\$2,850.00
18	Line, Thermoplastic, Solid, White, 4 IN.	50	LFT	\$2.50	\$125.00
19	Transverse Marking, Thermoplastic, Stop Line, White, 24 IN.	70	LFT	\$20.00	\$1,400.00
20	Transverse Marking, Thermoplastic, Crosswalk Line, White, 6 IN.	270	LFT	\$5.00	\$1,350.00
21	Transverse Marking, Thermoplastic, Crosswalk Line, White, 24 IN.	195	LFT	\$20.00	\$3,900.00
22	Pavement Message Marking, Thermoplastic, Lane Indication Arrow	2	EA	\$250.00	\$500.00
23	Site Restoration	1	LS	\$25,000.00	\$25,000.00
24	Traffic Signal Improvements	1	LS	\$150,000.00	\$150,000.00
25	Street Lighting	1	LS	\$150,000.00	\$150,000.00
26	Construction Engineering (5%)	1	LS	\$24,782.35	\$24,783.00
27	Mobilization and Demobilization (5%)	1	LS	\$24,782.35	\$24,783.00
28	Clearing Right of Way (2%)	1	LS	\$9,921.00	\$9,921.00
29	Maintenance of Traffic (5%)	1	LS	\$24,782.35	\$24,783.00
30	Erosion Control (2%)	1	LS	\$9,912.94	\$9,913.00
	Contingency (20%)	1	LS	\$99,129.40	\$99,130.00
	<b>Total Cost Estimate</b>				<b>\$688,960.00</b>

**BOARD OF PUBLIC WORKS  
AGENDA ITEM REVIEW REQUEST FORM**

Date	<u>09/03/2020</u>	Department	<u>DPW</u>
Name	<u>Chana Roschyk</u>	Phone Extension	<u>5922</u>
BPW Date	<u>09/10/2024</u>		

**Review and Approval Required Prior to Submittal to Board**

Diversity Compliance and Inclusion Officer	<input type="checkbox"/>	Officer Name	<u>Cynthia Simmons</u>
BPW Attorney	<input type="checkbox"/>	Attorney Name	<u>Michael Schmidt</u>
Dept. Attorney	<input type="checkbox"/>	Attorney Name	_____
Purchasing	<input type="checkbox"/>		_____

**Check the Appropriate Item Type – Required for All Submissions**

<input checked="" type="checkbox"/> Professional Services Agreement	<input type="checkbox"/> Contract	<input type="checkbox"/> Proposal	
<input type="checkbox"/> Open Market Contract	<input type="checkbox"/> Amendment/Addendum	<input type="checkbox"/> Special Purchase, QPA	
<input type="checkbox"/> Bid Opening	<input type="checkbox"/> Bid Award	<input type="checkbox"/> Req. to Advertise	<input type="checkbox"/> Title Sheet
<input type="checkbox"/> Quote Opening	<input type="checkbox"/> Quote Award	<input type="checkbox"/> Reject Bids/Quotes	
<input type="checkbox"/> Proposal Opening	<input type="checkbox"/> C/O & PCA No. _____	<input type="checkbox"/> PCA	
<input type="checkbox"/> Chg. Order, No. _____	<input type="checkbox"/> Traffic Control	<input type="checkbox"/> Resolution	
<input type="checkbox"/> Other: _____		<input type="checkbox"/> Ease./Encroach	

**Required Information**

Company or Vendor Name	_____		
New Vendor	<input type="checkbox"/> Yes <input type="checkbox"/> If Yes, Approved by Purchasing		
	<input type="checkbox"/> No		
MBE/WBE Contractor	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	Completed E-Verify Form Attached	<input type="checkbox"/> Yes <input type="checkbox"/> No
Project Name	<u>Lincoln Way E. &amp; Miami Intersection Improvements</u>		
Project Number	<u>123-078 PROJ00000552</u>		
Funding Source	<u>Fund 324 TIF - River West D</u>		
Account No.	<u>PR-00035296</u>		
Amount	<u>\$148,520</u>		
Terms of Contract	<u>NTE</u>		
Purpose/Description	<u>The PSA is for completion of the design, bidding, construction engineering and additional engineering services for the Lincoln Way &amp; Miami Intersection Improvements</u>		

**For Change Orders Only**

Amount of	<input type="checkbox"/> Increase	\$ _____
	<input type="checkbox"/> Decrease	(\$ _____)
Previous Amount	\$ _____	
Current Percent of Change:	Increase	_____ %
	Decrease	( _____ %)
New Amount	\$ _____	
Total Percent of Change:	Increase	_____ %
	Decrease	( _____ %)
Time Extension Amount:	_____	
New Completion Date:	_____	