

BILL NO. S-17-10-13

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving PROFESSIONAL SERVICES AGREEMENT - HESSEN CASSEL ROAD STORMWATER IMPROVEMENTS-PHASE I -WO #83571 - (\$210,290.00) between COMMONWEALTH ENGINEERS, 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 SERVICES AGREEMENT - HESSEN CASSEL ROAD STORMWATER IMPROVEMENTS-PHASE I by and between COMMONWEALTH ENGINEERS, 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 Professional engineering services to provide the design, bid assistance, and design services during construction for the Hessen Cassel Stormwater Improvements - Phase I Project;

involving a total cost of TWO HUNDRED TEN THOUSAND TWO HUNDRED NINETY AND 00/100 DOLLARS - (\$210,290.00). 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

("Hessen Cassel Road Stormwater Improvements-Phase I")

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Stormwater Management
City of Fort Wayne
200 E. Berry Street, Suite 240
Fort Wayne, IN 46802

and

COMMONWEALTH ENGINEERS, INC. ("ENGINEER")
9604 Coldwater Road, Ste. 203
Fort Wayne, IN 46825
P: (260) 494-3223
F: (260) 494-3224

Who agree as follows:

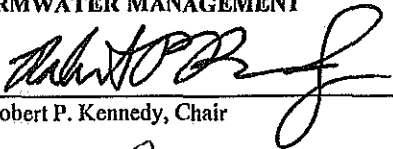
City hereby engages Engineer to perform the services set forth in Part I - Services ("Services") and Engineer agrees to perform the Services for the compensation set forth in Part III - Compensation ("Compensation"). Engineer shall be authorized to commence the Services upon execution of this Agreement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

APPROVALS

APPROVED FOR CITY

BOARD OF STORMWATER MANAGEMENT

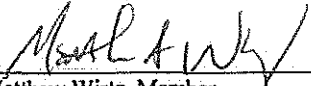
BY:


Robert P. Kennedy, Chair

BY:


Mike Avila, Member

BY:


Matthew Wirtz, Member

ATTEST:


Lyndsey Richards, Clerk

DATE:

10/11/17

APPROVED FOR ENGINEER

BY:


Brian Desharnais, P.E., Vice President

DATE:

9/28/17

PART I

SCOPE OF BASIC ENGINEERING SERVICES

A. GENERAL

Engineer shall provide the City professional Engineering services in all phases of the project to which this scope of services applies. These services will include serving as City's professional representative for the Project, providing professional Engineering consultation and advice, furnishing civil Engineering services and other customary services incidental thereto.

B. PROJECT DESCRIPTION

Provide engineering, bidding and construction related services for the installation of storm sewers, green infrastructure, detention, water quality basins and sidewalks within the Hessen Cassel stormwater corridor area (North of Paulding Road). Project shall be coordinated with Public Works.

C. SCOPE OF WORK

The duty of the Engineer is to develop final construction drawings. 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 is to adhere to the requirements of the Design Standards Manual and relevant exhibits available on the City of Fort Wayne Website. The Engineer shall develop and provide the following services:

Task 1 - Project Schedule, Review Meetings and Project Management

- 1.1 Prepare project design schedule.
- 1.2 Attend one (1) kickoff meeting and two (2) review meetings – *proposed* to occur at the end of Preliminary Design Part I and after completion of Preliminary Design Part II. These meetings are held at the Program Manager's office.
- 1.3 Keep the minutes of the Progress Review Meetings and distribute these minutes within 7 days of the Review Meeting. A maximum of three (3) meetings are included in the scope of work.
- 1.4 Project management including general correspondence, project updates, invoicing, scheduling, budget maintenance, etc.

Task 2 - Preliminary Design

Phase I (30% submittal)

- 2.1 Research City documents for existing mapping, utility information, as-built drawings, aerials, right-of-way and lot base maps, information management system and other pertinent data.
- 2.2 Identify major utilities and their approximate location from Utility maps. This will include identifying size and type of material of the utility main. Coordination with other utilities such NIPSCO, AEP, Verizon, Frontier, etc. will be necessary.
- 2.3 Check conflicts with any other proposed projects in the immediate area.
- 2.4 Contact all utility companies and have the underground utilities field marked along the selected route. (Coordinate with IUPPS 1-800-382-5544)
- 2.5 Engineer shall complete the field survey to verify horizontal location of all utilities, including water service locations, as well as depths of existing sewers. Field survey shall contain the following information, at a minimum:
 1. Engineer shall provide notifications to the public in advance of surveying.

2. Survey limits shall include the limits of the right-of-way and 15' on either side of the right-of-way and adjacent ground elevations.
 3. All located utilities, including towers, poles, pedestals, manhole covers, vault lids, valve box covers, meter box covers, service box covers, cleanouts, fire hydrants (including size, locations, material, and depth if known).
 4. Storm sewers, including invert and rim elevations, SIP identification number, and size and type of pipe (including outfall structures).
 5. Sanitary sewers, including invert and rim elevations, SIP identification number, and size and type of pipe (including outfall structures).
 6. Individual trees larger than 6-inch diameter.
 7. Tree groups, shrubs, gardens, decorative rocks or stones.
 8. Fences.
 9. Edges of pavement for all neighborhood streets and sidewalks within the survey limits.
 10. Limits of all building, appurtenances, structures located adjacent to the facility within the survey limits.
 11. Limits of existing channel banks, centerline and bottom of channel, ponds, lakes and streams and water's edge elevations.
 12. Locations and elevations of on-site benchmarks.
 13. Property lines, lot lines, right-of-way lines and easement lines.
 14. Street signs (including names), traffic signals, curbs, signs and driveway.
 15. Headwalls or retaining walls, and bridges and culverts.
- 2.6 Engineer shall establish a minimum of three (3) additional onsite temporary benchmarks in the form of capped rebars to be used for horizontal and vertical control during construction (1983 State Plane Coordinate System, Indiana 1301, Eastern Zone and 1988 National Geodetic Vertical Datum).
- 2.7 Engineer shall provide survey data in electronic format with 8 1/2" x 11" printouts of the points, and provide PROGRAM MANAGER with electronic copies of field notes and plats.
- 2.8 Prepare preliminary site drawings. Engineer shall overlay utility field survey data onto aerial ortho photography (rectified and tied into the Indiana State Plane Coordinate System) and CITY GIS base maps (right-of-way, lot information). *The drawings at this phase need only enough detail for the Engineer to accurately determine the recommended alignment and convey it to the Program Manager.*
- 2.9 Draft or "Red Line" the Engineer's recommended horizontal route onto the preliminary site drawings.
- 2.10 Furnish one copy of the 30% Preliminary Design – Phase I Drawings in PDF and DWF format to the Program Manager for review and approval. After a review meeting with the Program Manager incorporate any necessary changes.
- 30% Preliminary Design Submittal: (2 Complete Sets)
- Preliminary Design Drawings
 - Summary of Project Quantities w/estimated construction costs
 - List of Technical Specifications
 - List of Permits
- 2.11 Perform all associated coordination and work to obtain a geotechnical sub-consultant to perform soil borings and conduct geotechnical evaluation relative to pipe bedding, trench backfill, bedrock depth, subsurface conditions at tunneling or boring and jacking sites, dewatering and sheeting/shoring issues all in accordance with good Engineering practices. Engineer shall provide to the Program Manager a boring areas plan indicating required soil borings along pipe alignment and any areas of special interest prior to performing any geotechnical work. All work and the proposed location plan shall be approved by the Program Manager prior to commencement. *Assume a minimum of six (6) holes, twenty (20) ft depth for each hole.*

- 2.12 Furnish Right of Way / Easement Documents – Parcel plats and legal description to acquire land for sidewalk placement. Assumed twenty (20) parcels required where existing r/w is less than 40-feet (\$750 each). Boundary survey and exhibits for fee simple acquisition of property for stormwater management purposes. Assumed two (2) fee simple acquisitions (\$2,400 each).

Phase II (60% submittal)

- 2.13 Resolve any utility conflicts and perform a wetland delineation and assemble relevant wetland related permits including:
- Perform a wetland delineation, using the 1987 Corps of Engineers Wetlands Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region, or methodology in force at the time of delineation, by flagging on-site perimeters/edges of areas meeting wetland criteria (hydric soils, wetland hydrology and hydrophytic vegetation), as per FM. The entire project area will be investigated. Open water or ditch sections may be identified as waters of the United States and delineated by ordinary high water, special aquatic sites within waters of the United States will be flagged. This Item includes field investigation; report describing on-site wetland sections; and wetland delineation plan and associated graphics.
 - Field locate wetland delineation utilizing global positioning system (GPS), with location data presented in AutoCAD format for incorporation into project plan set.
 - Prepare Department of the Army, Corps of Engineers (ACOE), Section 404 - Permit application and individual Indiana Department of Environmental Management (IDEM), Section 401 application, with appropriate exhibits, data forms.
- 2.14 Determine the final location of the proposed improvements and any temporary or permanent easement, or right-of-way requirements.
- 2.15 Detail drawings will need to be developed for the Detention Basin west of Hessen Cassel.
- 2.16 Detail drawings will need to be developed for the piping improvements along Hessen Cassel.
- 2.17 Detail drawings will need to be developed for the Stormwater Management area east of Hessen Cassel.
- 2.18 Preliminary Design Phase II Drawings. Incorporate all design improvements presented in Phase I. The Drawings will generally include: (estimated)

	<u>Sheets</u>
Title Sheet	1
General Notes, Index and Legend	1
Plan (and Profile) Sheets	10
Detention Basin Details	5
Stormwater Management Area Details	5
Sidewalk Cross Sections	32
MOT Design	3
Erosion Control Sheets	4
Special Detail Sheets	3
TOTAL	64

The following information should be included in the Plan and Profile sheets:

- o label the alignment with stationing along the construction line with tic marks every 100 feet;
- o verify that the beginning and ending stations for the project in plan and profile view have not changed;
- o show the dimension widths of pavement lane(s), curb and gutter, parkway strip, and sidewalk;
- o show the limits of reconstruction for public road approaches and driveways;
- o show the proposed ditch grading in profile view;
- o show the new sidewalks, curb, and ADA ramps;

- show the limits of the proposed casement and property owner's names and addresses (if applicable);
 - show the proposed storm sewer, locations with outlet locations clearly identified in the plan and profile views;
 - label all crown and invert elevations, pipe size, flow direction and coordinates for existing and proposed storm sewer in profile view;
 - label structures with stationing and offset distance from the construction line in plan view for proposed and existing storm sewer(s);
 - show the survey control points and benchmarks;
 - label all signs and mailboxes to be removed and reset;
 - label all castings to be adjusted;
 - label all trees to be protected or removed;
 - show the north arrow and drawing scale;
 - update construction limits; and
 - show proposed legend in plan view.
- 2.19 Prepare draft Technical Specifications in MF04 format using City Standards as a base.
- 2.20 Compute project quantities and estimate of construction costs.
- 2.21 Submit draft Preliminary Design Documents to Program Manager for review and approval.
60% Preliminary Design Submittal: (2 Complete Sets)
Preliminary Design Drawings
Summary of Project Quantities w/estimated construction costs
Draft Technical Specifications in 2004 Master Format
Draft Bid Form
Permit Applications
- 2.22 Upon approval of Preliminary Design Drawings, submit one copy for "routings" along with a list of all projected affected entities. Program Manager will make additional copies of drawings and perform routing. Routing comments and revisions will be forwarded to Engineer at the review meeting.
- 2.23 The 60% Preliminary Design Drawings and support documentation submitted for review shall be marked with "Not for Construction" and "Second Submittal".
- 2.24 Incomplete submittals will not be accepted and/or reviewed by the Program Manager.

Task 3 - Final Design (95% submittal)

- 3.1 Prepare specifications for the improvements, including bid and proposal instructions/forms, measurement and payment specifications, special provisions and necessary details to supplement City standards.
- 3.2 Complete a quality control review of the draft Contract Documents.
- 3.3 Prepare final design drawings and receive final permits. Incorporate comments received during the review meetings and routings.
- 3.4 Update summary of project quantities with estimated construction costs.
- 3.5 Submit draft Final Design Documents to Program Manager for review and approval.
Final Design Submittal (2 Complete Sets)
Final Design Drawings
Summary of Project Quantities w/estimated construction costs
Bidform
Project Technical / Supplemental Specifications
Permit Approvals

- 3.6 The Preliminary Design Drawings and support documentation submitted for review shall be marked with "Not for Construction" and "Third Submittal".
- 3.7 Upon approval of Final Design drawings and project specifications, prepare and submit one (1) set of stamped paper bond drawings, one (1) electronic version of the project specifications (Microsoft Word) and one electronic copy of project drawings in PDF and CAD format utilizing the CAD standards in Book 6 of the Fort Wayne Design Standards Manual.

Task 4 - Bidding Phase. The bidding phase services shall include the following:

- 4.1 Attend Pre-bid Meeting.
- 4.2 Assist with addenda, as needed, to interpret, clarify or expand bidding documents. City's Program Manager will issue the Addenda. The proposed fee in the professional service agreement assumes assistance with two addenda.
- 4.3 Conformed Contract Documents
The Engineer will prepare a complete set of Contract Documents (drawings and specifications) incorporating revisions from all issued addenda after execution of the Owner-Contractor Agreement (Construction Contract). These "Conformed to Contract" (CTC) set of Contract Documents will contain revisions that incorporate specific changes made by addenda, full counterpart copies of the addenda and accepted bid proposal. Submit electronic version of CTC project drawings in PDF file format in the latest version and electronic copy of the CTC project specifications (PDF).

Task 5 - Construction Phase. The construction phase services shall include the following:

- 5.1 Engineer shall attend pre-construction meeting.
- 5.2 ENGINEER shall process and review shop drawings and Requests for Information (RFIs) submitted by the Contractor (Assumed 4 RFIs). The review process for each shop drawing or RFI shall be completed within a two (2) week time period. Review Contractor submitted shop drawings (Assumed 15 shop drawings) for compliance with Contract Documents, as requested by Program Manager. Review shall be to assess if the items covered by the submittals will, after installation or incorporation, conform to the Contract Documents and be compatible with the overall design intent. Review and approval will not extend to means, method, techniques, sequences or procedures of, or to safety precautions, procedures, or programs incident thereto. ENGINEER shall be available to answer questions as they pertain to the drawings and specifications throughout construction of the Project. Engineer shall also evaluate and determine the acceptability of substitute materials proposed by the Contractor utilizing the City's Project Management Information System ("PMIS").
- 5.3 Engineer shall be available for site visits during construction and shall assist City in answering contractor questions. Site visits shall be made only at the request of the City and as Engineer's budget allows and shall be paid for using contingency funds.
- 5.4 Engineer shall be available via conference call for Construction Progress Meetings. Attending a construction progress meeting shall be only at the request of the City and shall be paid for using contingency funds.
- 5.5 ENGINEER shall not be responsible for the acts or omissions of the Contractor, or of any subcontractors, suppliers, or other individuals or entities performing or furnishing any of the Work. ENGINEER shall not be responsible for the failure of the Contractor to perform or furnish the Work in accordance with the Contract Documents.
- 5.6 Record Documents

The Engineer shall prepare a final record drawing for the project based on information from the Contractor and Resident Project Representative. The drawing shall be prepared in accordance with the City Utilities Design Manual CADD Standards Chapter 3 – Submittals. Engineer shall submit one (1) electronic version of Record Project Drawings in both PDF and Autodesk file format.

D. SCHEDULE

The project will be completed per attached design schedule. This schedule is based on receiving a Notice to Proceed by October 2017 and receiving prompt review and approvals from City agencies and Program Manager (2-weeks per review are included in the schedule).

<u>SCHEDULE</u>	<u>DATE</u>
30% Preliminary Design Phase I	January 2018
60% Preliminary Design Phase II	March 2018
95% Design Phase	May 2018
Final Design Phase	June 2018
Bidding Phase	July 2018
Construction Phase	August 2018

E. OPTIONAL ADDITIONAL SERVICES

Upon separate written authorization by City and negotiated fees, Engineer can provide the following additional services:

CONTINGENCY TASKS (but not specifically limited to):

Contingency items are authorized by the Program Manager and shall have prior approval of fees prior to commencement.

- Percolation tests.
- Attend additional meetings as needed to review and discuss the project, including public meetings.
- Perform site visits to assist Program Manager in resolution of design or construction problems.

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.

Provide Engineer with a maximum of two (2) copies each of existing City utility maps, aerial maps and contour maps that are readily available in the Citizens Square Building.

Provide Engineer with electronic copies of ortho aerial photography, GIS base map information (AutoCAD 2007 format) on right-of-way and lot information, GIS information on existing water and sewer lines (AutoCAD 2007 format).

B. DESIGN PHASE

- Coordinate with other City projects and approvals.
- Approve soil boring location plan.
- Submit permit applications.
- Provide recent City of Fort Wayne bid tabulations for similar projects.
- Land acquisition services.
- Prepare front-end specifications/bid documents.

C. BID PHASE

- Reproduce and distribute bid documents during bid phase.
- Prepare and distribute Pre-Bid Meeting Minutes.
- Prepare and distribute Addenda
- Review and evaluate the bids received and prepare bid tabulation.

D. CONSTRUCTION PHASE

- Provide training on City's Project Management Information System (PMIS)

E. 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 Charles Cochran or other.

F. 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.

G. PROPERTY OWNER NOTIFICATION

Property owner survey notification letters will be prepared and mailed by the City.

PART III

COMPENSATION

A. COMPENSATION

Compensation for services performed in accordance with Part I – Scope of Basic Engineering Services of this Agreement will be based on hours actually spent and expenses actually incurred with a not-to-exceed Engineering fee of \$210,290 as summarized in attached Attachment 1.

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.

Payment for outside consulting and/or professional services such as Geotechnical, Utility Locates, Registered Land Surveyor for easement preparation, or Legal Services performed by a Subconsultant at actual cost to Engineer plus 10 percent for administrative costs. The Engineer will obtain written City approval before authorizing these services.

B. BILLING AND PAYMENT

1. Timing/Format

a. Engineer shall invoice City monthly for Services completed at the time of billing. Such invoices shall be prepared in a form and supported by documentation as City may reasonably require, and shall include the employee name and title of all staff billing to project.

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 alteration of such documents or deliverables without written verification or adaptation by ENGINEER for the specific purpose intended, shall be at CITY's sole risk.

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

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

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

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

11. **INSURANCE.** ENGINEER shall maintain in full force and effect

during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements;

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

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal. All Certificates of Insurance should be sent to the following address:
City of Fort Wayne Purchasing Department
200 East Berry St., Suite #480
Fort Wayne, IN 46802

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

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

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

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

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

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

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

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

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

ATTACHMENT #1

SUMMARY SHEET

SCOPE OF BASIC ENGINEERING SERVICES FEE PROPOSAL

Design Phase – (Tasks 1 through 3)

For Services outlined in Tasks 1 through 3 a not to exceed fee of: \$172,469

Bidding Phase - (Task 4)

For Services outlined in Task 4 a not to exceed fee of: \$9,936

Construction Phase – (Task 5)

For Services outlined in Task 5 a not to exceed fee of: \$17,885

Contingency Allowance - As authorized by PM

For Additional Services and tasks required during the performance of the work, but not specifically described herein, a sum not to exceed of : \$10,000

TOTAL NOT TO EXCEED FEE: \$210,290

ATTACHMENT #2

EMPLOYEE HOURLY RATE SCHEDULE

COMMONWEALTH ENGINEERS, INC. STANDARD HOURLY RATES AND REIMBURSABLE EXPENSES SCHEDULE July 1, 2017 – June 30, 2018

Billing Class	Rate Per Hour	Billing Class	Rate Per Hour
Principal III	\$ 90.66	Environmental Compliance Manager	\$ 40.58
Principal II	\$ 83.18	Compliance Specialist	\$ 22.80
Principal I	\$ 76.04		
		Resident Project Representative IV	\$ 35.57
Project Manager IV	\$ 75.25	Resident Project Representative III	\$ 31.37
Project Manager III	\$ 70.40	Resident Project Representative II	\$ 28.31
Project Manager II	\$ 57.41	Resident Project Representative I	\$ 25.25
Project Manager I	\$ 51.69		
		Clerical III	\$ 28.48
Senior Electrical Engineer	\$ 70.40	Clerical II	\$ 23.20
		Clerical I	\$ 17.32
Project Engineer IV	\$ 58.46		
Project Engineer III	\$ 46.84	Reproduction Processor	\$ 21.63
Project Engineer II	\$ 44.14		
Project Engineer I	\$ 40.93	Trainee	\$ 16.39
Engineering Intern III	\$ 37.49	CADD Specialist IV	\$ 35.62
Engineering Intern II	\$ 31.60	CADD Specialist III	\$ 32.35
Engineering Intern I	\$ 29.96	CADD Specialist II	\$ 27.66
		CADD Specialist I	\$ 22.15
Designer IV	\$ 44.57		
Designer III	\$ 36.86	IT Manager	\$ 46.91
Designer II	\$ 35.49	IT Tech	\$ 24.72
Designer I	\$ 30.22	Multimedia Coordinator	\$ 39.40
		Surveyor	\$ 32.35
Grants Manager	\$ 44.66	Field Technician	\$ 22.95

In order to arrive at the total billing rate, the above direct payroll rates shall be multiplied by factors of 40% and 96.4286% to account for payroll and general overhead costs respectively. In addition, a 15% profit level is then added to arrive at total labor costs. This is a total multiplier factor of 3.1625 times direct payroll rates.

CITY OF FORT WAYNE, INDIANA

Commonwealth Engineers, Inc.

(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% ☒ (☒)

(ii) Distributable income share exceeding 5% ☐ (☐)

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

Name: See Attachment "A" Name: _____

Address: _____ Address: _____

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

sole proprietorship ☐ stock ☒ (☒)

partnership interest ☐ units (LLC) ☐ (☐)

other (explain) _____

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

Name: _____ %

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 Attachment "B"

b. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes x 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).

1. Sub-Contract Proposal with DLZ for the Goshen Avenue Reconstruction - Phase I

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

Yes _____ No x

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: _____

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

<u>Commonwealth Engineers, Inc.</u>	<u>7256 Company Dr, Indpls, IN 46237</u>
(Name of Vendor)	Address
	<u>(317) 888-1177</u>
	Telephone
	<u>adryer@contactcei.com</u>
	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)	<u>Ann E. Dryer</u>	Title	<u>CFO</u>
Signature	<u><i>Ann E. Dryer</i></u>	Date	<u>09/28/2017</u>

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 "A"

Section 1 – Disclosure of Financial Interest in Vendor.

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

Name	Address	Type of Equity Ownership	% of Ownership
Albert C. Stong	7256 Company Drive, Indianapolis, IN 46237	Stock	21.621%
Brian M. Desharnais	9604 Coldwater Rd Suite 203, Fort Wayne, IN 46825	Stock	21.621%
Toby L. Church	7256 Company Drive, Indianapolis, IN 46237	Stock	8.108%
Eric T. Parsley	1419 W. Lloyd Expressway, Suite 401, Evansville, IN 47710	Stock	8.108%
Vincent S. Sommers	7256 Company Drive, Indianapolis, IN 46237	Stock	8.108%
Benjamin H. Adams	9604 Coldwater Rd Suite 203, Fort Wayne, IN 46825	Stock	8.108%
David A. Hynes	1419 W. Lloyd Expressway, Suite 401, Evansville, IN 47710	Stock	8.108%
Roger M. Kottlowski	7256 Company Drive, Indianapolis, IN 46237	Stock	5.406%
Ann E. Dryer	7256 Company Drive, Indianapolis, IN 46237	Stock	5.406%
Brady M. Dryer	7256 Company Drive, Indianapolis, IN 46237	Stock	5.406%

Attachment "B"

Section 3 – Disclosure of Other Contract & Procurement Related Information

(b) If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date, and City contact - See Below.

Project Name	Work Order / PO#	PO Date	City Contact
Outfall 061 and 062 Relief Sewer (S15039)	76087	05/21/15	Kelly Bajic
Three Rivers Protection & Overflow Reduction Tunnel - Design (Sub to Black & Veatch Corporation)	76003	07/31/14	Kelly Bajic

Interoffice Memo

Date: **October 12, 2017**

To: Common Council Members

From: Charlie Cochran, Designer, City Utilities Engineering

RE: Contract Title: Hessen Cassel Stormwater Improvements – Phase I W.O. #83571

Consultant Selected: Commonwealth Engineers, Inc.

Contract Value: \$210,290.00

The consultant shall provide: Professional engineering services to provide the design, bid assistance, and design services during construction for the Hessen Cassel Stormwater Improvements – Phase I Project.

Project Description: The drainage along Hessen Cassel Road is in need of improvements. The Project is to construct new stormwater facilities which will provide stormwater relief and improve drainage and stormwater quality along Hessen Cassel Road (from Oxford Street to East Paulding Road). Sidewalks will also be installed along the corridor.

Implications of not being approved: Continued street flooding and residential and commercial flooding. The current condition of the storm sewer infrastructure needs improved. This storm sewer project is essential to alleviate flooding and provide safe passage for pedestrians.

If Prior Approval is being Requested, Justify: N/A

Selection and Approval Process: The consultant was selected through the Competitive Sealed Proposal (CSP) process based on their prior experiences and qualifications. The RFQ announcement was sent to over 100 firms, and 8 firms submitted a statement of qualifications. Utilities Engineering staff reviewed the qualifications of all interested firms and established a short list of consultants. A request for proposals was then developed and sent to all shortlisted firms. All four shortlisted firms submitted Competitive Sealed Proposals. A scoring matrix was used to score all firms based on the RFQ and RFP's. RFP scoring was based on prior work experiences, qualifications, proposed scope of work and cost. Using this procedure, Utilities Engineering selected Commonwealth Engineers for this project and also finds their not-to-exceed fee to be the best value. The Board of Stormwater Management approved the contract on October 11, 2017.

Funding: The Professional Services Agreement (PSA) will be funded by the 2017 Stormwater Bond.

Council Introduction Date: October 24, 2017

CC: BOW
Matthew Wirtz
Diane Brown
Chrono
File