

BILL NO. S-11-12-21

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving PROFESSIONAL SERVICES AGREEMENT: RESIDENT PROJECT REPRESENTATIVE SERVICES FOR THREE RIVERS FILTRATION PLANT UV DISINFECTION PROJECT RES. #2304-2010, W.O. #65942 between DLZ INDIANA, LLC and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

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

SECTION 1. That the PROFESSIONAL SERVICES AGREEMENT: RESIDENT PROJECT REPRESENTATIVE SERVICES FOR THREE RIVERS FILTRATION PLANT UV DISINFECTION PROJECT RES. #2304-2010, W.O. #65942 by and between DLZ INDIANA, LLC and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for Resident Project Representative (RPR) services during construction that include coordination with plant activities and staff, daily inspections, construction schedule management and coordination, construction progress meetings, administrative duties, coordination of training services, record drawing review, and other general construction management tasks. In addition, the EPA Long Term 2 Enhanced Surface Water Treatment Rule requires project record documentation as well as compliance with mandatory deadlines;

involving a total cost of FIVE HUNDRED SIXTY-TWO THOUSAND, THREE HUNDRED AND 00/100 DOLLARS - (\$562,300.00).

SECTION 2. Prior Approval has been requested from Common Council on December 13, 2011. Said copy is on file in the Office of the City Clerk and made available for public inspection, according to law.

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

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney

PROFESSIONAL SERVICES AGREEMENT
RESIDENT PROJECT REPRESENTATIVE SERVICES
For
THREE RIVERS FILTRATION PLANT
UV DISINFECTION ("PROJECT")

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

By and through its

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

and

DLZ Indiana, LLC ("ENGINEER")

111 West Columbia Street
Suite 100
Fort Wayne, IN 46802

Who agree as follows:

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

APPROVALS

APPROVED FOR CITY

BOARD OF PUBLIC WORKS

BY: _____
Robert P. Kennedy, Chairman

BY: _____
John Suarez, Member

BY: _____
Kumar Menon, Member

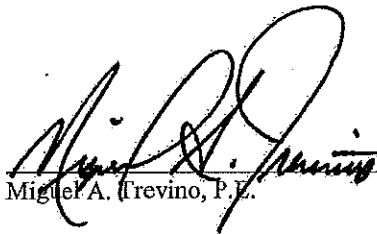
ATTEST: _____
Victoria Edwards, Clerk

DATE: _____

APPROVED FOR ENGINEER

BY:  _____
Brian L. Glaze, P.E.

ATTESTED

BY:  _____
Miguel A. Trevino, P.E.

DATE: 12/05/11

PART I

SCOPE OF BASIC ENGINEERING SERVICES

A. PROJECT DESCRIPTION

The purpose of this project is to provide Construction Management (CM) and Resident Project Representative (RPR) services for the Three Rivers Filtration Plant UV Disinfection and Reservoir Improvements Project.

B. SCOPE OF WORK

The Scope of Services are defined by the CM and RPR assignments within the Scope of Services for "Lead" and "Support" activities are outlined in *Attachment 1, Exhibit F - Scope of Services*. ENGINEER shall serve as the Resident Project Representative (RPR) set forth in Attachment 1 - Scope of Services, Exhibits A through F of this Agreement.

The Design Consultant(s) (Designer) will provide construction phase services, as generally outlined in Attachment 1 – Scope of Services, Exhibits A through E, in support of the CM for their respective projects for the duration of the construction.

As RPR Firm, ENGINEER shall provide construction observation services of the Contractor's work as provided in the General Conditions of the Construction Contract Documents. The extent and limitations of duties, responsibilities and authority of the RPR are as set forth in the EJCDC General Conditions for the Construction Contract as may be amended through City and Construction Manager's agreement in writing.

C. TERM FOR RENDERING SERVICES AND PROJECT STAFFING

PROJECT TIMING

ENGINEER shall be authorized to commence services set forth herein upon notice to proceed issued by the City and for the duration as generally noted below.

<u>Task</u>	<u>Duration</u>	<u>Estimated Completion</u>
RPR Services	21 months	December 31, 2013

PROJECT STAFFING

The City upon written notification may reduce the level of CM or RPR staffing services within the above noted construction durations based on the Contractor's level of construction activities.

The ENGINEER shall not provide CM or RPR services during periods of construction shut down by the Contractor.

D. OPTIONAL ADDITIONAL SERVICES

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

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

PART II
CITY'S RESPONSIBILITIES

In addition to other responsibilities set forth in this Agreement, City shall, at its expense, do the following in a timely manner so as not to delay the services:

A. CITY'S REPRESENTATIVE

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

B. DATA

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

C. DECISIONS

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

D. MEETINGS

Attend the pre-bid conference, pre-construction conference, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

E. DOCUMENT REVIEWS

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

F. ACCESS

Provide access to Project premises for ENGINEER and the ENGINEER's representatives and/or subcontractors to provide services as defined under this Agreement.

G. OTHER CONSULTANTS

Advise ENGINEER of the scope of services of any independent consultants employed by City to perform or furnish services in regard to the Project.

H. PROJECT MANAGEMENT INFORMATION SYSTEM (PMIS)

Provide access and support for the City's Project Management Information System (PMIS) for duration of Project.

I. PROJECT DEVELOPMENTS

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

PART III

COMPENSATION

A. COMPENSATION

Compensation for services performed in accordance with Part I – Scope of Basic Engineering Services and referenced Exhibits of this Agreement will be based on hours actually spent and expenses actually incurred with a not-to-exceed engineering fee of \$562, 300 as summarized in attached *Attachment 2 – Scope of Services Fee Proposal*.

ENGINEER's costs will be based on the hours incurred to complete the project times the hourly rates of the various personnel, per *Attachment 3 – Hourly Rate Schedule*. All Reimbursable costs incurred for the project will be invoiced at cost.

Payment for outside consulting and/or professional services or legal services performed by a Subconsultant will be billed at actual cost to ENGINEER plus 5 percent for administrative costs. An invoice supporting subconsultant services and charges will be provided as backup. The ENGINEER will obtain written City approval before authorizing these services.

B. BILLING AND PAYMENT

1. Timing/Format

- a. ENGINEER shall invoice City monthly for Services completed at the time of billing. Such invoices shall be prepared in a form and supported by documentation as City may reasonably require.
- b. City shall pay ENGINEER within 30 days of receipt of approved invoice.

2. Billing Records

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

PART IV STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the services are performed. No warranty or guarantee, express or implied, are provided, including warranties or guarantees contained in any uniform commercial code.

2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by ENGINEER and CITY. ENGINEER will promptly notify CITY of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.

3. **SAFETY.** ENGINEER shall establish and maintain programs and procedures for the safety of its employees. ENGINEER specifically disclaims any authority or responsibility for general job site safety and safety of persons other than ENGINEER employees.

4. **DELAYS.** If events beyond the control of ENGINEER, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be extended for a period equal to the delay. In the event such delay exceeds 90 days, ENGINEER will be entitled to an equitable adjustment in compensation.

5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. CITY shall pay ENGINEER for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.

ENGINEER or CITY, for purposes of convenience, may at any time by written notice terminate the services under this Agreement. In the event of such termination, ENGINEER shall be paid for all authorized services rendered prior to termination including reasonable profit and expenses relating thereto.

6. **REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alternation of such documents or deliverables without written verification or adaptation by ENGINEER for the specific purpose intended, shall be at CITY's sole risk.

7. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by ENGINEER is supplied for the general guidance of the CITY only. Since ENGINEER has no control over competitive bidding or market conditions, ENGINEER cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.

8. **RELATIONSHIP WITH CONTRACTORS.** ENGINEER shall serve as CITY's professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY's contractors, but ENGINEER specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY's contractors.

9. **MODIFICATION.** This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.

10. **PROPRIETARY INFORMATION.** Information relating to the Project, unless in the public domain, shall be kept confidential by ENGINEER and shall not be made available to third parties without written consent of CITY.

11. **INSURANCE.** ENGINEER shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;

- a) Worker's Compensation per statutory requirements
- b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
- c) Automobile Liability \$1,000,000 per occurrence
- d) Products Liability \$1,000,000 per occurrence
- e) Completed Operations Liability \$1,000,000 minimum per occurrence

The Certificate of Insurance must show the City of Fort Wayne, its

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

City of Fort Wayne Purchasing Department
1 E Main Street, Rm B-91
Fort Wayne, IN 46802

12. **INDEMNITIES.** To the fullest extent permitted by law, ENGINEER shall indemnify and save harmless the City from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or death to persons or damage to tangible property to the proportionate extent caused directly by the negligent errors or omissions of ENGINEER, its agents or employees.

13. **LIMITATIONS OF LIABILITY.** Each party's liability to the other for any loss, cost, claim, liability, damage, or expense (including attorneys' fees) relating to or arising out of any negligent act or omission in its performance of obligations arising out of this Agreement, shall be limited to the amount of direct damage actually incurred. Absent gross negligence or knowing and willful misconduct which causes a loss, neither party shall be liable to the other for any indirect, special or consequential damage of any kind whatsoever.

14. **ASSIGNMENT.** The rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and insure to the benefit of any permitted assigns.

15. **ACCESS.** CITY shall provide ENGINEER safe access to any premises necessary for ENGINEER to provide the Services.

16. **PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs from the other party.

17. **NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate another section of this Agreement or operate as a waiver of any future default, whether like or different in character.

18. **SEVERABILITY.** The various term, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

19. **AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the part for whom they are signing.

20. **STATUTE OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims regarding ENGINEER's performance under this Agreement shall expire one year after Project Completion.

21. **CONSENT DECREE NOTIFICATION.** ENGINEER shall perform, or cause others to perform, all work undertaken in connection with this Agreement in a good and workman-like manner and in conformance with the terms of the Consent Decree entered in the U.S District Court on April 1, 2008 by the United States and State of Indiana. ENGINEER acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:

<http://www.cityoffortwayne.org/index.php/content/view/1494/1566/>

22. **DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, ENGINEER agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within ENGINEER's possession or control and which relate, in any manner, to the performance of the work undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, ENGINEER shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the ENGINEER. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the ENGINEER attesting that it has provided the City with complete copies of all documents, records and other information which relates to the work contemplated by the Agreement.

**ATTACHMENT 1
EXHIBIT A
SCOPE OF SERVICES**

**CONSTRUCTION MANAGEMENT AND
RESIDENT PROJECT REPRESENTATIVE SERVICES
For**

THREE RIVERS FILTRATION PLANT UV DISINFECTION

CONSTRUCTION TEAM DEVELOPMENT AND PROJECT MANAGEMENT

General:

The basic services to be provided to the City of Fort Wayne ("CITY") under this scope are Construction Management (CM) and Resident Project Representative (RPR) services in support of the City's CSO Long Term Control Plan ("LTCP"). These services supplement City's staff resources and support construction phase services provided by the Design Consultant(s) for their respective projects for the duration of the construction.

Construction Management Team (CMT) shall provide construction management services as described in this Attachment.

- A. Construction Field Offices. The CMT shall be located at the project construction site in a field office provided by the Contractor. The Construction Field Office shall be furnished rent-free, and shall include ancillary facilities including furniture, copiers, and other equipment as specified in the Construction Documents.
- B. Construction Management Core Team. The Construction Management Core Team shall be defined as the Construction Manager, Resident Project Representative(s), Project Controls Support Services and Scheduling QA/QC Advisor Services. The CM Core Team for the duration of this contract is listed below.

Position	Team Member(s)/ Affiliation *
Construction Manager	John Shumaker / CH2M HILL
Electrical RPR	Bob Earls / CH2M HILL
Project Manager	Todd Webster / CH2M HILL
Project Controls Support Services	Erin McAtee / CH2M HILL
Civil RPR	Tim Warren/DLZ
PMIS	Malcolm Pirnie

*Any proposed changes in Team Members by the ENGINEER must be approved by the CITY.

- C. Construction Management Plan. CMT shall develop and implement a Construction Management Plan (CMP) defining policies, procedures and methods that will be used for managing assigned construction projects. A general Responsibility Assignment Matrix (RAM) will also be developed identifying roles, project responsibilities and reporting structure for each CMT member. The CMP shall include, but not be limited, to the following:
1. Develop Cost and Schedule Controls Reports Methods.
 2. Develop Monthly Construction Status Reports format.
 3. PMIS implementation coordination and training procedures for staff and Contractor.
 4. General CM responsibility matrix and CM Core Team responsibility matrix.
 5. Develop payment application review checklist.
 6. Photo documentation practices.
 7. Commissioning and start-up implementation procedures, including pre-planning agenda/checklist, manpower schedule and forms of documentation required during commissioning process.
 8. Coordination procedures for Contractor provided City operational and maintenance training.
 9. Standardize documentation procedures.
- D. Project Scheduling. CMT shall review the Contractor's Construction Progress Schedule, including key milestones, interface events, schedule of submittals, and schedule of values and prepare comments accordingly for Design Consultant's review and determination of acceptability. If required by contract documents review cost loaded Project Schedule for acceptability.
- E. Construction Schedule QA/QC Reviews. CMT shall provide an independent Construction Schedule Advisor to conduct monthly construction schedule reviews to verify proper interrelationships and dependencies among project work elements and identify potential critical path and overall schedule completion issues. Construction Schedule Advisor shall, as required, work with the Contractor to resolve project scheduling issues.
- F. Monthly Construction Status Reporting. CMT shall provide a monthly construction status report, incorporating available PMIS construction reports, of the current status of the Project's budget, expenditures, estimate to complete, change orders, schedule status (including critical path discussions), project issues list, resolution reporting for key project issues and other information required to inform the City of status and progress.
- G. Consultation with Project Designer(s) During Construction. CMT shall consult with and obtain advice and assistance of Design Consultant(s) in the general administration of the Contract Documents. Design Consultant's communications with the City and Contractor shall be through, or with the knowledge of the CM.
- H. PMIS Implementation During Construction. CMT shall utilize the City's Project Management Information System (PMIS), an internet based construction control system for construction document control. Procedures as established in the Contract Documents shall be managed and implemented by the CMT throughout the Project(s) duration. CMT shall provide training to the Contractor and subcontractors, as required, on the use of PMIS system.

**ATTACHMENT 1
EXHIBIT C
SCOPE OF SERVICES**

**CONSTRUCTION MANAGEMENT AND
RESIDENT PROJECT REPRESENTATIVE SERVICES
For
THREE RIVERS FILTRATION PLANT UV DISINFECTION**

CONSTRUCTION MANAGEMENT SERVICES

General:

CMT shall provide construction management services as described in this Exhibit and shall have duties, responsibilities and authority as defined in Part I.B of this Agreement.

Generally, CMT will assist the City in the management of construction and construction management aspects of this work, but not limited to:

- A. Construction Management Plan Implementation. CMT shall implement and update the Construction Management Plan ("CMP") developed in Exhibit A throughout Project duration. The CMP implementation shall include, but not be limited to, the following:
1. Develop Cost and Schedule Controls Reports.
 2. Develop Monthly Construction Status Reports.
 3. Coordination with Local Utilities, other Departments and Agencies as required.
 4. Review Project for Reasonable Completion Dates.
 5. Utilize PMIS document control procedures as related to shop drawing and Request For Information /Request For Proposal (RFI/RFP).
 6. Coordinate and monitor implementation of CM responsibility matrix and CM Core Team responsibility matrix.
 7. Review payment applications against review checklist.
 8. Coordinate and implement photo documentation procedures during construction.
 9. Coordinate project shutdowns required to facilitate construction activities.
- B. Construction Phase Services. CM / CMT shall provide oversight of construction management, inspection, and Design Consultant staff during the construction phase of each project and provide general consultation on technical issues during construction. The CM / CMT shall:
- a. Pre-Construction Conference. Prepare for and conduct the Pre-Construction Conference for each construction package. CM shall prepare meeting notes.
 - b. Baselines and Benchmarks. As appropriate, notify Design Consultant(s) of required baselines and benchmarks for locating the Work, which in Construction Manager's judgment is necessary to enable Contractor to proceed.
 - c. Visits to Site and Observation of Construction. In connection with observations, in addition to the RPR duties, of the Work while it is in progress:
 - 1) The Construction Manager shall make visits to the site at intervals appropriate to the various stages of construction, as Construction Manager deems necessary, in order to observe the progress and quality of the Work. Such visits and observations by Construction Manager, if any, are not intended to be exhaustive or to extend to every aspect of the Contractor's Work in progress. Such visits will not involve detailed inspections of the Contractor's Work in progress beyond the responsibilities

specifically assigned to the Construction Manager in this Agreement and the Contract Documents. Rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Construction Manager's exercise of professional judgment. Based on information obtained during such visits and such observations, the Construction Manager will determine in general if the Contractor's Work is proceeding in accordance with the Contract Documents, and the Construction Manager shall keep the City informed of the progress of the Work.

- 2) Request that Design Consultant(s) make visits to the site in order to assist the Construction Manager in observing the progress and quality of the Work specifically identified by the RPR. Obtain report of Design Consultant's findings if, in general, the identified Work is proceeding in accordance with the Contract Documents.
 - 3) The purpose of Construction Manager's, Design Consultant's visits, and representation by the RPR at the Site, will be to enable the Construction Manager to better carry out the duties and responsibilities assigned to and undertaken by Construction Manager during the Construction Phase, and, in addition, by exercise of Construction Manager's and Design Consultant's efforts, to provide the City a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by the Contractor. Construction Manager and Design Consultant(s) shall not, during such visits or as result of such observations of the Work in progress, supervise, direct, or have control over the Contractor's Work, nor shall Construction Manager and Design Consultant(s) have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's Work or for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Construction Manager and Design Consultant(s) neither guarantee the performance of any Contractor nor assume responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
- d. *Defective Work.* Recommend to the City that the Contractor's Work be disapproved and rejected while it is in progress if, on the basis of such observations, the Construction Manager believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
 - e. *Clarification and Interpretations; Field Orders.* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the Contractor's Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Obtain necessary clarifications and interpretations of the Contract Documents from Design Consultant(s). Construction Manager may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.
 - f. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to the City, as appropriate, and prepare Change Orders and Work Change Directives as required. Obtain support documentation prepared by Design Consultant(s) for preparing Change Orders and Work Change Directives.
 - g. *Shop Drawings and Samples:* Utilizing PMIS to process shop drawings, forward samples, and other data to Design Consultant(s) for review and approval. Forward Design

Consultant(s) review comments, approvals, or other action to Contractor. It is the City's goal to process delegation of submittals within PMIS system in 48 hours or less.

- h. *Substitutes:* Forward Contractor's substitution requests to Design Consultant(s) for evaluation to determine acceptability. Forward Design Consultant's evaluation of acceptability to City for action. Forward City's determination of acceptability to Contractor.
- i. *Inspections and Tests.* Require such special inspections or tests of Contractor's Work as deemed reasonably necessary. Construction Manager shall review certificates of inspections, tests, and approvals of general construction work as required by laws and regulations and the Contract Documents. Review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Construction Manager shall be entitled to rely on the results of such tests. Forward certificates of inspections, tests, and approvals of mechanical, electrical, and instrumentation work as required by laws and regulations and the Contract Documents to Design Consultant(s) for review. Forward results of Design Consultant's review to Contractor.
- j. *Disagreements between City and Contractor.* Render formal written decisions on claims of the City and the Contractor relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Work. In rendering such decisions, Construction Manager shall be fair and not show partiality to the City or Contractor and shall not be liable in connection with any decision rendered in good faith. Obtain Design Consultant's assistance in rendering such decisions.
- k. *Application for Payment.* Based on Construction Manager's observations and on review of Applications for Payment and accompanying supporting documentation:
 - 1) Determine the amount that Construction Manager recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Construction Manager's representation to City, based on such observations and review, that, to the best of Construction Manager's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Construction Manager's responsibility to observe Contractor's Work. In the case of unit price work, Construction Manager's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of Construction Manager contained in the paragraph titled *Visits to Site and Observation of Construction* are expressly subject to the limitations set forth in said paragraph and other express or general limitations in this Agreement and elsewhere.
 - 2) By recommending any payment, Construction Manager shall not thereby be deemed to have represented that observations made by Construction Manager to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to

Construction Manager in this Agreement and the Contract Documents. Neither Construction Manager's review of Contractor's Work for the purposes of recommending payments nor Construction Manager's recommendation of any payment including final payment will impose on Construction Manager responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with laws and regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Construction Manager to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the contract price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to the City free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between the City and the Contractor that might affect the amount that should be paid.

l. Contractor's Completion Documents.

- 1) Receive maintenance and operating instructions and forward said material to Design Consultant(s) for review and approval. Forward Design Consultant's review comments, approvals, or other action to Contractor.
- 2) Receive and review guarantees.
- 3) Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, certificates of inspection, tests and approvals, shop drawings, samples and other data approved as provided under paragraph titled *Shop Drawings and Samples*, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment.
- 4) CM shall review status of records documents on a monthly basis to ensure documents are being adequately maintained during construction.
- 5) Forward annotated record documents to Design Consultant(s) at completion of construction. Forward other documents to the City.

m. *Startup & Training Services.* Review the Startup and Training Plans prepared by Design Consultant(s). Work with the City, Design Consultant(s) and the Contractor to resolve review comments. Coordinate the Startup and Training Plans with the City, Contractor and Design Consultant(s) in support of Paragraphs C and D below.

n. *Substantial Completion.* Promptly after notice from Contractor that Contractor considers the entire work ready for its intended use, in company with the City, Design Consultant(s) and Contractor, conduct an inspection to determine if the Work is Substantially Complete. If after considering any objections of the City and Design Consultant(s), the Construction Manager considers the Work Substantially Complete; Construction Manager shall deliver a certificate of Substantial Completion to the City and the Contractor.

o. *Final Notice of acceptability of the Work.* Conduct a final inspection to determine if the completed Work of the Contractor is acceptable so that Construction Manager may recommend, in writing, that final payment be made to Contractor. Obtain the assistance of Design Consultant(s) to conduct the final inspection. Accompanying the recommendation for final payment, Construction Manager shall also provide a notice that the Work is acceptable to the best of Construction Manager's knowledge, information, and belief and based on the extent of the services provided by Construction Manager

under this Agreement. Such notice shall be subject to the provisions of the Contract Documents paragraphs relating to *Final Completion* and *Final Payment*.

- p. *Limitation of Responsibilities.* Construction Manager shall not be responsible for the acts or omissions of any Contractor or of any of their subcontractors, suppliers, or any other individual or entity performing or furnishing any of the work. Construction Manager shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.
- C. *Commissioning and Start-Up Plan.* CMT shall coordinate and assist Commissioning and Start-Up Activities, as defined in the Contract Documents. CMT will utilize procedures developed by Design Consultant for each new facility that includes start-up phase procedures, testing schedule and checklists, including coordination of final O&M manual review and acceptance, and coordination of City operational and maintenance training for each new facility following construction.
- D. *Start-Up Phase Services.* CMT shall coordinate the start-up phase of new facilities, as needed, following construction. CMT and Design Consultant(s) shall monitor the start-up of new facilities including testing newly constructed equipment and processes to verify that they meet or exceed their design intent.
- E. Duration of *Construction Phase* services will commence with the Notice to Proceed and will terminate upon written recommendation by CM for final payment to Contractor(s), as provided for in the General Conditions of the Construction Contract.

**ATTACHMENT 1
EXHIBIT D
SCOPE OF SERVICES**

**CONSTRUCTION MANAGEMENT AND
RESIDENT PROJECT REPRESENTATIVE SERVICES
For
THREE RIVERS FILTRATION PLANT UV DISINFECTION
POST-CONSTRUCTION PHASE SERVICES**

General:

- A. Post - Construction Phase Services. Upon written authorization of City, CMT during the Post-Construction Phase shall:
1. Provide assistance in connection with the adjusting of Project equipment and systems.
 2. Assist City in additional training of City's staff to operate and maintain Project equipment and systems.
 3. Assist City in developing procedures for control of the operation and maintenance of, and record keeping for Project equipment and systems.
 4. Together with City staff, visit the Project to observe any apparent defects in the Work, assist City in consultations and discussions with Contractor concerning correction of any defects, and make recommendations as to replacement or correction of Defective Work, if present.
 5. Perform or provide the following additional Post-Construction Phase tasks or deliverables:
 - a. In conjunction with City's asset management personnel, assemble and furnish project's new asset list and retired assets to CITY.
 - b. In conjunction with City's Computerized Maintenance Management System (CMMS) and O&M personnel, assemble and furnish CMMS asset list.
 6. In company with City and Design Consultant, provide an inspection of the Project within one month before the end of the Correction Period to ascertain whether any portion of the Work is subject to correction.
- B. Post-Construction Phase Timing. Services may commence during the Construction Phase and will terminate at the end of the Construction Contract's correction period, or earlier as directed by the City.

**ATTACHMENT 1
EXHIBIT E
SCOPE OF SERVICES**

**CONSTRUCTION MANAGEMENT AND
RESIDENT PROJECT REPRESENTATIVE SERVICES
For
THREE RIVERS FILTRATION PLANT UV DISINFECTION
RESIDENT PROJECT REPRESENTATIVE SERVICES**

General:

ENGINEER shall provide a Resident Project Representative (RPR) to assist Construction Manager (CM) in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree as directed by CM and City.

The duties and responsibilities of the RPR are as follows:

- A. Duties, responsibilities, and authority of the RPR are as set forth in the EJCDC General Conditions for the Construction Contract as may be amended through City and Construction Manager's agreement in writing.
- B. RPR is Construction Manager's (CM) agent at the site, will act as directed by and under supervision of CM, and will confer with CM regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with CM and Contractor, keeping City advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with City and Design Consultant with the knowledge of and under the direction of CM.
- C. RPR shall assist and support CM in duties and responsibilities as outlined in Exhibit C in this Agreement.

**ATTACHMENT 1
EXHIBIT F
SCOPE OF SERVICES**

**CONSTRUCTION MANAGEMENT AND
RESIDENT PROJECT REPRESENTATIVE SERVICES
For
THREE RIVERS FILTRATION PLANT UV DISINFECTION**

CONSTRUCTION MANAGEMENT TEAM ASSIGNMENTS

General:

The Construction Management Team consists of the Lead Firm, CH2M HILL and one Support Firm, DLZ. Services provided by each firm will be in accordance with the Scope of Services, as provided in Exhibits A through E. The role of each firm within the Scope of Services will be as provided below.

- A. Contracting. The City of Fort Wayne will contract with the firms of the Construction Management Team on an individual basis. Although the firms of the Construction Management Team will have no contractual obligation to each other, it is understood that, as part of the Construction Management Team, the firms will work together cooperatively to complete the scope and achieve the goals of the Project.
- B. Role of the Lead Firm. The Lead Firm, CH2M HILL, has Lead responsibility for the timely execution and delivery of the tasks identified in the Scope of Services. The Lead Firm is responsible for:
- General administration and coordination of the construction management services,
 - Developing a RPR assignment matrix,
 - Providing overall direction of the Construction Management Team, and
 - Coordination and communication between the City, Design Consultant(s) and the Construction Management Team.
- C. Role of Support Firms. Support firms are responsible for the timely and proper execution of assigned roles, as identified in the Scope of Services (Exhibits A through E) and Team Assignments in Paragraph E below. The Support Firms will coordinate work through the Lead Firm throughout the duration of construction services.
- D. Disputes. Disputes or disagreements that may arise between the firms participating in the program or between the firms and the City shall not relieve the firms of duties and obligations to deliver timely services and work product as set forth in this Agreement.
- E. Team Assignments

Lead:	Responsible for the management and execution of Construction Management Services.
Support:	Perform or contribute to the execution of Construction Management Services.
NR:	No support services required.

Construction Management Team Assignments

Reference Exhibit Paragraphs	Scope Task	CH2M HILL CM	DLZ-RPR	CH2M HILL RPR
<i>Exhibit A: Construction Team Development and Project Management</i>				
C	Construction Management Plan	Lead	NR	NR
D	Project Scheduling	Lead	Support	Support
E	Construction Schedule QA/QC Reviews	Lead	Support	Support
F	Monthly Construction Status Reporting	Lead	Support	Support
G	Consultation with Design Consultant(s) During Construction	Lead	Support	Support
H	PMIS Implementation During Construction	Lead	Support	Support
<i>Exhibit C: Construction Management Services</i>				
A	Construction Management Plan Implementation	Lead	Support	Support
B	Construction Phase Services	Lead	Support	Support
C	Commissioning and Start-Up Plan	Lead	Support	Support
D	Start-Up Phase Services	Lead	Support	Support
<i>Exhibit D: Post-Construction Phases Services</i>				
A	Post Construction Phase Services	Lead	NR	Support
<i>Exhibit E: Resident Project Representative Services</i>				
A	General Duties and Responsibilities of RPR	Support	Lead	Lead
B	RPR – CM Agent on Site	Support	Lead	Lead
C	RPR Support of Exhibit C Tasks	Support	Lead	Lead

ATTACHMENT 2

SCOPE OF SERVICES FEE PROPOSAL

**RESIDENT PROJECT REPRESENTATIVE SERVICES
For
THREE RIVERS FILTRATION PLANT UV DISINFECTION**

Construction Phase Services

For services outlined in Exhibits A thru F, a fee of : **\$ 562,300**

Total Not to Exceed Fee \$ 562,300

ATTACHMENT 3

HOURLY RATE SCHEDULE RESIDENT PROJECT REPRESENTATIVE SERVICES

For

THREE RIVERS FILTRATION PLANT UV DISINFECTION

DLZ INDIANA, LLC

STANDARD FEE STRUCTURE FOR CFW UTILITIES - UV CONSTRUCTION SERVICES - HOURLY RATES 2012

	<i>Employee Classification</i>	<i>2012 Hourly Rate</i>
	Deputy Program Manager	\$177.00
	Division Manager	\$181.00
	Department Manager	\$165.00
	Senior Project Manager	\$135.00
	Registered Land Surveyor	\$120.00
	Project Manager	\$125.00
	Engineer III/Architect III/Landscape Architect III/ Planner III/Scientist III/Geologist III	\$105.00
	Engineer II/Architect II/Landscape Architect II/ Planner II/Designer III/Scientist II/Geologist II	\$95.00
	Engineer I/Architect I/Landscape Architect I/ Planner I/ Designer II/Scientist I/Geologist I	\$80.00
	Resident Project Representative (RPR) Primary Civil	\$100.00
	Construction Observer Mgr/ Resident Project Representative RPR Secondary	\$85.00
	Construction Observer	\$65.00
	Designer I	\$70.00
	Technician	\$60.00
	Clerical	\$50.00

	<i>Crew Classification</i>	<i>2012 Hourly Rate</i>
	3 – person Survey Crew	\$155.00
	Topographic Survey Crew	\$130.00
	<i>Reimbursable Expenses</i>	<i>Rate</i>
	Mileage	\$0.555/mile
	Subconsultants	Cost plus 5%
	Equipment Rental	Cost plus 5%

Rates are subject to revision on January 1, 2013.

Cost of living/inflation increases of 3 to 7% per annum can be anticipated.

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

Interoffice Memo

Date: **December 8, 2011**

To: Common Council Members

From: Andrew Schipper, Program Manager, City Utilities Engineering

**RE: Contract Title: Resident Project Representative Services for Three Rivers
Filtration Plant UV Disinfection Project
Res. #2304-2010, W.O. #65942**

Consultants Selected: DLZ Indiana, LLC.

Contract Value: \$562,300.00

The consultants shall provide: Resident Project Representative (RPR) services during construction that include coordination with plant activities and staff, daily inspections, construction schedule management and coordination, construction progress meetings, administrative duties, coordination of training services, record drawing review, and other general construction management tasks. In addition, the EPA Long Term 2 Enhanced Surface Water Treatment Rule requires project record documentation as well as compliance with mandatory deadlines.

Project Description: This Project will take place at the Three Rivers Water Filtration Plant. Components of these projects include major upgrades involving UV disinfection including construction of potable water facilities including sitework, yard piping, structural, architectural, process-mechanical pumping equipment, gate equipment, and piping, plumbing, heating, ventilation, air conditioning, electrical, and instrumentation and control. Structural work for new structures and buried piping includes bored cast-in-place concrete pile foundation.

Implications of not being approved:

Time is of the essence. In accordance with the EPA Long Term 2 Enhanced Surface Water Treatment Rule we are to bring this project into full operation by December 2013.

If Prior Approval is being Requested, Justify:

Prior Approval is requested to avoid delays associated with possible canceled meetings in December.

Selection and Approval Process: The consultants were selected through the RFQ process (Request for Qualifications) based on their prior experiences, qualifications and the specific

needs demanded by projects of this size and complexity. The RFQ announcement was sent to over 120 firms and 6 teams submitted statements of qualification. City Utilities Engineering reviewed the qualifications, conducted interviews, and negotiated final pricing with the selected firms. City Utilities Engineering finds the not-to-exceed fee to be appropriate for this work.

The Board of Public Works approved this agreement on December 7, 2011.

Funding: This Professional Service Agreement (PSA) will be funded by the State Revolving Fund (SRF) Bond.

CC: BOW
Matthew Wirtz
Diane Brown
Chrono
File