

1 **BILL NO. S-22-06-21**

2 SPECIAL ORDINANCE NO. S-_____

3
4 AN ORDINANCE approving PROFESSIONAL
5 SERVICES AGREEMENT – EAST CENTRAL
6 MARINA PROJECT DESIGN AND ENGINEERING -
7 (\$109,600.00) between ENGINEERING
8 RESOURCES, INC. and the City of Fort Wayne,
9 Indiana, by and through its Board of Park
10 Commissioners.

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

13 **SECTION 1.** That the PROFESSIONAL SERVICES AGREEMENT -
14 EAST CENTRAL MARINA PROJECT DESIGN AND ENGINEERING -
15 (\$109,600.00) between ENGINEERING RESOURCES, INC. and the City of Fort
16 Wayne, Indiana, by and through its Board of Park Commissioners, is hereby
17 ratified, and affirmed and approved in all respects, respectfully for:

18 All labor, insurance, material, equipment, tools, power,
19 transportation, miscellaneous equipment, etc., necessary for
20 project drawings, specifications, construction estimates,
21 permitting and construction administration for a marina at East
22 Central Park;

23 involving a total cost of ONE HUNDRED NINE THOUSAND SIX HUNDRED AND
24 00/100 DOLLARS - (\$109,600.00). A copy of the proposal from Engineering
25 Resources, Inc. is on file with the Office of the City Clerk and made available for
26 public inspection, according to law.
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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

Malak Heiny, City Attorney



June 3, 2022

Chad Shaw, PLA ASLA
Superintendent of Parks Planning, Landscape and Horticulture
Fort Wayne Parks and Recreation
705 East State Blvd. Fort Wayne, IN 46805

Subject: East Central Marina
Project Design & Development Services

Dear Mr. Shaw,

In accordance with our conversations to date, we are submitting this proposal to provide Project Design & Development Services for the above referenced project. We have prepared the following scope and schedule for your review.

PROJECT SCOPE OF SERVICES

Engineering Resources has been involved in the conceptual project development for the proposed city marina for several years. Our latest conceptual design, at the East Central Park location, was used for preliminary project pricing. It is my understanding the final design will be relatively close to this concept with some modifications as the design develops. As such, we have developed the following scope, schedule and fee for your review. The elements of the project development process are provided as follows:

1. SCHEMATIC DESIGN – Scope of work to include:

- a. ERI will coordinate with our survey subconsultant to obtain additional topographic and boundary information. Goulf-Jordan Surveying and Design, Inc. completed the previous survey during the City's drop shaft project. However, the previous survey limits were less than needed for this project. As such, they agreed to extend the survey limits and reissue an updated topographic survey for the site.
- b. A preliminary meeting will be held with the Parks Department to discuss the details of the conceptual layout and identify features to be adjusted or developed further.
- c. We will coordinate with the Park's representative to identify potential suppliers for the floating docks and contact up to two manufacturers to obtain additional information.
- d. A base site layout will be prepared using the new survey information.
- e. The conceptual grading and layout plan will be adjusted to meet the new survey data with adjustments from the initial meeting and dock options.
- f. It is our understanding a phase 2 site environmental study has been completed and the soils are suitable for removal and disposal with no environmental restrictions.
- g. We will attend an in-person design meeting to present, discuss, and coordinate the key issues associated with the revised layout and dock options.



2. DESIGN DEVELOPMENT DESIGN – Scope of work to include:

- a. After the proposed layout is approved, we will conduct a New Project Meeting and preliminary coordination with City of Fort Wayne Planning Department. We will coordinate with City Utilities to determine how to interface with and provide access to the adjacent drop shaft area. Any required changes resulting from this meeting will be incorporated into the project.
- b. A preliminary Site Demolition Plan will be prepared showing items to be removed.
- c. The Site Grading Plan will be updated with supporting earthwork calculations. The sidewalks identified as accessible will be verified for ADA compliancy.
- d. The preliminary Erosion Control Design will be prepared, based on phasing and Best Management Practices. This will be the basis for the Stormwater Pollution Prevention Plan (SWP3) that will be discussed further in the permit section of this proposal.
- e. Prepare preliminary details related to this scope of work.
- f. Assemble preliminary specifications related to this scope of work.
- g. An opinion of probable cost will be prepared with reasonable contingencies relative to the design stage.
- h. Attendance at up to 3 design meetings to coordinate the above design.

3. PERMITTING PHASE – Scope of work to include:

- a. ERI will prepare the permit application for the Indiana Department of Natural Resources (IDNR) Construction in a Floodway (CIF) Permit. If mitigation is required, we assume this will be completed as an additional service as it is not possible to know the scope of work at this time.
- b. The United States Army Corp of Engineers (USACE) recently removed the previous Regional General Permits (RGPs) and reinstated several Nationwide Permits (NWP). This project may qualify for two NWPs. The first is NWP 19 - Minor Dredging . However, the current quantity of fill may exceed the limits to qualify for this NWP. The second is NWP 36- Boat Ramps, but the limits are also exceeded. The USACE Permit Decision Document provides discretion to the district engineer to waive criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects. For the purposes of this proposal, ERI assumes the project will qualify for a NWP and will prepare the associated application forms and documentation.
- c. Under Section 401 of the Clean Water Act (CWA), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge or fill materials into waters of the United States unless a Section 401 Water Quality Certification (WQC) is issued. The Indiana Department of Environmental Management (IDEM), Water Quality Certification (Section 401) permit has approved several of the NWPs including 19 & 36 as long as they meet the general condition. It appears this project complies with IDEM's permit limits. ERI will prepare the appropriate forms, public notice and documentation for submittal to IDEM.
- d. ERI assumes both the USACE and IDEM permits can be submitted to avoid mitigation. Since it is not currently possible to determine if mitigation will be required. If mitigation is later found to be necessary, we will complete the required work as an additional service.
- e. Erosion control permitting is now called the Construction Stormwater General Permit (CGSP) process which replaced the former Rule 5 process. The following is a discussion of the process for the CGSP for this project:
 - (1) Prepare the erosion control layout and Stormwater Pollution Prevention Plan (SWP3) for submittal to the reviewing agency. If Parks is considered a related entity with the City MS4, the SWP3 will need to be reviewed by the Allen County Soil and Water Conservation District (SWCD).
 - (2) The Project Profile process on the online IDEM Regulatory ePortal, discussed below, identifies the process.



- (3) The applicant will receive a response letter from the agency reviewing the SWP3. This is required for the online application.
- (4) A notice of intent must be prepared and published in the newspaper.
 - (a) There are two other alternative means of public notice identified in the ePortal. However, the newspaper option typically provides useful documentation, as the publication affidavit can be uploaded into the online application.
- (5) IDEM Regulatory ePortal Information:
 - (a) The applicant must set up an account on the IDEM Regulatory ePortal and will receive filing responses and notices.
 - (b) The project site information is added to the applicants account in ePortal.
 - (c) The SWP3 and public notice must be completed prior to submitting since the agency review letter and public notice are required for this process.
 - (d) After filling out the Construction Stormwater – Pollution Prevention Plan Project Profile, the Construction Stormwater – Notice of Intent – New Application must be completed. IDEM still requires an original wet ink signature on the NOI. Once the NOI application is completed online, IDEM will provide a “Submission Reference Number” for the NOI along with confirmation that fees have been paid online. This PDF NOI is sent to the Owner to print out, sign, and mail directly to IDEM.
 - (e) Once IDEM has reviewed the online application and received the original signature, they will issue a Notice of Sufficiency.
 - (f) When the project is completed a Notice of Termination must be sent to IDEM to complete the process.

4. CONSTRUCTION DOCUMENT DESIGN – Scope of work to include:

- a. Update final site demolition plan.
- b. Complete dock foundation support design and details.
- c. Finalize the site layout and details, including: pavement, fences and gates, hardscape walks, stairs, boat ramp and erosion control.
- d. Finalize the site grading plan with pavement/site drainage.
- e. Prepare the final copies of project specifications for the described scope of work. Specifications will be provided in Word or pdf format for inclusion in the Project Manual.
- f. Local Routing - site plan submittal to the City of Fort Wayne Planning Department and Allen County Floodplain Review.
- g. Attendance at design meetings to coordinate the above design elements.

5. BIDDING – Scope of work to include:

- a. Attendance at the Pre-Bid Conference, if required.
- b. Answer contractor questions and issue addenda as related to the above referenced scope of work during bidding.

6. CONSTRUCTION ADMINISTRATION – Scope of work to include:

- a. Attendance and minutes of the Pre-Construction Conference.
- b. Review schedule of values, shop drawings/submittals and proposed construction schedule. Any proposed changes in scope of work will also be reviewed.
- c. Answer contractor requests for information (RFI's) during construction as related to the above referenced scope of work.



- d. Attendance at up to 8 bi-weekly Progress Meetings, with field report preparation, during construction.
- e. In addition, 16 hours of additional time is included to handle special circumstances to ensure proper adherence to the construction documents. Testing services are anticipated to be included under the contractor. Our services are not intended to be fulltime project construction administration/inspection.

EXCLUSIONS

Only the services described above are included in this proposal. Items not included can be provided as an additional service. Examples of exempted services include:

- a. Engineering Services related to unknown conditions during construction.
- b. Design or detailing of site landscaping, planting, or irrigation.
- c. Environmental testing, permitting or mitigation beyond that previously described.
- d. Site Lighting and electrical utility.
- e. Boundary Surveying Services (any required easement documents or legal descriptions will be provided by others).
- f. Utility Relocation Coordination and Design.
- g. Design of shoring or sheet piling to protect existing structures or utilities.
- h. Printing, copying, postage, unless noted otherwise above.
- i. As-built documentation.
- j. Geotechnical Testing.
- k. Value engineering changes after our work has been completed.
- l. Services provided for variances, re-zoning, or Primary Development Plan submittals.
- m. Additional insurance coverage or limits in excess of that normally carried by Engineering Resources.

PROJECT SCHEDULE

We anticipate an approved agreement and notice-to-proceed (NTP) within 30 days from the date of this proposal. The additional topographic survey should be completed within 30-45 days after NTP. The updated conceptual layout and grading plan can be completed within 30 days after obtaining the additional survey. Pending reasonable review times and changes, design development (DD) should be completed within another 30 days.

After approval of the DD submittal, Permit applications will be submitted beginning with the IDNR CIF due to the potential to be a critical path element. The remaining permits will be submitted based on the anticipated duration of review for each permit.

We will proceed to the construction documents phase in preparation of receiving the permit approvals around April of 2023. Bidding is anticipated to take place soon after receiving the permits.



PROPOSED FEE

The fee for the scope of services previously described will be on a lump sum basis as described below.

<u>SERVICE DESCRIPTION</u>	<u>FEE</u>
Topographic Survey Update	\$5,000
Schematic Design	\$12,200
Design Development	\$15,700
IDNR CIF Permit Application	\$12,600
USACE, Section 404 and IDEM Section 401 Permit Application	\$7,800
Construction Stormwater General Permit (CGSP)	\$14,500
Construction Documents & Opinion of Probable Cost	\$26,300
Bidding Phase (pre-bid, addenda)	\$1,000
<u>Construction Administration Services</u>	<u>\$14,500</u>
TOTAL PROJECT FEE	\$109,600

AUTHORIZATION

Thank you for the opportunity to submit this proposal for engineering services. If you concur in the above, we ask for your authorization to provide these services according to the attached Terms and Conditions of Engineering Services by signing in the space provided below and returning one executed copy to this office.

Sincerely,

Kurt Heidenreich, PE, SE, CPESC
President

We hereby authorize Engineering Resources, Inc. to proceed with the above professional services in accordance with this letter and the attached Terms and Conditions of Engineering Services.

Fort Wayne Parks and Recreation

Authorized Representative Signature

Title / date

Printed Name



TERMS AND CONDITIONS OF ENGINEERING SERVICES

SCOPE:

This Agreement, including any attachments, is the complete Agreement between the Client and Engineering Resources, Inc. No other document shall be part of this Agreement unless specifically agreed to by the Client and Engineering Resources, Inc. in writing.

The services as described in the attached letter, will be provided as Basic Services. Any services to be completed that are not included in the Basic Services or any modification to these Basic Services are to be Additional Services. Additional Services will be completed at your request for the compensation described herein.

CLIENT RESPONSIBILITIES:

By virtue of entering into this Agreement and providing the described services, Engineering Resources, Inc. does not assume the responsibility for any conditions at the Client site(s) that may present a danger, either potential or real, to health, safety or the environment. Moreover, the Client hereby agrees that it is Client's responsibility to notify any and all appropriate federal, state, or local authorities, as required by law, of the existence of any such potential or real danger and otherwise to disclose to all appropriate or affected individuals or entities, in a timely manner, any information that may be necessary to prevent danger to health, safety, or to the environment.

STANDARD OF PERFORMANCE:

All services provided under this Agreement will be performed in accordance with generally accepted engineering practices. All estimates, recommendations, opinions, and decisions of Engineering Resources, Inc. will be upon the basis of the information available to Engineering Resources, Inc. and the experience, technical qualifications, and professional judgement of Engineering Resources, Inc.

There are no warranties of merchantability of fitness for a particular purpose or any other warranties of guarantees whatsoever, expressed or implied, with respect to any services performed or materials provided under this Agreement.

ACCESS:

The Client shall arrange for access to and make all provisions for Engineering Resources, Inc. to enter upon public and private property as required for Engineering Resources, Inc. to perform its services.

COMPENSATION:

The fees for services will be as described in the attached letter. If fees include reimbursable expenses, these expenses will be reimbursed at the cost times a factor of 1.1. Invoices will be issued on a monthly basis in accordance with the phases described in the attached letter, or in the case of an hourly billing rate, the work completed during the previous month. Payment is due within thirty (30) days from the date of the invoice. If the invoice amount is not paid within thirty (30) days after the date of the invoice, then a late charge in the amount equal to one percent (1%) of the unpaid balance shall accrue and be immediately payable for each month it remains unpaid. Payments will be first credited to interest and then to principal. Payment of all compensation due to Engineering Resources, Inc. shall be a condition precedent to Client using any of professional work products furnished under this Agreement.

INSURANCE / INDEMNIFICATION / RISK ALLOCATION:

Engineering Resources, Inc. will maintain insurance for claims under the Workers Compensation Laws, and from General Liability for bodily injury, death, or property damage arising from negligent performance by the employees of Engineering Resources, Inc. to the functions and services required under this Agreement.

Engineering Resources, Inc. is skilled in the professional calling necessary to the services and duties proposed to be performed, and shall perform such services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals of the locality of Engineering Resources, Inc., and to that end Engineering Resources, Inc. agrees to purchase insurance for Engineering Resources, Inc., its officers, and employees from and against any



and all liability, claims, suits, loss, damages, costs, and expenses arising from any negligent acts, errors, or omissions of Engineering Resources, Inc., its officers, and employees, in the performance of their services and duties hereunder, but not from the negligence of willful misconduct of Client, its officers, and employees. Notwithstanding the existence of professional liability insurance, the total agreement of Engineering Resources, Inc., its officers, employees, directors, agents, or consultants, liability to all parties related to this Agreement shall not exceed \$50,000, or the amount of compensation to Engineering Resources, Inc. under this Agreement, whichever is greater.

Client hereby understands and agrees that Engineering Resources, Inc. has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at Client's premises, or in connection with or related to this project with respect to which Engineering Resources, Inc. has been retained to provide professional engineering services. The compensation to be paid to Engineering Resources, Inc. for said services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, Client agrees to defend, indemnify, and hold Engineering Resources, Inc., its officers, directors, employees, consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including but not limited to, attorney fees and court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids, gases, or any other materials, irritants, contaminants, or pollution in or into the atmosphere, or on, upon, in, or into the surface or substance of soil, water, or watercourses, objects, or any tangible matter, whether sudden or not.

Nothing contained within this Agreement shall be construed or interpreted as requiring Engineering Resources, Inc. to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., 6901 et seq., as amended, or within any State statute governing the generation, treatment, storage, and disposal of waste.

Engineering Resources, Inc. shall not be liable for damages arising out of or resulting from the actions or inactions of governmental agencies, including but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, and building permits. Client agrees to defend, indemnify, and hold Engineering Resources, Inc., its consultants, agents, and employees harmless from any and all liability, other than that caused by the negligent acts, errors, or omissions of Engineering Resources, Inc., arising out of or resulting from the same.

TERMINATION:

Notwithstanding the above, this Agreement may be terminated by either party upon written notice to the other, by mutual consent, or in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement through no fault of the terminating party. The Client may terminate this Agreement, in whole or in part, by written notice to Engineering Resources, Inc. specifying the extent to which performance of services is terminated and the date upon which such termination becomes effective.

In the event of such termination, Engineering Resources, Inc. shall be entitled to payment for unbilled service, including expenses if applicable, based on the completion of the compensation agreement described in the attached letter. This shall include any commitments that had become firm prior to termination.

COUNCIL DIGEST SHEET

Enclosed with this introduction form is a tab sheet and related material from the vendor(s) who submitted bid(s). Purchasing Department is providing this information to Council as an overview of this award.

RFPs & BIDS

Quest Bid #	n/a
Awarded To	Engineering Resources, Inc.
Amount	\$109,600.00
Conflict of interest on file?	☒ Yes ☐ No
Number of Registrants	1
Number of Proposals	1
Required Attachments	n/a

EXTENSIONS

Date Last Bid Out	NA
# Extensions Granted To Date	0

SPECIAL PROCUREMENT

Contract #/ID (State, Federal, Piggyback--Authority)	n/a
Sole Source/ Compatibility Justification	

BID CRITERIA *(Take Buy Indiana requirements into consideration.)*

Most Responsible, Responsive Lowest	Yes ☒ No ☐ <i>If no, explain below</i>
If not lowest, explain	This was an RFP for professional design services.

COUNCIL DIGEST SHEET

COST COMPARISON

<i>Increase/decrease amount from prior years For annual purchase (if available).</i>	n/a
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DESCRIPTION OF PROJECT / NEED

<i>Identify need for project & describe project; attach supporting documents as necessary.</i>	Request for approval on behalf of the Board of Park Commissioners for a contract with Engineering Resources, Inc. for project drawings, specifications, construction estimates, permitting and construction administration for a marina at East Central Park.

REQUEST FOR PRIOR APPROVAL

<i>Provide justification if prior approval is being requested.</i>	n/a

FUNDING SOURCE

<i>Account Information.</i>	Local Income Tax (Riverfront LIT) funds; these funds are from the unobligated fund balance.

MEMORANDUM

To: City Council Members, City of Fort Wayne
From: Chad Shaw
CC: File
Subject: Council Approval of East Central Marina Design and Engineering
Date: June 22, 2022

The City of Fort Wayne Parks and Recreation Department (FWPRD), on behalf of the Board of Park Commissioners has requested a proposal with fees from one firm qualified to prepare Construction Documents and Specifications, including Permitting and Construction Administration for the East Central Marina. Proposals from one (1) design firm was received on June 6, 2022. The project includes the following general components:

1. A marina with the capacity to dock maintenance boats for Parks and Recreation and Public Works, with access for Public Safety Divisions
2. Boat ramp
3. Accessible floating docks and gangway(s)
4. Parking for City vehicles and trailers
5. Access to/from the Maumee River

The sole Proposal was evaluated by staff at the FWPRD. The submitting firm was asked to provide their proposal based on their conceptual work for the project; design concepts have been produced and environmental testing reviewed over the past three years with the consultant. Their history with and knowledge of the project warrants their continuation through final design and engineering.

We are requesting approval for a contract with Engineering Resources, Inc. at a total cost of **\$109,600.00**. The project will be paid for using Riverfront LIT funds; these funds are from the unobligated fund balance.

I will be available at the Council meetings to answer any questions you may have and I may also be reached at 427-6027.

We respectfully request your approval of this contract so that we may proceed with the work. If you have any questions, please feel free to contact me at 427-6027 or the Executive Director, Steve McDaniel at 427-6407.

Thank you in advance.

Chad Shaw
Superintendent of Parks Planning, Landscape and Horticulture – Fort Wayne Parks and Recreation