

BILL NO. S-17-03-30

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving PROFESSIONAL SERVICES AGREEMENT: THREE RIVERS PROTECTION & OVERFLOW REDUCTION TUNNEL (3RPORT) DESIGN SERVICES DURING CONSTRUCTION - W.O. #76356 (\$5,476,600.00) between BLACK & VEATCH CORPORATION 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: THREE RIVERS PROTECTION & OVERFLOW REDUCTION TUNNEL (3RPORT) DESIGN SERVICES DURING CONSTRUCTION - W.O. #76356 by and between BLACK & VEATCH CORPORATION 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 Professional engineering services to perform design services during construction of the 3RPORT tunnel and shafts project;

involving a total cost of FIVE MILLION FOUR HUNDRED SEVENTY-SIX THOUSAND SIX HUNDRED AND 00/100 DOLLARS - (\$5,476,600.00). A copy of said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

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

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8 APPROVED AS TO FORM AND LEGALITY

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11 Carol Helton, City Attorney
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PROFESSIONAL SERVICES AGREEMENT

For

THREE RIVERS PROTECTION & OVERFLOW REDUCTION TUNNEL (3RPORT) DESIGN SERVICES DURING CONSTRUCTION ("Project")

This Agreement is by and between:

CITY OF FORT WAYNE ("CITY")

By and through its

Board of Public Works
City of Fort Wayne
200 East Berry Street, Suite 210
Fort Wayne, Indiana 46802

and

BLACK & VEATCH CORPORATION ("DESIGN ENGINEER")

825 S. Barr Street
Third Floor
Fort Wayne, Indiana 46802

Who agree as follows:

CITY hereby engages DESIGN ENGINEER to perform the services set forth in Part I - Services ("Services") and DESIGN ENGINEER agrees to perform the Services for the compensation set forth in Part III - Compensation ("Compensation"). DESIGN ENGINEER shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from CITY. CITY and DESIGN 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, Chair

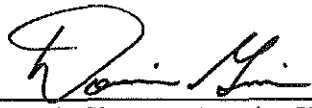
BY: _____
Mike Avila, Member

BY: _____
Kumar Menon, Member

ATTEST: _____
Lyndsey Richards, Clerk

DATE: _____

APPROVED FOR DESIGN ENGINEER

BY:  _____
Donnie Ginn, P.E. Associate Vice President

DATE: 3/15/17

PART I

SCOPE OF BASIC ENGINEERING SERVICES

A. GENERAL

The City of Fort Wayne has entered into a Consent Decree with the U.S. Environmental Protection Agency (EPA), U.S. Department of Justice (DOJ), and the Indiana Department of Environmental Management (IDEM) to implement a combined sewer overflow (CSO) Long Term Control Plan (LTCP) to reduce the volume of combined sewage that is discharged into the waterways within the City of Fort Wayne. Control Measure Nos. 11 & 12 of the Long Term Control Plan includes the Wayne Street and St. Marys Parallel Interceptors which have been renamed to the Three Rivers Protection & Overflow Reduction Tunnel (3RPORT). The tunnel is anticipated to be fully operational by the end of 2022 and the relief sewer by the end of 2025. The proposed tunnel will receive flows from combined sewer outfalls to reduce combined sewer overflows to the St. Marys and Maumee Rivers to four overflow events within a typical year. The tunnel will then convey the flow to the Wet Weather Pump Station (WWPS) for transfer to and storage in the Wet Weather Ponds (WWP) or will convey the flow directly to the Water Pollution Control Plant (WPCP) for treatment.

B. PROJECT DESCRIPTION

The 3RPORT Design Services During Construction project consists of performing additional design services for the 3RPORT Project and construction phase services for the Tunnel and Shafts Package.

C. SCOPE OF SERVICES

The Services to be performed by the DESIGN ENGINEER shall include the following:

The CITY hereby engages DESIGN ENGINEER to provide Design Services During Construction (DSDC) of the Tunnel and Shafts Package for the 3RPORT program to review conformance with the 3RPORT Contract Documents [hereinafter referred to as "Contract Documents"], to provide a means of Contract Document interpretation, and to provide support to the CITY and Construction Contract Management (CCM) Team during construction. Also included are additional design services required for the project. The DSDC will be provided for the Tunnel and Shafts Package only and a subsequent Amendment or PSA will be executed for DSDC including Bid Phase Services for the remaining packages.

By performing these services, the DESIGN ENGINEER shall not be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project. In addition, DESIGN ENGINEER shall not be responsible for the failure of any contractor, subcontractor, vendor, or other project participant to fulfill contractual or other responsibilities to the CITY. DESIGN ENGINEER shall notify CITY of any failure of the Contractor to conform to the Contract Documents which becomes known to DESIGN ENGINEER in performing DESIGN ENGINEER's obligations hereunder.

PHASE 14 – DESIGN SERVICES

DESIGN ENGINEER will perform additional design services for the 3RPORT Program as follows:

TASK 1401 - Raise Final Grade at Shaft Sites

CITY has requested that the finish grade of the entry points for the drop shaft and gate and screen structure at DS-01, DS-02, DS-03, DS-07, and DS-12, along with the working shaft site and alternate retrieval shaft site, be raised to approximately two feet above the 100-year floodplain elevation in order to facilitate access to the structures when flooded. In accordance with CITY's intent to vacate a portion of Glasgow Avenue north of Dwenger Avenue, the vacated road will be re-graded to provide a more level surface with the adjacent Water Pollution Control Plant (WPCP) property. DESIGN ENGINEER will modify existing plan and profile drawings and site plans prepared to

date, and will develop up to two additional site grading plans. DESIGN ENGINEER will perform cut/fill grading calculations for each site and apply for additional permits. Retaining wall design at sites is excluded. The site grading work for drop shafts DS-01, DS-02, DS-03, DS-07, DS-12, working shaft site, and alternate retrieval shaft site will be included as part of the Tunnel and Shafts Package.

TASK 1402 - Architectural Design

Architectural drawings shall be prepared for the following structures: DDPS screening building, DDPS elevator enclosure, DDPS stairway enclosure, DDPS control building, and DS-01 power building.

- DDPS screening building: anticipated to have a footprint of approximately 100 feet x 60 feet and accommodate grit handling facility and roll-off containers for grit and trash.
- DDPS elevator enclosure: anticipated to have a footprint of approximately 12 feet x 12 feet and provide access to the DDPS pumps.
- DDPS stairway enclosure: anticipated to have a footprint of approximately 20 feet x 12 feet and provide access to the DDPS pumps.
- DDPS control building: anticipated to have a footprint of approximately 70 feet x 60 feet and accommodate the electrical and instrumentation equipment for the DDPS pump and screening equipment.
- DS-01 power building: anticipated to have a footprint of approximately 40 feet x 60 feet to accommodate mechanical/electrical/instrumentation equipment, additional room for storage requested by City of Fort Wayne Parks Department, and venting for retrieval shaft and DS-01. CITY may elect to have a separate, stand-alone vent structure depending on input from the Parks Department.

CITY will contract directly with an architectural consultant to furnish architectural concept drawings to DESIGN ENGINEER. Utilizing this information DESIGN ENGINEER will provide the following architectural design services:

- Participate in a concept review meeting between CITY, DESIGN ENGINEER, and CITY's architectural consultant.
- Produce 30, 60, 90-percent, pre-final, and final architectural design drawings and specifications, that will be included as part of the DDPS Package submittals, for the following structures: DDPS screening building, DDPS elevator enclosure, DDPS stairway enclosure, and DDPS control building.
- Produce 30, 60, 90-percent, pre-final, and final architectural design drawings and specifications for the DS-01 power building, that will be included as part of the collection consolidation sewer (CCS) Package submittals.

TASK 1403 - Additional Structural Design

DESIGN ENGINEER will provide additional structural design services for the following facilities that have been added to the scope of the Project:

- DDPS screening building: anticipated to have a footprint of approximately 100 feet x 60 feet and accommodate grit handling facility and roll-off containers for grit and trash.
- DDPS control building: anticipated to have a footprint of approximately 70 feet x 60 feet and accommodate the electrical and instrumentation equipment for the DDPS pump and screening equipment.

- DS-01 power building: anticipated to have a footprint of approximately 40 feet x 60 feet to accommodate mechanical/electrical/instrumentation equipment, additional room for storage requested by CITY Parks Department, and venting for retrieval shaft and DS-01. CITY may elect to have a separate, stand-alone vent structure depending on input from the Parks Department.
- Upflow shaft: separate shaft from the pump station shaft that will be used for DDPS screening and to convey tunnel siphon flow.
- Flow control structure: a structure near the DDPS where the individual pump discharge pipes combine into a single force main, before continuing to the final discharge location.
- Combined retrieval shaft and DS-01 shaft: a combined retrieval shaft structure and drop shaft DS-01 structure to convey flow from near surface consolidation sewers to drop shaft DS-01.

Two additional buildings are planned for the project – the DDPS elevator enclosure and DDPS stairway enclosure, but the design of those structures is offset from the original scope of a single DDPS building above the pump station shaft.

TASK 1404 - Work Sessions with Pre-Qualified Contractors

DESIGN ENGINEER shall participate in work sessions between CITY and pre-qualified contractors on the Tunnel and Shafts Package. Up to six initial work sessions will be conducted with pre-qualified contractors to obtain input into the design. Up to five subsequent work sessions will be conducted to discuss Slurry TBM equipment and to obtain input from the pre-qualified contractors. The DESIGN ENGINEER'S attendance will include the Project Manager and/or Deputy Project Manager, and Lead Tunnel Engineer. The contractor input provided during these sessions, along with other written comments from contractors, will be reviewed by DESIGN ENGINEER. Input that CITY and DESIGN ENGINEER determines will improve the plans and specifications can be incorporated into the documents as a supplemental service.

TASK 1405 - Design Modifications to DS-09

DESIGN ENGINEER shall perform design services on the Tunnel and Shafts Package to modify drop shaft DS-09 to capture flow for both DS-09 and DS-08. The design modifications include relocation of the drop and vent shafts on-site for DS-09 to accommodate a larger deaeration chamber; and redesign of a larger drop and vent shaft, approach channel in lieu of a prefabricated vortex insert, deaeration chamber, and adit; and redesign of the site layout drawings.

Plan and profile sheets for extending a consolidation sewer from DV-08 to DS-09 using a river crossing, a new junction structure where the consolidation sewer from DV-08 will tie into the consolidation sewer DS-09, and additional survey and topographic mapping are not included but can be provided as a supplemental service.

TASK 1406 - Relocation of Retrieval Shaft to DS-01

DESIGN ENGINEER shall perform design services to relocate the retrieval shaft from Indian Village Park to the northern end of Foster Park near DS-01. DESIGN ENGINEER will revise the plans and specifications for the Tunnel and Shafts Package to reflect the new retrieval shaft location. City of Fort Wayne Parks Department requirements will be considered as appropriate. This will include revised site plans, grading plans, and structural details.

TASK 1407 - Muck Stockpile Alternative

CITY desires to provide an area where the Contractor may temporarily stockpile the tunnel muck. DESIGN ENGINEER will develop a site plan to indicate areas where tunnel muck may be temporarily stored by the Contractor. DESIGN ENGINEER will add verbiage to the specifications that will require the Contractor to develop and provide a detailed utilization plan, slope stability analysis and maintenance of traffic plan for using the site for

tunnel muck storage. CITY will provide the topographic mapping and /or GIS mapping to DESIGN ENGINEER necessary to create the site plan.

TASK 1408 - Direct Tunnel Connection of DS-12

DESIGN ENGINEER will revise site plans to locate Drop Shaft DS-12 directly over the tunnel. Following the 60-percent design submittal, the design was modified from a pre-fabricated vortex inlet to a direct drop structure.

Task 1409 – Revise Legal Descriptions and Exhibits

DESIGN ENGINEER, through a subconsultant, will revise and prepare new legal descriptions and associated exhibits for changes to the tunnel alignment and at the request of CITY as follows:

- Revise for two parcels, 83 and 84, due to changes in the tunnel alignment.
- Prepare for two new parcels due to changes in the tunnel alignment.
- Prepare for five parcels at DS-02, DS-03, DS-05 and DS-06 for adits per 95-percent deliverable CITY review comments.
- Prepare Exhibit C, profile view, and Figure 1, aerial view, for each parcel plat per request of the CITY for use in property / easement acquisition.
- Prepare for eleven parcels at DS-07, DS-09 and retrieval shaft for the consolidation sewers per 95-percent deliverable CITY review comments.

DESIGN ENGINEER will participate in two additional meetings with the CITY to discuss property and easement acquisitions.

Task 1410 - Odor Control Preliminary Design

The Tunnel and Shafts Package includes stubbed vent piping at each drop shaft, so that there are provisions in place for future odor control equipment. The actual odor control facilities would only be designed and installed in the future if deemed necessary. Due to space constraints and necessity to conceal the equipment at the retrieval shaft / DS-01 site as well as the DS-05 site, DESIGN ENGINEER shall develop preliminary layouts of those odor control facilities in order to provide appropriate space for structures to conceal the equipment. The design or specifications of the odor control equipment and facilities are not included and can be provided as a supplemental service.

TASK 1411 - Additional Meetings and Workshops

At the request of the CITY, DESIGN ENGINEER has conducted additional meetings and workshops for the execution of the Tunnel and Shafts Package. The additional meetings and workshops beyond the Scope of Services include the following:

- DESIGN ENGINEER prepared for and conducted a VE Follow-Up workshop with the CITY and Program Management Team for the Tunnel and Shafts Package. The meeting was held at the DESIGN ENGINEER's Fort Wayne office on June 14, 2016.
- DESIGN ENGINEER facilitated a workshop with the CITY and Program Management Team to discuss the advantages, disadvantages and cost of an open shielded TBM and closed slurry TBM. The workshop was held at the DESIGN ENGINEER's Fort Wayne office on August 16, 2016. DESIGN ENGINEER prepared for and conducted the meeting.

- DESIGN ENGINEER attended a pre-final design review meeting with CITY on September 6, 2016. CITY's Program Manager led the meeting to review 60-percent design review comments and other details related to design.
- DESIGN ENGINEER attended four additional Geotechnical Baseline Report (GBR) workshops with the CITY, CITY's Risk Consultant and the 3RPORT Program Management Team to review the content of the GBR. The first workshop was conducted on August 25, 2016 with a duration of six hours and the second workshop was conducted on September 13, 2016 with a two-hour duration. The third workshop occurred on October 4, 2016 with a duration of ten hours. The fourth workshop occurred on November 1, 2016 with a duration of five hours. DESIGN ENGINEER prepared for and attended each workshop and prepared and presented the GBR content to the CITY, CITY's Risk Consultant and 3RPORT Program Management Team. DESIGN ENGINEER conducted post-workshop investigations and discussions to resolve outstanding items remaining at the end of the workshops. DESIGN ENGINEER updated the GBR based on the agreed to changes.
- DESIGN ENGINEER attended procurement risk register meetings on March 14, 2016, September 29, 2016; October 11, 2016; December 14, 2016; along with a teleconference on October 7, 2016. CITY's Program Manager led the meetings to review the Risk Register developed by CITY's Risk Consultant to identify suggested edits to the plans and specifications.
- DESIGN ENGINEER conducted a teleconference and a meeting to present surge modeling results. The in-person meeting was conducted on December 21, 2016. The teleconference was conducted in the summer of 2016.
- DESIGN ENGINEER will attend up to three meetings with the CITY to discuss and review the Operations Plan. The Deputy Project Manager and Technical Specialist will attend each meeting.

The following additional meetings and workshops have been included for the execution of the DDPS and the CCS Packages.

- DESIGN ENGINEER will prepare for and conduct a decision workshop with the CITY and 3RPORT Program Management Team for the DDPS. DESIGN ENGINEER will present information to the CITY and Program Management Team and facilitate discussions to finalize key decisions to allow the DESIGN ENGINEER to proceed with the DDPS detailed design.
- DESIGN ENGINEER will respond to comments on the 30-percent design deliverable of the DDPS. DESIGN ENGINEER will conduct a 30-percent design review meeting to discuss comments and obtain direction from the CITY.
- DESIGN ENGINEER will respond to comments on the 60-percent design deliverable of the DDPS. DESIGN ENGINEER will conduct a 60-percent design review meeting to discuss comments and obtain direction from the CITY.
- DESIGN ENGINEER will respond to comments on the 90-percent design deliverable of the DDPS. DESIGN ENGINEER will conduct a 90-percent design review meeting to discuss comments and obtain direction from the CITY.
- DESIGN ENGINEER will respond to comments on the pre-final design deliverable of the DDPS. DESIGN ENGINEER will conduct a pre-final design deliverable review meeting to discuss comments and obtain direction from the CITY.
- DESIGN ENGINEER will respond to comments on the 60-percent design deliverable of the CCS Packages. DESIGN ENGINEER will conduct up to three 60-percent design review meetings (one with each of the three CCS subconsultants) to discuss comments and obtain direction from the CITY.

- DESIGN ENGINEER will respond to comments on the 90-percent design deliverable of the CCS Packages. DESIGN ENGINEER will conduct up to three 90-percent design review meetings (one with each of the three CCS subconsultants) to discuss comments and obtain direction from the CITY.
- DESIGN ENGINEER will respond to comments on the pre-final design deliverable of the CCS Packages. DESIGN ENGINEER will conduct up to three pre-final design deliverable review meetings (one with each of the three CCS subconsultants) to discuss comments and obtain direction from the CITY.
- Up to 36 3RPORT Program Management Team meetings are included. DESIGN ENGINEER will attend meetings with the CITY and 3RPORT Program Management Team when requested by the CITY. The duration of each meeting is anticipated to be up to two hours. The meetings will be attended by one DESIGN ENGINEER professional.

The duration of each meeting is anticipated to be up to four hours, unless indicated otherwise. DESIGN ENGINEER shall prepare the meeting agenda, handouts, and presentations (if required). The DESIGN ENGINEER shall document all Project decisions made. DESIGN ENGINEER will supply paper copies and electronic versions of meeting summaries to CITY. Meetings shall be held at CITY's or DESIGN ENGINEER's office in Fort Wayne.

TASK 1412 - Front End Document Revisions

Following submittal of 60-percent design deliverable, CITY requested that DESIGN ENGINEER utilize completely new version (2002 EJCDC) front-end documents to be consistent with other CITY projects. DESIGN ENGINEER will review and provide recommended edits to the Front End Documents prepared by the CITY. Upon finalization by the CITY, DESIGN ENGINEER will integrate the Front End Documents into the Contract Documents for the Tunnel and Shafts Package. The Front End Documents will be included in Volume 1 and the Technical Specifications will be included in Volume 2 of the Project Manual. DESIGN ENGINEER will not have responsibility nor will be liable for the content of the Front End Documents prepared by the CITY.

DESIGN ENGINEER will prepare for and attend a Front End Document workshop conducted by the CITY. The workshop will be attended by the Project Manager, Deputy Project Manager and Senior Engineer. The CITY will make final edits to the Front End Documents based on decisions made during the workshop.

DESIGN ENGINEER will use the Front End Documents for the Tunnel and Shafts Package as the basis for the remaining project packages. A change in the format and approach for the Front Ends for the remaining project packages can be provided as a supplemental service.

TASK 1413 - Field Office Design

The CITY has requested that the field offices for the CITY, CCM Team and Contractor personnel be designed as a permanent building. The field office will house the prime Contractor and CITY/CCM Team and may be supplemented by field trailers as needed for the project. The permanent building will be pre-engineered metal building with a concrete foundation. DESIGN ENGINEER will prepare a performance specification for the building to provide the Contractor requirements for construction materials, and basic construction requirements for HVAC, plumbing, electrical, architectural, structural, foundation and information technology. DESIGN ENGINEER will also prepare conceptual level drawings (floor plan and two elevations) to demonstrate the space and building requirements to the Contractor. DESIGN ENGINEER will perform a geotechnical investigation of the proposed site and develop a Geotechnical Summary Report. Up to 4 shallow borings will be performed. The building is assumed to be approximately 120 feet by 80 feet in plan dimensions by approximately 18 feet eave height. The space is anticipated to include a Contractor area and an CITY/CCM Team area that will include a large conference room; restrooms with lockers and showers; a mechanical room; a server room; a safety equipment storage room; a break room; offices and an open area for cubicles or open office areas. The Contractor will be responsible for providing detailed design of the building and interior spaces that meets the CITY's specified requirements.

One meeting in Fort Wayne to review CITY requirements is included. A sketch will be reviewed with the CITY to develop the space requirements prior to developing the CAD drawings. Redesign of the building size and layout following approval by the CITY will be considered a supplemental service.

The following assumptions have been made for the field office design services:

- Building design, including HVAC, plumbing, electrical, building space, architectural, site, utility, structural, and foundation designs, will be the responsibility of the Contractor. Up to two design review meetings between the CITY, DESIGN ENGINEER and Contractor during construction will be required in the Contract Documents.
- SCADA control from the facility is not included.
- Fiber internet service will be required with a router and Ethernet drops at all offices and cubicle spaces. Internet service is available in proximity to the field office.
- 480-volt, 3-phase service will be required for HVAC and possible future loads. 120/208 volt lighting with LED fixtures will be required. Power service is available in proximity to the field office.
- Building shell, foundation, build-out, and office furnishings will be provided by the Contractor as directed by the CITY through an allowance in the Contract Documents.

TASK 1414 - Closed Slurry TBM Design

The CITY has requested the DESIGN ENGINEER to develop design documents for a Closed Slurry TBM option in addition to an open shielded TBM previously included. DESIGN ENGINEER will prepare technical specifications; perform design; and incorporate additional GBR requirements for the Closed Slurry TBM option. DESIGN ENGINEER will prepare a modified bid form to be included in the Front End Documents with a requirement for the Bidder to indicate the selected TBM option. DESIGN ENGINEER will prepare one set of Contract Documents that will include both TBM options. DESIGN ENGINEER will submit pre-final TBM specifications for review and comment by the CITY with up to a one-week review period. Up to two meetings or workshops are included to discuss the TBM requirements. The final TBM specifications will be delivered with the final Contract Documents.

TASK 1415 - Design Modifications to DS-05

The CITY has requested the DESIGN ENGINEER to relocate diversion structure for Drop Shaft DS-05 to the intersection of Thieme Drive, Berry and Nelson Streets. The relocation was requested during the 95-percent design review and is necessary to avoid conflict with a future Department of Public Work's flood wall project proposed along the north side of Thieme Drive. Up to 16 drawings will be modified including redesign of Diversion Structure DV05-1 (including geometry, process design and structural design); relocation of the consolidation sewer, reorientation of Drop Shaft DS-05; and design modification for the relocation of an existing sanitary sewer.

TASK 1416 - Working Shaft Modified Site Grading

CITY requested the DESIGN ENGINEER to prepare a revised site drawing of the working shaft site to include the western land parcel of the property to be acquired. Revised drawing will include a conceptual auxiliary exit to South Anthony Boulevard.

TASK 1417 - New Fence Details

CITY requested new fence details at retrieval shaft, alternative shaft, DS-05 and DS-09. A board fence will be added to enclose these shaft sites to allow for visual screening and allow viewing portholes as well as possible graphics to be displayed on the exterior. The fence detail, for use at DS-05, included capability to withstand 100-year flood elevation. DESIGN ENGINEER reviewed CITY-provided specification and sketches for inclusion in design package. In addition, CITY requested a 12-foot high protective fence at Alternative Retrieval Shaft.

DESIGN ENGINEER will develop a performance specification and basic detail for a Contractor to follow. Site plans will also be updated to show fencing limits.

TASK 1418 – Materials Testing and Instrumentation Installation and Monitoring Services Request for Proposals

DESIGN ENGINEER will prepare a Request for Proposal and supporting technical specifications and references for use by the CITY in soliciting proposals from qualified testing and instrumentation installation and monitoring firms for the Tunnel and Shafts Package. DESIGN ENGINEER will assist the CITY with preparing an evaluation form to evaluate both qualifications and fee. DESIGN ENGINEER will assist the CITY with evaluating testing firms. DESIGN ENGINEER will develop a Scope of Services to be used by the CITY or Contractor in contracting with the selected testing firm.

TASK 1419 – Review and Incorporate Summary of Work

DESIGN ENGINEER will review a new Summary of Work provided by the CITY and provide comments to the CITY. Based on direction by the CITY, DESIGN ENGINEER will finalize and incorporate the Summary of Work into an Addendum for the Tunnel and Shafts Package.

TASK 1420 – Bid Phase Services

DESIGN ENGINEER's original Scope of Services included Bid Phase Services for up to eight construction packages and up to three addenda for the Tunnel and Shafts package. DESIGN ENGINEER will perform additional Bid Phase Service for the Tunnel and Shafts Package to prepare up to six addenda instead of the original three. In addition, at the CITY's request, DESIGN ENGINEER will delete the open shielded TBM option from the Tunnel and Shafts Package including changes to Geotechnical Baseline Report, Front End Documents and Project Manual to reflect the deletion. DESIGN ENGINEER and CITY agree that the original fee for the Bid Phase Services will include the effort for the Tunnel and Shafts Package only and the Bid Phase Services for the remaining seven construction packages will be included in a future Professional Services Agreement for those seven packages. This results in a no cost change.

PHASE 15 – DESIGN SERVICES DURING CONSTRUCTION

Task 1501 – Preconstruction Conference and CITY's PMIS Training

At a date and time selected by the CITY and at a facility provided by the CITY, the DESIGN ENGINEER will participate in the preconstruction conference for Tunnel and Shafts Package facilitated by the CITY's CCM Team. The preconstruction conference will include a discussion of the Contractor's tentative schedules, procedures for transmittal and review of the Contractor's submittals, processing payment applications, critical work sequencing, change order procedures, record documents, and the Contractor's responsibilities for safety and first aid.

DESIGN ENGINEER will participate in the CITY's Project Management Information System (PMIS) training conducted by the CITY or CITY's representative. Training will include review of the CITY's website for the transmission of electronic data and construction document control protocols. The training session will occur on the same day as the preconstruction conference and will be at the CITY's facility. The preconstruction conference and PMIS training will be attended by the Deputy Project Manager, Lead Tunnel Engineer, Tunnel / Geotechnical Engineer, and up to two Project Engineers.

Task 1502 – Progress Meetings

Participate in monthly progress meetings during onsite construction activities to review Contractor's progress of the Work, discuss upcoming Work, and consult with the CITY and Contractor concerning questions. The Contractor will preside at the meetings and will be responsible for preparing and distributing meeting notes. The Deputy Project Manager and the Lead Tunnel Engineer will attend up to 51 monthly progress meetings and the Tunnel / Geotechnical Engineer and the Sr. Project Engineer will attend up to 26 progress meetings.

Task 1503 – Construction Administration

The DESIGN ENGINEER will perform construction administration services during construction of the Tunnel and Shafts Package. The following engineering services will be provided under this task:

- Review and comment on the Contractor's initial and revised initial construction schedule for the Tunnel and Shafts Package and advise the CITY as to acceptability. Analyze the Contractor's construction schedule, activity sequence, and construction procedures as applicable to the CITY's ability to keep existing facilities in operation and for conformance with the Contract Documents. Subsequent schedule reviews are the responsibility of the CCM Team.
- Respond to Requests for Information (RFIs) submitted by the CITY, CCM Team or Contractor for the Tunnel and Shafts Package. DESIGN ENGINEER will provide responses to RFIs from the Contractor within ten business days of receipt. Responses to requests that involve input from the CITY or CITY's CCM Team may extend longer than ten business days. Up to 100 RFI reviews are included. Additional responses can be provided as a supplemental service.
- Assist CITY with reviewing Work Change Directive (WCD) requests by the Contractor or CITY and assist in preparing proposal requests to the Contractor for changes in scope, if required. DESIGN ENGINEER will review and provide comment to the CITY on up to 20 WCD request items for the Tunnel and Shafts Package. The CCM Team will prepare and process WCDs, if required.
- Assist CITY with reviewing Change Order requests by the Contractor. DESIGN ENGINEER will review and provide comment to the CITY on up to six change order request items for the Tunnel and Shafts Package. The effort is limited to review and comment to the requested Change Order applicability only and does not include evaluation of alternatives and detailed investigations of the requests. Preparation of the Change Order documents will be the responsibility of the CCM Team.

Task 1504 – Shop Drawings and Submittals Review

Review shop drawings and other data submitted by the Contractor as required by the Contract Documents. The DESIGN ENGINEER's review shall be for general conformity to the Contract Documents for the Project and shall not relieve the Contractor of any of his contractual responsibilities. Such reviews shall not extend to means, methods, techniques, sequences, and procedures of construction, or to safety precautions and programs incident thereto. The Scope is based on review of up to a total of 500 combined submittals and resubmittals for the Tunnel and Shafts Package.

Review of "Substitutes" requests by the Contractor shall follow the requirements of the General Conditions in the Contract Documents. The DESIGN ENGINEER will perform such reviews as a supplemental service and will track the time and expenses separately for payment.

Task 1505 – Risk Management

DESIGN ENGINEER will review the Contractor's construction risk register and meet with the CITY, CCM Team, CITY's Risk Consultant and Contractor for a total of 12 risk meetings over the construction duration, to review, identify and discuss construction risks to help mitigate or minimize to the extent possible by the CITY and Contractor. The Lead Tunnel Engineer, Tunnel/Geotechnical Engineer and Sr. Project Engineer will attend the meetings.

Task 1506 – Disputes Resolution Board Meeting Attendance

DESIGN ENGINEER will attend Disputes Resolution Board (DRB) meetings to support with providing information to the DRB. The DRB will meet on a quarterly basis, for a total of 17 meetings (corresponding to 17 quarters), to review progress of the Project and to support the CITY and Contractor with resolving disputes. DESIGN

ENGINEER will prepare for and attend the DRB meetings. The Lead Tunnel Engineer and the Tunnel / Geotechnical Engineer will attend.

Task 1507– Site Visits

The DESIGN ENGINEER will make periodic visits to the construction site when requested by the CITY to observe construction and confer with CITY, CCM Team, or Contractor concerning problems and/or progress of the Work. The Scope is based on 51 trips for the Tunnel and Shafts Package and includes one-day site visits for up to two professionals to review design-related questions and construction conflict or issue resolution. Additional trips may be provided as a supplemental service.

The DESIGN ENGINEER shall not have responsibility for the superintendence of construction site conditions, safety, safe practices or unsafe practices or conditions, operation, equipment, or personnel other than employees of the DESIGN ENGINEER. This service will in no way relieve the Contractor of complete supervision of the Work or the Contractor's obligation for complete compliance to the Contract Documents. The Contractor shall have sole responsibility for safety and for maintaining safe practices and avoiding unsafe practices or conditions.

Task 1508 – Tunnel Boring Machine Factory Acceptance Test Assistance

DESIGN ENGINEER will attend up to two TBM factory review and acceptance tests to witness operability of the TBM. DESIGN ENGINEER will support the CITY and CCM Team by reviewing compliance with the Contract Documents. The Lead Tunnel Engineer and the Tunnel / Geotechnical Engineer will attend the factory acceptance tests. Additional factory acceptance tests and travel outside the United States can be provided as a supplemental service.

Task 1509 – Final Inspection

Upon notice of substantial completion from the Contractor, conduct a final inspection for the Tunnel and Shafts Package. Assist CCM Team with preparation of a punchlist of items to be completed or corrected by the Contractor before final completion of the Project. Submit list of items observed to CITY and CCM Team for incorporation into the punchlist. CITY and CCM Team will deliver the punchlist to Contractor. Additional inspections to review completion of punchlist items may be provided as a supplemental service.

Task 1510 – Revise Construction Contract Drawings

Upon completion of the project, revise the construction contract drawings to conform to the construction records for the Tunnel and Shafts Package. Revisions (red-lines) to the construction contract drawings will be provided by the Contractor. The CCM Team is responsible for reviewing and verifying the record drawings, provided by the Contractor, for accuracy and that all markups and documentation are included prior to submittal to DESIGN ENGINEER. DESIGN ENGINEER will submit one full size and three half size copies of the final conformed-to-construction drawing prints and a PDF version to CITY within two months of receipt of Contractor's revisions.

Task 1511 – Project Administration and Management

Provide project supervision, direction, and coordination with the CITY management and staff. Project administration and management also includes budget and schedule control, client management support, document control, coordination of activities, monthly progress reports, monthly invoicing and project close-out. DESIGN ENGINEER will maintain a change register of any scope changes affecting the project budget or schedule and review it with the CITY on a monthly basis. DESIGN ENGINEER shall discuss and receive written approval for any scope changes from CITY prior to proceeding.

D. SCHEDULE

DESIGN 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. The effort and fee for the Design Services During Construction are time dependent. The effort and fee for the Scope of Services indicated herein is based on a four and a half year construction period from approximately May 1, 2017 to October 31, 2021. In the event that the

construction period is extended, the contract amount shall be increased to a mutually agreed amount for DESIGN ENGINEER's services. The schedule for the design services is included in Attachment 2 – Project Schedule.

E. SUPPLEMENTAL SERVICES

Upon separate written authorization by the CITY and negotiated fees, DESIGN ENGINEER may provide additional services as indicated in Attachment 1 – Supplemental Services.

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

CITY will 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 DESIGN ENGINEER and make decisions with respect to the Services. The CITY's representatives for this Agreement will be T.J. Short, P.E., Zach Schortgen, P.E. and Kelly Bajic, P.E.

B. DATA

CITY will provide available information, including previous reports, environmental assessments, investigations and other studies in the possession of CITY relevant to the design of the Project.

C. EASEMENTS AND PROPERTY ACQUISITION

CITY will perform Easement and Property Acquisitions including property valuation, land and easement negotiations and legal services.

D. DECISIONS

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

E. MEETINGS

CITY will attend Project meetings identified within the Scope of Services. CITY will review and provide comments on project meeting notes.

F. DOCUMENT REVIEWS

CITY will examine documents submitted by DESIGN 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.

G. ACCESS

CITY will provide access to Project premises for DESIGN ENGINEER and the DESIGN ENGINEER's representatives and/or subconsultants to provide services as defined under this Agreement.

H. OTHER CONSULTANTS

CITY will advise DESIGN ENGINEER of the Scope of Services of any independent consultants employed by CITY to perform or furnish services in regard to the Project.

I. PROJECT MANAGEMENT INFORMATION SYSTEM (PMIS)

CITY will provide access and support for the CITY's Project Management Information System (PMIS) for duration of Project.

J. PROJECT DEVELOPMENTS

CITY will give prompt written notice to DESIGN ENGINEER whenever the CITY becomes aware of any event, occurrence, condition or circumstance which may affect the DESIGN ENGINEER's performance of Services, or any defect or nonconformance in DESIGN 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 fee of \$5,476,600.

The Scope of Basic Engineering Services will be performed at the request of the City on an hourly basis up to the not-to-exceed fee. The not-to-exceed fee may be increased by Amendment if the not-to-exceed fee is met and the City requires continued services.

DESIGN ENGINEER's costs will be based on the hours incurred to complete the Project times the hourly rates of the various personnel, per Attachment 4 – 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 DESIGN ENGINEER plus 5 percent for administrative costs. An invoice supporting Subconsultant services and charges will be provided as backup, when requested. The DESIGN ENGINEER will obtain written CITY approval before authorizing these services.

B. BILLING AND PAYMENT

1. Timing/Format

- a. DESIGN 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 will pay DESIGN ENGINEER within 30 days of receipt of approved invoice.

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 DESIGN ENGINEER and CITY. DESIGN ENGINEER will promptly notify CITY of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.

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

4. **DELAYS.** If events beyond the control of DESIGN 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, DESIGN 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 DESIGN ENGINEER for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.

DESIGN 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, DESIGN ENGINEER shall be paid for all authorized services rendered prior to termination including reasonable profit and expenses relating thereto.

6. **ARBITRATION.** The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration. For purposes of clarity, any and all disputes relating to the Project shall be subject to binding arbitration as set forth above. All arbitrations shall be presided over by a panel of three (3) arbitrators and governed by the American Arbitration Association's rules for Large, Complex Construction Disputes. The foregoing agreement to arbitrate shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

CITY may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) DESIGN ENGINEER consents to consolidation in writing (such consent shall not be unreasonably withheld); (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s). CITY, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

7. **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 DESIGN ENGINEER for the specific purpose intended, shall be at CITY's sole risk.

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

9. **RELATIONSHIP WITH CONTRACTORS.** DESIGN 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 DESIGN ENGINEER specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY's contractors.

Nothing contained herein shall impose upon DESIGN ENGINEER any responsibility or liability for Work or responsibilities of CONTRACTORS, including but not limited to the correctness of any shop drawings or other submittals, construction means, methods, techniques and procedures, or safety matters; or failure of the CONTRACTOR to construct the Work in accordance with Contract Documents. Without limitation to any of the services set forth in this Agreement, DESIGN ENGINEER's presence at the construction site is for the purpose of providing the CITY with support in observing that the Work is generally in accordance with the Contract Documents and design concept as required by Contract Documents.

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

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

12. **INSURANCE.** DESIGN 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
- f) Professional Liability – DESIGN ENGINEER shall carry a minimum of \$2,000,000 per claim of professional liability coverage with only those exclusions that are standard in the industry for the type of services being performed and said coverage shall be in place for a period of at least 3 year after the completion of the Services.

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder on all policies with exception of Worker's Compensation / Employer Liability and Professional Liability (if required) 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
200 East Berry Street, Suite 490
Fort Wayne, IN 46802

13. **INDEMNITIES.** To the fullest extent permitted by law, DESIGN 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 DESIGN ENGINEER, its agents or employees.

14. **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 this Agreement. 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.

15. **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.

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

17. **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.

18. **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.

19. **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.

20. **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.

21. **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 DESIGN ENGINEER's performance under this Agreement shall expire one year after Project Completion.

21. **CONSENT DECREE NOTIFICATION.** DESIGN ENGINEER shall perform, or cause others to perform, all Services 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. DESIGN ENGINEER acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:

http://www.cityoffortwayne.org/utilities/images/stories/docs/consent_decree/Consent_Decree.pdf

23. **DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, DESIGN ENGINEER agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within DESIGN ENGINEER's possession or control and which relate, in any manner, to the performance of the Services 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, DESIGN 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 DESIGN 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 DESIGN ENGINEER attesting that it has provided the CITY with complete copies of all documents, records and other information which relates to the Services contemplated by the Agreement.

ATTACHMENT 1 SCOPE OF SERVICES

For

THREE RIVERS PROTECTION & OVERFLOW REDUCTION TUNNEL (3RPORT) DESIGN SERVICES DURING CONSTRUCTION

PROJECT DELIVERABLES

DESIGN ENGINEER shall submit an electronic and five (5) hard copies of draft and final versions of all reports, meeting summary notes, and technical memoranda. The DESIGN ENGINEER shall provide the CITY with an electronic copy of a comment log with each deliverable for CITY's use in summarizing comments. The log shall include columns for CITY review comments and for DESIGN ENGINEER responses. Following development of responses, DESIGN ENGINEER shall review the comment log with the CITY to develop a resolution to the unresolved items. DESIGN ENGINEER shall submit the final comment log to the CITY for record purposes.

SUPPLEMENTAL SERVICES

Any Services requested by the CITY which are not included in the tasks as described herein will be considered a Supplemental Service to this Professional Services Agreement and may be added to the Scope upon mutual agreement to an increase in the engineering fee.

Supplemental Services shall include, but are not limited to:

- A. Additional design services and additional meetings beyond those in the Scope of Services.
- B. Physical modeling and re-design services as a result of the physical modeling recommendations.
- C. Design services during construction beyond those in the Scope of Services.
- D. Any meetings with local, State, or Federal agencies or utilities, or other affected parties to discuss the Project, other than those specifically noted.
- E. Any appearances at any public hearings or before special boards, other than those listed.
- F. Special consultants or independent professional associates requested or authorized by CITY.
- G. Review of "Substitutes" requests.
- H. Start-up services, other than those specifically noted.
- I. Review of contractor claims and associated research and investigations.
- J. Preparation for litigation, arbitration, or other legal or administrative proceedings; and appearances in court or at arbitration sessions in connection with the Project.
- K. Provisions, through a subcontract, to provide photographs or videotapes of the site's topographic and infrastructure features.
- L. An environmental assessment report and/or environmental impact statement as requested by CITY or required by review agencies.
- M. Provisions, through a subcontract, to provide any special reports or studies on materials and equipment requested by CITY.
- N. Monitoring site or adjacent sites for air quality and/or noise.
- O. Provisions to prepare or conduct confined space evaluation or permits.
- P. Providing written procedures, training, physical assessment, or any other Health and Safety provisions that may

be required in the event hazardous materials are encountered.

- Q. Development of hazardous waste treatment, mitigation or reduction systems for handling hazardous materials found or generated on the Project.
- R. Review of additional submittals, requests for information and change order requests beyond those included in the Scope of Services.
- S. Additional site visits beyond those included in the Scope of Services.
- T. Revisions to additional CITY drawings other than those specifically noted.

**ATTACHMENT 2
PROJECT SCHEDULE**

For

**THREE RIVERS PROTECTION & OVERFLOW REDUCTION TUNNEL (3RPORT)
DESIGN SERVICES DURING CONSTRUCTION**

The Project target milestones and schedule:

<u>Deliverable</u>	<u>Milestone Date</u>
Operations Plan	May 2017
DDPS 30-Percent Design Deliverable	June 2017
DDPS 60-Percent Design Deliverable	October 2017
DDPS 90-Percent Design Deliverable	January 2018
DDPS Pre-Final Design Deliverable	March 2018
DDPS Final Construction Documents Submittal	April 2018
CCS Packages – Final Construction Documents Submittal	July 2018

**ATTACHMENT 3
SCOPE OF SERVICES FEE PROPOSAL**

For

**THREE RIVERS PROTECTION & OVERFLOW REDUCTION TUNNEL (3RPORT)
DESIGN SERVICES DURING CONSTRUCTION**

Phase 14 - Design Services	<u>\$ 1,530,500</u>
Phase 15 – Design Services During Construction	<u>\$ 3,946,100</u>
Total Not to Exceed Fee	\$5,476,600

**ATTACHMENT 4
HOURLY RATE SCHEDULE**

For

**THREE RIVERS PROTECTION & OVERFLOW REDUCTION TUNNEL (3RPORT)
DESIGN SERVICES DURING CONSTRUCTION**

1. Payment of actual hourly rates for Services rendered by DESIGN ENGINEER's employees in each billing class working directly on the Project. The rates shall include the cost of customary and statutory benefits, general and administrative overhead and profit. Hourly rates will be in accordance with the following schedule:

<u>EMPLOYEE CLASSIFICATIONS</u>	<u>RATE</u>
Project Director	\$285
Project Manager	\$285
Deputy Project Manager	\$220
Lead Tunnel Engineer	\$285
Lead CCS Engineer	\$240
Lead Pump Station Engineer	\$220
Technical / QC Specialist	\$255
Tunnel / Geotechnical Engineer	\$195
Project Electrical / I&C Engineer	\$220
Sr. Project Engineer	\$170
Project Engineer	\$155
Design Engineer	\$130
Architect	\$145
Sr. CAD / GIS Technician	\$140
CAD / GIS Technician	\$125
Project Assistant	\$95

The employee hourly rates above are an average rate valid between January 1, 2017 and December 31, 2021. After that time, updated rates with justification for the adjustments may be submitted to the CITY for approval. Adjustment of the rates will be permitted only once each subsequent calendar year. If the CITY does not approve the rates, the Agreement may be terminated for convenience.

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

CITY OF FORT WAYNE, INDIANA

Black & Veatch Corporation

(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

1. Financial Interests;
2. Potential Conflicts Of Interest;
3. Current And Pending Contracts Or Procurements

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$50,000 or more. Vendors shall disclose their financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration for a contract awarded by the City. This Disclosure Statement must be completed and submitted together with the Vendor's contract, bid, proposal or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1: Disclosure of Financial Interest in Vendor

- a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

(i) Equity ownership exceeding 5% (See Below)

Black & Veatch Corporation is a wholly owned subsidiary of BVH, Inc. (the Company). BVH, Inc is 100% owned by the Black & Veatch Retirement Program, an Employee Stock Ownership Program (ESOP). The ESOP Shares are held in trust for its 8,000 participants by the Program's trustee, GreatBanc Trust Company. Individual beneficial holder data within the ESOP is confidential; however, shareholdings are broadly dispersed among 8,000 employees and former employee participants and no individual has beneficial holdings approaching 5%.

(ii) Distributable income share exceeding 5% ()

(iii) Not Applicable (If N/A, go to Section 2) ()

Name: _____

Name: _____

Address: _____

Address: _____

- b. For each individual listed in Section 1a. show his/her type of equity ownership:

sole proprietorship () stock (X)
partnership interest () units (LLC) ()
other (explain) See Above 1.a

- c. For each individual listed in Section 1a. show the percentage of ownership interest in Vendor (or its parent):
ownership interest:

Name: See Above 1.a _____ %

Name: _____ %

Section 2: Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a. check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

- a. City employment, currently or in the previous 3 years, including contractual employment for services:
Yes _____ No X

- b. City employment of "Member of Immediate Family" (defined herein as: spouse, parent, child or sibling) including contractual employment for services in the previous 3 years:
Yes _____ No X

- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years: Yes _____ No X

- c. Relationship to Member of Immediate Family holding appointive City office currently or in the previous 3 years: Yes _____ No X

Section 3: Disclosure of Other Contract And Procurement Related Information

- a. Does Vendor have current contracts (including leases) with the City? Yes X No _____

If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact below (attach additional pages as necessary).

See Attached. _____

- b. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes ☐ No ☒

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

- c. Does vendor have any existing employees that are also employed by the City of Fort Wayne?

Yes ☐ No ☒

If "Yes", provide the employee's name, current position held at vendor, and employment payment terms (hourly, salaried, commissioned, etc.).

Name / Position / Payment Terms:

Name / Position / Payment Terms:

Name / Position / Payment Terms:

- d. Does vendor's representative, agent, broker, dealer or distributor (if applicable) have any existing employees that are also employed by the City of Fort Wayne? For each instance, please provide the name of the representative, agent, broker, dealer or distributor; the name of the City employee, and the payment terms (hourly, salaried, commissioned, etc.).

Company / Name / Payment Terms: N/A

Company / Name / Payment Terms: _____

Section 4: CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;

- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating
- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

Black & Veatch Corporation
(Name of Vendor)

825 S. Barr Street, Third FL, Fort Wayne, IN 46802
Address
(260) 420-2411
Telephone
GinnDH@bv.com
E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Donnie Ginn

Title Associate Vice President

Signature 

Date 03/15/17

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

Attachment for Section 3.a.

Disclosure of Other Contract and Procurement Related information

- City Utilities – 3RPORT Final Planning and Design, T.J. Short;
- City Utilities – On-Call Services for WPCP and TRFP Process Instrumentation and System, Jon Weirick;
- City Utilities – Green Infrastructure On-Call, Anne Marie Smrchek;
- City Utilities – TRFP Chemical Control Room Improvements, Jon Weirick.

Interoffice Memo

Date: **March 17, 2017**
To: Common Council Members
From: T. J. Short, Sr. Program Manager, City Utilities Engineering
RE: **Contract Title: Three Rivers Protection & Overflow Reduction Tunnel (3RPORT) Design Services During Construction W.O. #76356**

Consultant Selected: Black & Veatch Corporation

Black & Veatch was selected for this project to provide design services during the 4½ year construction for the tunnel and shafts project.

Contract Value: \$5,476,600.00

The consultant shall provide: Professional engineering services to perform design services during construction of the 3RPORT tunnel and shafts project.

Project Description: The City of Fort Wayne entered into a Consent Decree in April of 2008 with the U.S. Environmental Protection Agency (EPA), U.S. Department of Justice (DOJ), and Indiana Department of Environmental Management (IDEM) to implement a combined sewer overflow (CSO) Long Term Control Plan (LTCP). The Long Term Control Plan is intended to reduce the volume of combined sewerage that is discharged into the waterways within the City of Fort Wayne. The largest project within the Long Term Control Plan is the Three Rivers Protection & Overflow Reduction Tunnel or the 3RPORT.

The tunnel will extend approximately 5 miles from Foster Park through downtown Fort Wayne and end at the Water Pollution Control Plant on Dwenger Avenue. Located between 200 and 250 feet below ground, the tunnel will be 16 feet in diameter.

The construction phase of the tunnel and shafts of the 3RPORT will take approximately 4½ years to be completed. Construction is estimated to begin in 2017 and the project is to be finished by 2021.

Implications of not being approved: The 3RPORT project is the largest and most important project in Fort Wayne's Long Term Control Plan to reduce the amount of combined sewage that is discharged to our rivers during wet weather. This project will meet Consent Decree requirements of CSO Control Measures (CMs) 11 and 12 which are required to be completed by 2022 and 2025, respectfully. With such a large scale project, it is necessary to begin the construction in order to meet these mandated completion dates.

If Prior Approval is being Requested, Justify: n/a

Selection and Approval Process: The consultant was selected through the Competitive Sealed Proposal (CSP) process during the design phase, and the design Professional Services Agreement was approved in July, 2014.

Request for Qualifications were sent in October of 2013 to over 120 firms soliciting teams and individual firms for the design of 3RPORT. Two full teams submitted on the RFQ which was comprised of 19 firms altogether, and eleven separate specialty submittals were also received. Proposals were evaluated by a multi-disciplinary team from Fort Wayne Utilities. Based on the strength of the qualifications, two teams were shortlisted. Interviews were conducted in February 2014, and a Request for Proposal was sent to both teams in April 2014. Best and Final proposals were received by Fort Wayne Utilities in May 2014. The key items that the review team was looking in the proposals were: a project team that had experience in similar projects, tunnel design professionals who are at the top of their field, and a strong approach to the project itself. Another key item was that the team would support local partners and local jobs since it was a priority for this project to engage firms who were committed to Fort Wayne. Using this procedure, Utilities Engineering found Black & Veatch's proposal to be the best value. The Board of Public Works approved the professional services agreement on June 25, 2014.

The design for the Tunnel & Shafts project was completed and bids were received on February 16, 2017. It is anticipated that the Tunnel & Shafts contractor will be on site after May 1, 2017 at which time the consultant for the Design Services During Construction for the Tunnel & Shafts project will be needed. The Board of Public Works approved the Design Services During Construction Professional Services Agreement on March 22, 2017.

Funding: The Professional Services Agreement (PSA) will be funded by the 2016 Sewer Revenue Fund (SRF) Bond.

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