**BILL NO. S-15-06-04**

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving PROFESSIONAL SERVICE AGREEMENT FOR SUMMIT PARK TRAIL & SIDEWALK PROJECT, PHASE I between FLEIS & VANDENBRINK ENGINEERING, INC. 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 SERVICE AGREEMENT FOR SUMMIT PARK TRAIL & SIDEWALK PROJECT, PHASE I by and between FLEIS & VANDENBRINK ENGINEERING, INC. 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 : Project consists of survey, design, engineering and ibdding services for Summit Park Trial & Sidewalk Project, Phase I:

involving a total cost of TWO HUNDRED FOUR THOUSAND THREE HUNDRED THIRTY-FOUR AND 00/100 DOLLARS - ($204,334.00). A copy of said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

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

_____
Council Member

APPROVED AS TO FORM AND LEGALITY

_____
Carol Helton, City Attorney

# PROFESSIONAL SERVICES AGREEMENT

**SUMMIT PARK TRAIL & SIDEWALK, PHASE 1 ("PROJECT")**
Work Order # 0073*N*

This Agreement is by and between

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

By and through its

Board of Public Works
Citizens Square
200 E Berry Street, Suite 240
Fort Wayne, IN 46802

And

Fleis & VandenBrink Engineering, Inc.
5331 South Bend Drive
Fort Wayne, IN 46804
(260) 435-1414
(260) 435-1384

Who agrees 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.

What Are The Implications If Not Approved:
We will not have a safe mode of travel for pedestrians and bicyclists along Ludwig Road and Washington Center Road between Huguenard and Lima.

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

Additional Comments:

Signature

5-28-15
Date

**APPROVED FOR CITY**

**BOARD OF PUBLIC WORKS**

BY: _____
Robert P. Kennedy, Chair

BY: _____
Mike Avila, Member

BY: _____
Kumar Menon, Member

ATTEST: _____
Lyndsey Richards, Clerk

DATE: 5/27/18

APPROVED as to legality and form

**APPROVED FOR ENGINEER**

**CONSULTING FIRM**

BY: _____
Troy Stahl, Indiana Operations Manager, Associate

ATTEST: _____
Mitch Hansel, Fort Wayne Office Branch Manager

DATE: _____

## PART I

## SERVICES

### A. GENERAL

ENGINEER shall provide the CITY professional engineering services in the design phase of the PROJECT. These services will include serving as CITY's professional representative for the PROJECT; providing professional engineering consultation and advice; and furnishing civil and other customary design services incidental thereto.

### B. PROJECT DESCRIPTION

The PROJECT consists of survey, design, engineering and bidding services for a 5 foot wide concrete sidewalk along the north side of Washington Center Road from the entrance of the Village of North Oaks Mobile Home Park to the former Grand Rapids – Indiana Railroad corridor; a 10 foot wide asphalt trail along the railroad corridor from Washington Center Road to Ludwig Road; and a 10 foot wide asphalt trail along the south side of Ludwig Road from the railroad corridor to the entrance of Meijer, at which point the trail will follow the north side of the ring road and will cross between Applebee's and the strip mall to the south over to Lima Road. The trail will then run parallel with Lima Road to the intersection of Ludwig Road, where it will tie into the existing trail on the northwest side of the intersection. The ENGINEER will provide engineering services, including right of way engineering services, topographic survey and location control route survey, for the PROJECT. The CITY would like a minimum 10 foot wide grass swath between the edge of pavement and the pedestrian infrastructure where no curbing exists. If curb exists, then the CITY desires a minimum six-foot wide park strip between the curb and pedestrian infrastructure. Project will also include Citilink- and ADA-accessible facilities with conformity to PROWAG. Local design standards should be used and where local design standards are not available, then AASHTO guidelines should be utilized. ENGINEER shall also secure necessary permits. Pedestrian crossings should be incorporated, including two mid-block crossings on Washington Center Road, with appropriate safety features, including piano key pavement markings, signage, overhead lighting and countdown pedestrian signals to cross the west approach of Ludwig Road at Lima Road. Coordination with INDOT on all traffic signal modifications along State Road 3/Lima Road will be required. Drainage and storm sewer accommodations and design are anticipated. Also, two pre-fabricated pedestrian bridges are anticipated. A trailhead is planned for the south side of Ludwig Road on the railroad corridor. The site specific trailhead design will be provided by CITY, but minor revisions to the design are necessary to eliminate right in and right out turning and to add landscape screening. ENGINEER will stamp the design plans for trailhead. Geotechnical work is anticipated for the two (2) pedestrian bridges and for testing the soil at the railroad corridor for contamination. A wetland delineation is also necessary. This project will be bid through the Board of Public Works.

The selected firm will be responsible for engineering drawings and specifications for the construction of sidewalk, trail, stormwater improvements and two (2)

prefabricated pedestrian bridges. Other responsibilities will include attendance at a public meeting, utility coordination, permitting, bidding assistance and construction services. Land acquisition services will be performed by CITY personnel.

## C. SCOPE OF WORK

The ENGINEER shall design CITY approved improvements and prepare construction drawings, specifications and special provisions. The final construction documents shall be stamped by a Registered Professional Engineer, licensed in the State of Indiana and employed by the ENGINEER. The ENGINEER shall provide the following services:

### Task 1 – Project Schedule and Review Meetings

1.1 Prepare project design schedule.

1.2 Provide up to six project review meetings with the CITY. These meetings are the same meetings as those identified in Tasks 3.1 (g), 4.5, 4.13, 6.1 (J), 7.5 and possibly one additional meeting for a total of six. Keep minutes of the review meetings and distribute these minutes within 7 days.

### Task 2 – Data Collection

2.1 Topographic Survey

a. Notice of Survey to all adjacent property owners.
b. Acquire data (deeds, plats, railroad maps, utility plans, current projects within the project limits, etc.)
c. Analyze survey data
d. Recover established section corner benchmarks along or adjacent to trail route.
e. Notify and request Indiana One-Call (811) to have all utilities within the project corridor located. All visible markings will be surveyed.
f. Set up customary control points every 500 feet throughout entire PROJECT.
g. Establish temporary benchmarks every 500 feet throughout the trail/sidewalk routes.
h. Horizontal control shall be NAD 83 Indiana State Plane, East Zone, US foot (IN83-EF) grid coordinates. Vertical control shall be North American Vertical Datum, 1988 (NAV 88).
i. Locate and witness previously set and newly set control points.
j. Perform topographic survey along the sidewalk and trail routes shown on attached map. The width of the survey limits shall be 50 feet, except at potential wetland area where the width shall be 75 feet, as measured from the beginning of the roadway crown toward respective right of way line and along the railroad corridor.
k. Detail all marked and visible utility structures.
l. Survey all legal drains, streams and other bodies of water within 75 feet

of future trail's/sidewalk's location.

m. Prepare final topographic drawing of existing conditions in AutoCad 2013 or newer.

2.2 Location Control Route Survey – ENGINEER shall perform a Location Control Route Survey in accordance with Indiana Administrative Code Title 865, Rule 12.

2.3 Geotechnical Investigation

a. Six soil borings to a depth of 30 ft each shall be completed for the two pedestrian bridges. Additionally, four shallow borings shall be completed to evaluate subsurface conditions along the route. A field investigation to determine the engineering characteristics of the foundation materials will include a reconnaissance of the project site, performing soil borings, performing standard penetration tests and obtaining samples of soil retained in the split-spoon sample from the boring locations.

1. Employ split-spoon sampling procedures with a 2-foot long split barrel sampler.
2. Undisturbed thin walled shelby tube samples will also be obtained on the subsurface conditions encountered.
3. Standard penetration tests will be performed at regular intervals to obtain the standard penetration value of the soil.
4. Water level observations will be made during, upon completion, and twenty-four (24) hours after completion of the boring operations. These readings will be noted in the boring logs.

b. Soil testing of railroad corridor where excessive cut area is necessary on the south end (Washington Center Road end) to bring the railroad elevation down to the grade of the road (3 locations). Also, soil testing (1 location) is necessary on the north end of the railroad corridor (south side of Ludwig) since the James Dump is a short distance away. Limited Phase I Environmental Site Assessment and soil testing services shall include:

1. Review of historical aerial photography to determine past land uses at this site.
2. Collection and laboratory analysis of 4 soil samples for VOCs, SVOCs, PCBs and RCRA Metals. Samples will be collected at a depth of ten feet below grade (entire ten feet from surface). The locations of the soil samples will be recommended by ENGINEER with concurrence by CITY. The sample results should be compared to the IDEM Remediation Closure Guide Soil Direct Contact criteria.
3. Brief letter report of findings/recommendations.

c. Laboratory Analysis – In addition to the field investigations, a supplementary laboratory investigation will be conducted to ascertain additional pertinent engineering characteristics of the foundation systems necessary in analyzing the behavior of the facilities constructed as part of this PROJECT. Perform Atterberg limits, grainsize analysis, moisture density relationship and California Bearing Ratio tests. All phases of the laboratory investigation will be conducted in accordance with applicable

ASTM Specifications. The laboratory testing program will include supplementary visual classification on all samples. Samples of the cohesive soil will be frequently tested for moisture content and unconfined compressive strength. All additional testing deemed necessary or requested upon approval will be performed within the geotechnical investigation.

d. Final Geotechnical Report will provide:

1. A determination of the subsurface soil, rock and groundwater conditions at the site to depths which would be significantly influenced by the proposed construction.
2. Recommendations regarding management of possible groundwater.
3. Recommendations regarding earthwork and the treatment of in-place soils for support of pavements and structures.

**Task 3 – Wetland Delineation**

3.1 The ENGINEER will perform a routine wetland delineation for the project area. Assume one wetlands area for the purpose of fee generation. All routine wetland delineation services shall be performed in accordance with the Corps of Engineers 1987 Wetland Delineation Manual (Department of the Army Technical Report Y-87-1) and the applicable regional supplement to the Wetland Delineation Manual. Routine Wetland Delineation Services shall include:

a. Gather available secondary source date including, but not limited to, topographic and/or USGS quadrangle maps, National Wetland Inventory Maps, NRCS soil surveys, aerial photographs, FEMA flood maps and various documents and maps that may be available from the State, County or local public agencies.

b. Perform on-site reconnaissance to establish observation points for each representative aquatic and upland community by either the site traverse or transect techniques and collect vegetation, hydrology and soil data from each observation point for use in determining jurisdictional wetland locations and for delineating the wetland/upland boundaries. Paired data sheets will be prepared for each wetland identified describing typical wetland and upland conditions.

c. Delineate wetland/upland boundaries and mark boundaries in field by survey flagging tapes.

d. Survey the delineated wetland/upland boundary and observation points using Differential Global Positioning System (DGPS) technology.

e. Prepare a wetland delineation report which includes an introduction of the project intent and purpose of the wetland investigation, methods used to perform the delineation, results, discussion of findings, conclusions and literature cited. A wetland delineation drawing/map will also be attached showing the surveyed boundary. In addition, an appendix containing data sheets and photographs of the wetlands will be included.

f. Conduct an investigation to determine if the waterways impacted fall within the definitions of "Waters of the U.S." or "Waters of the State."

The findings should be included in the Wetland Delineation Report for submittal to USACE and IDEM.
g.Prepare Preliminary Jurisdictional Determination (PJD) form.
h. Review findings with CITY.
i. Conduct on-site delineation verification meeting with USACE.
j. Wetland mitigation requirements are an additional scope item.

**Task 4-Preliminary Design**

4.1 Prepare existing site drawings, including preliminary trail and sidewalk alignment. Allow for 2 locational adjustments to the alignment within the original survey corridor by the CITY.

4.2 Provide a utility location plan indicating apparent conflict areas.

4.3 Route the preliminary plans to utilities and address apparent utility conflicts. CITY will send out the routing to CITY Departments and Utilities. ENGINEER must provide CITY with a CD containing a .pdf version of the plans for the routing.

4.4 Give a presentation at one (1) monthly Utility Coordination Meeting just prior to initial routing.

4.5 Meet with CITY to discuss preliminary route and utility conflicts.

4.6 Adjust preliminary route based upon comments from CITY.

4.7 Advise CITY of need for additional data relative to soil borings, potholing utilities and geotechnical evaluation. Provide CITY with a plan for any of this work. CITY must approve this additional work before it commences.

4.8 Deliver revised preliminary route plan (1"=100' or better) on field survey with aerial background. Include:

a. Preliminary Title Sheet
b. Preliminary Index Sheet
c. Original cross sections (every 50 ft and at locations of significant cross section changes).
d. Preliminary typical sections
e. Preliminary alignment design (horizontal and vertical)
f. Preliminary Plan and Profile Sheets depicting existing topography and proposed project improvements.
g. Drainage features and structures; watershed analysis will not be needed except as required for bridge design; roadside ditches may need to be utilized and modified or curb and gutter utilized or combination of both; storm water needs to be perpetuated to existing patterns.
h. Traffic plan (maintenance of traffic, pedestrian crossings and signal modification plans)

i. Facilities to be relocated such as light poles, guardrails, etc.
j. Retaining wall design, if needed (utilize $10,000 allowance for design)
k. Project cost estimate and estimate of quantities
l. Preliminary design for two (2) pre-fabricated bridges.
m. Trailhead modified design to eliminate right in/right out turning. CITY will provide .dwg drawing.
n. Regulatory MUTCD signage
o. Placement of bollards along trail at up to four locations. CITY will provide bollard specification.

4.9 Determine the final location of the proposed improvements and any permanent or temporary right of way or easement requirements. This item should be completed in conjunction with CITY input. The need to acquire right of way will be directly correlated to the selected design concept and decision on storm water drainage design and also holding the specified space between the roadway and pedestrian facilities. Design exceptions may be practical and preferable to acquiring costly right of way.

4.10 Select construction materials and products to be used on this project. Local materials are CITY'S preference. Recycled concrete for subbase is an option.

4.11 Landscape Architecture

a. Work with CITY on identifying locations for three (3) park benches along the trail. CITY will provide bench specification.
b. Landscape screening at trailhead. Work with CITY's Landscape Architect on plant palettes.
c. Assistance with alignment of trail
d. Ideas for sustainability, green infrastructure and low impact development measures (no more than 10% of total project cost)

4.12 Pre-fabricated Pedestrian Bridge Design – the ENGINEER shall provide plans for two (2) pedestrian bridges with H-5 loading capabilities. Pedestrian bridges shall have as great or greater cross sectional areas as the adjacent vehicular bridges so that we have minimal DNR modelling. ENGINEER shall recommend bridge alternatives and CITY shall choose desired bridge type. Washington Center Road pedestrian bridge will be located over the tributary to the Spy Run Creek and will be 8 feet in width. The Ludwig Road pedestrian bridge will be located over the Spy Run Creek and will be 12 feet in width. ENGINEER shall prepare a hydraulic and scour analysis and foundation review for the pedestrian bridges in accordance with *Part IV, Hydrology/Hydraulics of the Indiana Design Manual, 1999.*

4.13 Attend preliminary design review meeting with CITY.

4.14 Revise preliminary plans, as may be necessary, prior to public informational meeting.

**Task 5 – Public Informational Meeting**

5.1 Assist the CITY in facilitating one (1) Public Information Meeting that addresses the design and development of PROJECT. Services will include the development of enhanced project plans by amending the preliminary route plan documents with color and notations; bringing maps, one (1) overall aerial view rendering, one (1) pedestrian perspective rendering, signs and/or drawings to the meeting; and participation in the meeting, including meeting minutes. ENGINEER will prepare a PowerPoint presentation. Any handouts for the public meeting will be provided by ENGINEER and CITY will make copies. An open comment period will follow the presentation.

**Task 6 – Right of Way Engineering**

6.1 ENGINEER will provide right of way engineering in accordance with the procedures and standards as indicated in the Indiana Department of Transportation, Land Acquisition Division, Right of Way Engineering Procedures Manual including the following:

A. Prepare legal descriptions and individual parcel plats for each property interest being acquired. The descriptions shall be prepared and certified by an Indiana Registered Land Surveyor. Provide fee per each legal description and each parcel plat.
B. Provide area computation sheets for each parcel and include in fee for each parcel plat.
C. ENGINEER shall provide a documented title search covering an interval of time including one valid transfer of fee title beyond a twenty-year period from the date of search. Each title search shall be updated at the time of the right of way acquisition. ENGINEER shall thoroughly read and analyze all legal descriptions contained within the Title & Encumbrance Reports for parcels of land from which property interests are being acquired.
D. Provide a short summary on a per parcel basis that references what the existing ROW is based upon. Please provide a per parcel fee for this document based upon ten (10) parcels.
E. Provide a ROW report that details what the existing ROW is based off of for the project as a whole (recorded deeds/plats, edge of pavement, etc.)
F. Right of way plans are not necessary as information needed for acquisition will be provided by ENGINEER in the parcel packets and the construction drawings with right of way details on them.
G. Field monument each new property corner of parcels being acquired by providing in the field a stake-out (one time) locating the new right of way line (including temporary and permanent right of way) for the partial takings of all parcels. The stake-out shall be made using 5/8" x 24" rebars and lathe for permanent takings per state law and using wooden hubs and lathe for temporary takings. These shall be located at changes in bearing and other points necessary to show the location of the proposed right of way takings.

H. Calculate state plane coordinates for each property corner to be set.
I. CITY will provide Land Acquisition Services (appraising and buying).
J. ENGINEER will meet with CITY to review draft Right of Way Engineering documents.

**Task 7 – Final Design**

7.1 Provide a final utility routing. Address comments and conflicts.

7.2 Revise preliminary trail and sidewalk route as directed by CITY based upon input from all agencies, utilities and the public informational meeting.

7.3 Prepare final design drawings.

7.4 Prepare draft specifications for the improvements, including special provisions and necessary details to supplement CITY standards.

7.5 Attend review meeting with CITY to discuss final plans and make final revisions.

7.6 Update summary of project quantities.

7.7 Upon approval of final design drawings and project specifications, prepare and submit itemized bid, special provisions and itemized engineer's estimate and one (1) electronic version of the project drawings (Autocad Version 2013 or newer) and documents (WORD 2010).

7.8 ENGINEER shall obtain all necessary permits prior to completion of design services. Required permits as follows:

1. IDNR – Construction in a Floodway
2. IDEM – Rule 5 Erosion Control Plan
3. INDOT – Right of Way permit
4. IDEM Section 401 (WQC)
5. ACOE 404 (RGP)
6. Allen County Drainage Board

**Task 8 – Bidding**

8.1 Attend pre-bid meeting. CITY will prepare meeting minutes.

8.2 Respond to questions from bidders and manufacturer representatives during bidding as requested by CITY. Responses requiring additional information or clarification not found within bid documents shall ONLY be addressed by addendum.

8.3 Prepare addenda, as needed, to interpret, clarify or expand bid documents. CITY to issue addenda.

8.4 Review and tabulate bids and make recommendations regarding construction contract award to the CITY.

**Task 9 – Construction Services**

9.1 ENGINEER shall be available during construction to review shop drawings and to answer questions posed by contractor or by CITY regarding the construction plans and constructability concerns. Provide a total allowance of $10,000 for these services.

**D. SCHEDULE**

The PROJECT will be completed per attached design schedule. Please provide schedule for letting in July of 2016. Provide schedule based upon 30% plans; 90% plans and final plans. This schedule is based on receiving a Notice to Proceed by June 30, 2015 and receiving prompt review and approvals from CITY.

| | |
|---|---|
| **Complete Topographic Survey** | **July 31st, 2015** |
| **30% Plan Submittal** | **September 25th, 2015** |
| **Public Informational Meeting** | **November 18th, 2015** |
| **Final R/W Plans** | **December 31st, 2015** |
| **90% Plan Submittal** | **February 5th, 2016** |
| **Final Plans** | **March 25th, 2016** |

## PART II

## CITY'S RESPONSIBILITIES

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

### A. INFORMATION REPORTS/CITY UTILITY MAPS/AERIAL MAPS/CONTOUR MAPS

Make available to ENGINEER reports, studies, regulatory decisions and similar information relating to the SERVICES that ENGINEER may rely upon without independent verification unless specifically identified as requiring such verification.

### B. REPRESENTATIVE

Designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define CITY's requirements and make decisions with respect to the SERVICES. The CITY representative for this AGREEMENT will be Dawn Ritchie, Greenways Manager.

### 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. LAND ACQUISITION SERVICES

## PART III

## COMPENSATION

### A. COMPENSATION

Compensation for services performed in accordance with Part I – SERVICES of this Agreement will be based on hours actually spent and expenses actually incurred with a not-to-exceed engineering fee of $204,334 as summarized in Attachment 1, Fee Summary Sheet.

ENGINEER's costs will be based on the hours incurred to complete the project times the hourly rates of the various personnel, per Attachment 2 – Hourly Rate Schedule. All Reimbursable costs incurred for the project will be invoiced at cost plus 1.10 percent to cover administrative costs.

### B. BILLING AND PAYMENT

1. Timing and Format

    a. ENGINEER shall invoice the 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 will maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with legal, and ENGINEER business, requirements. Certificates evidencing such coverage will be provided to CITY upon request. For projects involving construction, CITY agrees to require its construction contractor, if any, to include ENGINEER as an additional insured on its policies relating to the Project. ENGINEER coverages referenced above shall, in such case, be excess over contractor's primary coverage.

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

13. LIMITATIONS OF LIABILITY. No employee or agent of ENGINEER shall have individual liability to CITY. CITY agrees that, to the fullest extent permitted by law, ENGINEER's total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, ENGINEER's negligence, error, omissions, strict liability, or breach of contract shall not exceed the total compensation received by ENGINEER under this Agreement except for personal injury or property damage which shall be limited to the extent of ENGINEER insurance coverage (minimum $250,000.00). If CITY desires a limit of liability greater than that provided above, CITY and ENGINEER shall include in this Agreement the amount of such limit and the additional compensation to be paid to ENGINEER for assumption of such additional risk.

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.

**Attachment No. 1**
**Summit Park Trail and Sidewalk Project, Phase 1**
**Fee Summary Sheet**

| Task | Not to Exceed Fee |
|---|---|
| Six (6) Project Review Meetings (Task 1.2) | $4,200 |
| Topographic Survey Fee (Task 2.1) | $17,930 |
| Location Control Route Survey Fee (Task 2.2) | $3,000 |
| Geotechnical Investigation Fee (Task 2.3) | $9,115 |
| Wetland Delineation Fee (Task 3) | $5,523 |
| Preliminary Sidewalk, Trail, Bridge & Drainage Design (Task 4) | $59,317 |
| Retaining Wall Design (Task 4.8.j) | $10,000 allowance |
| Landscape Architecture (Task 4.11) | $4,540 |
| Public Meeting (Task 5) | $4,430 |
| **Total** Right of Way Engineering Fee (Task 6) based upon 10 Permanent takes and 4 temporary takes | $16,577 |
| One Legal description, one parcel plat, and an area comp. sheet for Permanent Takes (Tasks 6.1.A and 6.1.B) **PER PARCEL:** $595 x 10 = | $5,950 |
| One legal description and an area comp. sheet for Temporary Takes **PER PARCEL**: $528 x 4 = | $2,112 |
| Title & Encumbrance Reports (Task 6.1.C) **PER PARCEL**: $450 x 14 = | $6,300 |
| Existing ROW Report (Task 6.1.F) | $325 |
| Summary of what ROW is based upon (Task 6.1.E) **PER PARCEL:** | $1,890 |
| Final Sidewalk, Trail, Bridge and Drainage Design (Task 7) | $35,727 |
| Permitting (Task 7.8) | |
| IDNR – Construction in Floodway | $5,500 |
| IDEM – Rule 5 | $2,950 |

| | |
|---|---|
| INDOT – ROW Permit | $2,170 |
| IDEM – Section 401 | $4,081 |
| ACOE – 404 | $3,431 |
| Allen County Drainage Board | $1,193 |
| Bidding Assistance (Task 8) | $4,650 |
| Construction Services (Task 9) | $10,000 allowance |
| **Total Not to Exceed Fee** | **$204,334** |

*** Please provide man hour justifications for above tasks.

# DIGEST SHEET

Department: Greenways

Resolution Number: N/A (W/O# 0073N)

Title of Ordinance: Summit Park Trail & Sidewalk Project, Phase 1

Awarded To: Fleis & Vandenbrink Engineering, Inc.

Amount of Contract: $204,334 (not to exceed) (100% TIF)

Number of Bidders: 6 letters of interest

Description of Project (Be Specific):

The PROJECT consists of survey, design, engineering and bidding services for a 5 foot wide concrete sidewalk along the north side of Washington Center Road from the entrance of the Village of North Oaks Mobile Home Park to the former Grand Rapids – Indiana Railroad corridor; a 10 foot wide asphalt trail along the railroad corridor from Washington Center Road to Ludwig Road; and a 10 foot wide asphalt trail along the south side of Ludwig Road from the railroad corridor to the entrance of Meijer, at which point the trail will follow the north side of the ring road and will cross between Applebee's and the strip mall to the south over to Lima Road. The trail will then run parallel with Lima Road to the intersection of Ludwig Road, where it will tie into the existing trail on the northwest side of the intersection. The City followed the Competitive Sealed Proposal Process (CSP). We sent out a RFQ and had 6 firms submit qualifications. Our internal team graded the firms and shortlisted the project to 4 firms. We sent out a RFP. Fleis & Vandenbrink had the lowest fee and the best schedule. So, we recommend that Fleis & Vandenbrink provide engineering services, including right of way engineering services, permitting, topographic survey and location control route survey, for the PROJECT. Project will also include Citilink- and ADA-accessible facilities with conformity to PROWAG. Pedestrian crossings will be incorporated, including two mid-block crossings on Washington Center Road, with appropriate safety features, including piano key pavement markings, signage, overhead lighting and countdown pedestrian signals to cross the west approach of Ludwig Road at Lima Road. Drainage and storm sewer accommodations and design are anticipated. Also, two pre-fabricated pedestrian bridges are anticipated. A trailhead is planned for the south side of Ludwig Road on the railroad corridor. Geotechnical work is anticipated for the two (2) pedestrian bridges and for testing the soil at the railroad corridor for contamination. A wetland delineation is also necessary. This project will be bid through the Board of Public Works and is anticipated to be constructed in the summer and fall of 2016.