

BILL NO. S-21-03-17

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving PROFESSIONAL SERVICES AGREEMENT – ARDMORE AVENUE & AIRPORT EXPRESSWAY PH. III STORMWATER IMPROVEMENTS - RESOLUTION/WORK ORDER #83794 - (\$169,320.00) between A&Z ENGINEERING, LLC and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

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

SECTION 1. That the PROFESSIONAL SERVICES AGREEMENT - ARDMORE AVENUE & AIRPORT EXPRESSWAY PH. III STORMWATER IMPROVEMENTS - RESOLUTION/WORK ORDER #83794 - by and between A&Z ENGINEERING, LLC and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for Professional Engineering consultation and advice, and other customary services incidental thereto. The Ardmore Avenue & Airport Expressway Ph. III Stormwater Improvements project consists of stormwater improvements along Airport Expressway (west of Ardmore Avenue), Yeager Lane, Avionics Drive, Earhart Lane, and Emery Driver (all south of Airport Expressway). These improvements include ditch and swale reconstruction, culvert rehabilitation and replacement, additional detention / storage in the watershed, construction of new storm sewers, and design of GI opportunities;

involving a total cost of not to exceed ONE HUNDRED SIXTY-NINE THOUSAND THREE HUNDRED TWENTY AND NO/100 DOLLARS - (\$169,320.00). 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

CU 3-9-2021

PROFESSIONAL SERVICES AGREEMENT

Ardmore Avenue & Airport Expressway Ph. III Stormwater Improvements ("PROJECT")

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

A&Z ENGINEERING, LLC (ENGINEER)

1220 Ruston Pass
Fort Wayne, Indiana 46825
260-485-7077
260-485-7071 (fax)

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

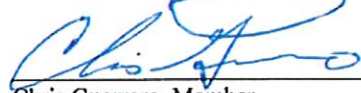
BY:


Matthew A. Wirtz, Chair

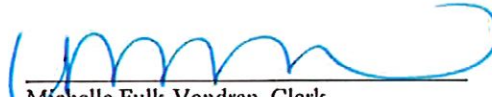
BY:


Shan Gunawardena, Member

BY:


Chris Guerrero, Member

ATTEST:

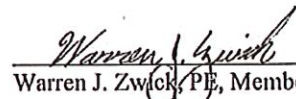

Michelle Fulk-Vondran, Clerk

DATE:

3-9-2021

APPROVED FOR ENGINEER

BY:


Warren J. Zwick, PE, Member

DATE:

03/03/2021

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

The project consists of the design of stormwater improvements along Airport Expressway west of Admore Avenue and in the south Airport Expressway business park. As part of the project, consideration shall be given to future development in the area and conveyance of undetained flow to a regional stormwater basin east of Ardmore Ave. and Gulfstream Dr. Repairs to existing swales, storm sewers, and culverts are included as part of the design project.

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 and Review Meetings

- 1.1 Prepare project design schedule and provide monthly status reports.
- 1.2 Attend 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.

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 Perform hydraulic modeling using EPA's SWMM program Version 5.1.09 or later or CHI's PCSWMM software running the SWMM 5.1.09 or later engine to analyze all storm water systems which have closed conduit components. For Stormwater modeling the use of STORM AND SANITARY ANALYSIS (SSA) program which is bundled with AUTODESK's Civil 3D software package is acceptable; however, the CONSULTANT should ensure that all project components are exported into an electronic format that can be easily read by PCSWMM. For hydraulic analysis of open channel and riverine systems, the CONSULTANT shall use the Corps of Engineer's HEC-RAS program in the unsteady or steady state mode, as agreed to by the City of Fort Wayne personnel. For the HEC-RAS analysis, catchment and sub-catchment hydrology shall be computed using the Corps of Engineer's HEC-HMS program.

For large interconnected storm drainage systems, the hydrologic methodology within the SWMM engine can be used provided system flow hydrographs at selected locations can be calibrated using appropriate flow meter data as agreed upon by the City of Fort Wayne. For individual drainage areas, the CONSULTANT shall follow the guidelines in the City of Fort Wayne's storm drainage

manual to develop the design flow hydrographs. Site specific detention basin modeling shall be carried out using HEC-HMS, HEC-RAS, PCSWMM or Civil 3D. If stage-storage, outlet rating, and/or dynamic tailwater curves are developed outside of the software, the CONSULTANT shall provide EXCEL spreadsheets that clearly indicate how the individual curves were computed. If using Civil 3D for detention basin modeling, the CONSULTANT shall use the HYDRAFLOW HYDROGRAPHS EXTENSION.

The CONSULTANT shall deliver all model files to the City in electronic format in such manner that the City can run the model and reproduce the results as reported by the CONSULTANT. If the electronic model files are large, the contents should be delivered on a flash drive.

- 2.3 Identify major utilities and their approximate location from Utility maps.
- 2.4 Check conflicts with any other proposed projects in the immediate area.
- 2.5 Contact all utility companies and have the underground utilities field marked along the selected route. (Coordinate with IUPPS 1-800-382-5544)
- 2.6 Engineer shall complete the field survey to verify horizontal location of all utilities, including water service locations, as well as depths of existing sewers.
- 2.7 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.*
- 2.8 Draft or "Red Line" the Engineer's recommended horizontal route onto the preliminary site drawings.
- 2.9 NOT USED.
- 2.10 Furnish one copy of the 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.

Phase II (60% submittal)

- 2.11 Resolve any utility conflicts. Prepare a Subsurface Utility Engineering (SUE) plan with proposed locations to provide the CITY. The CITY shall obtain the services of a qualified sub-consultant to perform test holes on predetermined utilities and locations.
- 2.12 Determine the final location of the proposed improvements and any temporary or permanent easement requirements.
- 2.13 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	24
Erosion Control	24
Green Infrastructure/Restoration	2
Traffic Control	2
Cross Sections	30
<u>Special Detail Sheets</u>	<u>6</u>
TOTAL	90

- 2.14 Prepare draft specifications in MF04 format.

- 2.15 Compute project quantities and estimate of construction costs in MF04 format.
- 2.16 Submit draft Preliminary Design Documents to Program Manager for review and approval.
Preliminary Design Submittal: (PDF and DWF format only)
Preliminary Design Drawings
Summary of Project Quantities w/estimated construction costs.
- 2.17 Upon approval of Preliminary Design Drawings, submit one PDF 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.
- 2.18 Permanent and temporary easements will be required for the Project. Services shall conform to GR7 Easement in the City Utilities Design Standards Manual. Estimated quantity of 2 each permanent easement and 2 each temporary easement plats and legal descriptions. Title work shall be performed (if necessary) under the Contingency Task.

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. Incorporate comments received during the review meetings and routings.
- 3.4 Update summary of project quantities.
- 3.5 Submit draft Final Design Documents to Program Manager for review and approval.
Final Design Submittal (PDF and DWF format only)
Final Design Drawings
Summary of Project Quantities w/estimated construction costs.
Bidform
Project Technical / Supplemental Specifications.
- 3.6 Upon approval of Final Design drawings and project specifications, , one (1) electronic version of the project specifications (Microsoft Word) and one electronic copy of project stamped drawings in PDF and CAD format utilizing the CAD standards in Book 6 of the Fort Wayne Design Standards Manual.
- 3.7 Prepare necessary permits prior to completion of design services. Required permits estimated are as follows:
 - 1. ACSWCD – Rule 5 Erosion Control Plan (SWPPP) / IDEM – Notice of Intent
 - 2. FAA Permit – Notice of Proposed Construction or Alteration

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

- 4.1 Attend Pre-bid Meeting.
- 4.2 Designer (Engineer) prepare and assist Owner with issue of the addenda, as needed to interpret, clarify or expand bidding documents.
- 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 and accepted bid proposal. Submit one (1) electronic version of CTC project drawings in both PDF and DWG file format in the latest version and one (1) electronic copy of the CTC project specifications (Microsoft Word).

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 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, methods, 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 April 06, 2021 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>
Preliminary Design Phase I	08/13/21
Preliminary Design Phase II	11/29/21
Final Design Phase	01/28/22

E. OPTIONAL ADDITIONAL SERVICES

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

Geotechnical Investigation

- 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) boring holes.*

Green Infrastructure Design

- Prepare an Alternatives Report to evaluate and determine which techniques may prove most effective as well as where these techniques may be utilized. This report will also include a cost benefit analysis to identify the greatest treatment benefit for dollars spent. Post construction maintenance as well as initial and recurring costs will be a driving factor in the selection, placement and design of these systems.
- Perform green infrastructure design services conforming to Stormwater Design and Specification Manual Green Infrastructure Supplemental Stormwater Document. This work includes design development, final stormwater calculations, preparation of construction documents, technical specifications and a final construction cost estimate.

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.

- Attend additional meetings as needed to review and discuss the project.
- Engineer shall determine if wetlands are present at any of the proposed improvement locations and perform a routine wetland delineation (if necessary). All routine wetland delineation services shall be performed in accordance with the Corps of Engineers 1987 Wetland Delineation Manual (Department of the Army Technical Report Y-87-1) and the applicable regional supplement to the Wetland Delineation Manual.
- Perform additional green infrastructure infiltration soil borings and geotechnical evaluation of the borings.
- Furnish to the Program Manager all completed permit applications (including supporting documentation) ready for signatures and submittal to governing agencies. Assist the Program Manager, as requested, in obtaining regulatory and agency reviews and approvals for the project, including attending meetings with reviewing agencies.
- Prepare permit as follows if determined necessary:
 1. USACE 404 Permits / IDEM 401
- Perform site visits (Task 5.3) to assist Program Manager in resolution of design or construction problems and Construction Progress Meetings via conference calls (Task 5.4).
- Upon written authorization from Program Manager, and negotiation of satisfactory fees:

1. Prepare summary of required property acquisition.
2. Submit summary to agent/company qualified to research title history to determine property owner of record, correct document numbers for current deed record and accurate legal description for each unplatted property that will be subject to easement or right-of-way acquisition.
3. Based on findings of title work done (if necessary), prepare required acquisition and/or easement plats and legal descriptions for all easement needs, including those for platted parcels. Document overall right-of-way requirements. This work shall be prepared in conformance to the City's Design Manual, Unit I, Chapter 4.

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. 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 Anne Marie Smrcek, P.E.

C. DECISIONS

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

D. 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 \$ 169,320.00 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.

Engineer's internal invoice preparation and internal administrative activities shall not exceed 1 percent of total Agreement amount and will not exceed 1 percent of any individual invoice. Compensation for invoice preparation and internal administrative activities is identified as TASK#6 in Attachment #1.

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.

To the fullest extent permitted by law, City shall indemnify and save harmless, Engineer from and against loss, liability, and damages sustained by Engineer, its agents, employees, and representatives by any reason of injury or death to persons or damage to tangible property to the proportionate extent caused by the negligence of City, 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: **\$ 113,480**

Bidding Phase - (Task 4)

For Services outlined in Task 4 a not to exceed fee of: **\$ 4,160**

Construction Phase - (Task 5)

For Services outlined in Task 5 a not to exceed fee of: **\$ 6,440**

Optional Services - As authorized by PM

Geotechnical Investigation

For Services outlined in Optional Service for a not to exceed fee of: **\$ 5,720**

Green Infrastructure Design

For Services outlined in Optional Service for a not to exceed fee of: **\$ 14,520**

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 : **\$ 25,000**

TOTAL NOT TO EXCEED FEE: \$ 169,320

*Fee based upon six soil borings at a maximum depth of 15-feet

ATTACHMENT #2
EMPLOYEE HOURLY RATE SCHEDULE

Classification	Invoice Rate
Principal / Senior Project Manager	\$ 165.00
Senior Project Engineer / Project Manager / Senior Consultant	\$ 118.00
Senior Engineer / Senior Surveyor / Senior Designer	\$ 108.00
Engineer / Surveyor / Designer	\$ 98.00
Senior Technician / Senior Inspector	\$ 93.00
Technician/ Inspector	\$ 83.00
Administrative	\$ 78.00
Intern Technician / Intern Inspector	\$ 68.00
One Person Survey Crew	\$ 120.00
Two Person Survey Crew	\$ 150.00

CITY OF FORT WAYNE, INDIANA

A&Z Engineering, LLC
(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: Jamal T. Anabtawi _____ Name: Warren J. Zwick _____

Address: 6927 Pintail Drake Ct Fort Wayne IN 46845 Address: 12226 Wood Glen Drive Fort Wayne 46814

- 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: __Jamal T. Anabtawi_____ 50 %

Name: __Warren J. Zwick_____ 50 %

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, Child, Step Child, Parent or Step Parent, Father-in-law or Mother-in-law, Brother or Sister, Step Brother or Step Sister, Half Brother or Half Sister, Brother-in-law or Sister-in-law, Son-in-law or Daughter-in-law, Grandparent or Step Grandparent, Grandparent or Step Grandparent of Spouse, Grandchild*)

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 _____

Section 3: DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have current contracts (including leases) with the City? Yes _____ 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).

Huffman-Putnam – Sewer Design	WO 76114/83712	Ann Marie Smrcek	05-21-2015
2019 CUE On-Call Survey & Drafting	PO 18905032-000	Nathan Baggett	12-11-2018
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Airport Business Ctr Stm Wtr-Drainage	WO 83536	Ann Marie Smrcek	06-21-2017
Hessen Cassel Ph II Stm Wtr-Drainage	WO 83626	Charlie Cochran	12-08-2017
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2019 FW On-Call Permit		Patrick Zaharako	01-08-2019
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2019 CUE Stm Wtr Engineering On-Call		Charlie Cochran	06-18-2019
Ludwig Rd Extension	WO 0040A	Patrick Zaharako	08-06-2019
Maplecrest Rd - Const Admin	PO 20640050	Patrick Zaharako	07-14-2020

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

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 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: 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;
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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.

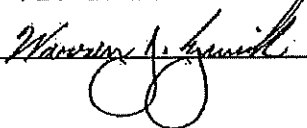
The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

A&Z Engineering, LLC
(Name of Vendor)

1220 Ruston Pass Fort Wayne IN 46825
Address
(260) 485-7077
Telephone
warren@az-engineering.net
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) Warren J. Zwick Title Member

Signature  Date 03/03/2021

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

CITY OF FORT WAYNE, INDIANA

A&Z Engineering, LLC
(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: Jamal T. Anabtawi _____ Name: Warren J. Zwick _____

Address: 6927 Pintail Drake Ct Fort Wayne IN 46845 Address: 12226 Wood Glen Drive Fort Wayne 46814

- 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: ___Jamal T. Anabtawi_____ 50 %

Name: ___Warren J. Zwick_____ 50 %

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, Child, Step Child, Parent or Step Parent, Father-in-law or Mother-in-law, Brother or Sister, Step Brother or Step Sister, Half Brother or Half Sister, Brother-in-law or Sister-in-law, Son-in-law or Daughter-in-law, Grandparent or Step Grandparent, Grandparent or Step Grandparent of Spouse, Grandchild*)

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

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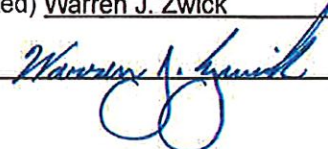
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A&Z Engineering, LLC
(Name of Vendor)

1220 Ruston Pass Fort Wayne IN 46825
Address
(260) 485-7077
Telephone
warren@az-engineering.net
E-Mail Address

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Name (Printed) Warren J. Zwick Title Member

Signature  Date 03/03/2021

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Interoffice Memo

Date: March 9, 2021
To: Common Council Members
From: Anne Marie Smrchek, City Utilities Engineering
RE: **Ardmore Avenue & Airport Expressway Ph. III Stormwater Improvements
Res. #83794, W.O. # 83794**

Council District # District 4

Engineer shall provide the City professional Engineering services in all phases of the Project to which the scope of services applies. These services will include serving as City's professional representative for the Project, providing professional Engineering consultation and advice, and other customary services incidental thereto. The Ardmore Avenue & Airport Expressway Ph. III Stormwater Improvements project consists of stormwater improvements along Airport Expressway (west of Ardmore Avenue), Yeager Lane, Avionics Drive, Earhart Lane, and Emery Driver (all south of Airport Expressway). These improvements include ditch and swale reconstruction, culvert rehabilitation and replacement, additional detention / storage in the watershed, construction of new storm sewers, and design of GI opportunities.

Implications of not being approved: The improvements included in this project will help alleviate street and property flooding in the south Baer Field Industrial Park. When complete, these improvements will provide reliable stormwater conveyance systems that move stormwater flow from the industrial park to a regional detention facility. The improvements will also provide safer travel through the industrial park due to reducing the risk of street flooding to traffic. To not approve the project, the area will continue to experience regular flooding and long periods of standing water in the street and right-of-way. Additionally, the existing City Utilities and City assets in the area will continue to age and deteriorate, requiring additional ongoing maintenance.

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

Selection and Approval Process:

The consultant was selected through the Competitive Sealed Proposal (CSP) process. The RFQ announcement was sent to over 100 firms and posted on the City website, and nine firms submitted a statement of qualifications. Utilities Engineering staff reviewed the qualifications of all interested firms, established a short list of consultants. A request for proposals was then developed and sent to the selected shortlisted firms. Six shortlisted firms submitted Competitive Sealed Proposals. A scoring matrix was used to score all firms based on responses to the RFQ and RFP's. RFP scoring was based on expertise, prior work experiences, qualifications, proposed scope of work and fee. Using this process, Utilities Engineering selected A&Z Engineering, LLC for this project and finds their scope and fee to be the best value for this project. The Board of Public Works approved the contract on March 9, 2021.

The cost of said project funded by Stormwater Utility Revenue and TIF.

Council Introduction Date: March 23, 2021

CC: BOW
Matthew Wirtz
Diane Brown
Construction Manager
Chrono
File