

AN ORDINANCE approving CONSULTING CONTRACT – PROFESSIONAL ENGINEERING SERVICES FOR NORTH CLINTON STREET WIDENING FROM AUBURN ROAD TO MAYHEW ROAD PROFESSIONAL SERVICES AGREEMENT - WO #0636P - (not to exceed \$5,931,195.00) between AMERICAN STRUCTUREPOINT, INC. and the City of Fort Wayne, Indiana by and through its Board of Public Works.

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

SECTION 1. That the CONSULTING CONTRACT - PROFESSIONAL ENGINEERING SERVICES FOR NORTH CLINTON STREET WIDENING FROM AUBURN ROAD TO MAYHEW ROAD PROFESSIONAL SERVICES AGREEMENT - WO #0636P - between AMERICAN STRUCTUREPOINT, INC. and the City of Fort Wayne, Indiana by and through its Board of Public Works is hereby ratified, and affirmed and approved in all respects, respectfully for:

Consulting and professional engineering services for the DESIGN OF ADDITIONAL TRAVEL LANES ON NORTH CLINTON STREET BETWEEN AUBURN ROAD AND MAYHEW ROAD, WHICH WILL INCLUDE SIDEWALK AND A MULTI-USE PATH. THESE SERVICES INCLUDE SURVEY, URBAN STREET DESIGN WITH CURB AND GUTTER, STORM SEWERS, PEDESTRIAN FACILITIES, RETAINING WALLS, TRAFFIC SIGNALS, STREET LIGHTING, BRIDGE REPLACEMENT OVER BECKETTS RUN, AND FOUR BOX CULVERT REPLACEMENTS. IT ALSO INCLUDES UTILITY COORDINATION, GEOTECHNICAL, ENVIRONMENTAL DOCUMENTATION AND PERMITTING;

involving a total cost of not to exceed FIVE MILLION NINE HUNDRED THIRTY-ONE THOUSAND ONE HUNDRED NINETY-FIVE AND 00/100 DOLLARS - (\$5,931,195.00). 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

Malak Heiny, City Attorney

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of 8-29, 2023 ("Effective Date") by and between City of Fort Wayne Board of Public Works, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and American Structurepoint, Inc. ("the CONSULTANT"), a corporation organized under the laws of the State of Indiana.

Des. No.: 1901703

Project Description: North Clinton Street Reconstruction and Widening from Auburn Road to Mayhew Road

RECITALS

WHEREAS, the LPA has entered into an agreement to utilize federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

The "Recitals" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I SERVICES BY CONSULTANT. The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA. The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be 1/1/2030. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed \$ 5,931,195.

SECTION V NOTICE TO PROCEED AND SCHEDULE. The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA, and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION VI GENERAL PROVISIONS

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. **Assignment; Successors.**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA's prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise ("DBE") SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT's Economic Opportunity Division Director.

3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

4. **Authority to Bind Consultant.** The CONSULTANT warrants that it has the necessary authority to enter into this Contract. The signatory for the CONSULTANT represents that he/she has been duly authorized to execute this Contract on behalf of the CONSULTANT and has obtained all necessary or applicable approval to make this Contract fully binding upon the CONSULTANT when his/her signature is affixed hereto.

5. **Certification for Federal-Aid Contracts Lobbying Activities.**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.
6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.
7. **Compliance with Laws.**
- A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract, shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
 - B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending, and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the LPA.
 - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of any such actions. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONSULTANT or who has managerial or supervisory responsibilities for the Services.
 - vi. *Debarment and Suspension of any SUB-CONSULTANTS.* The CONSULTANT's SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA's request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT'S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
 - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT's liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA's reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA's reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, "deficiencies") until all deficiencies are remedied in a timely manner.

9. **Confidentiality of LPA Information.**

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

10. **Delays and Extensions.** The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

11. **DBE Requirements.**

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

The CONSULTANT, sub recipient or SUB-CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. Non-Discrimination.

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability.)
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.

- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration ("FHWA") within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT's assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:
- (1) **Compliance with Regulations:** The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) **Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) **Information and Reports:** The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) **Sanctions for Noncompliance:** In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - (6) **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

13. Disputes.

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

14. Drug-Free Workplace Certification.

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

- iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. Employment Eligibility Verification. The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The CONSULTANT shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The CONSULTANT is not required to participate should the E-Verify program cease to exist. Additionally, the CONSULTANT is not required to participate if the CONSULTANT is self-employed and does not employ any employees.

The CONSULTANT shall not knowingly employ or contract with an unauthorized alien. The CONSULTANT shall not retain an employee or contract with a person that the CONSULTANT subsequently learns is an unauthorized alien.

The CONSULTANT shall require his/her/its subcontractors, who perform work under this Contract, to certify to the CONSULTANT that the SUB-CONSULTANT does not knowingly employ or contract with an unauthorized alien and that the SUB-CONSULTANT has enrolled and is participating in the E-Verify program. The CONSULTANT agrees to maintain this certification throughout the duration of the term of a contract with a SUB-CONSULTANT.

The LPA may terminate for default if the CONSULTANT fails to cure a breach of this provision no later than thirty (30) days after being notified by the LPA.

16. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages.**
 - A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
 - C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 - 10.4, 11.1, 13.1, 14.1 - 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form, and include contractual liability. The policy shall be amended to include the following extensions of coverage:

1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
2. The policy shall provide thirty (30) days notice of cancellation to LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

III. Automobile Liability

The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.
2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
 - a. United States Longshoremen & Harbor workers
 - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

23. **Notice to Parties:** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

Patrick Zaharako, PE, City Engineer
200 E. Berry Street, Suite 210
Fort Wayne, IN 46802

Notices to the CONSULTANT shall be sent to:

Willis R. Conner, President
American Structurepoint, Inc.
9025 River Road, Suite 200
Indianapolis, Indiana 46240

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.
27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.

28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
 - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.
29. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:
- Patrick Zaharako, PE, City Engineer
200 E. Berry Street, Suite 210
Fort Wayne, IN 46802
31. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and represents and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
34. **Termination for Convenience.**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be effected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
 - B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make

such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

35. Termination for Default.

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 3. Make progress so as to endanger performance of this Contract; or
 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 13). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

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Non-Collusion.

The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.

In Witness Whereof, the CONSULTANT and the LPA have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

CONSULTANT

American Structurepoint, Inc.

Signature

Willis R. Conner, President
(Print or type name and title)

LOCAL PUBLIC AGENCY

City of Fort Wayne, Board of Public Works

ABSENT

Signature

Shan Gunawardena, Chair
(Print or type name and title)

Signature

Kumar Menon, Member
(Print or type name and title)

Signature

Chris Guerrero, Member
(Print or type name and title)

Attest:

Signature

Michelle Fulk-Vondran, Clerk
(Print or type name and title)

8-29-2023

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT:

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the Indiana Department of Transportation and Federal Highway Administration.

The CONSULTANT shall be responsible for performing the following activities:

A. General

1. The CONSULTANT shall provide engineering and prepare road and bridge plans, preliminary opinions of probable construction cost, and other submittal documents following the *INDOT LPA Process Guidance Document for Local Federal Aid Projects* dated August 2013 and revisions thereto, for the improvements of North Clinton Street from Auburn Road to Mayhew Road, Fort Wayne, Allen County, IN.

B. Project Management

The CONSULTANT shall coordinate and manage the efforts of subconsultants. The CONSULTANT shall assemble all contract documents provided by the subconsultants into one set of contract documents for bidding.

C. Topographic Survey

1. The CONSULTANT shall provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners. The CONSULTANT shall survey the project location and provide the LPA with one set of original field notes for the data accumulation surveys. The CONSULTANT shall obtain deeds of record, subdivision plats, and section or auditor plats for all properties within the project limits. The CONSULTANT's services shall be in accordance with IC 25-21.5; 865 IAC 1-12; and Chapter 106 of the INDOT Design Manual (Survey Manual). The CONSULTANT acknowledges that it has a copy of the Survey Manual. If there is any conflict between IC 25-21.5, 865 IAC 1-12, or the Survey Manual, the order of precedence will be:
 - a. IC 25-21.5
 - b. 865 IAC 1-12
 - c. Survey Manual
2. The survey limits are attached in Exhibit "A" and are generally described below:
 - a. North Clinton Street from 400 feet south of Auburn Road to 500 feet northeast of Mayhew Road for a distance of approximately 17,500 feet. Wallen Road from N. Clinton Street to the I-69 right-of-way for a distance of approximately 900 feet. Mayhew Road for approximately 800 feet and along all side streets and drives intersecting North Clinton Street for approximately 300 feet.
 - b. The survey width on North Clinton Street will be approximately 100-feet on either side of the centerline of the roadway. The survey width of all side streets will be approximately 50-feet either side of the centerline of the roadway.

- c. Survey along all crossing streams and ditches of the corridor and all open areas as depicted on the attached Exhibit "A".
 - d. Cross sections will be taken every 50 feet along the corridor.
3. CONSULTANT shall make a request through the Indiana Underground Plant Protection Service as provided by Indiana Code 8-1-26 to have public utilities marked within the public rights-of-way and recorded easements. CONSULTANT will not be responsible for damages resulting from a utility company who will not respond or for utilities that are not marked or that are mismarked.

D. Environmental Services

1. Due to the modification of the environmental investigated area, the CONSULTANT shall review and revise January 26, 2022 dated Red Flag Investigation for the project corridor. The RFI will include a preliminary analysis of publicly available infrastructure, environmental, hydrological, and cultural resources data within the project corridor. In addition, the IDEM Virtual File Cabinet will be reviewed to assess the potential for sites requiring additional investigation due to potential soil and/or groundwater contamination. A narrative summary and maps depicting findings of the RFI will be produced. The RFI will be prepared in general accordance with the *INDOT Site Assessment & Management (SAM) Operating Manual*. If after completion of the Red Flag survey and preliminary site investigation it is determined the project will require a Phase I Initial Site Assessment (ISA), Phase II Site Investigation, or development of a remediation work plan the services required to complete these additional investigations will be considered out of scope and additional or supplemental services will be required.
2. The CONSULTANT shall carry out environmental analyses and develop the appropriate level of National Environmental Policy Act (NEPA) documentation for the project in accordance with INDOT environmental procedures as determined by the anticipated project impacts. A Level 4 Categorical Exclusion is anticipated for this project. The environmental services required to develop this project shall be in accordance with the *Procedural Manual for Preparing Environmental Documents* (2008) and the most recent *INDOT Categorical Exclusion Manual* and revisions thereto. Copies of these documents are on file with INDOT and are incorporated by reference and made a part hereof. If it is determined that an Environmental Assessment level NEPA document would be required for the project, this shall be considered out of scope and additional or supplemental services will be required.
3. If authorized, the CONSULTANT will create Note to File documentation. Due to the anticipated phasing of the project and passage of time between the approval of the Environmental Document noted above and construction letting, it is anticipated that Note to File documentation may be required. It is anticipated that the project would be let in three (3) phases. Therefore, up to two (2) Note to Files shall be prepared. Each Note to File shall include brief project updates noting anticipated letting schedule, updated STIP/TIP to show fiscal constraint, and discussion of activities completed in the prior phases. If it is determined that supporting documentation (including but not limited to Section 106, Section 4(f), Red Flag Investigations, Early Coordination, Noise, or Environmental Justice) requires updating this will be considered a change in scope of services.
4. The CONSULTANT shall provide specialized studies required to complete the environmental document including evaluation of potential historic or cultural resources. This shall include a Historic Properties Report, Archaeological Records Check, and an Archaeological Field Reconnaissance for approximately 100 acres. The CONSULTANT shall prepare appropriate Section 106 documentation in accordance with the INDOT Cultural Resources Manual. Based on

data available at the time of this report, it is anticipated that 10 small archaeological sites will be encountered but none will be eligible for listing on the National Register of Historic Places (NHRP). It is also anticipated that Concordia Gardens located at the southern end of the project, southeast of Clinton Street, is eligible for listing on the National Register of Historic Places and the project will result in a finding of "No Adverse Effect" to this resource. As a result of these evaluations, it is assumed no Consulting Parties Meetings would be required. If consultation with INDOT and the State Historic Preservation Officer result in the identification of additional archaeological sites, additional above-ground resources eligible for listing on the NRHP, or it is determined the project could result in a finding of "Adverse Effect," additional services will be required to complete the Section 106 process. These additional services will be considered out of scope, and additional or supplemental services will be required.

5. The CONSULTANT shall prepare a Public Involvement Plan and obtain approval from INDOT and FHWA for the project. The CONSULTANT shall prepare necessary documentation to advertise and conduct a Public Hearing and two (2) Public Information Meetings for the project. Public notices and presentation graphics will be prepared for the Public Hearing and Public Information Meeting in accordance with the most recent version of the *INDOT Project Development Public Involvement Procedures Manual* and revisions thereto. A hearing transcript and responses to public comment will be prepared to facilitate the Public Hearing Certification. If the LPA requests additional public involvement supplemental services will be required to facilitate these meetings.
6. If authorized, the CONSULTANT shall complete coordination to hold two (2) Community Advisory Committee Meetings (CAC) for the project. This shall include updating the Public Involvement Plan, coordinate with the community to gather nominations for committee members, develop meeting agendas, and meeting exhibits. If it is determined additional CAC meetings are required, this shall be considered a change in scope of work.
7. The CONSULTANT shall prepare appropriate Section 4(f) documentation for work occurring on Beckett's Run Trail and its associated parking areas, including consultation with the Official with Jurisdiction (OWJ). It is anticipated the project will result in "de minimis" or "no use" of the Section 4(f) resources. Additionally, coordination shall be completed for unbuilt portions of Beckett's Run and North Clinton Street Trails which appear as planned trails within the project area. It is not anticipated the proposed undertaking would result in use of any of the planned trails. If consultation with INDOT and the Federal Highway Administration (FHWA) indicates an individual Section 4(f) evaluation is necessary, additional or supplemental services will be required to develop and evaluate potential avoidance alternatives, determine whether any alternatives are feasible and prudent, and analyze impacts from identified avoidance alternatives, as required for individual Section 4(f) evaluations.
8. It is not anticipated that Section 6(f) documentation will be required as part of this project. If during development of the preferred alternative it is determined a Section 6(f) resource will be impacted and a Section 6(f) evaluation is necessary, additional or supplemental services will be required to develop and evaluate potential avoidance alternatives, determine whether any alternatives are feasible and prudent, and analyze impacts from identified avoidance alternatives, as required for individual evaluations.
9. The CONSULTANT shall conduct an analysis of Noise Impacts consistent with the most recent versions of the INDOT Traffic Noise Analysis Procedures and revisions thereto. A copy of this document is on file with INDOT and are incorporated by reference and is made a part hereof. This evaluation shall include determination of existing noise levels, identification of noise receptors, predictions of future noise levels, evaluation of impacts, and an analysis of noise abatement. If during consultation with INDOT it is determined that noise abatement measures are

feasible and reasonable for the proposed project, the work required to complete these additional investigations and public involvement measures will be considered out of scope and additional or supplemental services will be required.

10. The CONSULTANT shall conduct an analysis of Environmental Justice and Community Impacts as required under Executive Order 12898 consistent with the procedures outlined in the most recent versions of the INDOT Categorical Exclusion Manual and Public Involvement Procedures Manual and revisions thereto. A copy of these documents are on file with INDOT and are incorporated by reference and are made a part hereof. This evaluation shall include analysis of available US Census data to identify populations of concern and identification of potential impacts from the proposed project. Based on the project scope, it is not anticipated the project would result in adverse or disproportionate impacts to Environmental Justice communities. Although, a large community of mobile homes are present within the project area it is known that developers are currently redeveloping this area and the trailers are being removed. Therefore, no impacts to this community are anticipated. If disproportionate and unavoidable impacts are identified, the services required to quantify the project's effects and determine appropriate mitigation, including coordination and consultation meeting with local community representatives, will be considered out of scope and additional or supplemental services will be required.
11. Due to the modification of the environmental investigated area, the CONSULTANT shall review and revise the November 4, 2022 dated Wetland Delineation Report to determine the presence of wetlands and other aquatic resources within the expanded project limits that are regulated by the US Army Corps of Engineers (USACE) and/or Indiana Department of Environmental Management (IDEM). The Wetland Delineation Report will include the location of wetlands or waterways and coordination with the design engineers regarding avoidance and minimizations efforts for the proposed project. The Wetland Delineation will be prepared in accordance with the USACE Wetland Delineation Manual (1987), and guidance provided by the USACE since 1991, including the appropriate Regional Supplement to the Corps of Engineers Wetland Delineation Manual.
12. The CONSULTANT shall prepare and submit the appropriate permit applications for the project including Section 401 Individual Water Quality Certificate to the Indiana Department of Environmental Management (IDEM) and Section 404 Regional General Permit to the United States Army Corps of Engineers (USACE). Based on the studies completed to date, it is anticipated that a Preliminary Jurisdictional Determination will be utilized and a Corps Approved Jurisdictional Determination will not be required for the project. Additionally, it is anticipated that the project will impact greater than 0.1 acre (300-lft) and less than 1.0 acre (1,500-lft) of water resources and mitigation will be required. To satisfy anticipated mitigation requirements, the LPA shall utilize the Indiana Stream and Wetland Mitigation Program (INSWMP). If during coordination with the USACE or IDEM it is determined that an Individual 404 Permit and/or permittee responsible mitigation is required for impacts to water resources, the work to identify potential sites and to prepare mitigation plans or other related services shall be considered a change in the scope or work, and additional or supplemental services will be required.
13. Due to the anticipated phasing of the project and time between the approval of the Section 401 Individual WQC and Section 404 RGP (noted above) and construction letting, it is anticipated that renewals of the permit applications would be required. The CONSULTANT shall coordinate with the IDEM and USACE to determine potential to renew permit applications through future phases of the project. This shall include up to one field visit to reverify the wetland delineation report to support renewal requests; up to one request for extension of the Section 401 WQC; and up to one re-verification request of the Section 404 RGP. Effort to reverify the wetland delineation does not include investigation of new or additional project areas. The

CONSULTANT does not guarantee that permits can be renewed through the duration of the project. If it is determined that the 401 or 404 permit cannot be renewed and new permit applications are required, this shall be considered a change in scope of services.

14. The CONSULTANT shall prepare and submit appropriate project documentation in support of the Indiana DNR Construction in a Floodway permit application for use of the In-Lieu Fee Program for anticipated impacts to forested floodway habitat for the crossings of Beckett's Run, Swift Ditch, and Martin Ditch. A total of three (3) Floristic Quality Assessments shall be completed and State Forms 56964 shall be prepared. If it is determined that the Indiana DNR In-Lieu Fee program cannot or will not be used for any reason, this shall be considered a change in scope of work and supplemental services may be required.
15. The CONSULTANT shall perform an asbestos survey to evaluate the presence of asbestos-containing materials within the structure(s) along the predetermined project limits. The following items are included in the asbestos survey and reporting:
 - a. An Indiana Department of Environmental Management (IDEM) licensed asbestos building inspector will conduct a walk-through of the structure(s) to observe representative suspect materials to the extent they are readily accessible and easily observable.
 - b. Collection of asbestos containing material (ACM) samples using methods in general accordance with procedures outlined in ASTM E 2356-14, Standard Practice for Comprehensive Building Asbestos Surveys.
 - c. Bulk samples will be analyzed with a standard 3-day turn-around time by an accredited laboratory, using Polarized Light Microscopy (PLM), according to the EPA Interim Method of Asbestos in Bulk Insulation Samples as defined in 40 CFR 763, Appendix B to Subpart F 6.
 - d. Preparation of summary reports encompassing all of the inspected structures scheduled for demolition, summarizing the inspection and ACM sampling and results.
16. If the CONSULTANT is required to provide an environmental service not listed above, the work to provide such additional service shall be considered a change in the scope of work. The environmental services required to develop this project shall be in accordance with the *Procedure Manual for Preparing Environmental Documents* dated 2008 and the most recent version of the *Categorical Exclusion Manual* and any revisions thereto. Copies of these documents are on file with the INDOT and are incorporated by reference and made a part hereof.

E. Road Design

1. The CONSULTANT shall prepare Stage 1, Preliminary Field Check, Stage 2, Stage 3, and Final Tracings plans, special provisions for the specifications, and opinions of probable construction cost, which will be in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted: American Association of State Highway and Transportation Officials (AASHTO) *A Policy on Geometric Design of Highways and Streets*, City of Fort Wayne Standards and INDOT's standard specifications, road memoranda, and design manuals, except as modified by supplemental specifications and special provisions, if any. The opinion of probable cost for construction shall be prepared as described in Paragraph N.
 - a. The road design limits are generally described in Item C.2 and shall be constructed in the following phases:

- 1) Phase 1 – Clinton Street from Riveroak Drive to Diebold Road
 - 2) Phase 2 – Clinton Street from Auburn Road to Riveroak Drive
 - 3) Phase 3 – Clinton Street from Diebold Road to Mayhew Road
- b. The anticipated project design scope is described below:
- 1) Road design shall be in accordance with 4R criteria outlined in Chapter 53 of the INDOT Design Manual.
 - 2) The City of Fort Wayne is LPA Certified and City standards will be utilized for City portions of the project. Allen County is not currently LPA certified and standard LPA design procedures will be followed for the Allen County portion of the project.
 - 3) Project will include full pavement reconstruction and widening of the existing roadway on similar horizontal and vertical alignment with two 11' travel lanes in each direction, 12' center two-way left turn lane, curb and gutter, 10' wide multi-use path on the east side of the roadway and 5' wide sidewalk on the west side of the roadway. Landscaped medians will be established in lieu of the two-way left turn lane where feasible.
 - 4) A connection will be established between the existing Becketts Run Trail and the proposed improvements. This pedestrian route will run under the Becketts Run bridge and terminate at the proposed sidewalk on the west side of Clinton Street.
 - 5) Maintenance of traffic is anticipated to keep one lane of traffic open during road, bridge, and small structure construction, except as short-term closures may be required for activities such as temporary pavement installation, utility relocation, storm sewer installation, bridge, or small structure installations. Detour routes for these short term closures will be established for through traffic movements.
 - 6) Drainage Improvements
 - a) New enclosed storm sewer will be installed throughout the corridor.
 - b) This storm sewer is anticipated to outfall to the four significant waterways that cross Clinton Street within the project limits:
 - 1) Becketts Run
 - 2) Swift Ditch
 - 3) Martin Ditch
 - 4) UNT to Martin Ditch
 - c) A drainage analysis will be performed to determine drainage outfall and detention feasibility.
 - d) The design of four (4) detention or infiltration ponds is anticipated for the project.
 - e) Green infrastructure in the form of dry swales adjacent to the roadway with storm sewer connections will be constructed where feasible. Landscape architecture services

will not be required. Plant types and layout will be coordinated with City of Fort Wayne Staff.

- 7) Underdrain Design shall be included along the Clinton Street Corridor. Proposed underdrains will connect to the proposed storm sewer inlet structures.
 - 8) Appropriate signing and pavement markings will be designed throughout the Clinton Street corridor.
 - 9) It is anticipated that a Stage 2 submittal will be required only for Phase 1, due to the proximity of I-69 and the Wallen Road improvements as well as the improvements to Clinton Street under the existing I-469 bridge.
2. The CONSULTANT will schedule and host an on-site preliminary field check meeting and prepare and distribute field check meeting minutes at the appropriate time (40 percent complete plans) during the design phase.

F. Roadway Alignment Analysis

1. The CONSULTANT shall perform an analysis of three additional roadway alignments in order to assess the feasibility of shifting the existing roadway alignment and perpetuate the existing roadway pavement with the goal of lowering project construction cost. The analysis will be submitted in an abbreviated engineer's report format and include information for each alignment pertaining to construction cost savings, pavement design recommendations, right-of-way impacts, utility impacts, and overall design considerations for City of Fort Wayne and County approval.

G. Retaining Wall Design

1. Retaining walls necessary for the project will be constructed using large pre-cast modular blocks. Locations where walls are expected to be required are as follows:
 - a. 150 feet +/- south of River Cove Trail to River Cove Trail (Rt.)
 - b. Between River Cove Trail and Jacobs Creek Run (Rt.)
 - c. Jacobs Creek Run to 180 feet +/- northeast of Beckett's Run (Rt. & Lt.)
 - d. 370 feet +/- northeast of Riveroak Drive to 660 feet +/- northeast of Riveroak Drive (Rt.)
 - e. 300 feet +/- southwest of Wallen Road to Wallen Road (Rt.)
 - f. 1,250 feet +/- southwest of Bent Creek Boulevard to 835 feet +/- southwest of Bent Creek Boulevard (Lt.)
 - g. A Fence or Handrail detail will be included, where necessary, to enhance safety at wall locations.

H. Lighting Coordination and Documentation

1. The CONSULTANT shall coordinate with the City of Fort Wayne regarding decorative lighting design. The City of Fort Wayne shall provide the lighting design layout. The Consultant will coordinate with the City of Fort Wayne, or their lighting design representative, regarding the provided lighting layout and recommend revisions based on project design and utility coordination. The Engineer shall provide the following services:

- a. Coordinate with the City of Fort Wayne regarding the lighting layout
- b. Decorative lighting plan sheet preparation, including layout sheets and necessary tables
- c. Voltage drop calculations
- d. Service point coordination
- e. Bid documents such as quantities, cost estimate, and special provisions

I. Traffic Design Services

- 1. Traffic Design Services shall be in accordance with Exhibit "B" and generally include the following:
 - a. A traffic analysis will be performed for the project corridor.
 - b. A new traffic signal will be installed at the following location:
 - 1) Wallen Road
 - c. Modifications to existing signals will be required at the following locations:
 - 1) Auburn Road
 - 2) New Public Road Approach north of Wallen Road
 - 3) Mayhew Road

B. Utility Coordination

The CONSULTANT shall provide coordination necessary to prepare application documents and process utility relocation coordination to secure appropriate certifications and approvals necessary for construction of this project, including:

- 1. Coordinating with utilities and supplying necessary plans and design information for coordination of utility relocations in accordance with 105 IAC 13.

C. Subsurface Utility Exploration

- 1. A private utility locate service will be used to identify utilities using geophysical methods, as further described in Exhibit "C" as Option A – Full QLB & QLA. Although geophysical methods provide reasonably accurate results, the possibility for error does exist. CONSULTANT will not be responsible for damages resulting from a private utility locate service.

D. Pavement Design

- 1. The CONSULTANT shall compile all required data to complete the pavement design for the Project. If additional testing and/or analysis is required, including but not limited to falling weight deflectometer testing the CONSULTANT shall request that the LPA supply the appropriate data for use in the design.
- 2. The CONSULTANT will attend a site visit with LPA personnel to determine the condition of the existing pavement within the mill and resurface project limits. Visible defects within the project

limits will be noted, and the condition of the pavement will be determined. Approximate locations of the defects will be determined to the nearest station in order to determine limits of pavement patching.

3. The CONSULTANT will prepare a patching table to indicate the approximate limits and extent of patching of distressed areas that were identified in the pavement investigation.
4. The CONSULTANT shall utilize the City of Fort Wayne standard pavement section for full depth construction of the mainline travel lanes and S-Line pavement. The CONSULTANT shall recommend a pavement widening section for locations where existing pavement is in sufficient condition to be left in place and widened. The Consultant shall coordinate with the geotechnical services engineer and review pavement cores to develop a recommendation for existing pavement condition and treatment. The CONSULTANT shall recommend a temporary pavement section to be utilized for maintenance of traffic, as appropriate. All pavement sections will be evaluated using AASHTOWare Pavement ME Design Software, according to Section 6 of The Indiana Design Manual, current INDOT practices, and current industry standards.
5. The CONSULTANT shall prepare a final pavement design memo, outlining recommendations, analysis, and assumptions involved in the pavement design.

E. Bridge Replacement

1. The CONSULTANT shall complete the bridge design and construction documents. The scope of work is as follows:
 - a. Clinton Street over Becketts Run: The scope of work assumes a bridge replacement. The approaching roadway is assumed to be widened with a 5'-0" sidewalk on one side and 10'-0" multi-use path on the other. The low chord of the bridge will be raised above the Q-100 design flood. A 10'-0" wide multi-use path will be under the bridge on the north side of Becketts Run. The elevation of the trail will be determined during design. There will be spill-slopes under the bridge and no retaining walls or full height abutments are anticipated. The scour protection adjacent to the proposed trail will not be riprap. An abbreviated structure size and type study will be completed with Stage 1. The deliverable will be a memo summarizing the study and not a report. One lane of traffic is anticipated to be maintained along Clinton Street during construction, therefore phased construction details are included with this scope. The bridge replacement will be a separate set of plans. Standard bridge railing is anticipated to be used. Aesthetic details, including handrails and enhanced bridge railing, are excluded from this scope.
 - b. Clinton Street over Swift Ditch: The scope of work assumes a structure replacement. The proposed structure will be a precast concrete three-sided structure. The structure will be realigned on a skew to Clinton Street. The east end of the structure will be in the same general location and the west end of the structure will be north of the current residential driveway. The west roadside ditch will enter a culvert that penetrates the south wall of the proposed three-sided structure to outlet into Swift Ditch. The structure will be lengthened to accommodate widened Clinton Street with a multi-use path on the east side and sidewalk on the west side. Headwalls and wingwalls will be on each end of the structure. Roadside protection through the structure limits is anticipated to be guardrail, if required. Moment slabs and barrier details are excluded from this scope. One lane of traffic is anticipated to be maintained along Clinton Street during construction, therefore phased construction details are included with this scope.

- c. Clinton Street over Martin Ditch: The scope of work assumes a structure replacement. The proposed structure will be a precast concrete three-sided structure. The structure will be on the same alignment as the existing. The structure will be lengthened to accommodate widened Clinton Street with a multi-use path on the east side and sidewalk on the west side. Headwalls and wingwalls will be on each end of the structure. The plan sheets will be included within the road plans and include a channel clearing sheet, as required. Roadside protection through the structure limits is anticipated to be guardrail, if required. Moment slabs and barrier details are excluded from this scope. One lane of traffic is anticipated to be maintained along Clinton Street during construction, therefore phased construction details are included with this scope.
 - d. Clinton Street over Unnamed Tributary No. 1 of Martin Ditch: The scope of work assumes a structure replacement. The proposed structure will be a precast concrete three-sided structure with similar waterway opening as the recently constructed small structure upstream. The structure will be on the same alignment as the existing. The structure will be lengthened to accommodate widened Clinton Street with a multi-use path on the east side and sidewalk on the west side. Headwalls and wingwalls will be on each end of the structure. The plan sheets will be included within the road plans and include a channel clearing sheet, as required. Roadside protection through the structure limits is anticipated to be guardrail, if required. Moment slabs and barrier details are excluded from this scope. One lane of traffic is anticipated to be maintained along Clinton Street during construction, therefore phased construction details are included with this scope.
 - e. Wallen Road over Swift Ditch: The scope of work assumes a structure replacement. The proposed structure will be a precast concrete three-sided structure. The structure will be on the same alignment as the existing. The structure will be lengthened as necessary to accommodate realigned Wallen Road. Headwalls and wingwalls will be on each end of the structure. The plan sheets will be included within the road plans and include a channel clearing sheet, as required. Roadside protection through the structure limits is anticipated to be guardrail, if required. Moment slabs and barrier details are excluded from this scope. A detour is assumed for construction of the replacement structure, therefore phased construction details are excluded from this scope.
- 2. The CONSULTANT shall prepare Stage 1 plans, Preliminary Field Check plans, Stage 2 plans, Stage 3 plans, special provisions to the specifications, and preliminary opinions of probable construction cost, in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted: *Indiana Design Manual* and *AASHTO LRFD Bridge Design Specifications, 9th Edition and subsequent interim specifications*.
 - 3. Following approval of the Stage 3 plans, The CONSULTANT will prepare Final Tracings and all applicable documentation in accordance with INDOT Design Manual Chapter 14-1.02(04).
- F. Opinion of Probable Cost For Construction

The opinion of probable cost will be prepared according to the current practices for INDOT and will include all items of work required for the complete construction of the work, including all temporary work necessary in connection therewith, but shall not include the cost of such items of work for which the LPA, through its own forces or through other party or parties, will prepare detail plans. The unit prices to be used shall be in accordance with the methods used by INDOT.

G. Hydraulic Analysis and Floodplain Permitting

1. Beckett's Run, Swift Drain, and Martins Ditch will each be impacted by reconstruction of Clinton Street and Wallen Road and are anticipated to require a Construction in a Floodway Permit from the Indiana Department of Natural Resources (IDNR). At each stream crossing structure replacement the following services shall be provided:
 - a. The CONSULTANT shall perform a hydraulic analysis in accordance with the current Indiana Design Manual, Part 2. This will include hydraulic modeling using HEC-RAS and a hydraulic summary. Scour design parameters shall be developed for the proposed conditions. All necessary documentation will be submitted to INDOT Office of Hydraulics for hydraulic approval due to the structure being within ½ mile downstream of an INDOT stream crossing structure.
 - b. The CONSULTANT shall prepare and submit an IDNR Construction in the Floodway (CIF) permit application due to the potential for temporary and permanent impacts, including tree clearing, within the regulated floodway.
 - 1) The Bridge Replacement-in-kind Non-Modeling Assessment is anticipated to apply to these structure replacements, and therefore no hydraulic modeling is anticipated to be submitted to IDNR.
 - 2) A mitigation/restoration plan is anticipated due to the potential for tree clearing in the floodway. It is assumed that mitigation and restoration will be accomplished on the project site within right-of-way or by an in-lieu fee mitigation application including a Floristic Quality Assessment.
 - c. Coordination with the City of Fort Wayne drainage management teams will be required for impacts to Beckett's Run and Martins Ditch.
 - d. Coordination with the Allen County Drainage Board will be required for impacts to Swift Drain.
 - e. These structures are located within a mapped floodplain per the effective Flood Insurance Rate Map available on the Federal Emergency Management Agency's (FEMA) database. Coordination with FEMA for a Letter of Map Revision (LOMR) and/or Conditional Letter of Map Revision (CLOMR) is not anticipated due to the nature of the non-modelling assessment coordination with IDNR and is therefore excluded from this scope of services.
2. An Unnamed Tributary No. 1 to Martin Ditch will be impacted but is not anticipated to require a Construction in a Floodway Permit from the Indiana Department of Natural Resources (IDNR). The stream is not delineated on the Indiana Floodplain Information Portal 2.0 and preliminary analysis shows a drainage area less than 1 square mile.
 - a. The CONSULTANT shall perform a hydraulic analysis in accordance with the current Indiana Design Manual, Part 2. This will include hydraulic modeling using either HEC-RAS or HY-8, as appropriate, and a hydraulic summary. Scour design parameters shall be developed for the proposed conditions. All necessary documentation will be submitted to INDOT Office of Hydraulics for hydraulic approval due to the structure being within ½ mile downstream of an INDOT stream crossing structure.
 - b. The CONSULTANT excludes the preparation of an IDNR Construction in the Floodway (CIF) permit application.

- c. Coordination with the City of Fort Wayne drainage management teams will be required for this proposed structure replacement.
- d. This structure is not located within a mapped floodplain per the effective Flood Insurance Rate Map available on the Federal Emergency Management Agency's (FEMA) database. Coordination with FEMA for a Letter of Map Revision (LOMR) and/or Conditional Letter of Map Revision (CLOMR) is excluded.

H. Meetings

The CONSULTANT shall, as needed, make arrangements for and attend meetings in cooperation with the LPA, local officials, INDOT officials, planning agencies or commissions, and civic organizations for appropriate project coordination with the local stakeholders and the community. The CONSULTANT will prepare meeting minutes and letter responses to questions as needed. The following meetings are included in this scope.

- 1. One scope meeting with INDOT and LPA, which will discuss Phase 1, 2, and 3 of the project.
- 2. Three field check meetings. One meeting for each construction phase of the project.
- 3. Fifteen meetings with the LPA, distributed equally between each of the three construction phases of the project.
- 4. Thirty-Two virtual quarterly report meetings, distributed equally between each of the three construction phases of the project.

I. Geotechnical

The CONSULTANT shall make or cause to be made a complete geotechnical investigation in general accordance with the INDOT Geotechnical Manual. The general scope of geotechnical services is attached as Exhibit "D". In the event more extensive boring, sampling, testing analyses and engineering services are needed, such services will be added via a supplemental contract. One geotechnical report shall be completed. The geotechnical report shall include each of the three phases of the project.

J. Permitting

The CONSULTANT shall prepare and submit the following permits:

- 1. Construction Stormwater General Permit. (Three permits) One permit for each of the three phases of construction
- 2. Section 401 Individual Water Quality Certificate to the Indiana Department of Environmental Management (IDEM)
- 3. Section 404 Regional General Permit to the United States Army Corps of Engineers (USACE).
- 4. IDNR Construction in the Floodway (CIF) Permit for impacts to Beckett's Run, Swift Drain, and Martins Ditch
- 5. Allen County Legal Drain Permit for impacts to Swift Drain

The CONSULTANT shall prepare and submit a Construction Stormwater General Permit and Erosion Control Plan to procure appropriate Notice of Intent for construction for each of the three construction phases of the project.

K. Right-of-Way Plan Development

The CONSULTANT shall provide Right-of-Way Plan Development Services. A detailed scope and fee for these services will be determined at a later date, once the number of affected parcels are determined, and shall be included in a supplemental agreement to this contract. Right-of-Way Plan Development Services shall include the following:

1. Right-of-Way Engineering

- a. The CONSULTANT shall prepare title research, legal descriptions, route survey plats and/or right-of-way parcel plats, acquisition instruments, and other materials to be used in the acquisition of right-of-way in accordance with INDOT's Right-of-Way Engineering Procedure Manual, hereinafter called the MANUAL, and 865 IAC 1-12.
- b. The CONSULTANT shall compare and study, in detail, all of the title information and survey data furnished with it and the CONSULTANT shall calculate or otherwise determine all other data, as may be necessary, for writing the legal description of every right-of-way parcel, all in conformity with the MANUAL. All documents, plats, and plans prepared by the CONSULTANT are to be checked by the CONSULTANT prior to submittal to LPA. All documents and plats requiring a seal under this Contract may or may not be reviewed by LPA for content. If the plans, aerial mosaics, title information and surveys are furnished to the CONSULTANT, there is no expressed or implied guarantee that conditions so indicated are entirely representative of those actually existing, or that unforeseen developments will not occur. The CONSULTANT is required to examine carefully all such data and satisfy itself as to the actual conditions. In case of any obvious discrepancy between the information furnished by LPA and the actual conditions of the locality, or in case of errors or omissions in said information supplied by LPA, the CONSULTANT shall make such corrections or additions on the plans, plats, strips, maps, or mosaics as necessary for the proper carrying out of its services. The CONSULTANT is assumed to have made itself familiar with the plans, aerial mosaics, and surveys, and it shall not plead that LPA or the consultant, if any, who prepared those materials should assume responsibility for adding the information thereto as required by this Contract and by the MANUAL. It will be the CONSULTANT'S duty to immediately inform LPA, in writing, of any such defect, error or omission which cannot be resolved without additional title search or field survey, or which cannot be made without altering the design extent or character of the right-of-way limits as shown by LPA before proceeding on this portion of the work.
- c. The CONSULTANT may, with prior written approval of LPA, undertake additional title research in order to resolve errors or omissions in provided abstracting, as may be deemed necessary by LPA for the purpose of completing the work included in this Contract.
- d. The CONSULTANT may, with the prior written approval of LPA, undertake field surveys for the purpose of checking title or plan data and/or for the acquisition of vital locative and boundary information that is not contained in existing records, as may be considered necessary to complete fully and satisfactorily the work included in this Contract.
- e. Each right-of-way (parcel) plat and each sheet of legal description and access control clause issued by the CONSULTANT will be dated and will bear the signature and seal of the Registered Land Surveyor (Indiana) by whom the same is prepared, or under whose personal

supervision the same is prepared by his/her regularly employed subordinates, and for which he/she takes full responsibility.

- f. Taking possession and use by LPA of completed portions of the work, at any time, will not be deemed as acceptance of the work so taken or used.

2. Right-of-Way Staking

The CONSULTANT shall provide a one-time staking of the proposed right-of-way for each parcel during the land acquisition process.

3. Title Research Services

a. Preparation of Title and Encumbrance Reports – Permanent Right-of-Way

- 1) A Title and Encumbrance Report will be provided for each permanent right-of-way parcel. The Title and Encumbrance Report will be created by adequately researching all available records and documenting the research to identify all parties or entities having any ownership interest in the property to be acquired, including an abstract of all pertinent data, legal descriptions, all liens (taxes, mortgages, and recorded judgments), assessments, taxes, and any encumbrances against the property.

2) General

- a) Each Title and Encumbrance Report and the attachments thereto will be submitted in duplicate or via ERMS if requested.
- b) The CONSULTANT agrees to testify in court in behalf of the LPA on any title work prepared under this contract should he/she be required to do so by the LPA. In consideration for actions taken by the CONSULTANT, the LPA will agree in writing to fees for testimony prior to the date the CONSULTANT must testify.
- c) The CONSULTANT agrees to follow accepted principles and techniques as shown and any necessary interpretation of these furnished by the LPA. Any parcel that does not meet such requirements will be further documented without additional compensation to the CONSULTANT.

b. Preparation of Title and Encumbrance Reports – Temporary Right-of-Way

- 1) A Title and Encumbrance Report will be provided for each temporary right-of-way parcel that contains the deed of record for the current fee owner, documentation for any sell-offs and contiguous property, and current tax information.

2) General

- a) The CONSULTANT shall furnish a copy of the deed(s) that conveyed the caption to the current fee owner and any sell-offs.
- b) Each Title and Encumbrance Report and the attachments thereto will be submitted in duplicated or via ERMS if requested.

c. Supplemental Title and Encumbrance Reports (Updates)

When requested, the CONSULTANT shall provide title work from the date of the original Title and Encumbrance Report to the present date. The CONSULTANT shall provide the following, in duplicate:

- 1) A cover sheet that identifies any changes and the associated recording documents. In addition, the CONSULTANT shall note the current status of the taxes.
- 2) Copies of any documents recorded since the date of the original Title and Encumbrance Report that affect the caption property.

4. Appraisal Problem Analysis

The CONSULTANT shall provide an Appraisal Problem Report prepared by the project review appraiser (who is prequalified with INDOT) as follows:

- a. Examine the right-of-way plans and determine the extent of the taking
- b. Perform an on-site inspection of each parcel requiring right-of-way acquisition
- c. Determine the type of appraisal needed for each parcel in accordance with INDOT procedures
- d. Complete an Appraisal Problem Analysis form for each parcel to be acquired
- e. Transmit the completed report to the LPA for review and approval prior to the initiation of appraisal activity
- f. Revise the Appraisal Problem Analysis, as required, during the course of the project

L. Bid Phase Services

1. The CONSULTANT shall review the contract bid package and coordinate any necessary corrections with the Technical Services Division of INDOT. Three bid packages shall be necessary, one bid package for each of the three phases of the project construction.

M. Pre-Construction Meeting

1. The CONSULTANT shall attend the pre-construction conference, answer contractor questions, and issue addenda as appropriate. Three pre-construction conference meetings shall be held, one meeting for each of the three phases of the project construction.

N. Construction Phase Design Services

1. The CONSULTANT shall review all shop drawings for this contract during construction. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto, or accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, coordination of the work with other trades, all of which are the sole responsibility of the Contractor. The CONSULTANT's review shall be conducted with reasonable promptness while allowing sufficient time in the CONSULTANT's judgment to permit adequate review. Review of a specific item shall not indicate that the CONSULTANT has reviewed the entire assembly of which the item is a component. The CONSULTANT shall not be responsible for any deviations from the Construction Documents not brought to the attention of the CONSULTANT

in writing by the Contractor. The CONSULTANT shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

2. During the course of construction, the CONSULTANT shall be available at reasonable times during normal working hours to respond to reasonable inquiries concerning the accuracy or intent of the CONSULTANT's plans. All such inquiries will be made only by persons designated by the LOCAL PUBLIC AGENCY to interpret the plans and contract documents for the benefit of the contractors and subcontractors performing the work. The CONSULTANT shall not be required to respond to inquiries by persons other than the LOCAL PUBLIC AGENCY's designated representative and shall not be required to engage in exhaustive or extensive analysis or interpretation of the plans.
3. As needed and directed by the LPA, the CONSULTANT shall perform construction-phase utility coordination services as described in the 2013 Indiana Design Manual, Chapter 104, as revised.

O. Services Not Included in This Contract

1. Landscape Architecture Services
2. Roundabout Design
3. Preparation of utility relocation plans
4. Traffic data collection, traffic analysis, and traffic signal design beyond scope items included above.
5. Phase I and Phase II Environmental Site Assessment
6. Detailed groundwater assessment
7. Stream and wetland mitigation design and plan development
8. Hazardous material remediation plan
9. Cemetery development plans
10. Water main and sanitary sewer design and plan development
11. Alternate bid pavement plans, opinion of probable cost, and specifications
12. Land Acquisition Services
13. Construction Inspection Services

APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA:

The LPA shall furnish the CONSULTANT with the following:

1. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
2. Standard Specifications and standard drawings applicable to the project
3. All written views pertinent to the location and environmental studies that are received by INDOT or the LPA
4. Traffic assignments, traffic signal warrants (new signal), traffic lighting warrants (new lighting)
5. Available data and previous studies from the transportation planning process
6. Utility plans available to INDOT or the LPA covering utility facilities and the location of signals and underground conduits throughout the affected areas
7. Provide access to enter upon public and private lands as required for the CONSULTANT to perform work under this Contract
8. Aerial survey information
9. All legal services as may be required for development of the project
10. An LPA representative with decision-making authority for inquiries
11. Payment of all permit and review fees required by agencies having jurisdiction over this project data
12. Relocation plans for utility facilities owned by the local municipality that may be impacted by the Project.

APPENDIX "C"

SCHEDULE:

No work under this Contract shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the LPA.

All work by the CONSULTANT under this Contract shall be completed and delivered to the LPA for review and approval within the approximate time periods shown in the following submission schedule:

- A. Field Survey complete within 150 calendar days after receipt of notice to proceed from the LPA.
- B. Environmental Services
 - 1. The CONSULTANT will initiate Early Coordination with resource agencies and the Section 106 Process within 90 days of Notice to Proceed.
 - 2. The CONSULTANT will submit Section 106 Documentation to INDOT for review within 150 days of Notice to Proceed and prepare a Section 106 Finding within 60 days of receipt of the State Historic Preservation Officer's suggested Finding of Effect and completion of Stage One Plans including right-of-way.
 - 3. The CONSULTANT will prepare a Draft Categorical Exclusion for release for public involvement within 90 calendar days after the signed Section 106 Finding of Effect is received from INDOT.
 - 4. The CONSULTANT will submit the Final Categorical Exclusion for signature within 30 days of receipt of the Certified Public Hearing documentation. Upon final signature, the CONSULTANT will circulate copies of the complete Categorical Exclusion as appropriate.
- C. Geotechnical Investigation Reports
 - 1. Preliminary Draft within 75 calendar days after Preliminary Field Check
 - 2. Final Draft within 45 calendar days after preliminary draft submission
- D. Roadway Design
 - 1. Stage 1 plans (25 percent complete) within 150 calendar days after receipt of topographic survey
 - 2. Preliminary field check meeting within 150 calendar days after approval of Stage 1 plans
 - 3. Stage III plans (95 percent complete) seven months prior to letting date or immediately after environmental document is approved, whichever is later
 - 4. Final tracings submittal approximately four months prior to letting date

APPENDIX "D"**A. Amount of Payment**

1. The CONSULTANT shall be compensated for services to be performed under this Contract a total fee not to exceed \$5,931,195 unless approved in writing by the LPA.
2. The CONSULTANT shall be compensated for the following services on a lump-sum basis. CONSULTANT may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered. The total obligation under this portion of the Contract shall not exceed \$5,680,695 unless approved in writing by the LPA.
 - a. Survey \$363,800
 - b. Environmental Services
 - 1) Red Flag \$5,400
 - 2) Section 106 Documentation \$143,770
 - 3) Noise Analysis \$37,900
 - 4) Section 4(f) Evaluation \$13,400
 - 5) Categorical Exclusion Document \$52,000
 - 6) Note to file Documentation, if authorized \$27,900
 - 7) Public Involvement Plan \$90,200
 - 8) Community Advisory Committee Meetings, if authorized \$33,100
 - 9) Wetland Delineation Report Update \$17,400
 - 10) Asbestos Survey & Inspection Services \$2,400
 - c. Road Design and Plan Development
 - 1) Road Design and Plan Development \$2,341,000
 - 2) Underdrain Design \$128,100
 - 3) Drainage Analysis \$96,600
 - 4) Detention Design \$126,000
 - 5) Green Design \$144,100
 - 6) Maintenance-of-Traffic Design \$189,000
 - d. Roadway Alignment Analysis \$59,100

- | | |
|--|---|
| e. Retaining Wall Design | \$60,200 |
| f. Lighting Coordination and Documentation | \$118,500 |
| g. Traffic Design Services | |
| 1) Traffic Analysis | \$61,000 |
| 2) New Signal Design | \$31,400 |
| 3) Signal Modifications | \$79,200 |
| h. Utility Coordination | \$104,000 |
| i. Subsurface Utility Engineering | \$356,000 |
| j. Pavement Design | \$18,100 |
| k. Bridge Design | \$517,100 |
| l. Meetings | \$52,000 |
| m. Geotechnical Engineering and Coordination | \$69,125 |
| n. Permitting | \$216,700 |
| 1) Construction Stormwater General Permit | |
| 2) IDEM Section 401 Permit | |
| 3) USACE Section 404 Reginal General Permit | |
| 4) DNR Construction in a Floodway Permit | |
| 5) Allen County Legal Drain Permit | |
| o. Right of Way Plan Development | \$TBD |
| p. Bidding Phase Services | \$22,700 |
| q. Pre-Construction Meeting | \$16,700 |
| r. Construction Phase Design Services | \$86,800 |
| | |
| 3. | The CONSULTANT shall receive payment for the work performed under this Contract related to geotechnical services based on the specific cost per unit as shown in Exhibit "D" attached hereto and incorporated herein, multiplied by the actual units of work performed. The final amount will be adjusted according to the actual units of work performed; however, the final amount shall not exceed <u>\$250,500</u> unless and until a supplemental agreement is executed. |
| 4. | The CONSULTANT shall not be paid for any service performed by the LPA or not required to develop this project. |

B. Method of Payment

1. The CONSULTANT may submit a maximum of one invoice voucher per calendar month for work covered under this Contract. The invoice voucher shall be submitted to the LPA.

The invoice voucher shall represent the value, to the LPA, of the partially completed work as of the date of the invoice voucher. The CONSULTANT shall attach thereto a summary of each pay item in Section A.1 of this Appendix, percentage completed, and prior payments.

2. The LPA, for and in consideration of the rendering of the engineering services provided for in Appendix "A", agrees to pay to the CONSULTANT for rendering such services the fees established above in the following manner:
 - a. For completed work, and upon receipt of invoices from the CONSULTANT and the approval thereof by the LPA, payments covering the work performed shall be due and payable to the CONSULTANT.
 - b. From the partial payment thus computed, there shall be deducted all previous partial fee payments made to the CONSULTANT.
3. In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted in accordance with item 6, Changes In Work, of the General Provisions set out in this Contract.

CITY OF FORT WAYNE, INDIANA

American Structurepoint, 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% ☒ (X)
- (ii) Distributable income share exceeding 5% ☐
- (iii) Not Applicable (If N/A, go to Section 2) ☐

Name: Willis R. Conner, President, Owner

Name: John A. Lashenik, Executive Vice President, Owner

Address: 9025 River Road, Suite 200, Indianapolis, Indiana 46240

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

sole proprietorship ☐ stock ☒ (X)
partnership interest ☐ units (LLC) ☐
other (explain) _____

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

Name: Willis R. Conner 77.07%

Name: John A. Lashenik 5.44%

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

- d. 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).

Project	Contract Date	Contract No.	City Contact
Dupont Water Tank Painting (21.00191)	02/23/2021	Unknown	Nicholas Till
Leesburg Road Extension & Main Street Roundabout	06/16/2020	Unknown	Bob Kennedy
Southgate- Harrison-Fairfax Stormwater Improvements	12/14/2021	Unknown	Veronika Meyer
On-Call Stormwater Planning & Engineering Assistance (23.00062)	06/06/2023	Unknown	Anne Marie Smrcek

Adams Center Road Sanitary Sewer Extension (22.00240)	04/05/2022	Unknown	Nathan Baggett
Lahmeyer Bridge No. 417 Replacement (21.02849)	11/15/2021	Unknown	Unknown

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

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

Project	Contract Date	Bid No.	City Contact
Pond 3 Dechlorination Improvements	N/A	N/A	N/A
Clinton Street Design (21.02882)	N/A	N/A	Patrick Zaharako
South Foster Park Wet Weather Pump Station (22.00058)	N/A	N/A	Craig Berndt
On-Call Sewer Rehabilitation Assistance – 2023-2024 (23.00061)	N/A	N/A	Eric Steinman
On-Call Resident Project Representative Services 2023-2025 (23.01335)	N/A	N/A	Michael Kiester
Belmont Storm Sewer and Kettler Park Bio-Detention (23.01968)	N/A	N/A	Anne Marie Shrchek
Rolling Rose Subdivision Storm Sewer (23.02101)	N/A	N/A	Nathan Baggett

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

Yes ☐ No ☒

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

Name / Position / Payment Terms:

Name / Position / Payment Terms:

Name / Position / Payment Terms:

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

Company / Name / Payment Terms: _____

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

American Structurepoint, Inc.

(Name of Vendor)

9025 River Road, Suite 200, Indianapolis, Indiana
46240

Address

(317) 547-5580

Telephone

RConner@Structurepoint.com

E-Mail Address

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

Name (Printed) Cash E. Canfield, PE

Title Chief Operating Officer

Signature

DocuSigned by:

Cash E. Canfield

Date 8/31/2023

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NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY

RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

DIGEST SHEET

Department: Transportation Engineering

Resolution Number: #0636P

Title of Ordinance: North Clinton Street Widening from Auburn Road to Mayhew Road
Professional Services Agreement

Amount of Contract:

\$5,931,195.00 Not to Exceed (NTE) Professional Services Agreement with American Structurepoint, Inc.

Description of Project (Be Specific):

Professional Engineering Services for the design of additional travel lanes on North Clinton Street between Auburn Road and Mayhew Road, which will include sidewalk and a multi-use path. These services include survey, urban street design with curb and gutter, storm sewers, pedestrian facilities, retaining walls, traffic signals, street lighting, bridge replacement over Becketts Run, and four box culvert replacements. It also includes utility coordination, geotechnical, environmental documentation and permitting.

This is a federal project with the Indiana Department of Transportation that has cost sharing of 80/20 with the City of Fort Wayne. The project is planned to be constructed in three phases (one of the three funded by Allen County) and the two City phases let through INDOT in 2028 and 2030.

What Are The Implications If Not Approved:

North Clinton Street from Auburn Road to Mayhew Road. will continue to deteriorate in pavement condition and have traffic congestion within this corridor.

If Prior Approval Is Being Requested, Justify:

N/A

Additional Comments:

The request for proposals was advertised to all interested consultants through INDOT's website and 2 proposals were received. The proposals were reviewed and scored using INDOT guidelines for Federal Projects and American Structurepoint, Inc. was selected as the most responsive firm. The contract, including the set rates for each service, has been reviewed and approved by both the Board of Public Works and INDOT.